

MOTOR VEHICLE REPAIRS BILL, 1980

EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

The following Bills are cognate with this Bill:—

Motor Dealers (Motor Vehicle Repairs) Amendment Bill, 1980;

Statutory and Other Offices Remuneration (Motor Vehicle Repairs) Amendment Bill, 1980.

The objects of this Bill are:—

- (a) to constitute the Motor Vehicle Repair Industry Council (“the Council”);
- (b) to constitute the Motor Vehicle Repair Disputes Committee (“the Disputes Committee”);
- (c) to allow the Council to regulate the carrying out of repairs to motor vehicles by a system of licences for repair businesses, certificates for repair tradesmen and certificates for loss assessors;
- (d) to provide for an investigation procedure to be followed before any disciplinary action is taken by the Council against a holder of a licence, a tradesman’s certificate or loss assessor’s certificate;
- (e) to provide a system of appeals to an industrial magistrate from various actions of the Council;
- (f) to provide a system for the resolution by the Disputes Committee of disputes between repairers and vehicle owners; and
- (g) to provide for the financing of the Council and the Disputes Committee.

The Bill contains the following provisions:—

PART I.—PRELIMINARY.

Clause 1. Short title.

Clause 2. Commencement.

Clause 3. Arrangement.

Clause 4. Interpretation.

Clause 5 provides for exemptions from the operation of the proposed Act.

Clause 6 provides for applications to be made in forms approved by the Minister.

PART II.—THE COUNCIL AND THE DISPUTES COMMITTEE.

This Part constitutes 2 corporations: the Motor Vehicle Repair Industry Council and the Motor Vehicle Repair Disputes Committee.

Clauses 7 to 11 constitute the Council. It consists of a Chairman and of 8 representatives of organisations concerned in the motor vehicle repair industry. The Council's functions are to investigate that industry, to promote improvements in its standards, to promote the education of people in and for it, and (by licensing and certification) to regulate it.

Clause 12 provides for the staff of the Council and the use of the staff of departments of the Government.

Clause 13 constitutes the Disputes Committee. It consists of the Chairman of the Council, a person nominated by the Minister for Consumer Affairs and 3 representatives of organisations concerned in the motor vehicle repair industry. It has functions of investigating and determining disputes between motor vehicle owners and repairers and may, in determining a dispute, order work to be done, or money to be paid, subject to a \$3,000 limit. The Chairman may co-opt or invite persons to participate in the proceedings and deliberations of the Disputes Committee.

Clause 14 provides for the establishment and procedures of advisory committees of the Council, including a committee to advise the Council with respect to loss assessors' work.

PART III.—LICENCES AND CERTIFICATES.

This Part provides for the granting of the following:—

- (a) a licence to carry on business as a motor vehicle repairer;
- (b) a tradesman's certificate or provisional tradesman's certificate actually to carry out repairs on motor vehicles; and
- (c) a loss assessor's certificate or provisional loss assessor's certificate to determine, as an employee or for fee or reward, whether damaged motor vehicles can be repaired and the cost of those repairs.

Division 1 requires a person who carries on a business of doing any class of repair work on motor vehicles to hold an appropriate licence, but does not prevent him from subcontracting for other classes of repair work to be done (clause 15).

A licence—

- (a) may be granted to more than one person or in respect of more than one place of business (clause 16);
- (b) may be granted only to a person who has the appropriate resources to carry on the business to which the licence relates (clause 18);
- (c) may be amended (clause 20); and
- (d) continues in force except during suspension or unless revoked or surrendered or unless its holder has failed to pay the annual fee due in respect of it (clause 21).

Division 2 requires a person who carries on a business of doing repair work on motor vehicles to employ only persons who hold tradesmen's certificates, or apprentices working under the supervision of such persons, to do that work (clause 22). This requirement extends to owners of commercial vehicles who employ persons to do such work.

A tradesman's certificate—

- (a) may be granted only to an appropriately qualified individual (clause 24); and
- (b) continues in force unless revoked or surrendered (clause 27).

A provisional tradesman's certificate—

- (a) may be granted to an individual who fails to meet the requirements for a full tradesman's certificate but who meets certain other requirements (clause 25);
- (b) may be granted subject to conditions and restrictions (clause 25 (3)); and
- (c) continues in force until the day specified on it or until it is revoked or surrendered, whichever first occurs (clause 27).

Division 3 requires a person who employs a person to do loss assessor's work to employ only the holder of a loss assessor's certificate. It also requires a person who does loss assessor's work for fee or reward to hold a loss assessor's certificate (clause 28).

A loss assessor's certificate—

- (a) may be granted only to an appropriately qualified individual (clause 30); and
- (b) continues in force unless revoked or surrendered (clause 33).

A provisional loss assessor's certificate—

- (a) may be granted to an individual who fails to meet the requirements for a full loss assessor's certificate but who meets certain other requirements (clause 31);
- (b) may be granted subject to conditions and restrictions (clause 31 (3)); and
- (c) continues in force until the day specified on it or until it is revoked or surrendered, whichever first occurs (clause 33).

Division 4 requires the Council to notify an applicant for a licence or certificate of any refusal of the application (clause 34).

It provides for the surrender of licences and certificates (clause 35), the refund of application or annual fees (clause 36), the issue of duplicate licences and certificates (clause 37) and the keeping of a register of licences and certificates (clause 38).

It prohibits persons from making false statements in applications for licences and certificates (clause 39) and from pretending to be holders of certificates which they do not have (clause 40).

PART IV.—DISCIPLINARY PROCEEDINGS.

This Part provides for action to be taken against the holder of a licence or certificate, essentially on grounds (specified in clauses 42 and 43) which would have been grounds for refusing to grant the licence or certificate at the time application was made for it.

A complaint (clause 44) or recommendation (clause 55) is formally made and the Council then considers it (clause 45). The Council may then, or at its own instigation, after notifying the person complained against, hold an inquiry in the manner specified in clause 46. The Council may then take no further action, caution or reprimand that person, or revoke or suspend the licence or certificate held by that person (clause 48). However, the Council must give the person an opportunity to contest any proposal to revoke or suspend his licence or certificate, and must notify the person of the revocation or suspension once it has been carried out (clause 49).

PART V.—APPEALS.

This Part provides for an appeal to an industrial magistrate—

- (a) by an applicant for the grant of a licence or certificate, or for the amendment of a licence, against a refusal of his application; and
- (b) by a person against the revocation or suspension of his licence or certificate.

PART VI.—DISPUTES.

This Part provides for the settlement by agreement (clause 53) or, if that is not possible, the determination by the Disputes Committee (clause 55), of disagreements between motor vehicle owners and repairers, principally in relation to the manner and cost of repairs.

A person cannot make use of the procedure provided in the proposed Act if he has availed himself of other remedies (clause 52 (2)).

An inspector may examine a motor vehicle which is the subject of a dispute (clause 53 (3)).

The procedure in any investigation by the Disputes Committee is essentially informal (clause 54).

The Disputes Committee may, as part of its determination of a dispute, make orders for work to be done, or money to be paid, subject to a \$3,000 limit (clause 55). (Clause 56 provides for the enforcement of those orders.) It may also recommend a payment out of the Motor Vehicle Repair Industry Contingency Fund (clause 55).

Clause 57 prohibits the making of false statements in applications, or in proceedings, in respect of disputes.

PART VII.—FINANCE.

This Part establishes and provides for 3 funds:—

- (a) the Motor Vehicle Repair Industry General Fund;
- (b) the Motor Vehicle Repair Industry Contingency Fund; and
- (c) the Motor Vehicle Repair Industry Education and Research Fund.

Clauses 68 and 69 require accounts and records to be kept and audited.

PART VIII.—GENERAL.

Clause 70 confers power on the Council to delegate its functions.

Clause 71 saves existing rights and remedies.

Clause 72 renders agreements to exclude the operation of the Act ineffective.

Clause 73 empowers the Council to require persons to furnish information to it.

Clause 74 requires the production, on demand, of licences and certificates.

Clause 75 provides for the entry by inspectors of any place in certain circumstances in order to determine whether the proposed Act is being breached.

Clause 76 prohibits the obstruction of an inspector acting in the exercise of his powers.

Clause 77 regulates the disclosure of information obtained in connection with the administration of the proposed Act.

Clauses 78 and 79 deal with evidentiary matters.

Clauses 80 and 81 deal with the service of documents by or on the Council.

Clauses 82 and 83 provide for the execution and authentication of documents.

Clause 84 provides for protection from liability of members of the Council and of the Disputes Committee and other persons.

Clause 85 provides for the recovery of charges.

Clause 86 requires the Council to prepare annually a report of its work and activities and to forward the report to the Minister for tabling in Parliament.

Clause 87 makes provision with respect to proceedings for offences.

Clause 88 provides that directors and certain officers of corporations which commit offences are deemed also to have committed those offences.

Clause 89 confers regulation-making powers.

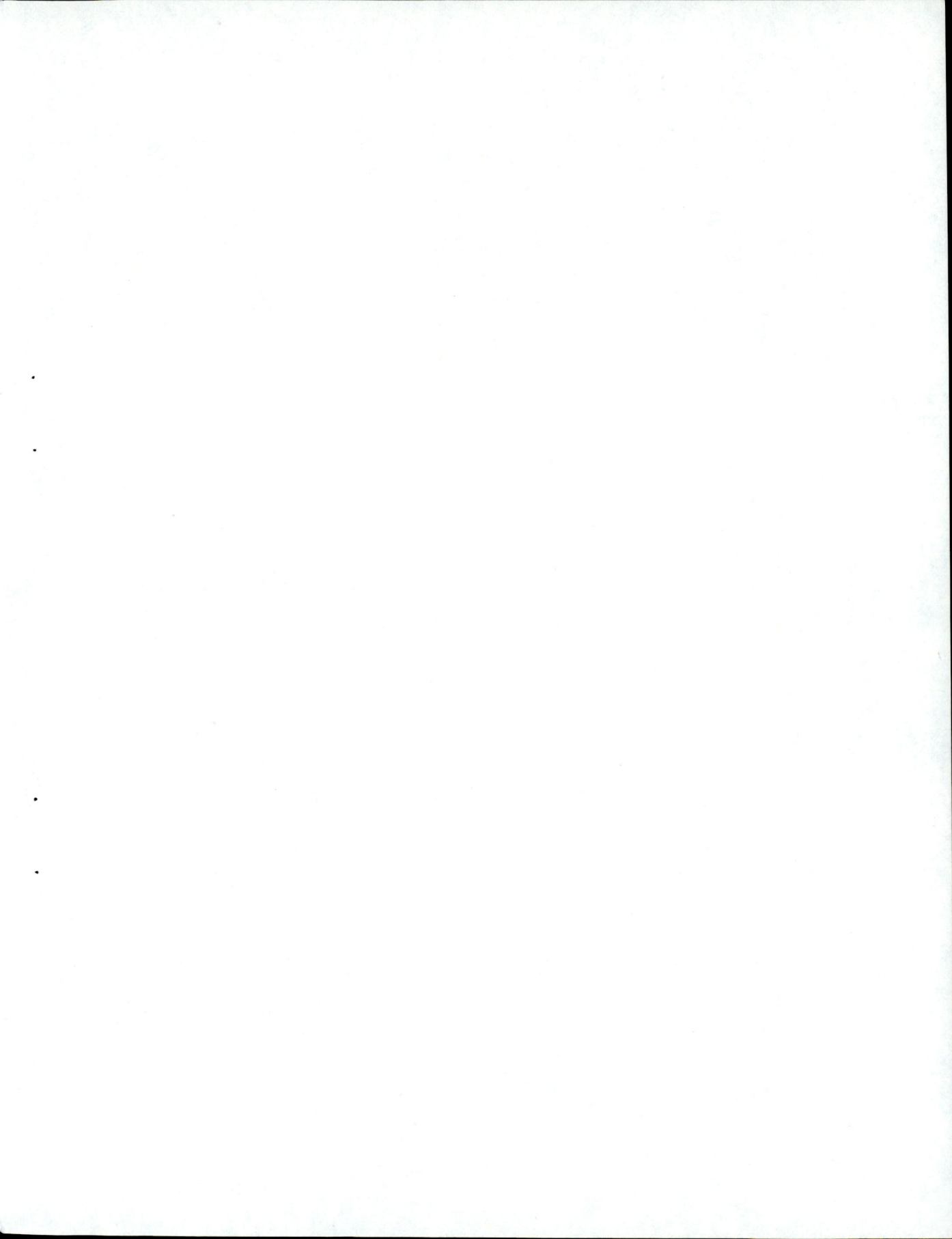
SCHEDULES 1-4.

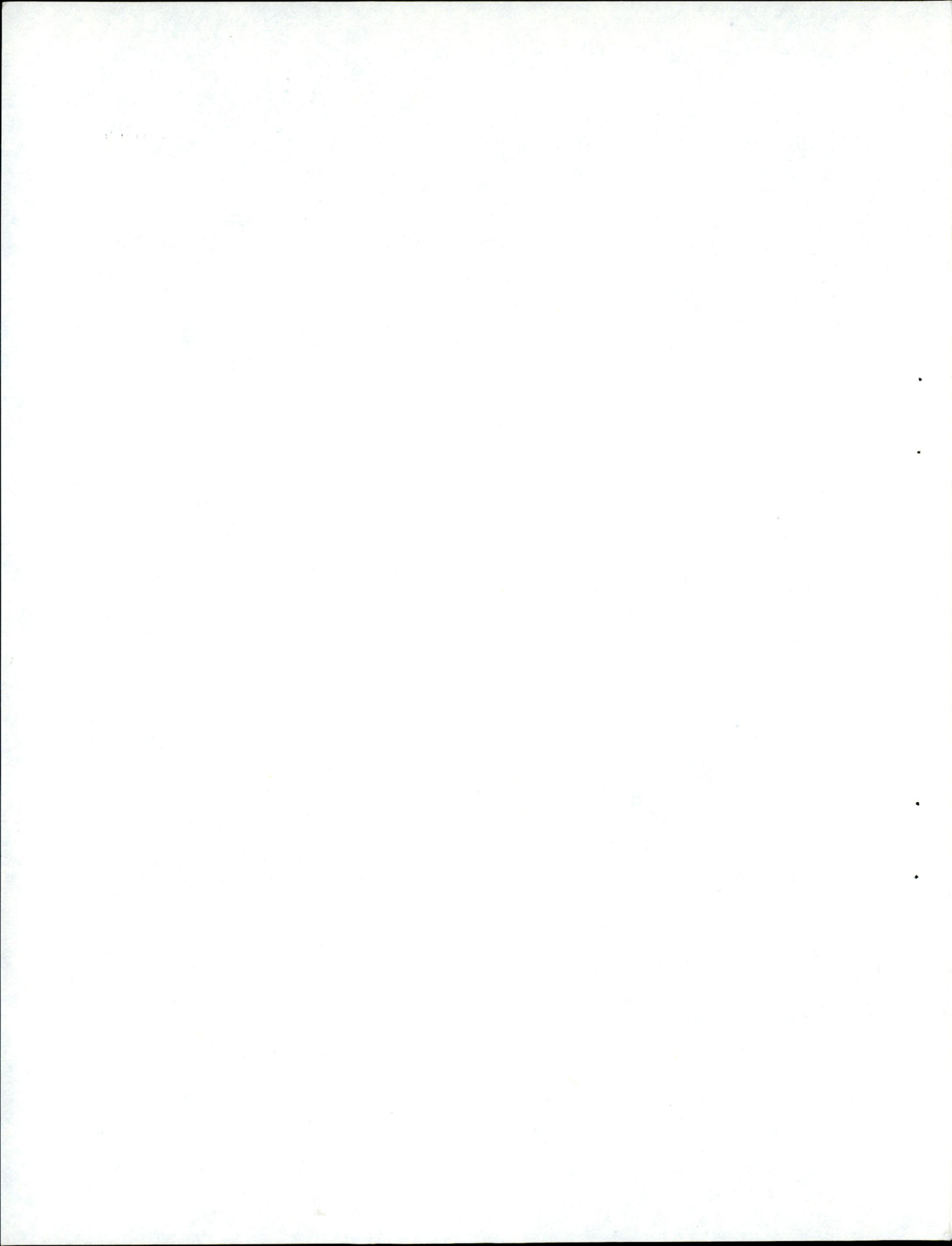
Schedule 1 contains provisions relating to the constitution and membership of the Council.

Schedule 2 contains provisions relating to meetings of the Council.

Schedule 3 contains provisions relating to the constitution and membership of the Disputes Committee.

Schedule 4 contains provisions relating to meetings of the Disputes Committee.





MOTOR VEHICLE REPAIRS BILL, 1980

No. , 1980.

A BILL FOR

An Act to constitute the Motor Vehicle Repair Industry Council and to confer on it functions with respect to the licensing of repair businesses and the certification of repair tradesmen and loss assessors; to constitute the Motor Vehicle Repair Disputes Committee; and for other purposes.

[MR HILLS—4 *March*, 1980.]

See also Statutory and Other Offices Remuneration (Motor Vehicle Repairs) Amendment Bill, 1980; and Motor Dealers (Motor Vehicle Repairs) Amendment Bill, 1980.

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BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

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PART I.

PRELIMINARY.

1. This Act may be cited as the "Motor Vehicle Repairs Act, Short title. 1980".

2. (1) This section and section 1 shall commence on the date Commence- 10 of assent to this Act. ment.

(2) Except as provided in subsection (1), this Act shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

15 **3.** This Act is divided as follows :— Arrange-

PART I.—PRELIMINARY—ss. 1–6.

PART II.—THE COUNCIL AND THE DISPUTES COMMITTEE—
ss. 7–14.

PART III.—LICENCES AND CERTIFICATES—ss. 15–40.

20 **DIVISION 1.—Repairers' Licences—ss. 15–21.**

DIVISION 2.—Tradesmen's Certificates—ss. 22–27.

DIVISION 3.—Loss Assessors' Certificates—ss. 28–33.

DIVISION 4.—Licences and Certificates Generally—ss. 34–
40.

25 **PART IV.—DISCIPLINARY PROCEEDINGS—ss. 41–49.**

PART V.—APPEALS—s. 50.

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PART VI.—DISPUTES—*ss.* 51–57.

PART VII.—FINANCE—*ss.* 58–69.

PART VIII.—GENERAL—*ss.* 70–89.

5 SCHEDULE 1.—PROVISIONS RELATING TO THE CONSTITUTION AND MEMBERSHIP OF THE COUNCIL.

SCHEDULE 2.—PROVISIONS RELATING TO MEETINGS OF THE COUNCIL.

SCHEDULE 3.—PROVISIONS RELATING TO THE CONSTITUTION AND MEMBERSHIP OF THE DISPUTES COMMITTEE.

10 SCHEDULE 4.—PROVISIONS RELATING TO MEETINGS OF THE DISPUTES COMMITTEE.

4. (1) In this Act, except in so far as the context or subject-matter otherwise indicates or requires— Interpretation.

15 “automotive electrician” means a person who repairs electrical equipment, systems or circuits in motor vehicles;

“body maker” means a person who makes motor vehicle bodies (otherwise than in the course of manufacturing new motor vehicles) or who repairs motor vehicle bodies;

20 “brake mechanic” means a person who repairs brake equipment or systems in motor vehicles;

“certificate” means tradesman’s certificate or loss assessor’s certificate;

“Chairman” means the person appointed and holding office as Chairman of the Council;

25 “commercial vehicle owner” means a person who, for the purposes of any business carried on by him, uses a motor vehicle for the carriage of passengers or goods;

30 “Commissioner for Consumer Affairs” means the Commissioner for Consumer Affairs appointed pursuant to section 13 of the Consumer Protection Act, 1969, and includes any person appointed to act as such pursuant to section 14 of that Act;

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“committee” means a committee established under section 14;

“Contingency Fund” means the Motor Vehicle Repair Industry Contingency Fund established under section 60 (1) (b);

5 “Council” means the Motor Vehicle Repair Industry Council constituted by section 7;

“Disputes Committee” means the Motor Vehicle Repair Disputes Committee constituted by section 13;

10 “Education and Research Fund” means the Motor Vehicle Repair Industry Education and Research Fund established under section 60 (1) (c);

15 “exempted person”, when used in or in relation to any provision of this Act, means a person, or a person belonging to a class of person, exempted from the operation of that provision under section 5;

“front end specialist” means a person who repairs the steering or suspension systems of motor vehicles;

“functions” includes powers, authorities and duties;

20 “General Fund” means the Motor Vehicle Repair Industry General Fund established under section 60 (1) (a);

“holder” means—

25 (a) in relation to a joint licence, each person to whom the licence is granted or deemed under section 20 (8) (d) to be granted; or

(b) in relation to any other licence or to a certificate, the person to whom the licence or certificate is granted;

“individual” means a person other than a corporation;

30 “industrial magistrate” means an industrial magistrate appointed under the Industrial Arbitration Act, 1940;

“inspector” means a person appointed under section 12 (1) or (2) (b) as an inspector;

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“joint application” means an application made pursuant to section 16 (2) for the grant of a joint licence;

“joint licence” means a licence granted pursuant to section 17 (2) (b);

5 “licence” means a licence granted under section 17;

“loss assessor’s certificate” means a loss assessor’s certificate granted under section 30, and includes a provisional loss assessor’s certificate;

10 “loss assessor’s work” means the work of assessing whether damaged motor vehicles can be repaired or the cost of repairs to damaged motor vehicles, but does not include any such work when it is done for the purposes of the business of a repairer by the repairer or his employee;

“member” means a member of the Council;

15 “motor cycle mechanic” means a person who performs the work of a motor mechanic only on motor cycles;

20 “motor mechanic” means a person who repairs the engines or transmissions, or the fuel, induction, exhaust, electrical, steering, suspension or braking systems, of motor vehicles;

25 “motor vehicle” means any motor car, motor carriage, motor cycle or other vehicle propelled wholly or partly by any volatile spirit, steam, gas, oil or electricity, or by any means other than human or animal power, and includes a trailer, but does not include—

(a) a vehicle used on a railway or tramway;

(b) any vehicle which is constructed or adapted otherwise than for the carriage of passengers or goods over public roads; or

30 (c) anything prescribed for the purposes of this definition;

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“painter tradesman” means a person who paints motor vehicles (otherwise than in the course of their manufacture), but does not include a person who only prepares the surface of a motor vehicle for its finish coat of paint;

5 “panelbeater” means a person who repairs the structural components, frames or panel work of motor vehicles;

“prescribed tradesman” means a tradesman belonging to a prescribed class of tradesman;

10 “provisional loss assessor’s certificate” means a loss assessor’s certificate which is designated as a provisional loss assessor’s certificate under section 31;

“provisional tradesman’s certificate” means a tradesman’s certificate which is designated as a provisional tradesman’s certificate under section 25;

15 “regulations” means regulations made under this Act;

“relevant day” means such day, being a day not less than 3 months after the day appointed and notified under section 2 (2), as may be appointed by the Governor as the relevant day for the purposes of this Act and as may
20 be notified by proclamation published in the Gazette;

“repair” includes examine, detect faults in, adjust, carry out maintenance on, overhaul, replace, alter and paint;

“repair work” means the work of—

- 25 (a) an automotive electrician;
- (b) a body maker;
- (c) a brake mechanic;
- (d) a front end specialist;
- (e) a motor cycle mechanic;
- (f) a motor mechanic;
- 30 (g) a painter tradesman;
- (h) a panelbeater;

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- (i) a transmission specialist; and
- (j) a prescribed tradesman,

but does not include work that is prescribed as exempt for the purposes of this definition;

5 “repairer” means a person who carries on the business of repairing motor vehicles, but does not include—

(a) a person who does repair work only on motor vehicles owned or used by him; or

10 (b) a person who does repair work on motor vehicles only in the course of his employment with another person;

“tradesman’s certificate” means a tradesman’s certificate granted under section 24, and includes a provisional tradesman’s certificate;

15 “transmission specialist” means a person who repairs any of the following parts of motor vehicles, namely, the gears, clutch, driveshaft and differential, and the controlling systems for those parts.

(2) A reference in this Act to the business of a repairer 20 does not include any part of that business—

(a) in which the repairs done do not include any repair work as defined in subsection (1); or

25 (b) which is a business in respect of which a person is required to hold a licence under the Motor Dealers Act, 1974.

(3) A reference in this Act to the performance of a function includes, where the function is a power or authority, the exercise of that power or authority.

5. (1) The Governor may, by regulation made under this Exemptions.
30 Act, exempt from the operation of all or any of the provisions of this Act any person or class of person.

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(2) An exemption under subsection (1) may be given unconditionally or subject to such conditions as may be prescribed in respect of the exemption.

(3) Where an exemption under subsection (1) is given subject to conditions, the exemption does not have effect during any period when the conditions are not complied with.

6. (1) An application under this Act shall be made in or to the effect of a form approved by the Minister. Approved forms.

(2) The Minister may approve different forms for the purpose of making different applications.

PART II.

THE COUNCIL AND THE DISPUTES COMMITTEE.

7. (1) There is hereby constituted a corporation under the corporate name of the "Motor Vehicle Repair Industry Council". Constitution of the Council.

15 (2) The Council is, for the purpose of any Act, a statutory body representing the Crown.

8. (1) The Council shall consist of 9 members, appointed by the Governor, of whom— Members of Council.

20 (a) 1 shall be appointed as Chairman of the Council by the instrument of his appointment;

(b) 1 shall be a person chosen by the Minister from a panel of 3 persons nominated by the Council of the National Roads and Motorists' Association;

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- (c) 1 shall be a person chosen by the Minister from a panel of 3 persons nominated by the Council of the Motor Traders' Association of New South Wales;
- 5 (d) 1 shall be a person chosen by the Minister from a panel of 3 persons nominated by the General Council of the Service Station Association of New South Wales;
- (e) 1 shall be a person chosen by the Minister from a panel of 3 persons nominated by the National Executive of the Metal Trades Industry Association of Australia;
- 10 (f) 1 shall be a person chosen by the Minister from a panel of 3 persons nominated by the State Council of the New South Wales Branch of the Vehicle Builders' Employees Federation of Australia;
- 15 (g) 1 shall be a person chosen by the Minister from a panel of 3 persons nominated by the State Executive of the Australasian Society of Engineers;
- (h) 1 shall be a person chosen by the Minister from a panel of 3 persons nominated by the State Council of The Amalgamated Metal Workers' and Shipwrights' Union; and
- 20 (i) 1 shall be a person chosen by the Minister from a panel of 3 persons nominated by the National Council of the Institute of Automotive Mechanical Engineers.

(2) Where, for the purposes of subsection (1), nominations of persons to constitute a panel are not made within the time or in the manner specified by the Minister in a written notice given to the body entitled to make the nominations, the Governor may appoint a person to be a member instead of the person required to be appointed from that panel and the person so appointed shall be

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30 deemed to have been duly nominated.

(3) Where a body referred to in any provision of subsection (1) changes its name and the Minister is satisfied that the change of name is not accompanied by any change in the nature of the body, he may, by order published in the Gazette, so certify

35 and, subject to subsection (4), as from the date of that publication, the reference in the provision shall be deemed to be a reference to the body under that changed name.

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(4) The power of the Minister under subsection (3) may be exercised in relation to a body under a changed name as if that body, under that changed name, were referred to in subsection (1).

9. (1) Schedule 1 has effect with respect to the constitution and membership of the Council. Provisions relating to the constitution, membership and meetings of the Council.

(2) Schedule 2 has effect with respect to the meetings of the Council.

10. The Council shall have and may perform the functions conferred or imposed on it by or under this or any other Act. Functions of the Council.

10 11. (1) In this section, "motor vehicle repair work" includes loss assessor's work. Council to promote standards and education.

(2) The Council shall—

- (a) keep under review the standard of motor vehicle repair work;
- 15 (b) promote improvement in the standard of motor vehicle repair work;
- (c) keep under review the manpower and training requirements in the motor vehicle repair industry;
- 20 (d) make reports and recommendations to the Minister and the Minister for the time being administering the Technical and Further Education Act, 1974, with respect to the manpower and training requirements of the motor vehicle repair industry;
- 25 (e) promote and undertake research into the motor vehicle repair industry; and
- (f) whenever it considers it necessary to do so or it is requested by the Minister to do so, make reports or recommendations to the Minister with respect to the motor vehicle repair industry.

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12. (1) Such officers and temporary employees as may be necessary for the purpose of carrying out the provisions of this Act shall be appointed under and subject to the Public Service Act, 1979. Officers and employees.

5 (2) For the purpose of performing its functions, the Council may—

(a) with the approval of the Minister of the department concerned and on such terms as may be arranged, make use of the services of any officers or temporary employees of a Government department; and
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(b) with the approval of the Public Service Board, appoint and employ, on a casual basis and on such other terms as may be approved by the Council, persons to act in the administration of this Act.

15 (3) A person referred to in subsection (2) (b) is not, in his capacity as an employee of the Council, an officer within the meaning of the Public Service Act, 1979, but, if the terms and conditions upon which he is appointed so provide, any specified provisions of that Act or the regulations thereunder, whether with
20 or without specified modifications, shall apply to and in respect of him as if he were a temporary employee within the meaning of that Act.

13. (1) There is hereby constituted a corporation under the corporate name of the "Motor Vehicle Repair Disputes Committee". Disputes Committee.
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(2) The Disputes Committee is, for the purposes of any Act, a statutory body representing the Crown.

(3) The functions of the Disputes Committee are the functions conferred or imposed on it by Part VI.

30 (4) Schedule 3 has effect with respect to the constitution and membership of the Disputes Committee.

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(5) Schedule 4 has effect with respect to the meetings of the Disputes Committee.

14. (1) The Council may establish committees to advise the Council on such matters relating to the Council's functions as are referred to them by the Council. Committees of the Council.

(2) The Council shall establish a committee to advise the Council on such matters relating to the Council's functions in respect of the certification and regulation of loss assessors as are referred to it by the Council.

10 (3) A committee shall consist of the Chairman of the Council, who shall be chairman of the committee, and such other persons (including, in the case of the committee established under subsection (2), 1 or more loss assessors), whether members of the Council or not, as may be appointed by the Council.

15 (4) The Council may determine a quorum for a meeting of a committee.

(5) The procedure for the calling of, and for the conduct of business at, meetings of a committee shall be in accordance with any directions given by the Council or, in the absence of any such directions, as may be determined by the committee.

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PART III.

LICENCES AND CERTIFICATES.

DIVISION 1.—*Repairers' Licences.*

15 **15.** (1) On or after the relevant day, no person (other than Licences.
5 an exempted person) shall—

- 10 (a) carry on or advertise that he carries on or is willing to
carry on the business of a repairer in respect of any
repair work unless he is the holder of a licence in respect
of a class of repair work that includes that repair work;
or
(b) carry on the business of a repairer at any place of
business unless he is the holder of a licence granted in
respect of that place of business.

Penalty : \$2,000.

15 (2) A person carries on the business of a repairer if he
does so either by himself, as a member of a partnership or by his
servant or agent.

20 (3) The holder of a licence in respect of a class of repair
work who carries on the business of a repairer in respect of any
other class of repair work does not contravene subsection (1) if—

- 25 (a) that other class of repair work is done by the holder of
a licence in respect of a class of repair work that includes
that other class of repair work pursuant to an agreement
between the holders of those licences; and
(b) he does not advertise that he carries on or is willing to
carry on the business of a repairer in respect of that other
class of repair work.

16. (1) An application for the grant of a licence shall—

- 30 (a) be lodged with the Council; and
(b) specify the class or classes of repair work in respect of
which the application is made.

Application
for grant
of licence.

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(2) Two or more persons intending to carry on in partnership the business of a repairer may, but are not required to, apply for the grant of a joint licence.

(3) A joint application shall specify the names of the 5 persons to whom the licence is to be granted.

(4) Where an application (including a joint application) is made for the grant of a licence to a corporation, the names of the directors of the corporation shall be specified in the application.

(5) Subject to subsection (6), where the business of a 10 repairer is to be carried on at more than 1 place of business a separate application for the grant of a licence in respect of each such place shall be lodged with the Council.

(6) Where the business of a repairer is to be carried on at more than 1 place of business but, by reason of the close 15 proximity of those places, the person applying for the grant of the licence considers it reasonable that a single licence only should be required in respect of those places, he may include a reference to all of those places in an application for the grant of a single licence.

20 17. (1) This section is subject to section 18.

Disposal of
appli-
cations.

(2) On payment of the appropriate fee the Council shall, when an application is made for the grant of a licence in respect of any class of repair work—

25 (a) by a person (other than a person referred to in paragraph (b)), grant a licence in respect of that class of repair work to the person; or

(b) by 2 or more persons making a joint application, grant a licence in respect of that class of repair work and in the joint names of the persons specified in the application 30 pursuant to section 16 (3).

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(3) Where, pursuant to section 16 (6), a reference to 2 or more places of business is included in an application for the grant of a single licence the Council, if it grants the licence, may—

- (a) grant the licence in respect of all of those places; or
- 5 (b) grant the licence in respect of 1 or some only of those places.

(4) Where the Council grants a single licence in respect of 2 or more places of business, those places are together, for the purposes of this Act, the place of business in respect of which the
10 licence is granted.

(5) The appropriate fee is \$100 or, where some other fee is prescribed, that other fee.

18. (1) The Council shall not grant a licence in respect of any class of repair work unless it is satisfied—

Refusal of application for grant of licence.

- 15 (a) in the case of an application by an individual, that the individual—
 - (i) is of or above the age of 18 years and is a fit person to hold a licence; and
 - 20 (ii) has sufficient material, manpower and financial resources to carry on the business of a repairer in respect of that class of repair work;
- (b) in the case of an application by a corporation, that—
 - (i) the corporation is a fit person to hold a licence;
 - 25 (ii) each of the directors of the corporation is of or above the age of 18 years and would, if the application were made by him, be a fit person to hold a licence; and
 - 30 (iii) the corporation has sufficient material, manpower and financial resources to carry on the business of a repairer in respect of that class of repair work;

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(c) in the case of a joint application, that—

(i) each individual and corporation to whom or to which the licence is to be granted has the qualifications referred to in paragraphs (a) (i) and (b) (i) and (ii) respectively; and

(ii) the individuals and corporations to whom or to which the licence is to be granted together have sufficient material, manpower and financial resources to carry on the business of a repairer in respect of that class of repair work; and

(d) that the applicant has such other qualifications as may be prescribed.

(2) Where the applicant for a licence in respect of any class of repair work (not being a joint licence) proposes to carry on the business of a repairer in partnership with 1, or more than 1, person, the Council shall not refuse to grant the licence under subsection (1) (a) (ii) or (b) (iii) unless the Council is satisfied that the applicant's material, manpower and financial resources, together with those of the person or persons with whom he proposes to carry on that business in partnership, are not sufficient to enable him to carry on the business of a repairer in respect of that class of repair work.

(3) The Council shall not grant a licence in respect of any place of business unless the applicant satisfies the Council that the business of a repairer may be carried on at that place without contravening any other Act or any instrument made under any other Act.

19. A licence shall be in the form approved by the Minister and, without prejudice to the inclusion in the licence of any other particulars, shall—

(a) specify the date of issue of the licence;

(b) specify the class of repair work in respect of which the licence is granted;

Motor Vehicle Repairs.

- (c) specify the place of business in respect of which the licence is granted;
- (d) specify the name of the person or, in the case of a joint licence the names of the persons, to whom the licence is granted; and
- (e) where the licence (including a joint licence) is granted to a corporation, specify the names of the directors of the corporation.

20. (1) The applications to which this section relates are ^{Amendment of licence.} applications for the amendment—

- (a) of a licence by substituting for, or adding to, the reference in the licence to a class of repair work a reference to another class of repair work;
- (b) of a licence by substituting for the reference in the licence to a place of business a reference to another place of business;
- (c) of a licence by including a reference to an additional place of business in respect of which the licence is granted if it is in close proximity to the existing place of business in respect of which the licence is granted;
- (d) of a joint licence by specifying in the licence the name of any person;
- (e) of a licence (including a joint licence) held by a corporation by specifying in the licence the name of any person who is a director of the corporation; or
- (f) of a licence in such other manner as may be prescribed.

(2) Subject to subsection (3), where the holder of a licence makes an application to which this section relates and pays the prescribed fee, the Council shall grant the application and amend the licence in accordance with the application.

Motor Vehicle Repairs.

(3) The Council shall not grant an application by a person under this section unless it is satisfied that the licence as amended could have been granted by it to the person on an application made under section 16 at the same time as the application under this section.

(4) Where a person becomes a director of a corporation that is the holder of a licence and his name is not specified as a director in the licence, the corporation shall, within 1 month after that person becomes a director, make the application referred to in subsection (1) (e).

Penalty : \$500.

(5) Where an application made pursuant to subsection (4) is refused the person to whom the application relates shall forthwith give up his directorship of the corporation concerned.

Penalty : \$200.

(6) Where an application made pursuant to subsection (4) is refused the person to whom the application relates shall not again, within a period of 6 months after the refusal of the application, become a director of the corporation unless the corporation ceases to be the holder of a licence or the Council, pursuant to subsection (7), grants an application made under subsection (7) in relation to that person.

Penalty : \$200.

(7) A corporation that is the holder of a licence may apply to the Council for the approval of a person whom it is proposed to appoint or elect to be a director of the corporation and, subject to the regulations, the Council may refuse or grant the application.

(8) Where an application referred to in—

(a) subsection (1) (a) is granted and the licence is amended by substituting or adding a reference to another class of repair work, that class of repair work is a class of repair work in respect of which the licence is granted;

Motor Vehicle Repairs.

- (b) subsection (1) (b) is granted and the licence is amended by substituting a reference to another place of business, that place of business is a place of business in respect of which the licence is granted;
- 5 (c) subsection (1) (c) is granted and the licence is amended by including a reference to an additional place of business, that place of business is a place of business in respect of which the licence is granted; or
- 10 (d) subsection (1) (d) is granted and the licence is amended by specifying the name of the person concerned in the licence, that person shall be deemed to be a person to whom the licence is granted.

21. (1) A licence has effect from and including the date of issue of the licence. Duration of licence, and annual fee.

15 (2) A licence continues in force—

- (a) unless it ceases to have effect under subsection (5);
- (b) unless it is revoked or surrendered; and
- (c) except during any period of suspension.

20 (3) The appropriate fee in respect of a licence is payable annually on or before the anniversary of the date of issue of the licence in the year concerned.

(4) For the purposes of subsection (3), the appropriate fee is \$100 or, where some other fee is prescribed, that other fee.

25 (5) If the appropriate fee in respect of a licence is not paid in accordance with subsection (3), the licence ceases to have effect immediately following the anniversary concerned.

(6) When a licence ceases to have effect under subsection (5) the person who was the holder of the licence shall forthwith deliver it to the Council.

30 Penalty for an offence against this subsection : \$200.

Motor Vehicle Repairs.

DIVISION 2.—*Tradesmen's Certificates.*

22. (1) On or after the relevant day, no repairer or commercial vehicle owner (other than an exempted person) shall permit a person employed by him to do any repair work unless the person so employed—

Tradesman's
certificate.

(a) holds a tradesman's certificate in respect of a class of repair work that includes that repair work; or

10 (b) is an apprentice and does that repair work in the course of his apprenticeship and under the supervision of a person who holds such a certificate.

Penalty : \$2,000.

(2) On or after the relevant day, no repairer (other than an exempted person) shall personally do any repair work in connection with his business unless he holds a tradesman's certificate in respect of a class of repair work that includes that repair work.

Penalty : \$2,000.

(3) On or after the relevant day, no repairer or commercial vehicle owner (other than an exempted person) shall enter into an agreement for any repair work to be done by any person who does not hold a licence.

Penalty : \$2,000.

(4) On or after the relevant day, an insurer with whom the owner of a motor vehicle has entered into any contract of insurance in respect of damage to that motor vehicle shall not enter into an agreement, or require the owner to enter into an agreement, for any repair work to be done on that motor vehicle by any person who does not hold a licence or specify in the contract of insurance a repairer who does not hold a licence.

30 Penalty : \$2,000.

Motor Vehicle Repairs.

23. An application for the grant of a tradesman's certificate shall— Application for tradesman's certificate.

(a) be lodged with the Council; and

5 (b) specify the class or classes of repair work in respect of which the application is made.

24. (1) Subject to subsection (3) and section 25, on payment of the appropriate fee the Council shall, when an application is made by an individual for the grant of a tradesman's certificate in respect of any class of repair work, grant to the individual a Grant of tradesman's certificate.
10 tradesman's certificate in respect of that class of repair work.

(2) The appropriate fee is \$25 or, where some other fee is prescribed, that other fee.

(3) The Council shall not grant to an individual a tradesman's certificate in respect of any class of repair work unless it is
15 satisfied that—

(a) the individual is a fit person to hold a tradesman's certificate; and

(b) the individual—

20 (i) has such qualifications or has passed such examinations as may be prescribed in relation to the tradesman's certificate in respect of that class of repair work; or

25 (ii) has such other qualifications or experience or has passed such other examinations as may be determined by the Council in relation to the tradesman's certificate in respect of that class of repair work.

Motor Vehicle Repairs.

25. (1) The Council may grant to an individual a tradesman's certificate in respect of any class of repair work notwithstanding that the individual has not met the requirement referred to in section 24 (3) (b) if it is satisfied that the individual has acquired or is capable of acquiring the skills that will enable him to meet that requirement in respect of that class of repair work.

Provisional tradesman's certificate.

(2) A tradesman's certificate referred to in subsection (1) shall be designated by the Council as a provisional tradesman's certificate.

10 (3) A provisional tradesman's certificate is subject to such conditions and restrictions as may be specified on it by the Council at the time it grants the certificate.

15 (4) If the holder of a provisional tradesman's certificate does repair work in breach of any condition or restriction to which the certificate is subject, he shall, for the purposes of section 22, be deemed not to be the holder of a tradesman's certificate when he does that work.

20 (5) Where an individual who holds or has held a provisional tradesman's certificate applies, not more than 3 months after the expiry date specified on the provisional tradesman's certificate, for the grant of a tradesman's certificate, the appropriate fee in respect of that application shall be deemed to have been paid.

25 26. A tradesman's certificate shall be in the form approved by the Minister and, without prejudice to the inclusion in the certificate of any other particulars, shall—

Form of tradesman's certificate.

(a) specify the date of issue of the certificate;

(b) specify the name of the individual to whom the certificate is granted;

Motor Vehicle Repairs.

- (c) specify the class or classes of repair work in respect of which the certificate is granted; and
- (d) in the case of a provisional tradesman's certificate—
- 5 (i) specify the conditions and restrictions to which the certificate is subject; and
- (ii) specify the date until and including which the certificate is in force.

27. (1) A tradesman's certificate has effect from and including its date of issue. Duration of certificate.

- 10 (2) A tradesman's certificate continues in force—
- (a) except as provided in paragraph (b)—until it is revoked or surrendered; or
- 15 (b) in the case of a provisional tradesman's certificate—until and including the date determined by the Council and specified on the certificate, or until it is revoked or surrendered, whichever first occurs,
- but is not in force during any period of suspension.

DIVISION 3.—Loss Assessors' Certificates.

28. (1) On or after the relevant day, no person (other than Loss assessor's certificate.
20 an exempted person) shall permit a person employed by him to do any loss assessor's work unless the person so employed holds a loss assessor's certificate.

Penalty : \$2,000.

25 (2) On or after the relevant day, no repairer or insurer (other than an exempted person) shall enter into an agreement for any loss assessor's work to be done by any person unless the latter person holds a loss assessor's certificate.

Penalty : \$2,000.

Motor Vehicle Repairs.

(3) On or after the relevant day, no person (other than an exempted person) shall perform any loss assessor's work for fee or reward unless he holds a loss assessor's certificate.

Penalty : \$200.

5 29. An application for the grant of a loss assessor's certificate shall be lodged with the Council. Application for loss assessor's certificate.

10 30. (1) Subject to subsection (3) and section 31, on payment of the appropriate fee the Council shall, when an application is made by an individual for the grant of a loss assessor's certificate, grant such a certificate to the individual. Grant of loss assessor's certificate.

(2) The appropriate fee is \$25 or, where some other fee is prescribed, that other fee.

(3) The Council shall not grant a loss assessor's certificate to an individual unless it is satisfied that—

15 (a) the individual is of or above the age of 18 years and is a fit person to hold a loss assessor's certificate; and

(b) the individual—

20 (i) has such qualifications or has passed such examinations as may be prescribed in relation to loss assessors' certificates; or

(ii) has such other qualifications or experience or has passed such other examinations as may be determined by the Council in relation to loss assessors' certificates.

25 31. (1) The Council may grant to an individual a loss assessor's certificate notwithstanding that the individual has not met the requirement referred to in section 30 (3) (b) if it is satisfied that the individual has acquired or is capable of acquiring the skills that will enable him to meet that requirement. Provisional loss assessor's certificate.

Motor Vehicle Repairs.

(2) A loss assessor's certificate referred to in subsection (1) shall be designated by the Council as a provisional loss assessor's certificate.

(3) A provisional loss assessor's certificate is subject to such conditions and restrictions as may be specified on it by the Council at the time it grants the certificate.

(4) If the holder of a provisional loss assessor's certificate does loss assessor's work in breach of any condition or restriction to which the certificate is subject, he shall for the purposes of section 28 be deemed not to be the holder of a loss assessor's certificate when he does that work.

(5) Where an individual who holds or has held a provisional loss assessor's certificate applies, not more than 3 months after the expiry date specified on the provisional loss assessor's certificate, for the grant of a loss assessor's certificate, the appropriate fee in respect of that application shall be deemed to have been paid.

32. A loss assessor's certificate shall be in the form approved by the Minister and, without prejudice to the inclusion in the certificate of any other particulars, shall—

Form of
loss
assessor's
certificate.

- (a) specify the date of issue of the certificate;
- (b) specify the name of the individual to whom the certificate is granted; and
- (c) in the case of a provisional loss assessor's certificate—

- (i) specify the conditions and restrictions to which the certificate is subject; and
- (ii) specify the date until and including which the certificate is in force.

33. (1) A loss assessor's certificate has effect from and including its date of issue.

Duration
of loss
assessor's
certificate.

Motor Vehicle Repairs.

- (2) A loss assessor's certificate continues in force—
- (a) except as provided in paragraph (b)—until it is revoked or surrendered; or
 - (b) in the case of a provisional loss assessor's certificate—
5 until and including the date determined by the Council and specified on the certificate, or until it is revoked or surrendered, whichever first occurs,
- but is not in force during any period of suspension.

DIVISION 4.—*Licences and Certificates Generally.*

- 10 34. (1) Where the Council refuses to grant a licence or certificate or to grant an application for the amendment of a licence, it shall cause a notice of refusal to be served on the applicant for the licence or certificate, or on the applicant for the amendment, as the case may require. Notice of refusal.
- 15 (2) In the case of a joint application for the grant or amendment of a licence it is a sufficient compliance with subsection (1) if the notice of refusal is served on any 1 of the applicants.
- (3) A notice of refusal shall state the reasons for the refusal.
- 20 (4) For the purposes of this Act, the Council shall be deemed to have refused to grant a licence or certificate or to grant an application for the amendment of a licence if it does not give a decision on an application—
- (a) duly made with respect to that grant; and
 - 25 (b) accompanied by the fee (if any) appropriate to that application,
- within 3 months after the application is lodged with the Council.

Motor Vehicle Repairs.

35. A holder of a licence or certificate may surrender it by delivering it to the Council with a notification in writing that the licence or certificate, as the case may be, is surrendered.

Surrender
of licence
or certifi-
cate.

36. Where—

Refund
of fees.

- 5 (a) an application for a licence or certificate or for the amendment of a licence is withdrawn;
- (b) a licence or certificate is surrendered, revoked or suspended; or
- 10 (c) in any other circumstance prescribed in relation to licences or certificates,

the Council may refund to the applicant or the holder of the licence or certificate, or to any other person who appears entitled thereto, the whole or any part of the fee which has been paid by the applicant or the holder of the licence or certificate.

15 **37.** If the Council is satisfied that a licence or certificate has been lost or destroyed it may, on payment of the prescribed fee, issue a duplicate licence or certificate which shall be of the same force as the original licence or certificate.

Duplicate
licence.

20 **38.** (1) The Council shall cause to be kept a register, in such form as it determines, of licences and certificates and shall cause to be recorded therein in respect of each licence or certificate—

Register of
licences and
certificates.

- (a) the matters which by this Act are required to be specified in the licence or certificate;
- 25 (b) in the case of a licence—particulars of any amendment of the licence;
- (c) in the case of a licence—particulars of any fees paid, or due but not paid, in respect of the licence under section 21;

Motor Vehicle Repairs.

- (d) particulars of any revocation, suspension or surrender of the licence or certificate;
- (e) in the case of a provisional tradesman's certificate or provisional loss assessor's certificate—particulars of any condition or restriction to which the certificate is subject; and
- (f) such other matters as may be prescribed.

(2) The Council may cause to be made such alterations in the register as are necessary to ensure that the matters recorded therein in respect of any licence or certificate are accurate.

(3) The register may, at all reasonable hours, be inspected, and copies of all or any part of any entry in the register taken—

- (a) without payment, by—
 - (i) any member of the police force in his capacity as such a member;
 - (ii) any public servant in his capacity as such a servant; and
 - (iii) any person authorised by the Council; or
- (b) on payment of the prescribed fee, by any other person.

(4) The register shall be received in proceedings before the Council, the Disputes Committee, the Commissioner for Consumer Affairs or any court or tribunal as evidence of the matters required by or under this Act to be recorded in it, and any document purporting to be certified by the Council to be a true copy of an entry in the register shall be received in proceedings before the Council, the Disputes Committee, the Commissioner for Consumer Affairs or any court or tribunal as evidence of any such matters contained in the entry.

Motor Vehicle Repairs.

39. A person shall not, in an application for—

- (a) a licence or certificate; or
- (b) the amendment of a licence,

False or misleading statements in applications.

make any statement which he knows to be false or misleading.

5 **Penalty :** \$500.

40. A person shall not hold himself out as—

- (a) a holder of a certificate if he does not hold a certificate; or
- (b) a holder of a particular certificate or a certificate of a particular kind if he does not hold that or such a certificate.

Holding out as holder of certificate.

10

Penalty : \$200.

PART IV.

DISCIPLINARY PROCEEDINGS.

15 **41.** In this Part, “defendant” means any person against whom a complaint is made under section 44 or who is the holder of a licence in relation to which the Disputes Committee has made a recommendation of revocation or suspension under section 55 (2) (b) (iv).

Interpretation: Part IV.

20 **42.** (1) The grounds on which the holder of a licence may be dealt with under this Part are—

- (a) that the holder of the licence made a statement in or in connection with his application for the licence that he knew to be false or misleading in a material particular;

Grounds for action against holder of licence.

Motor Vehicle Repairs.

- (b) that the holder of the licence has been convicted of an offence involving fraud or dishonesty punishable on conviction by imprisonment for 3 months or more, or of any offence against this Act or the regulations;
- 5 (c) that the holder of the licence has been guilty of fraudulent conduct or dishonesty in connection with his business as a repairer;
- (d) that the holder of the licence has carried on the business of a repairer in such a manner that the repair work done
10 in connection with that business has generally been below usual trade standards;
- (e) in the case of the holder of a licence (other than a joint licence) in respect of any class of repair work—that the material, manpower and financial resources of the holder
15 of the licence, together with those of any persons with whom he carries on the business of a repairer in partnership, are not sufficient to enable him to carry on the business of a repairer in respect of that class of repair work;
- 20 (f) in the case of the holder of a joint licence in respect of any class of repair work—that the holders of the licence do not together have sufficient material, manpower and financial resources to carry on the business of a repairer in respect of that class of repair work;
- 25 (g) that the holder of the licence (not being a corporation) has become bankrupt, applied to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounded with his creditors or made an assignment of his remuneration or estate for their benefit;
- 30 (h) that the holder of the licence (being a corporation)—
- (i) is in the course of being wound up;
 - (ii) is under official management;
 - (iii) is a corporation in respect of which a receiver or manager has been appointed; or
 - 35 (iv) has entered into a compromise or scheme of arrangement with its creditors;

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- (i) that the holder of the licence has, for a period of 1 month or more, ceased to carry on the business of a repairer at the place specified in the licence for that purpose;
- 5 (j) that the holder of the licence is contravening another Act or an instrument made under another Act by carrying on at the place specified in the licence for that purpose the business of a repairer;
- 10 (k) in the case of the holder of a licence (being a corporation)—that any director of the corporation is convicted of an offence referred to in paragraph (b); or
- 15 (l) in the case of the holder of a licence other than a joint licence (being any person carrying on business as a repairer in partnership with any person)—that a licence held by the latter person has been revoked after a determination of a complaint in relation to the licence held by him on any ground specified in paragraph (b), (c), (d), (e), (g), (h), (j) or (k).
- 20 (2) The grounds referred to in subsection (1) (a), (b), (c), (d), (g), (h), (j) or (k) are deemed to exist, in the case of a joint licence, if those grounds apply to any holder of that licence.

43. The grounds on which the holder of a certificate may be dealt with under this Part are—

- 25 (a) that the holder of the certificate made a statement in or in connection with his application for the certificate that he knew to be false or misleading in a material particular;
- 30 (b) that the holder of the certificate has been convicted of an offence against this Act or the regulations;
- (c) in the case of the holder of any tradesman's certificate—that the holder of the certificate is not competent to do repair work of the class to which the certificate applies;

Grounds for
action
against
holder of
certificate.

Motor Vehicle Repairs.

- 5 (d) in the case of the holder of a provisional tradesman's certificate or provisional loss assessor's certificate—that the holder of the certificate has failed to comply with any condition or restriction to which the certificate is subject; or
- (e) in the case of the holder of a loss assessor's certificate—that the holder of the certificate is not competent to perform loss assessor's work.

10 **44.** (1) A complaint may be made to the Council that, in relation to any licence or certificate, 1 or more of the grounds specified respectively in section 42 (1) (a) to (1) or section 43 (a) to (e) exists or exist. Manner of making complaint.

(2) A complaint referred to in subsection (1) shall, except as provided by subsection (3), be accompanied by the prescribed 15 fee.

(3) A complaint referred to in subsection (1) need not be accompanied by the prescribed fee where it is made by—

- (a) a public servant in his capacity as such a servant; or
- (b) an inspector in his capacity as such an inspector.

20 **45.** (1) Upon receipt of a complaint made under section 44, together with the prescribed fee (where applicable) required by section 44 (2), or upon any recommendation made by the Disputes Committee to the Council under section 55 (2) (b) (iv), the Council shall consider the complaint or recommendation and, if 25 it is of the opinion that the nature of the complaint or recommendation warrants its so doing, shall cause a notice to be issued calling upon the person to whom the complaint or recommendation relates to show cause why he should not be dealt with under this Part and cause that notice to be served on that person. Action on complaints or recommendations.

Motor Vehicle Repairs.

(2) Subsection (1) does not apply so as to require the Council to consider any complaint which an officer of the Council, authorised by the Council for the purposes of this subsection, has determined to be of such a nature as not to warrant the issue of
5 a notice under subsection (1) with respect to the complaint.

(3) As soon as practicable after the receipt of a complaint, the Council shall cause the complainant to be informed in writing of any action taken under this section with respect to the complaint.

10 (4) The Council may, if in its opinion its investigations warrant its so doing and without having received a complaint or recommendation by the Disputes Committee, cause a notice to be issued to a person against whom a complaint may be made under section 44 to show cause why he should not be dealt with under
15 this Part and cause the notice to be served on that person.

(5) A notice served under subsection (1) or (4) shall—

(a) give particulars of the grounds upon which the defendant is required to show cause; and

20 (b) appoint a time and place for the holding of an inquiry for the defendant to show cause,
as required by the notice.

(6) Not earlier than the day on which the period fixed under subsection (7) in respect of a defendant expires, the Council shall at the time and place appointed by the notice served on the
25 defendant, or at such other time or place appointed by the Council and notified by notice in writing served on the defendant, cause an inquiry to be held into the grounds upon which the defendant has been called to show cause as required by that notice.

(7) The period referred to in subsection (6) is 7 days
30 after service on the defendant of the notice referred to in subsection (5).

Motor Vehicle Repairs.

46. (1) Any inquiry held under this Part shall be held before— Inquiries—
how held.

- (a) the Council; or
- (b) a committee of 1 or more members (including the Chairman) appointed by the Council to hold the inquiry, and shall be held as in open court.

(2) Where a committee of 2 or more members is appointed under subsection (1) (b) to hold an inquiry under this Part—

- (a) the Chairman shall preside at the inquiry; and
- (b) the Chairman shall have, in addition to a deliberative vote, a casting vote on any matter arising during the inquiry in respect of which there is an equality of votes.

(3) The determination of the Council on an inquiry shall be given at a meeting of the Council at which a quorum is present.

(4) At any inquiry under this Part—

- (a) the defendant may appear by himself or by a barrister, solicitor or agent appointed by the defendant; and
- (b) the Council or the committee before which the inquiry is held—
 - (i) may conduct the inquiry in such manner as it sees fit and is not bound to observe rules of law governing the admission of evidence but may inform itself of any matter in such manner as it thinks fit;
 - (ii) may allow a barrister, solicitor, public servant or inspector, in each case instructed by the Council, to appear before the Council or that committee for the purpose of adducing evidence tending to establish the grounds upon which the defendant has been called upon to show cause as referred to in section 45;

Motor Vehicle Repairs.

- (iii) may call and receive evidence as to any matter relevant to the inquiry;
- (iv) may from time to time as it sees fit adjourn the inquiry; and
- 5 (v) may, subject to section 13 of the Oaths Act, 1900, require any evidence at the inquiry to be given on oath.

(5) An inquiry under this Part may be held in the absence of the defendant if the Council or the committee before
10 which the inquiry is held is satisfied that the defendant was served with reasonable notice of the time and place of the inquiry.

(6) Service of any such notice may be proved by the oath of the person who effected the service or by affidavit.

47. (1) The Council or the committee before which an **Subpoenas.**
15 inquiry under this Part is held may of its own motion or on the application of the defendant issue a subpoena in or to the effect of the prescribed form requiring the person to whom the subpoena is addressed to attend as a witness at the inquiry or so to attend and to produce at the inquiry any books, deeds, papers, writings or
20 articles in his possession or under his control relating to any matter relevant to the inquiry and specified in the subpoena.

(2) A person who is served with a subpoena addressed to him and to whom, at the time of service, is tendered an amount that is sufficient to cover his travelling and other out-of-pocket
25 expenses in attending the inquiry specified in the subpoena and producing anything required by the subpoena to be produced shall not, without reasonable cause, fail or refuse to obey the subpoena.

Penalty : \$200.

(3) A person to whom a subpoena is addressed is entitled
30 to receive—

- (a) where the subpoena was issued by the Council or a committee of its own motion, from the Council; or

Motor Vehicle Repairs.

(b) where the subpoena was issued by the Council or a committee on the application of the defendant, from the defendant,

his reasonable costs, including any loss of earnings, incurred by him in obeying the subpoena, calculated in accordance with the scales relating to subpoenas issued out of the District Court.

48. (1) After an inquiry held under this Part the Council may, if it is of the opinion that there exists any ground specified in section 42 (1) (a) to (l) or 43 (a) to (e), as the case may require, for dealing with the defendant under this Part, make any of the following determinations, that is to say, the Council may:—

Determina-
tion by
Council.

- (a) determine that no further action be taken against the defendant;
- (b) caution or reprimand the defendant; or
- 15 (c) where the ground is specified—
 - (i) in section 42 (1) (a) to (l)—revoke or suspend the licence held by the defendant; or
 - (ii) in section 43 (a) to (e)—revoke or suspend the certificate held by the defendant.

20 (2) The Council may at any time remove a suspension made under subsection (1) (c).

49. (1) Before revoking or suspending a licence or certificate, the Council shall give each holder of the licence, or the holder of the certificate, an opportunity of showing cause why the Council should not revoke or suspend the licence or certificate for the reasons specified by the Council.

Notice of
revocation,
etc.

(2) Where the Council revokes or suspends a licence or certificate, it shall cause a notice of the revocation or suspension to be served on the holder of the licence or certificate.

Motor Vehicle Repairs.

(3) In the case of a joint licence it is a sufficient compliance with subsection (2) if the notice is served on any one of the holders of the licence.

(4) A notice under subsection (2) shall state the reasons
5 for which the Council has revoked or suspended the licence or certificate.

(5) Subject to subsection (6), any revocation or suspension of a licence or certificate has effect as on and from the date that is 21 days after the date on which the notice of the revocation
10 or suspension is served.

(6) Where the holder of a licence or certificate appeals under Part V against any revocation or suspension of the licence or certificate, the revocation or suspension shall have effect—

15 (a) only if the industrial magistrate hearing the appeal confirms the revocation or suspension or the appeal is withdrawn; and

(b) on—

20 (i) the date on which that industrial magistrate confirms the revocation or suspension or such later date as that magistrate orders; or

(ii) where the appeal is withdrawn—the date on which it is withdrawn or the date that is 21 days after the date on which notice of the revocation or suspension was served pursuant to this section,
25 whichever is the later date.

(7) When the revocation or suspension of a licence or certificate has effect, the person who was or is the holder of the licence or certificate shall forthwith deliver it to the Council.

Penalty for an offence against this subsection: \$200.

Motor Vehicle Repairs.

PART V.

APPEALS.

50. (1) In this section—

Appeals.

“applicable date” means—

- 5 (a) in the case of an appeal against a refusal to grant a licence or certificate or to grant an application for the amendment of a licence, the date of service of the notice of the refusal; or
- 10 (b) in the case of an appeal against a revocation or suspension of a licence or certificate, the date of service of the notice of the revocation or suspension, as the case may be;

“registrar” means the industrial registrar appointed under the Industrial Arbitration Act, 1940.

15 (2) An applicant for the grant of a licence or certificate or for the amendment of a licence may appeal to an industrial magistrate against the refusal of the Council to grant the licence or certificate or to grant the application for the amendment of the licence.

20 (3) The holder of a licence or certificate may appeal to an industrial magistrate against the revocation or suspension by the Council of the licence or certificate.

(4) Notice of an appeal under this section, specifying the grounds of the appeal, shall be lodged with the registrar not later
25 than 21 days after the applicable date.

(5) The registrar shall give notice of the time and place of the hearing of an appeal under this section to the Council and to the person appealing, and shall state in the notice to the Council the grounds of the appeal.

30 (6) An appeal shall be dealt with by way of rehearing on the evidence, if any, given before the Council and on any evidence in addition to or in substitution for the evidence so given.

Motor Vehicle Repairs.

(7) The hearing of an appeal may proceed notwithstanding any omission or error in a notice under subsection (5) or the failure to give any such notice if the industrial magistrate is satisfied that the person appealing and the Council had knowledge of the
5 time and place of the hearing and were not prejudiced by any such omission or error or by the failure to give any such notice.

(8) Where relevant, a document purporting to be certified by the Disputes Committee and to set out a determination of that Committee under section 55 shall be received in proceedings before
10 an industrial magistrate under this section as evidence of the determination.

(9) An industrial magistrate shall hear and determine an appeal made to him under this section and may confirm (with or without variation) or disallow the refusal, revocation or suspen-
15 sion appealed against, or make such other order as to him seems in the circumstances to be just.

(10) An industrial magistrate may disallow the refusal, revocation or suspension appealed against if, in all of the circumstances of the case, he considers it fair and reasonable to do so.

(11) The decision of an industrial magistrate in respect
20 of an appeal made under this section shall be final and shall be binding on the person appealing and on the Council which shall take such steps as may be necessary to give effect to the decision.

(12) Where an application for the grant or amendment of
25 a joint licence is refused or a joint licence is revoked or suspended, an appeal under this section may be made either by 1 of the applicants or holders, as the case may be, on behalf of all the applicants or holders, or by all of the applicants or holders jointly, but not otherwise.

Motor Vehicle Repairs.

PART VI.

DISPUTES.

51. (1) In this Part, except in so far as the context or subject-matter otherwise indicates or requires— **Interpretation: Part VI.**

5 “applicant” means a person who makes an application;

“application” means an application under section 52 (1) to the Disputes Committee, but does not include an application that has been withdrawn;

10 “dispute” means a disagreement which is the subject of an application;

“owner” in relation to a motor vehicle includes any hirer, lessee or insurer of the motor vehicle;

“tribunal” includes a consumer claims tribunal constituted under the Consumer Claims Tribunals Act, 1974.

15 (2) A reference in this Part to a repairer includes a reference to a person who was a repairer when he repaired a motor vehicle that is the subject of such a disagreement as is referred to in section 52 (1) or of a dispute, notwithstanding that he has ceased to be a repairer since the vehicle was repaired.

20 **52.** (1) Where, in relation to a motor vehicle, a disagreement **Disputes.** exists between the owner of the vehicle and a repairer concerning any 1 or more of the following matters, namely—

(a) the manner in which any repair work has been done;

25 (b) the fair cost owed by the owner to the repairer for the carrying out of any repair work; or

(c) any other matter or thing, whether or not of the same kind as a matter referred to in paragraph (a) or (b), arising out of the application of this Act,

30 the owner may apply in writing to the Disputes Committee to investigate and determine the disagreement.

Motor Vehicle Repairs.

(2) The powers conferred by this Part shall not be exercised in connection with any matter in issue in a dispute—

- 5 (a) if the repair work which is the subject of the dispute was done before the day appointed and notified under section 2 (2);
- 10 (b) if that matter is, at the time when the application relating to the dispute is received by the Disputes Committee, the subject of an application under Part V of the Motor Dealers Act, 1974, and that application has not been withdrawn;
- 15 (c) if, at that time, that matter has been determined by the Commissioner for Consumer Affairs pursuant to Part V of the Motor Dealers Act, 1974, or the Commissioner for Consumer Affairs determines that matter pursuant to an application under Part V of the Motor Dealers Act, 1974, made at or before that time;
- 20 (d) if proceedings in respect of that matter are pending before a court or a tribunal at that time, unless those proceedings are discontinued before judgment is given by the court or a determination is made by the tribunal; or
- (e) if, at that time, that matter has been decided by a court or a tribunal, or a court or a tribunal decides that matter pursuant to proceedings which are pending at that time.

25 (3) Where an application is made to the Disputes Committee a court or a tribunal has no jurisdiction in connection with any matter in issue in the dispute to which the application relates—

- 30 (a) unless subsection (2) (d) or (e) applies in respect of that matter;
- (b) unless the application is withdrawn; or
- (c) except in respect of proceedings commenced in a court or a tribunal after the matter has been dealt with under this Part.

(4) An application may be withdrawn at any time.

Motor Vehicle Repairs.

53. (1) Where an application is made to the Disputes Settlement
Committee under section 52 (1), the Chairman shall use his best of disputes.
endeavours by communication with the applicant and the repairer,
or otherwise, to settle the dispute.

5 (2) The Chairman may appoint any inspector to assist
him in the exercise of his function under subsection (1).

(3) An inspector appointed under subsection (2) to assist
the Chairman may enter at any reasonable time any place occupied
by a repairer at which the inspector has reasonable grounds for
10 believing that a motor vehicle which is the subject of a dispute is
situated and there examine that motor vehicle.

(4) Where the Chairman settles a dispute the application
concerned shall be deemed to have been withdrawn.

(5) A dispute shall not be treated as having been settled
15 unless the terms of the settlement are incorporated in a document
and signed by the applicant, the repairer and the Chairman.

(6) Where a dispute is settled as provided in this section
the settlement shall have the same force and effect as it would have
if it were a determination by the Disputes Committee under section
20 55.

(7) A document purporting to be signed by the Chairman
and to set out the terms of a settlement shall be received by the
Commissioner for Consumer Affairs when acting pursuant to Part
V of the Motor Dealers Act, 1974, and in proceedings before any
25 court or tribunal as evidence of that settlement and the terms
thereof.

54. (1) Where the Chairman is unable under section 53 to
settle a dispute he shall refer the dispute to the Disputes Committee. Investigation by
Disputes Committee.

(2) The Disputes Committee shall investigate any dispute
30 referred to it by the Chairman.

Motor Vehicle Repairs.

(3) In any investigation by the Disputes Committee—

(a) the applicant or repairer may appear by himself or, with the leave of that Committee, by a barrister, solicitor or agent appointed by him; and

5 (b) the Disputes Committee—

(i) shall have regard to natural justice;

(ii) subject to subparagraph (i), may conduct the investigation in such manner as it sees fit and is not bound to observe rules of law governing the admission of evidence but may inform itself of any matter in such manner as it thinks fit;

10 (iii) may allow a barrister, solicitor, public servant or inspector, in each case instructed by the Council, to appear before the Disputes Committee for the purpose of adducing evidence;

15 (iv) may call and receive evidence as to any matter relevant to the investigation;

(v) may from time to time as it sees fit adjourn the investigation; and

20 (vi) may, subject to section 13 of the Oaths Act, 1900, require any evidence at the investigation to be given on oath.

(4) An investigation under this section may be held in the absence of the repairer if the Disputes Committee is satisfied
25 that the repairer was served with reasonable notice of the time and place of the investigation.

(5) Service of any such notice may be proved by the oath of the person who effected the service or by affidavit.

55. (1) After investigating a dispute under section 54, the Disputes Committee shall determine each of the matters which are the subject of the dispute.

Determina-
tion by
Disputes
Committee.

Motor Vehicle Repairs.

(2) The Disputes Committee may, in accordance with its determination under subsection (1) and as part of its determination of the dispute—

- (a) dismiss the application relating to the dispute; or
- 5 (b) subject to subsection (3), do any 1 or more of the following :—
 - (i) make an order for the payment of money;
 - (ii) make an order that specified work be done within a specified time;
 - 10 (iii) make any ancillary order necessary for the effectuation of an order referred to in subparagraph (i) or (ii);
 - (iv) make a recommendation to the Council that any licence held by a repairer who was a party to the dispute be revoked or suspended; or
 - 15 (v) make a recommendation to the Council that a payment of a specified sum be made out of the Contingency Fund to the person who made the application under section 52 (1) in relation to the dispute or to such other person as to the Disputes Committee seems appropriate.
 - 20

(3) The Disputes Committee shall not, in making an order under subsection (2) (b) (i) to (iii) as part of its determination of a dispute, order the payment of any money or the
25 doing of any work—

- (a) if the amount of the payment, the value of the work or the sum of the amount of the payment and the value of the work, as the case may be, exceeds \$3,000;
- 30 (b) in respect of any repair work if the work was done before the day appointed and notified under section 2 (2);
- (c) in respect of any loss consisting of damage to a motor vehicle or other object, or injury to any person, arising out of a motor vehicle accident; or
- 35 (d) in respect of any loss consisting of damage to a motor vehicle of a prescribed class.

Motor Vehicle Repairs.

(4) A document purporting to be certified by the Disputes Committee and to set out a determination of that Committee under this section shall be received by the Commissioner for Consumer Affairs when acting pursuant to Part V of the Motor Dealers Act, 1974, and in proceedings before any court or tribunal as evidence of that determination.

56. (1) Where the Disputes Committee as part of its determination of a dispute makes an order for the payment of money, the person entitled to that payment may enforce the order by filing, free of charge, with the registrar of a court of competent jurisdiction—

Enforcement of orders.

- (a) a copy of the order certified by the Disputes Committee to be a true copy; and
- (b) an affidavit by that person as to the amount unpaid under the order,

and thereupon that registrar shall enter judgment in favour of that person for the amount specified in the affidavit as being unpaid.

(2) Where the Disputes Committee as part of its determination of a dispute makes an order that specified work be done within a specified time on a motor vehicle by a repairer, and the repairer fails to do that work within the specified time, the owner of the motor vehicle may cause that work to be done, and thereafter the fair cost of that work shall be a debt enforceable by the owner against that repairer in any court of competent jurisdiction.

(3) Notwithstanding anything to the contrary in any Act or law, where an order is made by the Disputes Committee that specified work be done, the repairer named in the order shall not have a lien over the motor vehicle to which the order relates in relation to any work done or purporting to have been done by the repairer in obedience to the order.

(4) The regulations may make provisions additional to those of this section for the enforcement of any orders made as part of a determination of the Disputes Committee.

Motor Vehicle Repairs.

57. A person shall not make any statement which he knows to be false or misleading in any application or in or in relation to any proceeding for the investigation or determination of a dispute. False or misleading statements.

Penalty : \$500.

5

PART VII.

FINANCE.

58. There shall be established in the Special Deposits Account in the Treasury a Motor Vehicle Repair Industry Account into which shall be deposited all money received by the Council and from which shall be paid all amounts required to meet expenditure incurred in accordance with this Act. Motor Vehicle Repair Industry Account.

59. The Treasurer may advance such money to the Council on such terms as to repayment and interest as he and the Council may agree on. Grants to Council.

15 **60.** (1) The Council shall establish the following funds in its books :— Establishment of funds.

- (a) the Motor Vehicle Repair Industry General Fund;
- (b) the Motor Vehicle Repair Industry Contingency Fund; and
- 20 (c) the Motor Vehicle Repair Industry Education and Research Fund. 08

(2) The funds mentioned in subsection (1) shall be separate and distinct.

Motor Vehicle Repairs.

- 61.** (1) The General Fund shall consist of— General Fund.
- (a) all money received by or due to the Council as charges or fees under this Act;
 - (b) all money received by the Council under section 59 and allocated by the Council to the General Fund; and
 - (c) all investments made by the Council out of money in the General Fund and the proceeds of any such investments.
- (2) The General Fund may be applied in—
- (a) meeting the expenses incurred in or in connection with the performance of the functions of the Council and of the Disputes Committee;
 - (b) making payments to the Treasurer in accordance with subsection (3) and section 69 (6);
 - (c) making payments to the Contingency Fund in accordance with any direction of the Treasurer referred to in section 62 (1) (a);
 - (d) making payments to the Education and Research Fund in accordance with any direction of the Treasurer referred to in section 66 (1) (a); and
 - (e) any lawful purpose under this Act in respect of which expenditure is not chargeable to the Contingency Fund or the Education and Research Fund.
- (3) The Council shall, as required by notices in writing from time to time given to the Council by the Treasurer, pay to the Treasurer for payment into the Consolidated Revenue Fund the amount specified in any such notice and certified by the Treasurer to be the amount chargeable against the Council in respect of the Chairman and in respect of officers and temporary employees of the Public Service appointed for the purpose of carrying out the provisions of this Act.

Motor Vehicle Repairs.

- 62.** (1) The Contingency Fund shall consist of— Contingency
Fund.
- (a) such money as the Treasurer may from time to time direct to be allocated to that fund from the General Fund;
 - 5 (b) all money received by the Council under section 59 and allocated by the Council to the Contingency Fund;
 - (c) all investments made by the Council out of money in the Contingency Fund and the proceeds of any such investments; and
 - 10 (d) any money recovered by the Council in the exercise of any rights, or the pursuit of any remedies, to which it is subrogated under section 64.

(2) Subject to section 65, there shall be paid out of the Contingency Fund the amount of any loss which is certified by
15 the Council pursuant to section 63.

63. (1) Any person wishing to make a claim against the Contingency Fund shall submit his claim in writing, verified by
statutory declaration, to the Council. Claims
against
Contingency
Fund.

(2) Subject to this section, if the Council is satisfied that
20 a person who submits a claim has incurred a loss in connection with the repair of a motor vehicle by reason of the fact that the repair work was not competently done, the Council may certify the amount of the loss or \$3,000, whichever is the lesser amount.

(3) No loss shall be certified by the Council under
25 subsection (2)—

- (a) if the loss was incurred in connection with repair work done before the day appointed and notified under section 2 (2);
- 30 (b) if the loss was incurred by the claimant (including any statutory body representing the Crown) in connection with any repair work done by an employee of the claimant;

Motor Vehicle Repairs.

- (c) if the loss consists of damage to a motor vehicle or other object, or injury to any person, arising out of a motor vehicle accident;
- 5 (d) if the loss consists of damage done to a motor vehicle of a prescribed class;
- (e) if the loss is or has been the subject of a claim under Part VI of the Motor Dealers Act, 1974, unless the claim has been withdrawn or dismissed; or
- 10 (f) if the Council is not satisfied that the claimant has taken all reasonable steps to exercise such legal remedies and other rights of action as are available in respect of the loss incurred by him.

64. On payment out of the Contingency Fund of any amount certified by the Council under section 63, the Council shall be
 15 subrogated to the extent of such payment to all the rights and remedies of the claimant against the person in relation to whom the claim arose or any other person incurring any liability to the claimant in relation to the subject-matter of the claim or the legal
 20 personal representatives or other persons having authority to administer any estate concerned, and the claimant shall not, to the extent of such payment, be entitled to enforce those rights or remedies.

65. Where the amount standing to the credit of the Contingency Fund is insufficient to pay all the amounts certified by
 25 the Council under section 63 in any financial year, any amount so certified, so far as it remains unpaid, shall be charged against future receipts of the Contingency Fund and shall be paid out of the Contingency Fund when sufficient money is available therein.

66. (1) The Education and Research Fund shall consist of—
 30 (a) such money as the Treasurer may from time to time direct to be allocated to that fund from the General Fund;

Motor Vehicle Repairs.

(b) all money received by the Council under section 59 and allocated by the Council to the Education and Research Fund; and

5 (c) all investments made by the Council out of money in the Education and Research Fund and the proceeds of any such investments.

(2) The Council may, with the approval of the Treasurer, from time to time appropriate any part of the money in the Education and Research Fund towards—

10 (a) the encouragement of apprenticeship, by way of subsidy or otherwise, in any trade associated with the motor vehicle repair industry; or

15 (b) the assistance of education or research in, or any public purpose connected with, repair work or loss assessors' work.

67. The Council may invest money held in the General Fund, Investment. the Contingency Fund or the Education and Research Fund in any securities authorised by section 14 of the Trustee Act, 1925.

68. (1) The Council shall cause to be kept proper accounts Accounts. and records in relation to all its operations.

(2) The Council shall, as soon as practicable, but within 6 months, after the end of each financial year of the Council, prepare and submit to the Minister for presentation to Parliament a statement of accounts, together with the Auditor-General's
25 certificate given under this section in relation to the statement.

(3) The statement of accounts shall be in a form approved by the Auditor-General, and shall include such information as is requested by him, and shall exhibit a true and fair view of the financial position and transactions of the Council.

Motor Vehicle Repairs.

(4) The Council shall, as soon as practicable, but within 4 months, after the end of the financial year to which a statement of accounts relates, transmit the statement to the Auditor-General for verification and certification.

5 (5) The Auditor-General's certificate shall state that he has audited the accounts of the Council relating to the relevant financial year, and shall indicate whether the statement of accounts complies with subsection (3), and shall set forth any qualification subject to which the certificate is given.

10 (6) Nothing in this section prevents the alteration of the statement of accounts, with the approval of the Auditor-General, after its receipt by him and before its submission to the Minister.

(7) The Minister shall lay the statement of accounts, or cause it to be laid, together with the Auditor-General's certificate, 15 before both Houses of Parliament as soon as practicable after the receipt by him of the statement.

(8) The financial year of the Council shall be the year ending on 30th June.

69. (1) The accounts and records of financial transactions of 20 the Council, and records relating to assets of or in the custody of the Council, shall be inspected and audited by the Auditor-General. Audit of accounts.

(2) For the purposes of any such inspection and audit, the Auditor-General or a person authorised by him is entitled at all reasonable times to full and free access to the accounts, records, 25 documents and papers of the Council and may make copies thereof or take extracts therefrom.

(3) The Auditor-General or a person authorised by him may require a person, being a member, officer or temporary employee of the Council, to furnish him with such information in

Motor Vehicle Repairs.

the possession of the person or to which the person has access as the Auditor-General or authorised person considers necessary for the purposes of the functions of the Auditor-General under this Act, and the person shall comply with the requirement.

5 Penalty : \$200.

(4) The Auditor-General may dispense with all or any part of the detailed inspection and audit of any accounts or records referred to in subsection (1).

10 (5) The Auditor-General shall report to the Council and the Minister on the result of any such inspection and audit, and as to such irregularities or other matters as in his judgment call for special notice or as are prescribed.

15 (6) Towards defraying the costs and expenses of any such inspection and audit, the Council shall pay to the Consolidated Revenue Fund such amounts, at such times, as the Treasurer decides.

PART VIII.

GENERAL.

20 70. (1) The Council may, by instrument in writing, Delegation. delegate—

(a) to any member;

(b) to any committee established under section 14; or

(c) to any officer or temporary employee appointed under section 12,

25 the performance of such of the functions (other than this power of delegation) conferred or imposed on the Council by or under this or any other Act as may be specified in the instrument of delegation and may, by such an instrument, revoke wholly or in part any such delegation.

Motor Vehicle Repairs.

(2) A function, the performance of which has been delegated under this section, may, while the delegation remains unrevoked, be performed from time to time in accordance with the terms of the delegation by the delegate to whom the performance thereof has been delegated.

(3) A delegation under this section may be made subject to such conditions or limitations as to the performance of any of the functions delegated, or as to time or circumstance, as may be specified in the instrument of delegation.

10 (4) Notwithstanding any delegation made under this section, the Council may continue to perform all or any of the functions delegated.

(5) Any act or thing done or suffered by a delegate while acting in the performance of a delegation under this section shall
15 have the same force and effect as if the act or thing had been done or suffered by the Council.

(6) An instrument purporting to be signed by a delegate of the Council in his capacity as such a delegate shall in all courts and before all persons acting judicially be received in evidence as
20 if it were an instrument executed by the Council and, until the contrary is proved, shall be deemed to be an instrument signed by a delegate of the Council under this section.

71. Except as is expressly provided in this Act, nothing in this Act shall have the effect of limiting, restricting or otherwise affecting any right or remedy which a person would have if this Act had not been enacted.

Other rights and remedies not affected.

72. The provisions of this Act have effect notwithstanding any stipulation to the contrary and no contract or agreement made or entered into before, on or after the day appointed and notified
30 under section 2 (2) operates to annul, vary or exclude any of the provisions of this Act.

Contracting out void.

Motor Vehicle Repairs.

73. (1) The Council may, by notice in writing, require any person to furnish to it, within such period as may be specified in the notice, such information in connection with any repair work or loss assessor's work as may be so specified and as is within his knowledge or in his custody or under his control. Council may require information.

(2) A person shall not neglect or fail to comply with a requirement made under subsection (1).

Penalty : \$1,000.

(3) Any information furnished pursuant to a requirement made under subsection (1) shall not, if the person furnishing the information objected, at the time of furnishing it, to doing so on the ground that it may tend to incriminate him or might be used in any proceedings against him under Part IV, be admissible in evidence in any prosecution against that person for any offence, not being the offence of neglecting or failing to comply with any requirement made under that subsection, or be admissible in any such proceedings.

74. (1) Except where he has reasonable excuse for not doing so, the holder of a licence shall on demand, at the place of business in respect of which the licence is granted, produce that licence to an inspector. Production of licences and certificates.

(2) Except where he has reasonable excuse for not doing so, the holder of a tradesman's certificate shall on demand, at any place of business in respect of which a licence is granted and where he does repair work, produce the certificate to an inspector.

(3) Except where he has reasonable excuse for not doing so, the holder of a loss assessor's certificate shall on demand, at any place where he does loss assessor's work, produce the certificate to an inspector.

30 Penalty : \$100.

Motor Vehicle Repairs.

75. (1) An inspector may, for the purpose of ascertaining whether a person is contravening or has contravened this Act or the regulations, enter, at any reasonable time, any place which the inspector has reasonable grounds for believing is a place at which the person carries on business.

Power
of entry
and examina-
tion.

(2) For the purpose of or in connection with an inspection under subsection (1), an inspector may—

- 10 (a) require any person employed or engaged at any place entered pursuant to that subsection to produce to the inspector such records, or other documents, as are required to be kept under this Act or the regulations and are in the custody or under the control of the person so employed or engaged;
- 15 (b) examine with respect to matters under this Act or the regulations any person employed or engaged at any place so entered; and
- 20 (c) make such examination and inquiries as he thinks necessary to ascertain whether the requirements of this Act or the regulations are being or have been contravened.

76. A person shall not—

- (a) refuse or intentionally delay the admission to any place of an inspector in the exercise by him of any of his powers under this Act or the regulations;
- 25 (b) intentionally obstruct an inspector in the exercise by him of any such power;
- (c) fail to comply with a request or requirement of an inspector made under this Act for the production of any record or other document; or
- 30 (d) conceal any person from an inspector or prevent any person from appearing before or being examined by an inspector or attempt so to conceal or prevent any person.

Offence
to
obstruct
inspector.

Penalty : \$500.

Motor Vehicle Repairs.

77. A person shall not disclose any information obtained by him in connection with the administration or execution of this Act, unless the disclosure is made—

Disclosure
of informa-
tion.

5 (a) with the consent of the person from whom the information was obtained;

(b) in connection with the administration or execution of this Act;

10 (c) subject to section 73 (3), for the purposes of any legal proceedings arising out of this Act or of any report of any such proceedings; or

(d) for the purpose of an inquiry held under Part IV or an investigation made under Part VI.

Penalty : \$1,000.

78. (1) Where in any proceedings (whether for an offence Evidence. 15 against this Act or otherwise) it is proved that on a certain day or during any period a person was the holder of a licence in respect of any class of repair work, a tradesman's certificate in respect of any class of repair work or a loss assessor's certificate, it shall be presumed, in the absence of proof to the contrary, that the person 20 was carrying on business as a repairer in respect of that class of repair work, was doing repair work of that class or was doing loss assessor's work, at the case may be, on that day or during that period, as the case may be.

(2) A certificate purporting to be under the hand of a 25 prescribed officer certifying that a person was or was not, on a date specified in the certificate, a holder of a licence in respect of any class of repair work so specified, a tradesman's certificate in respect of any class of repair work so specified or a loss assessor's certificate, as the case may be, is admissible in evidence in any 30 proceedings and is prima facie evidence of the matters stated therein.

Motor Vehicle Repairs.

79. (1) In any legal proceedings by or against the Council or the Disputes Committee no proof shall be required (until evidence is given to the contrary) of—

Proof of certain matters not required.

- (a) the due constitution of the Council or that Committee;
- 5 (b) any resolution or determination of the Council or that Committee;
- (c) the appointment of any member of the Council or that Committee; or
- 10 (d) the presence of a quorum at any meeting at which any determination is made or any act is done by the Council or that Committee.

(2) Subsection (1) does not affect section 55 (4).

80. (1) Where by or under this Act a notice or other document is required to be, or may be, given or served, that notice or other document may be given to or served on—

Service of notice, etc.

- (a) an individual—
 - (i) by delivering it to him personally;
 - 20 (ii) by leaving it at his place of residence last known to the Council with someone who apparently resides there or at his place of business or employment last known to the Council with someone who is apparently employed there, being in either case a person who has or who apparently has attained the age of 16 years; or
 - 25 (iii) by posting it by certified mail in an envelope duly stamped and addressed to him at the place of his residence, business or employment last known to the Council; or
- (b) a corporation—
 - 30 (i) by delivering it to a person who is or who is apparently concerned in the management of the corporation;

Motor Vehicle Repairs.

- 5 (ii) by leaving it at the only or principal place of business, or the registered office, of the corporation with a person apparently employed there, being a person who has or who apparently has attained the age of 16 years; or
- (iii) by posting it by certified mail in an envelope duly stamped and addressed to the corporation at the only or principal place of business of the corporation last known to the Council.

10 (2) A notice or document that is delivered, left or posted in accordance with subsection (1) shall be deemed to have been given or served on its being so delivered or left or, if it is posted, shall, in the absence of evidence to the contrary, be prima facie
15 delivered in the ordinary course of post.

81. (1) A notice, summons, writ or other proceeding required to be served on the Council may be served—

Service of notice, etc., on the Council.

- 20 (a) by being left with some person apparently employed in the administration of this Act at the office of the Council; or
- (b) in the case of a notice, by posting it by certified mail in an envelope duly stamped and addressed to the Council at its office.

(2) Any document referred to in subsection (1) shall—

- 25 (a) be deemed to have been served upon its being so left; or
- (b) in the case of a notice served by so posting it, be prima facie deemed to have been served when it would have been delivered in the ordinary course of post.

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82. (1) Every document (including deeds and contracts) shall be deemed to be duly executed by the Council— Execution of documents.

- (a) if sealed with the seal of the Council in accordance with section 38 (II) of the Interpretation Act, 1897; or
- 5 (b) if executed by any 2 members of the Council, or by 1 member of the Council and an officer of the Council, who have been appointed for that purpose.

(2) A document executed in accordance with subsection (1) shall, subject to any exception which may be taken to it on
10 any ground other than the competence of the executing party, be effective to bind the Council and its successors, and may be varied or discharged in the same manner as provided for the execution of documents under subsection (1).

83. (1) Every summons, process, demand, order, notice, statement or other document requiring authentication by the Council may be sufficiently authenticated without the seal of the Council if signed by the Chairman. Authentication of documents.

(2) Every summons, process, demand, order, notice, statement or other document requiring authentication by the
20 Disputes Committee may be sufficiently authenticated if signed by the Chairman.

84. (1) No matter or thing done, and no contract entered into, by the Council, and no matter or thing done by a member or any other person acting under the direction, or as a delegate,
25 of the Council shall, if the matter or thing was done, or the contract was entered into, in good faith for the purposes of executing this Act or the regulations, subject a member or other person personally to any action, liability, claim or demand. Protection from liability.

(2) No matter or thing done by the Disputes Committee
30 or by a member of the Disputes Committee or any other person acting under the direction of the Disputes Committee shall, if the matter or thing was done in good faith for the purposes of executing

Motor Vehicle Repairs.

this Act or the regulations, subject a member of the Disputes Committee or other person personally to any action, liability, claim or demand.

(3) Nothing in subsection (1) shall exempt a member or
5 other person from liability to be surcharged with the amount of any payment which is disallowed by the Auditor-General in the accounts of, or relating to, the Council and which the member or other person authorised or joined in authorising.

85. (1) Any charge, fee, remuneration or money due to the
10 Council under the provisions of this Act or the regulations may be recovered by the Council as a debt in a court of competent jurisdiction. Recovery of charges.

(2) Proceedings for the recovery of any charge, fee, remuneration or money so due to the Council shall be deemed
15 to be for the recovery of a debt or liquidated demand.

86. (1) The Council shall, as soon as practicable after the
30th day of June, but not later than the 31st day of December, in
each year forward to the Minister a report of its work and activities
for the year ended that 30th day of June then last past. Annual report.

20 (2) The Minister shall lay that report, or cause it to be laid, before both Houses of Parliament as soon as practicable after the receipt by him of that report.

87. (1) Proceedings for an offence against this Act or the
regulations may— Proceedings.

25 (a) be taken and prosecuted by any person acting with the authority of the Minister or a prescribed officer; and

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(b) be disposed of summarily before an industrial magistrate or before a court of petty sessions constituted by a stipendiary magistrate sitting alone.

(2) In a prosecution for any offence against this Act or 5 the regulations, an authority to prosecute, purporting to have been signed by the Minister or a prescribed officer, shall be evidence of such authority without proof of the signature of the Minister or the prescribed officer, as the case may be.

(3) The provisions of the Industrial Arbitration Act, 10 1940, and the regulations made under that Act, relating to proceedings before an industrial magistrate and to appeals from an industrial magistrate to the Industrial Commission of New South Wales apply to proceedings before an industrial magistrate for offences against this Act or the regulations as if the proceedings 15 under this Act were proceedings under that Act.

(4) In proceedings for an offence against this Act or the regulations the informant may conduct his case himself, or by a barrister or solicitor, by an agent authorised by him in writing, or by a public servant or an inspector.

20 (5) Any proceedings for an offence against this Act or the regulations shall be commenced by information laid at any time within 1 year after the time when the offence is alleged to have been committed.

88. (1) Where a corporation contravenes, whether by act or 25 omission, any provision of this Act or the regulations, each director of the corporation, and each officer concerned with the management of the corporation, shall be deemed to have contravened the same provision unless he satisfies the court that—

30 (a) the corporation contravened the provision without his knowledge;

(b) he was not in a position to influence the conduct of the corporation in relation to its contravention of the provision; or

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(c) he, being in such a position, used all due diligence to prevent the contravention of the provision by the corporation.

(2) A person may be proceeded against and convicted under a provision pursuant to subsection (1) whether or not the corporation has been proceeded against or been convicted under that provision.

(3) Nothing in subsection (1) prejudices or affects any liability imposed by a provision of this Act or the regulations on any corporation by which an offence against that provision is actually committed.

89. (1) The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act and, in particular, for or with respect to—

- (a) applications for licences and certificates;
- (b) advertising by repairers;
- (c) the records to be kept by repairers;
- (d) the display of signs by repairers;
- (e) the powers of inspectors;
- (f) inquiries held for the purposes of Part IV, investigations made under Part VI and the hearing of appeals under Part V;
- (g) the charging and payment of a fee for any inspection made or information supplied by the Council;
- (h) the furnishing by the holders of licences of any information (including particulars of any persons apprenticed to them or to any of their employees);
- (i) the display of licences and certificates;

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- (j) the conduct of examinations for the purposes of this Act;
- (k) the manner of doing any repair work (including the techniques and materials to be used); and
- 5 (l) regulating the conduct of any person who is required to hold a licence, or his servants or agents, in carrying on the business to which the licence relates.
 - (2) A provision of a regulation may—
 - 10 (a) apply generally or be limited in its application by reference to specified exceptions or factors;
 - (b) apply differently according to different factors of a specified kind; or
 - (c) authorise any matter or thing to be from time to time determined, applied or regulated by any specified person,
15 body or committee,or may do any combination of those things.
 - (3) Without affecting the generality of subsection (1) or (2), the regulations may prescribe different fees in respect of
20 different classes of repair work.
 - (4) The regulations may impose a penalty not exceeding \$500 for an offence against the regulations.

SCHEDULE 1.

Sec. 9 (1).

PROVISIONS RELATING TO THE CONSTITUTION AND MEMBERSHIP OF
THE COUNCIL.

25

- 1. A person who is of or above the age of 65 years shall not be appointed as a member. Age of member.

*Motor Vehicle Repairs.*SCHEDULE 1—*continued.*PROVISIONS RELATING TO THE CONSTITUTION AND MEMBERSHIP OF
THE COUNCIL—*continued.*

2. The provisions of the Public Service Act, 1979, do not apply to or in
5 respect of the appointment by the Governor of a member and a member
is not, in his capacity as a member, subject to the provisions of that Act
during his term of office. Public
Service Act,
1979, not to
apply to
member.
3. A member shall, subject to this Act, be appointed for such term, not
10 exceeding 7 years, as is specified in the instrument of his appointment and
shall, if otherwise qualified, be eligible for reappointment as a member. Term of
office.
4. The office of a member, other than the Chairman, shall, for the
purposes of any Act, be deemed not to be an office or place of profit under
the Crown. Office of
member not
to be office
of profit
under
Crown.
5. The Chairman shall devote the whole of his time to the duties of his
15 office. Chairman to
be full-time
member.
6. Where by or under any Act provision is made requiring the holder of
an office specified therein to devote the whole of his time to the duties of
his office, or prohibiting him from engaging in employment outside the
duties of his office, that provision shall not operate to disqualify him from
20 holding that office and also the office of a member, other than the Chairman,
or from accepting and retaining any remuneration (including travelling and
subsistence allowances) paid to him under clause 8. Member
(other than
Chairman)
holding
other
office.
7. The Chairman is entitled to be paid—
25 (a) remuneration in accordance with the Statutory and Other Offices
Remuneration Act, 1975; and Remunera-
tion, etc., of
Chairman.
(b) such travelling and subsistence allowances as the Minister may from
time to time determine in respect of him.
8. Each member (other than the Chairman) is entitled to be paid out
of the General Fund such remuneration (including travelling and subsistence
30 allowances) for attending meetings and transacting the business of the
Council as the Minister may from time to time determine in respect of him. Remunera-
tion, etc.,
of member
(other than
Chairman).
9. The Governor may remove a member from office for any cause which
to him seems sufficient. Removal
from office.

*Motor Vehicle Repairs.*SCHEDULE 1—*continued.*PROVISIONS RELATING TO THE CONSTITUTION AND MEMBERSHIP OF
THE COUNCIL—*continued.*

10. A member shall be deemed to have vacated his office— Vacation
of office.
- 5 (a) if he dies;
- (b) if he resigns his office by writing under his hand addressed to the
Minister and the Minister accepts his resignation;
- 10 (c) if he becomes bankrupt, applies to take the benefit of any law for
the relief of bankrupt or insolvent debtors, compounds with his
creditors or makes an assignment of his remuneration, allowances
or estate for their benefit;
- 15 (d) if he becomes a temporary patient, a continued treatment patient, a
protected person or an incapable person within the meaning of
the Mental Health Act, 1958, or a person under detention under
Part VII of that Act;
- 20 (e) if he is convicted in New South Wales of a crime or offence which
is punishable by imprisonment for 12 months or upwards or if he
is convicted elsewhere than in New South Wales of a crime or
offence which, if committed in New South Wales, would be a
crime or offence so punishable;
- 25 (f) if, being a member other than the Chairman, he is absent from
3 consecutive meetings of the Council of which reasonable notice
has been given to him, unless on leave granted to him by the
Council or unless, before the expiration of 4 weeks after the last
of those meetings, he is excused by the Council for his absence
from those meetings;
- (g) if he is removed from office by the Governor;
- (h) if he ceases to reside in New South Wales;
- (i) upon his attaining the age of 65 years;
- 30 (j) if, being the Chairman, he engages during his term of office in any
paid employment outside the duties of his office; or
- (k) if, being the Chairman, he absents himself from duty for a period
exceeding 14 consecutive days except on leave granted by the
Minister, unless his absence is caused by illness or other
unavoidable cause.
- 35
11. (1) The Minister may at any time appoint as an alternate member Alternate
members.
to act during the absence or illness of a member a person who is nominated
in the same manner, if any, as the person for whom he is the alternate
member.

Motor Vehicle Repairs.

SCHEDULE 1—*continued.*

PROVISIONS RELATING TO THE CONSTITUTION AND MEMBERSHIP OF
THE COUNCIL—*continued.*

5 (2) An alternate member shall have and may exercise, while acting as a member, the functions, as such a member, of the person for whom he is the alternate member.

(3) An alternate member for the Chairman shall have and may exercise, while acting as the Chairman, the functions of the Chairman.

10 (4) A member is, for the purposes of subclause (1) of this clause, deemed to be absent from his office if there is a vacancy in that office which has not been filled.

15 (5) No person shall be concerned to inquire whether or not any occasion has arisen requiring or authorising a person to act in the office of a member or the Chairman, and all things done or omitted to be done by that person while so acting shall be as valid and effectual and shall have the same consequence as if they had been done or omitted to be done by that member or the Chairman, as the case may be.

12. (1) In this clause—

20 “statutory body” means any body declared under clause 14 to be a statutory body for the purposes of this Schedule;

“superannuation scheme” means a scheme, fund or arrangement under which any superannuation or retirement benefits are provided and which is established by or under any Act.

Preservation of rights of Chairman.

25 (2) Subject to subclause (3) of this clause and to the terms of his appointment, where the Chairman was, immediately before his appointment as Chairman—

(a) an officer of the Public Service;

(b) an officer of the Teaching Service within the meaning of the Teaching Service Act, 1970;

30 (c) a contributor to a superannuation scheme;

(d) an officer employed by a statutory body; or

(e) a person in respect of whom provision was made by any Act that he retain any rights accrued or accruing to him as an officer or employee,

35 he—

(f) shall retain any rights accrued or accruing to him as such an officer, contributor or person;

*Motor Vehicle Repairs.*SCHEDULE 1—*continued.*PROVISIONS RELATING TO THE CONSTITUTION AND MEMBERSHIP OF
THE COUNCIL—*continued.*

- 5 (g) may continue to contribute to any superannuation scheme to which he was a contributor immediately before his appointment as Chairman; and
- (h) shall be entitled to receive any deferred or extended leave and any payment, pension or gratuity,
- 10 as if he had continued to be such an officer, contributor or person during his service as Chairman, and—
- (i) his service as Chairman shall be deemed to be service as an officer or employee for the purpose of any law under which those rights accrued or were accruing, under which he continues to contribute or by which that entitlement is conferred; and
- 15 (j) he shall be deemed to be an officer or employee for the purpose of the superannuation scheme to which he is entitled to contribute under this clause.
- (3) If the Chairman would, but for this subclause, be entitled under subclause (2) of this clause to contribute to a superannuation scheme or
- 20 to receive any payment, pension or gratuity under that scheme he shall not be so entitled upon his becoming (whether upon his appointment as Chairman or at any later time while he holds office as Chairman) a contributor to any other superannuation scheme, and the provisions of subclause
- 25 (2) (j) of this clause cease to apply to or in respect of him in any case where he becomes a contributor to such another superannuation scheme.
- (4) Subclause (3) of this clause does not prevent the payment to the Chairman upon his ceasing to be a contributor to a superannuation scheme of such amount as would have been payable to him if he had ceased, by
- 30 reason of his resignation, to be an officer or employee for the purposes of that scheme.
- (5) The Chairman shall not, in respect of the same period of service, be entitled to claim a benefit under this Act and another Act.

13. (1) In this clause—

“retiring age” means—

- 35 (a) in relation to a person who was immediately before his appointment as Chairman, an officer of the Public Service or an officer of the Teaching Service within the meaning of the Teaching Service Act, 1970—the age of 60 years; and

Chairman entitled to reappointment in former employment in certain cases.

Motor Vehicle Repairs.

SCHEDULE 1—*continued.*

PROVISIONS RELATING TO THE CONSTITUTION AND MEMBERSHIP OF THE COUNCIL—*continued.*

5 (b) in relation to a person who was, immediately before his appointment as Chairman, an officer or employee of a statutory body—the age at which officers or employees (being officers or employees of the class to which that person belonged immediately before his appointment as Chairman), as the case may be, of that statutory body are entitled to retire;

10

“statutory body” means any body declared under clause 14 to be a statutory body for the purposes of this Schedule.

(2) A person who ceases to be Chairman otherwise than pursuant to clause 10 (paragraph (b) excepted), shall, if he has not attained the retiring age, be entitled to be appointed, where, immediately before his appointment as Chairman, he was—

15

(a) an officer of the Public Service—to some office in the Public Service;

20

(b) an officer of the Teaching Service—to some office in the Teaching Service; or

(c) an officer or employee of a statutory body—to some office in the service of that body,

not lower in classification and salary than that which he held immediately before his appointment as Chairman.

25 14. The Governor may, by proclamation published in the Gazette, declare any body constituted by or under any Act to be a statutory body for the purposes of this Schedule. Declaration of statutory bodies.

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SCHEDULE 2.

Sec. 9 (2).

PROVISIONS RELATING TO MEETINGS OF THE COUNCIL.

1. The number of members which constitutes a quorum at any meeting of the Council is 5. Quorum.
- 5 2. A duly convened meeting of the Council at which a quorum is present shall be competent to transact any business of the Council. Meetings.
3. Questions arising at a meeting of the Council shall be determined by a majority of votes of the members present and voting. Determination of questions.
4. A decision of a majority of the members present and voting at a meeting of the Council shall be the decision of the Council. Decisions.
- 10 5. At a meeting of the Council— Presiding at meeting.
- (a) the Chairman;
- (b) in the absence of the Chairman, where there is an alternate member for the Chairman, that alternate member; or
- 15 (c) in the absence of the Chairman and, where there is an alternate member for the Chairman, in the absence of that alternate member, a member elected by the members present at the meeting from their number,
- shall preside.
- 20 6. The person presiding at a meeting of the Council has a deliberative vote and, in the event of an equality of votes, also has a casting vote. Votes.
7. (1) The procedure for the calling of, and for the conduct of business at, meetings of the Council shall, subject to any procedure that is specified in this Act or prescribed, be as determined by the Council. General procedure.
- 25 (2) The first meeting of the Council shall be called in such manner as the Minister directs.

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SCHEDULE 2—*continued.*

PROVISIONS RELATING TO MEETINGS OF THE COUNCIL—*continued.*

8. The Council shall cause full and accurate minutes to be kept of its Minutes. proceedings at meetings and shall submit to the Minister a copy of the 5 minutes of each meeting within 14 days after the day on which it was held.

9. (1) Except in relation to its functions under Part IV, the Council may, if it thinks fit, transact any of its business by the circulation of papers, and a resolution in writing approved in writing by a majority of the members of the Council shall be as valid and effectual as if it had been passed at a meeting of the Council by the votes of the members approving the resolution. Transaction of business outside meetings.

(2) Where there is an equality of votes in respect of any business transacted under subclause (1) of this clause, the Chairman shall have a casting vote as well as a deliberative vote.

15

SCHEDULE 3.

Sec. 13 (4).

PROVISIONS RELATING TO THE CONSTITUTION AND MEMBERSHIP OF THE DISPUTES COMMITTEE.

1. (1) The Disputes Committee shall consist of 5 persons, of whom— Membership.

20 (a) 1 shall be the Chairman of the Council who shall be chairman of the Disputes Committee;

(b) 1 shall be a person appointed by the Minister on the nomination of the Minister for Consumer Affairs;

25 (c) 1 shall be a person appointed by the Minister from a panel of 3 persons nominated by the Council of the National Roads and Motorists' Association;

(d) 1 shall be a person appointed by the Minister from a panel of 3 persons—

(i) 1 of whom is nominated by the Council of the Motor Traders' Association of New South Wales;

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SCHEDULE 3—*continued.*PROVISIONS RELATING TO THE CONSTITUTION AND MEMBERSHIP OF
THE DISPUTES COMMITTEE—*continued.*

- 5 (ii) 1 of whom is nominated by the General Council of the Service Station Association of New South Wales; and
- (iii) 1 of whom is nominated by the National Executive of the Metal Trades Industry Association of Australia; and
- (e) 1 shall be a person appointed by the Minister from a panel of 3 persons—
- 10 (i) 1 of whom is nominated by the State Council of the New South Wales Branch of the Vehicle Builders' Employees Federation of Australia;
- (ii) 1 of whom is nominated by the State Executive of the Australasian Society of Engineers; and
- 15 (iii) 1 of whom is nominated by the State Council of The Amalgamated Metal Workers' and Shipwrights' Union.
- (2) A person may be appointed as a member of the Disputes Committee notwithstanding that he is also a member of the Council.
- (3) Where, pursuant to subclause (1) (c), (d) or (e) of this clause, 20 any nomination of a person for the purpose of the constitution of a panel is not made within the time or in the manner specified by the Minister in a written notice given to the body entitled to make the nomination, the Minister may appoint a person to be a member of the Disputes Committee instead of the person required to be appointed from that panel and the 25 person so appointed shall be deemed to have been duly nominated.
- (4) Where a body referred to in any provision of subclause (1) (c), (d) or (e) of this clause changes its name and the Minister is satisfied that the change of name is not accompanied by any change in the nature of the body, he may, by order published in the Gazette, so certify and, subject 30 to subclause (5) of this clause, as from the date of that publication, the reference in the provision shall be deemed to be a reference to the body under that changed name.
- (5) The power of the Minister under subclause (4) of this clause may be exercised in relation to a body under a changed name as if that 35 body, under that changed name, were referred to in subclause (1) of this clause.

*Motor Vehicle Repairs.*SCHEDULE 3—*continued.*PROVISIONS RELATING TO THE CONSTITUTION AND MEMBERSHIP OF
THE DISPUTES COMMITTEE—*continued.*

2. (1) The Chairman shall have power to co-opt or invite persons to Attendance
5 participate in the proceedings and deliberations of the Disputes Committee. by experts.
- (2) The Chairman shall not co-opt or invite a person under sub-
clause (1) of this clause unless the person is on a panel of persons
nominated for the purposes of this clause by the Minister for their expertise
in technical matters in the field of motor vehicle repairs.
- 10 (3) At any meeting which a person co-opted or invited under
subclause (1) of this clause attends, he is deemed to be a member of the
Disputes Committee.
3. A member of the Disputes Committee (other than the Chairman) Term of
shall, subject to clause 6, be appointed for a term of 3 years, and shall, office.
15 if otherwise qualified, be eligible for reappointment as a member of the
Disputes Committee.
4. Each member of the Disputes Committee (other than the Chairman) Remunera-
tion.
is entitled to be paid out of the General Fund such remuneration (including
travelling and subsistence allowances) for attending meetings and transacting
20 the business of that Committee as the Minister may from time to time
determine in respect of him.
5. The Minister may remove a member of the Disputes Committee (other Removal
than the Chairman) from office for any cause which to him seems sufficient. from
office.
6. A member of the Disputes Committee (other than the Chairman) Vacation of
25 shall be deemed to have vacated his office— office.
- (a) if he dies;
- (b) if he resigns his office by writing under his hand addressed to the
Minister and the Minister accepts his resignation;
- 30 (c) if he becomes bankrupt, applies to take the benefit of any law
for the relief of bankrupt or insolvent debtors, compounds with
his creditors or makes an assignment of his remuneration,
allowances or estates for their benefit;

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SCHEDULE 3—*continued.*

PROVISIONS RELATING TO THE CONSTITUTION AND MEMBERSHIP OF
THE DISPUTES COMMITTEE—*continued.*

- 5 (d) if he becomes a temporary patient, a continued treatment patient,
a protected person or an incapable person within the meaning of
the Mental Health Act, 1958, or a person under detention under
Part VII of that Act;
- 10 (e) if he is convicted in New South Wales of a crime or offence
which is punishable by imprisonment for 12 months or upwards
or if he is convicted elsewhere than in New South Wales of a
crime or offence which, if committed in New South Wales, would
be a crime or offence so punishable;
- (f) if he is removed from office by the Minister; or
- (g) if he ceases to reside in New South Wales.

15

SCHEDULE 4.

Sec. 13 (5).

PROVISIONS RELATING TO MEETINGS OF THE DISPUTES COMMITTEE.

1. The number of persons which constitutes a quorum at any meeting of the Disputes Committee is 2, of whom 1 shall be the Chairman of the Council or, if he is absent, the alternate member for the Chairman appointed under clause 11 of Schedule 1. **Quorum.**
2. A duly convened meeting of the Disputes Committee at which a quorum is present shall be competent to transact any business of that Committee. **Meetings.**
- 25 3. Questions arising at a meeting of the Disputes Committee shall be determined by a majority of votes of the members of that Committee who are present and voting. **Determina-
tion of
questions.**
4. A decision of a majority of the members of the Disputes Committee present and voting at a meeting of that Committee shall be the decision of that Committee. **Decisions.**

Motor Vehicle Repairs.

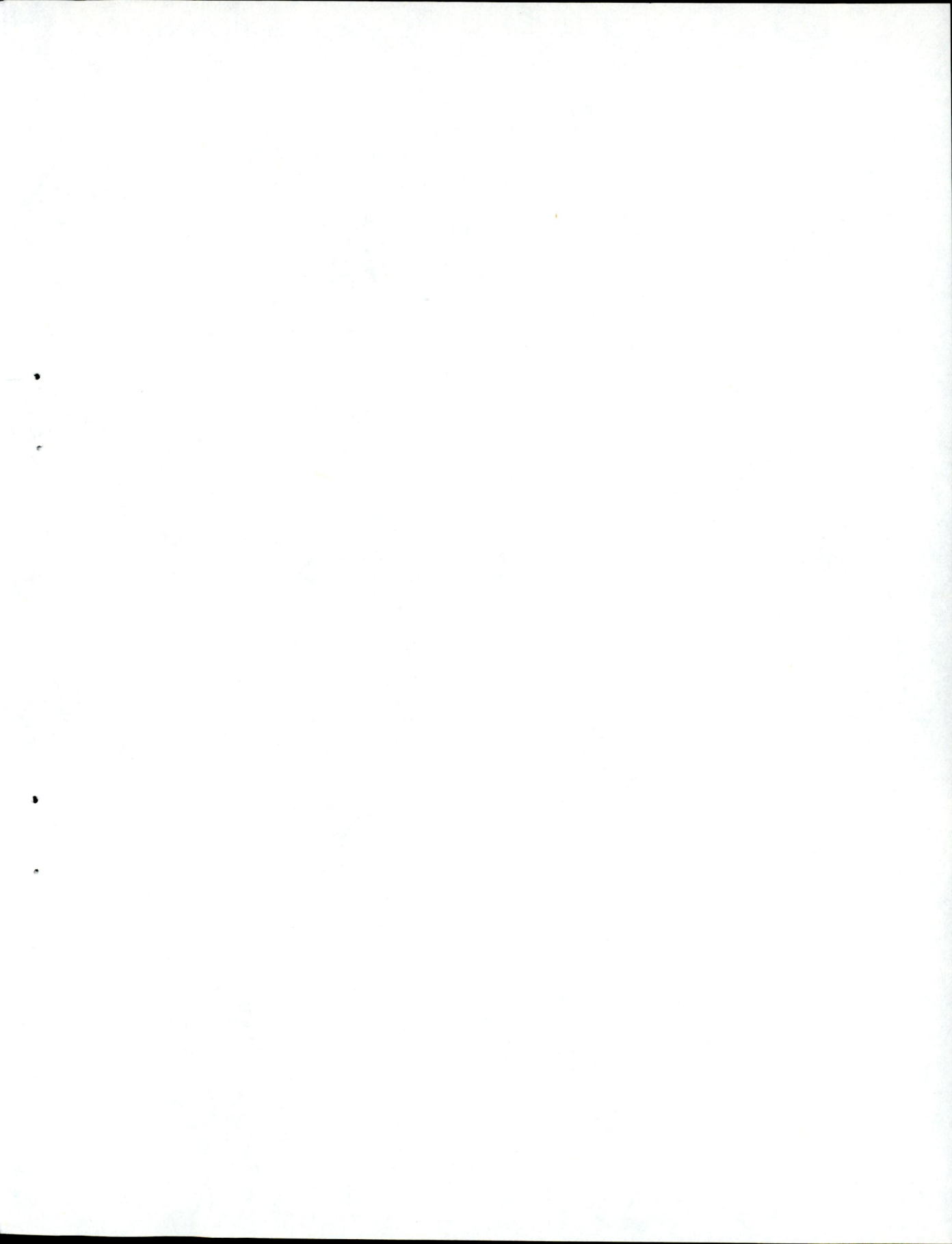
SCHEDULE 4—*continued.*

PROVISIONS RELATING TO MEETINGS OF THE
DISPUTES COMMITTEE—*continued.*

5. At a meeting of the Disputes Committee the Chairman of the Council Presiding or, if he is absent, the alternate member for the Chairman appointed under clause 11 of Schedule 1 shall preside.
6. The person presiding at a meeting of the Disputes Committee has a deliberative vote and, in the event of an equality of votes, also has a casting vote.
- 10 7. Subject to Part VI, the procedure of the Disputes Committee for the transaction of any of its business shall be— General procedure.
- (a) as directed by the Council; and
 - (b) subject to any directions of the Council under paragraph (a), as determined by the Disputes Committee itself.

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1980





MOTOR VEHICLE REPAIRS BILL, 1980

EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

The following Bills are cognate with this Bill:—

- Motor Dealers (Motor Vehicle Repairs) Amendment Bill, 1980;
- Statutory and Other Offices Remuneration (Motor Vehicle Repairs) Amendment Bill, 1980.

The objects of this Bill are:—

- (a) to constitute the Motor Vehicle Repair Industry Council (“the Council”);
- (b) to constitute the Motor Vehicle Repair Disputes Committee (“the Disputes Committee”);
- (c) to allow the Council to regulate the carrying out of repairs to motor vehicles by a system of licences for repair businesses, certificates for repair tradesmen and certificates for loss assessors;
- (d) to provide for an investigation procedure to be followed before any disciplinary action is taken by the Council against a holder of a licence, a tradesman’s certificate or loss assessor’s certificate;
- (e) to provide a system of appeals to an industrial magistrate from various actions of the Council;
- (f) to provide a system for the resolution by the Disputes Committee of disputes between repairers and vehicle owners; and
- (g) to provide for the financing of the Council and the Disputes Committee.

The Bill contains the following provisions:—

PART I.—PRELIMINARY.

Clause 1. Short title.

Clause 2. Commencement.

Clause 3. Arrangement.

Clause 4. Interpretation.

Clause 5 provides for exemptions from the operation of the proposed Act.

Clause 6 provides for applications to be made in forms approved by the Minister.

PART II.—THE COUNCIL AND THE DISPUTES COMMITTEE.

This Part constitutes 2 corporations: the Motor Vehicle Repair Industry Council and the Motor Vehicle Repair Disputes Committee.

Clauses 7 to 11 constitute the Council. It consists of a Chairman and of 8 representatives of organisations concerned in the motor vehicle repair industry. The Council's functions are to investigate that industry, to promote improvements in its standards, to promote the education of people in and for it, and (by licensing and certification) to regulate it.

Clause 12 provides for the staff of the Council and the use of the staff of departments of the Government.

Clause 13 constitutes the Disputes Committee. It consists of the Chairman of the Council, a person nominated by the Minister for Consumer Affairs and 3 representatives of organisations concerned in the motor vehicle repair industry. It has functions of investigating and determining disputes between motor vehicle owners and repairers and may, in determining a dispute, order work to be done, or money to be paid, subject to a \$3,000 limit. The Chairman may co-opt or invite persons to participate in the proceedings and deliberations of the Disputes Committee.

Clause 14 provides for the establishment and procedures of advisory committees of the Council, including a committee to advise the Council with respect to loss assessors' work.

PART III.—LICENCES AND CERTIFICATES.

This Part provides for the granting of the following:—

- (a) a licence to carry on business as a motor vehicle repairer;
- (b) a tradesman's certificate or provisional tradesman's certificate actually to carry out repairs on motor vehicles; and
- (c) a loss assessor's certificate or provisional loss assessor's certificate to determine, as an employee or for fee or reward, whether damaged motor vehicles can be repaired and the cost of those repairs.

Division 1 requires a person who carries on a business of doing any class of repair work on motor vehicles to hold an appropriate licence, but does not prevent him from subcontracting for other classes of repair work to be done (clause 15).

A licence—

- (a) may be granted to more than one person or in respect of more than one place of business (clause 16);
- (b) may be granted only to a person who has the appropriate resources to carry on the business to which the licence relates (clause 18);
- (c) may be amended (clause 20); and
- (d) continues in force except during suspension or unless revoked or surrendered or unless its holder has failed to pay the annual fee due in respect of it (clause 21).

Division 2 requires a person who carries on a business of doing repair work on motor vehicles to employ only persons who hold tradesmen's certificates, or apprentices working under the supervision of such persons, to do that work (clause 22). This requirement extends to owners of commercial vehicles who employ persons to do such work.

A tradesman's certificate—

- (a) may be granted only to an appropriately qualified individual (clause 24); and
- (b) continues in force unless revoked or surrendered (clause 27).

A provisional tradesman's certificate—

- (a) may be granted to an individual who fails to meet the requirements for a full tradesman's certificate but who meets certain other requirements (clause 25);
- (b) may be granted subject to conditions and restrictions (clause 25 (3)); and
- (c) continues in force until the day specified on it or until it is revoked or surrendered, whichever first occurs (clause 27).

Division 3 requires a person who employs a person to do loss assessor's work to employ only the holder of a loss assessor's certificate. It also requires a person who does loss assessor's work for fee or reward to hold a loss assessor's certificate (clause 28).

A loss assessor's certificate—

- (a) may be granted only to an appropriately qualified individual (clause 30); and
- (b) continues in force unless revoked or surrendered (clause 33).

A provisional loss assessor's certificate—

- (a) may be granted to an individual who fails to meet the requirements for a full loss assessor's certificate but who meets certain other requirements (clause 31);
- (b) may be granted subject to conditions and restrictions (clause 31 (3)); and
- (c) continues in force until the day specified on it or until it is revoked or surrendered, whichever first occurs (clause 33).

Division 4 requires the Council to notify an applicant for a licence or certificate of any refusal of the application (clause 34).

It provides for the surrender of licences and certificates (clause 35), the refund of application or annual fees (clause 36), the issue of duplicate licences and certificates (clause 37) and the keeping of a register of licences and certificates (clause 38).

It prohibits persons from making false statements in applications for licences and certificates (clause 39) and from pretending to be holders of certificates which they do not have (clause 40).

PART IV.—DISCIPLINARY PROCEEDINGS.

This Part provides for action to be taken against the holder of a licence or certificate, essentially on grounds (specified in clauses 42 and 43) which would have been grounds for refusing to grant the licence or certificate at the time application was made for it.

A complaint (clause 44) or recommendation (clause 55) is formally made and the Council then considers it (clause 45). The Council may then, or at its own instigation, after notifying the person complained against, hold an inquiry in the manner specified in clause 46. The Council may then take no further action, caution or reprimand that person, or revoke or suspend the licence or certificate held by that person (clause 48). However, the Council must give the person an opportunity to contest any proposal to revoke or suspend his licence or certificate, and must notify the person of the revocation or suspension once it has been carried out (clause 49).

PART V.—APPEALS.

This Part provides for an appeal to an industrial magistrate—

- (a) by an applicant for the grant of a licence or certificate, or for the amendment of a licence, against a refusal of his application; and
- (b) by a person against the revocation or suspension of his licence or certificate.

PART VI.—DISPUTES.

This Part provides for the settlement by agreement (clause 53) or, if that is not possible, the determination by the Disputes Committee (clause 55), of disagreements between motor vehicle owners and repairers, principally in relation to the manner and cost of repairs.

A person cannot make use of the procedure provided in the proposed Act if he has availed himself of other remedies (clause 52 (2)).

An inspector may examine a motor vehicle which is the subject of a dispute (clause 53 (3)).

The procedure in any investigation by the Disputes Committee is essentially informal (clause 54).

The Disputes Committee may, as part of its determination of a dispute, make orders for work to be done, or money to be paid, subject to a \$3,000 limit (clause 55). (Clause 56 provides for the enforcement of those orders.) It may also recommend a payment out of the Motor Vehicle Repair Industry Contingency Fund (clause 55).

Clause 57 prohibits the making of false statements in applications, or in proceedings, in respect of disputes.

PART VII.—FINANCE.

This Part establishes and provides for 3 funds:—

- (a) the Motor Vehicle Repair Industry General Fund;
- (b) the Motor Vehicle Repair Industry Contingency Fund; and
- (c) the Motor Vehicle Repair Industry Education and Research Fund.

Clauses 68 and 69 require accounts and records to be kept and audited.

PART VIII.—GENERAL.

Clause 70 confers power on the Council to delegate its functions.

Clause 71 saves existing rights and remedies.

Clause 72 renders agreements to exclude the operation of the Act ineffective.

Clause 73 empowers the Council to require persons to furnish information to it.

Clause 74 requires the production, on demand, of licences and certificates.

Clause 75 provides for the entry by inspectors of any place in certain circumstances in order to determine whether the proposed Act is being breached.

Clause 76 prohibits the obstruction of an inspector acting in the exercise of his powers.

Clause 77 regulates the disclosure of information obtained in connection with the administration of the proposed Act.

Clauses 78 and 79 deal with evidentiary matters.

Clauses 80 and 81 deal with the service of documents by or on the Council.

Clauses 82 and 83 provide for the execution and authentication of documents.

Clause 84 provides for protection from liability of members of the Council and of the Disputes Committee and other persons.

Clause 85 provides for the recovery of charges.

Clause 86 requires the Council to prepare annually a report of its work and activities and to forward the report to the Minister for tabling in Parliament.

Clause 87 makes provision with respect to proceedings for offences.

Clause 88 provides that directors and certain officers of corporations which commit offences are deemed also to have committed those offences.

Clause 89 confers regulation-making powers.

SCHEDULES 1-4.

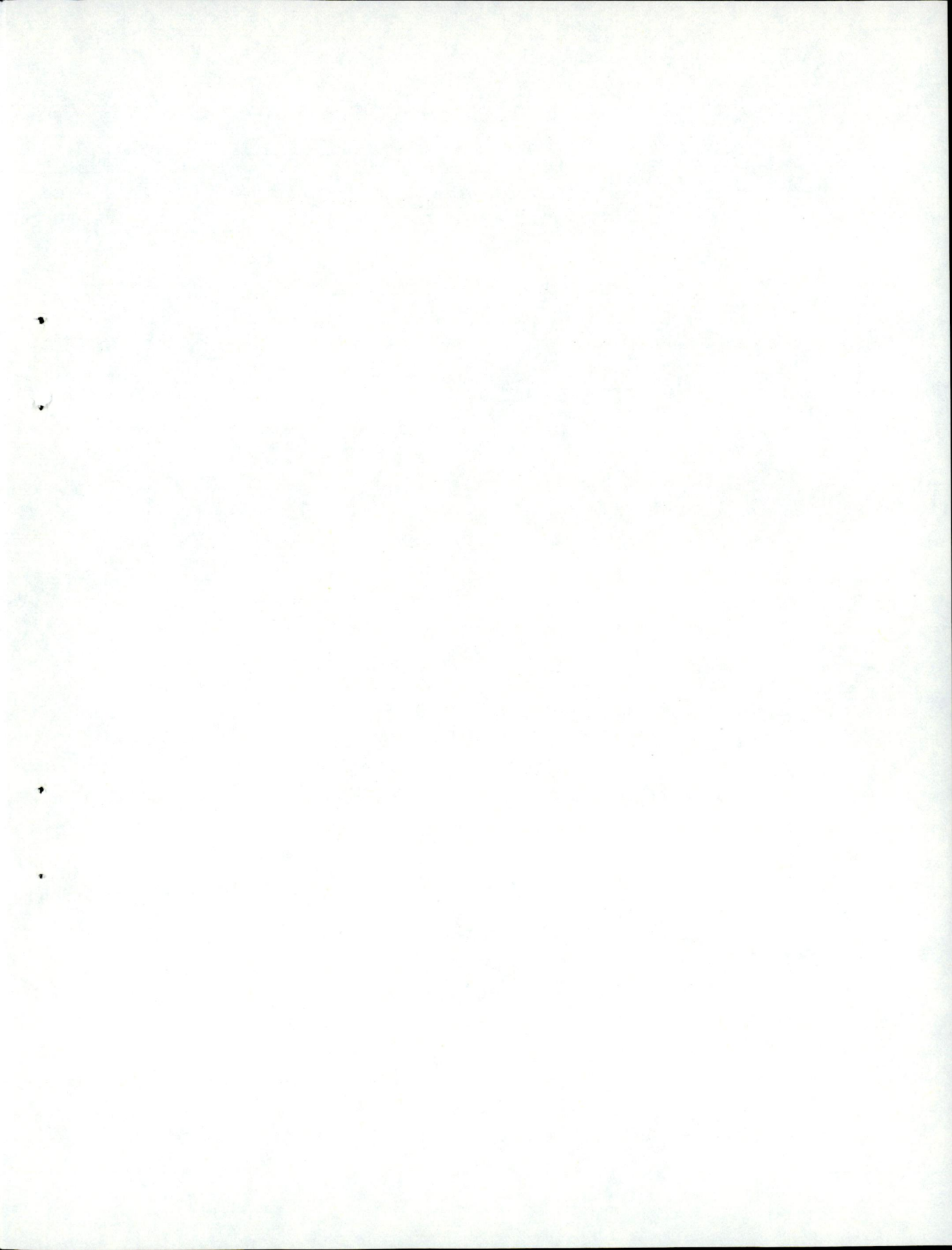
Schedule 1 contains provisions relating to the constitution and membership of the Council.

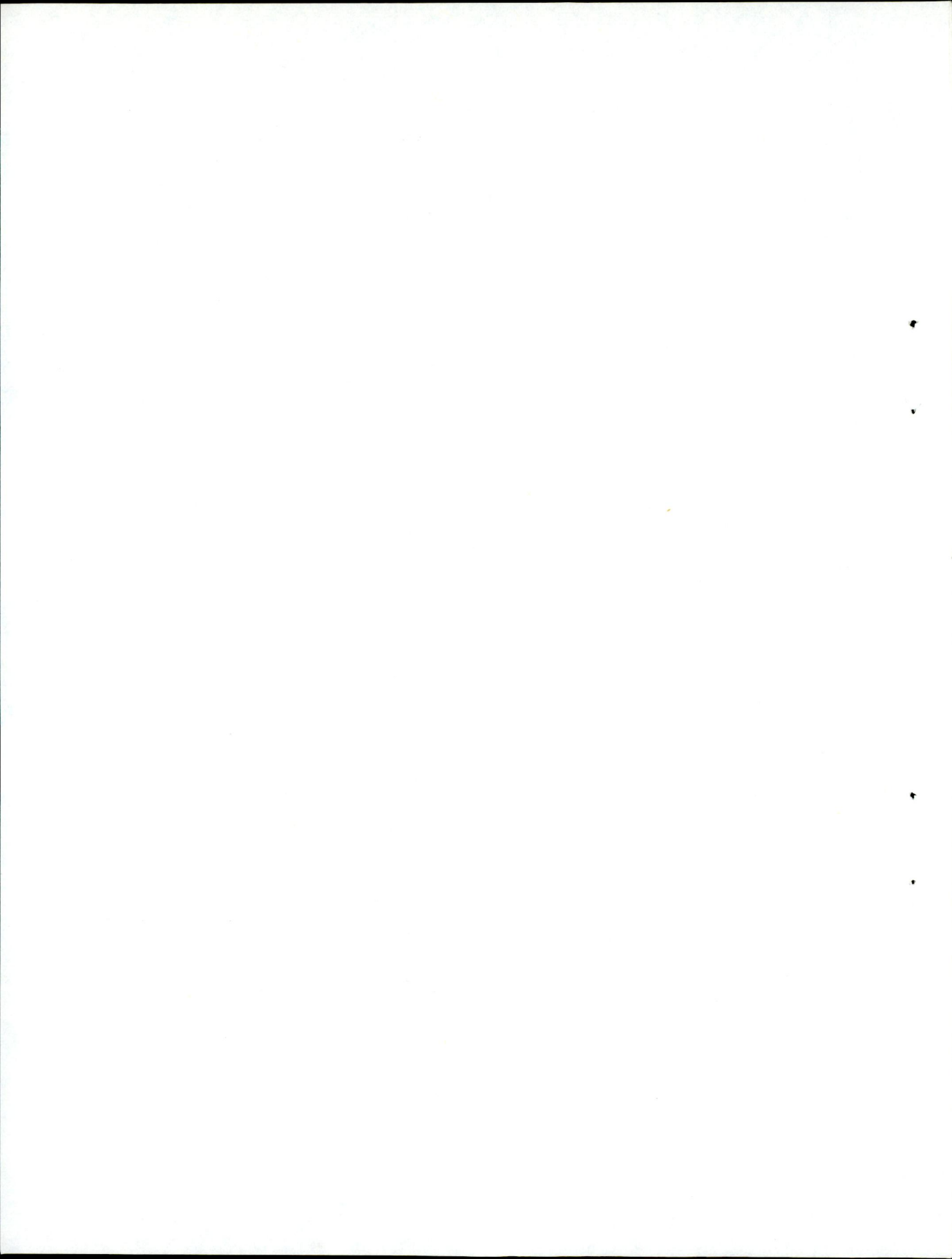
Schedule 2 contains provisions relating to meetings of the Council.

Schedule 3 contains provisions relating to the constitution and membership of the Disputes Committee.

Schedule 4 contains provisions relating to meetings of the Disputes Committee.







MOTOR VEHICLE REPAIRS BILL, 1980

No. , 1980.

A BILL FOR

An Act to constitute the Motor Vehicle Repair Industry Council and to confer on it functions with respect to the licensing of repair businesses and the certification of repair tradesmen and loss assessors; to constitute the Motor Vehicle Repair Disputes Committee; and for other purposes.

[MR HILLS—4 *March*, 1980.]

See also Statutory and Other Offices Remuneration (Motor Vehicle Repairs) Amendment Bill, 1980; and Motor Dealers (Motor Vehicle Repairs) Amendment Bill, 1980.

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BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

5

PART I.

PRELIMINARY.

1. This Act may be cited as the "Motor Vehicle Repairs Act, 1980". Short title.

2. (1) This section and section 1 shall commence on the date of assent to this Act. Commencement.

(2) Except as provided in subsection (1), this Act shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

15 **3.** This Act is divided as follows :—

Arrange-
ment.

PART I.—PRELIMINARY—ss. 1–6.

**PART II.—THE COUNCIL AND THE DISPUTES COMMITTEE—
ss. 7–14.**

PART III.—LICENCES AND CERTIFICATES—ss. 15–40.

20

DIVISION 1.—*Repairers' Licences*—ss. 15–21.

DIVISION 2.—*Tradesmen's Certificates*—ss. 22–27.

DIVISION 3.—*Loss Assessors' Certificates*—ss. 28–33.

**DIVISION 4.—*Licences and Certificates Generally*—ss. 34–
40.**

25

PART IV.—DISCIPLINARY PROCEEDINGS—ss. 41–49.

PART V.—APPEALS—s. 50.

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PART VI.—DISPUTES—*ss.* 51–57.

PART VII.—FINANCE—*ss.* 58–69.

PART VIII.—GENERAL—*ss.* 70–89.

5 SCHEDULE 1.—PROVISIONS RELATING TO THE CONSTITUTION AND MEMBERSHIP OF THE COUNCIL.

SCHEDULE 2.—PROVISIONS RELATING TO MEETINGS OF THE COUNCIL.

SCHEDULE 3.—PROVISIONS RELATING TO THE CONSTITUTION AND MEMBERSHIP OF THE DISPUTES COMMITTEE.

10 SCHEDULE 4.—PROVISIONS RELATING TO MEETINGS OF THE DISPUTES COMMITTEE.

4. (1) In this Act, except in so far as the context or subject-matter otherwise indicates or requires— Interpretation.

15 “automotive electrician” means a person who repairs electrical equipment, systems or circuits in motor vehicles;

“body maker” means a person who makes motor vehicle bodies (otherwise than in the course of manufacturing new motor vehicles) or who repairs motor vehicle bodies;

20 “brake mechanic” means a person who repairs brake equipment or systems in motor vehicles;

“certificate” means tradesman’s certificate or loss assessor’s certificate;

“Chairman” means the person appointed and holding office as Chairman of the Council;

25 “commercial vehicle owner” means a person who, for the purposes of any business carried on by him, uses a motor vehicle for the carriage of passengers or goods;

30 “Commissioner for Consumer Affairs” means the Commissioner for Consumer Affairs appointed pursuant to section 13 of the Consumer Protection Act, 1969, and includes any person appointed to act as such pursuant to section 14 of that Act;

Motor Vehicle Repairs.

“committee” means a committee established under section 14;

“Contingency Fund” means the Motor Vehicle Repair Industry Contingency Fund established under section 60 (1) (b);

5 “Council” means the Motor Vehicle Repair Industry Council constituted by section 7;

“Disputes Committee” means the Motor Vehicle Repair Disputes Committee constituted by section 13;

10 “Education and Research Fund” means the Motor Vehicle Repair Industry Education and Research Fund established under section 60 (1) (c);

15 “exempted person”, when used in or in relation to any provision of this Act, means a person, or a person belonging to a class of person, exempted from the operation of that provision under section 5;

“front end specialist” means a person who repairs the steering or suspension systems of motor vehicles;

“functions” includes powers, authorities and duties;

20 “General Fund” means the Motor Vehicle Repair Industry General Fund established under section 60 (1) (a);

“holder” means—

25 (a) in relation to a joint licence, each person to whom the licence is granted or deemed under section 20 (8) (d) to be granted; or

(b) in relation to any other licence or to a certificate, the person to whom the licence or certificate is granted;

“individual” means a person other than a corporation;

30 “industrial magistrate” means an industrial magistrate appointed under the Industrial Arbitration Act, 1940;

“inspector” means a person appointed under section 12 (1) or (2) (b) as an inspector;

Motor Vehicle Repairs.

- “joint application” means an application made pursuant to section 16 (2) for the grant of a joint licence;
- “joint licence” means a licence granted pursuant to section 17 (2) (b);
- 5 “licence” means a licence granted under section 17;
- “loss assessor’s certificate” means a loss assessor’s certificate granted under section 30, and includes a provisional loss assessor’s certificate;
- 10 “loss assessor’s work” means the work of assessing whether damaged motor vehicles can be repaired or the cost of repairs to damaged motor vehicles, but does not include any such work when it is done for the purposes of the business of a repairer by the repairer or his employee;
- “member” means a member of the Council;
- 15 “motor cycle mechanic” means a person who performs the work of a motor mechanic only on motor cycles;
- “motor mechanic” means a person who repairs the engines or transmissions, or the fuel, induction, exhaust, electrical, steering, suspension or braking systems, of
- 20 motor vehicles;
- “motor vehicle” means any motor car, motor carriage, motor cycle or other vehicle propelled wholly or partly by any volatile spirit, steam, gas, oil or electricity, or by any means other than human or animal power, and includes
- 25 a trailer, but does not include—
- (a) a vehicle used on a railway or tramway;
 - (b) any vehicle which is constructed or adapted otherwise than for the carriage of passengers or goods over public roads; or
 - 30 (c) anything prescribed for the purposes of this definition;

Motor Vehicle Repairs.

“painter tradesman” means a person who paints motor vehicles (otherwise than in the course of their manufacture), but does not include a person who only prepares the surface of a motor vehicle for its finish coat of paint;

5 “panelbeater” means a person who repairs the structural components, frames or panel work of motor vehicles;

“prescribed tradesman” means a tradesman belonging to a prescribed class of tradesman;

10 “provisional loss assessor’s certificate” means a loss assessor’s certificate which is designated as a provisional loss assessor’s certificate under section 31;

“provisional tradesman’s certificate” means a tradesman’s certificate which is designated as a provisional tradesman’s certificate under section 25;

15 “regulations” means regulations made under this Act;

“relevant day” means such day, being a day not less than 3 months after the day appointed and notified under section 2 (2), as may be appointed by the Governor as the relevant day for the purposes of this Act and as may
20 be notified by proclamation published in the Gazette;

“repair” includes examine, detect faults in, adjust, carry out maintenance on, overhaul, replace, alter and paint;

“repair work” means the work of—

- 25 (a) an automotive electrician;
- (b) a body maker;
- (c) a brake mechanic;
- (d) a front end specialist;
- (e) a motor cycle mechanic;
- (f) a motor mechanic;
- 30 (g) a painter tradesman;
- (h) a panelbeater;

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- (i) a transmission specialist; and
- (j) a prescribed tradesman,

but does not include work that is prescribed as exempt for the purposes of this definition;

5 “repairer” means a person who carries on the business of repairing motor vehicles, but does not include—

(a) a person who does repair work only on motor vehicles owned or used by him; or

10 (b) a person who does repair work on motor vehicles only in the course of his employment with another person;

“tradesman’s certificate” means a tradesman’s certificate granted under section 24, and includes a provisional tradesman’s certificate;

15 “transmission specialist” means a person who repairs any of the following parts of motor vehicles, namely, the gears, clutch, driveshaft and differential, and the controlling systems for those parts.

(2) A reference in this Act to the business of a repairer
20 does not include any part of that business—

(a) in which the repairs done do not include any repair work as defined in subsection (1); or

25 (b) which is a business in respect of which a person is required to hold a licence under the Motor Dealers Act, 1974.

(3) A reference in this Act to the performance of a function includes, where the function is a power or authority, the exercise of that power or authority.

5. (1) The Governor may, by regulation made under this Exemptions.
30 Act, exempt from the operation of all or any of the provisions of this Act any person or class of person.

Motor Vehicle Repairs.

(2) An exemption under subsection (1) may be given unconditionally or subject to such conditions as may be prescribed in respect of the exemption.

(3) Where an exemption under subsection (1) is given subject to conditions, the exemption does not have effect during any period when the conditions are not complied with.

6. (1) An application under this Act shall be made in or to the effect of a form approved by the Minister. Approved forms.

(2) The Minister may approve different forms for the purpose of making different applications.

PART II.

THE COUNCIL AND THE DISPUTES COMMITTEE.

7. (1) There is hereby constituted a corporation under the corporate name of the "Motor Vehicle Repair Industry Council". Constitution of the Council.

15 (2) The Council is, for the purpose of any Act, a statutory body representing the Crown.

8. (1) The Council shall consist of 9 members, appointed by the Governor, of whom— Members of Council.

20 (a) 1 shall be appointed as Chairman of the Council by the instrument of his appointment;

(b) 1 shall be a person chosen by the Minister from a panel of 3 persons nominated by the Council of the National Roads and Motorists' Association;

Motor Vehicle Repairs.

- (c) 1 shall be a person chosen by the Minister from a panel of 3 persons nominated by the Council of the Motor Traders' Association of New South Wales;
- 5 (d) 1 shall be a person chosen by the Minister from a panel of 3 persons nominated by the General Council of the Service Station Association of New South Wales;
- (e) 1 shall be a person chosen by the Minister from a panel of 3 persons nominated by the National Executive of the Metal Trades Industry Association of Australia;
- 10 (f) 1 shall be a person chosen by the Minister from a panel of 3 persons nominated by the State Council of the New South Wales Branch of the Vehicle Builders' Employees Federation of Australia;
- 15 (g) 1 shall be a person chosen by the Minister from a panel of 3 persons nominated by the State Executive of the Australasian Society of Engineers;
- (h) 1 shall be a person chosen by the Minister from a panel of 3 persons nominated by the State Council of The Amalgamated Metal Workers' and Shipwrights' Union; and
- 20 (i) 1 shall be a person chosen by the Minister from a panel of 3 persons nominated by the National Council of the Institute of Automotive Mechanical Engineers.

(2) Where, for the purposes of subsection (1), nominations of persons to constitute a panel are not made within the time or in the manner specified by the Minister in a written notice given to the body entitled to make the nominations, the Governor may appoint a person to be a member instead of the person required to be appointed from that panel and the person so appointed shall be

25
30 deemed to have been duly nominated.

(3) Where a body referred to in any provision of subsection (1) changes its name and the Minister is satisfied that the change of name is not accompanied by any change in the nature of the body, he may, by order published in the Gazette, so certify

35 and, subject to subsection (4), as from the date of that publication, the reference in the provision shall be deemed to be a reference to the body under that changed name.

Motor Vehicle Repairs.

(4) The power of the Minister under subsection (3) may be exercised in relation to a body under a changed name as if that body, under that changed name, were referred to in subsection (1).

9. (1) Schedule 1 has effect with respect to the constitution Provisions relating to the constitution, membership and meetings of the Council.

(2) Schedule 2 has effect with respect to the meetings of the Council.

10. The Council shall have and may perform the functions conferred or imposed on it by or under this or any other Act. Functions of the Council.

10 11. (1) In this section, "motor vehicle repair work" includes loss assessor's work. Council to promote standards and education.

(2) The Council shall—

- (a) keep under review the standard of motor vehicle repair work;
- 15 (b) promote improvement in the standard of motor vehicle repair work;
- (c) keep under review the manpower and training requirements in the motor vehicle repair industry;
- 20 (d) make reports and recommendations to the Minister and the Minister for the time being administering the Technical and Further Education Act, 1974, with respect to the manpower and training requirements of the motor vehicle repair industry;
- 25 (e) promote and undertake research into the motor vehicle repair industry; and
- (f) whenever it considers it necessary to do so or it is requested by the Minister to do so, make reports or recommendations to the Minister with respect to the motor vehicle repair industry.

Motor Vehicle Repairs.

12. (1) Such officers and temporary employees as may be necessary for the purpose of carrying out the provisions of this Act shall be appointed under and subject to the Public Service Act, 1979. Officers
and
employees.

5 (2) For the purpose of performing its functions, the Council may—

(a) with the approval of the Minister of the department concerned and on such terms as may be arranged, make use of the services of any officers or temporary employees of a Government department; and
10

(b) with the approval of the Public Service Board, appoint and employ, on a casual basis and on such other terms as may be approved by the Council, persons to act in the administration of this Act.

15 (3) A person referred to in subsection (2) (b) is not, in his capacity as an employee of the Council, an officer within the meaning of the Public Service Act, 1979, but, if the terms and conditions upon which he is appointed so provide, any specified provisions of that Act or the regulations thereunder, whether with
20 or without specified modifications, shall apply to and in respect of him as if he were a temporary employee within the meaning of that Act.

13. (1) There is hereby constituted a corporation under the corporate name of the “Motor Vehicle Repair Disputes Committee”. Disputes
Committee.
25

(2) The Disputes Committee is, for the purposes of any Act, a statutory body representing the Crown.

(3) The functions of the Disputes Committee are the functions conferred or imposed on it by Part VI.

30 (4) Schedule 3 has effect with respect to the constitution and membership of the Disputes Committee.

Motor Vehicle Repairs.

(5) Schedule 4 has effect with respect to the meetings of the Disputes Committee.

14. (1) The Council may establish committees to advise the Council on such matters relating to the Council's functions as are referred to them by the Council. Committees of the Council.

(2) The Council shall establish a committee to advise the Council on such matters relating to the Council's functions in respect of the certification and regulation of loss assessors as are referred to it by the Council.

10 (3) A committee shall consist of the Chairman of the Council, who shall be chairman of the committee, and such other persons (including, in the case of the committee established under subsection (2), 1 or more loss assessors), whether members of the Council or not, as may be appointed by the Council.

15 (4) The Council may determine a quorum for a meeting of a committee.

(5) The procedure for the calling of, and for the conduct of business at, meetings of a committee shall be in accordance with any directions given by the Council or, in the absence of any such directions, as may be determined by the committee.

20

Motor Vehicle Repairs.

PART III.

LICENCES AND CERTIFICATES.

DIVISION 1.—*Repairers' Licences.*

15 **15.** (1) On or after the relevant day, no person (other than Licences.
5 an exempted person) shall—

(a) carry on or advertise that he carries on or is willing to
carry on the business of a repairer in respect of any
repair work unless he is the holder of a licence in respect
of a class of repair work that includes that repair work;
10 or

(b) carry on the business of a repairer at any place of
business unless he is the holder of a licence granted in
respect of that place of business.

Penalty : \$2,000.

15 (2) A person carries on the business of a repairer if he
does so either by himself, as a member of a partnership or by his
servant or agent.

(3) The holder of a licence in respect of a class of repair
work who carries on the business of a repairer in respect of any
20 other class of repair work does not contravene subsection (1) if—

(a) that other class of repair work is done by the holder of
a licence in respect of a class of repair work that includes
that other class of repair work pursuant to an agreement
between the holders of those licences; and

25 (b) he does not advertise that he carries on or is willing to
carry on the business of a repairer in respect of that other
class of repair work.

16. (1) An application for the grant of a licence shall—

(a) be lodged with the Council; and

30 (b) specify the class or classes of repair work in respect of
which the application is made.

Application
for grant
of licence.

Motor Vehicle Repairs.

(2) Two or more persons intending to carry on in partnership the business of a repairer may, but are not required to, apply for the grant of a joint licence.

(3) A joint application shall specify the names of the 5 persons to whom the licence is to be granted.

(4) Where an application (including a joint application) is made for the grant of a licence to a corporation, the names of the directors of the corporation shall be specified in the application.

(5) Subject to subsection (6), where the business of a 10 repairer is to be carried on at more than 1 place of business a separate application for the grant of a licence in respect of each such place shall be lodged with the Council.

(6) Where the business of a repairer is to be carried on at more than 1 place of business but, by reason of the close 15 proximity of those places, the person applying for the grant of the licence considers it reasonable that a single licence only should be required in respect of those places, he may include a reference to all of those places in an application for the grant of a single licence.

20 **17.** (1) This section is subject to section 18.

Disposal of
applica-
tions.

(2) On payment of the appropriate fee the Council shall, when an application is made for the grant of a licence in respect of any class of repair work—

25 (a) by a person (other than a person referred to in paragraph (b)), grant a licence in respect of that class of repair work to the person; or

(b) by 2 or more persons making a joint application, grant a licence in respect of that class of repair work and in the joint names of the persons specified in the application 30 pursuant to section 16 (3).

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(3) Where, pursuant to section 16 (6), a reference to 2 or more places of business is included in an application for the grant of a single licence the Council, if it grants the licence, may—

- (a) grant the licence in respect of all of those places; or
- 5 (b) grant the licence in respect of 1 or some only of those places.

(4) Where the Council grants a single licence in respect of 2 or more places of business, those places are together, for the purposes of this Act, the place of business in respect of which the
10 licence is granted.

(5) The appropriate fee is \$100 or, where some other fee is prescribed, that other fee.

18. (1) The Council shall not grant a licence in respect of any class of repair work unless it is satisfied—

Refusal of application for grant of licence.

- 15 (a) in the case of an application by an individual, that the individual—
 - (i) is of or above the age of 18 years and is a fit person to hold a licence; and
 - 20 (ii) has sufficient material, manpower and financial resources to carry on the business of a repairer in respect of that class of repair work;
- (b) in the case of an application by a corporation, that—
 - (i) the corporation is a fit person to hold a licence;
 - 25 (ii) each of the directors of the corporation is of or above the age of 18 years and would, if the application were made by him, be a fit person to hold a licence; and
 - 30 (iii) the corporation has sufficient material, manpower and financial resources to carry on the business of a repairer in respect of that class of repair work;

Motor Vehicle Repairs.

- (c) in the case of a joint application, that—
- 5 (i) each individual and corporation to whom or to which the licence is to be granted has the qualifications referred to in paragraphs (a) (i) and (b) (i) and (ii) respectively; and
 - 10 (ii) the individuals and corporations to whom or to which the licence is to be granted together have sufficient material, manpower and financial resources to carry on the business of a repairer in respect of that class of repair work; and
- (d) that the applicant has such other qualifications as may be prescribed.

(2) Where the applicant for a licence in respect of a class of repair work (not being a joint licence) proposes to carry
15 on the business of a repairer in partnership with 1, or more than 1, person, the Council shall not refuse to grant the licence under subsection (1) (a) (ii) or (b) (iii) unless the Council is satisfied that the applicant's material, manpower and financial resources, together with those of the person or persons with whom he proposes
20 to carry on that business in partnership, are not sufficient to enable him to carry on the business of a repairer in respect of that class of repair work.

(3) The Council shall not grant a licence in respect of any place of business unless the applicant satisfies the Council that
25 the business of a repairer may be carried on at that place without contravening any other Act or any instrument made under any other Act.

19. A licence shall be in the form approved by the Minister **Form of** and, without prejudice to the inclusion in the licence of any other **licence.**
30 particulars, shall—

- (a) specify the date of issue of the licence;
- (b) specify the class of repair work in respect of which the licence is granted;

Motor Vehicle Repairs.

- (c) specify the place of business in respect of which the licence is granted;
- (d) specify the name of the person or, in the case of a joint licence the names of the persons, to whom the licence is granted; and
- (e) where the licence (including a joint licence) is granted to a corporation, specify the names of the directors of the corporation.

20. (1) The applications to which this section relates are ^{Amendment} applications for the amendment— ^{of licence.}

- (a) of a licence by substituting for, or adding to, the reference in the licence to a class of repair work a reference to another class of repair work;
- (b) of a licence by substituting for the reference in the licence to a place of business a reference to another place of business;
- (c) of a licence by including a reference to an additional place of business in respect of which the licence is granted if it is in close proximity to the existing place of business in respect of which the licence is granted;
- (d) of a joint licence by specifying in the licence the name of any person;
- (e) of a licence (including a joint licence) held by a corporation by specifying in the licence the name of any person who is a director of the corporation; or
- (f) of a licence in such other manner as may be prescribed.

(2) Subject to subsection (3), where the holder of a licence makes an application to which this section relates and pays the prescribed fee, the Council shall grant the application and amend the licence in accordance with the application.

Motor Vehicle Repairs.

(3) The Council shall not grant an application by a person under this section unless it is satisfied that the licence as amended could have been granted by it to the person on an application made under section 16 at the same time as the
5 application under this section.

(4) Where a person becomes a director of a corporation that is the holder of a licence and his name is not specified as a director in the licence, the corporation shall, within 1 month after that person becomes a director, make the application referred to in
10 subsection (1) (e).

Penalty : \$500.

(5) Where an application made pursuant to subsection (4) is refused the person to whom the application relates shall forthwith give up his directorship of the corporation concerned.

15 Penalty : \$200.

(6) Where an application made pursuant to subsection (4) is refused the person to whom the application relates shall not again, within a period of 6 months after the refusal of the application, become a director of the corporation unless the corporation
20 ceases to be the holder of a licence or the Council, pursuant to subsection (7), grants an application made under subsection (7) in relation to that person.

Penalty : \$200.

(7) A corporation that is the holder of a licence may
25 apply to the Council for the approval of a person whom it is proposed to appoint or elect to be a director of the corporation and, subject to the regulations, the Council may refuse or grant the application.

(8) Where an application referred to in—

30 (a) subsection (1) (a) is granted and the licence is amended by substituting or adding a reference to another class of repair work, that class of repair work is a class of repair work in respect of which the licence is granted;

Motor Vehicle Repairs.

- (b) subsection (1) (b) is granted and the licence is amended by substituting a reference to another place of business, that place of business is a place of business in respect of which the licence is granted;
- 5 (c) subsection (1) (c) is granted and the licence is amended by including a reference to an additional place of business, that place of business is a place of business in respect of which the licence is granted; or
- 10 (d) subsection (1) (d) is granted and the licence is amended by specifying the name of the person concerned in the licence, that person shall be deemed to be a person to whom the licence is granted.

21. (1) A licence has effect from and including the date of issue of the licence. Duration of licence, and annual fee.

15 (2) A licence continues in force—

- (a) unless it ceases to have effect under subsection (5);
- (b) unless it is revoked or surrendered; and
- (c) except during any period of suspension.

(3) The appropriate fee in respect of a licence is payable
20 annually on or before the anniversary of the date of issue of the licence in the year concerned.

(4) For the purposes of subsection (3), the appropriate fee is \$100 or, where some other fee is prescribed, that other fee.

(5) If the appropriate fee in respect of a licence is not
25 paid in accordance with subsection (3), the licence ceases to have effect immediately following the anniversary concerned.

(6) When a licence ceases to have effect under subsection (5) the person who was the holder of the licence shall forthwith deliver it to the Council.

30 Penalty for an offence against this subsection : \$200.

Motor Vehicle Repairs.

DIVISION 2.—*Tradesmen's Certificates.*

22. (1) On or after the relevant day, no repairer or commercial vehicle owner (other than an exempted person) shall permit a person employed by him to do any repair work unless the person so employed—

Tradesman's
certificate.

(a) holds a tradesman's certificate in respect of a class of repair work that includes that repair work; or

10 (b) is an apprentice and does that repair work in the course of his apprenticeship and under the supervision of a person who holds such a certificate.

Penalty : \$2,000.

(2) On or after the relevant day, no repairer (other than an exempted person) shall personally do any repair work in connection with his business unless he holds a tradesman's certificate in respect of a class of repair work that includes that repair work.

15 Penalty : \$2,000.

(3) On or after the relevant day, no repairer or commercial vehicle owner (other than an exempted person) shall enter into an agreement for any repair work to be done by any person who does not hold a licence.

20 Penalty : \$2,000.

(4) On or after the relevant day, an insurer with whom the owner of a motor vehicle has entered into any contract of insurance in respect of damage to that motor vehicle shall not enter into an agreement, or require the owner to enter into an agreement, for any repair work to be done on that motor vehicle by any person who does not hold a licence or specify in the contract of insurance a repairer who does not hold a licence.

25 Penalty : \$2,000.

30 Penalty : \$2,000.

Motor Vehicle Repairs.

23. An application for the grant of a tradesman's certificate shall—

Application for tradesman's certificate.

(a) be lodged with the Council; and

5 (b) specify the class or classes of repair work in respect of which the application is made.

24. (1) Subject to subsection (3) and section 25, on payment of the appropriate fee the Council shall, when an application is made by an individual for the grant of a tradesman's certificate in respect of any class of repair work, grant to the individual a tradesman's certificate in respect of that class of repair work.

Grant of tradesman's certificate.

(2) The appropriate fee is \$25 or, where some other fee is prescribed, that other fee.

(3) The Council shall not grant to an individual a tradesman's certificate in respect of any class of repair work unless it is 15 satisfied that—

(a) the individual is a fit person to hold a tradesman's certificate; and

(b) the individual—

20 (i) has such qualifications or has passed such examinations as may be prescribed in relation to the tradesman's certificate in respect of that class of repair work; or

25 (ii) has such other qualifications or experience or has passed such other examinations as may be determined by the Council in relation to the tradesman's certificate in respect of that class of repair work.

Motor Vehicle Repairs.

25. (1) The Council may grant to an individual a tradesman's ^{Provisional} certificate in respect of any class of repair work notwithstanding ^{tradesman's} that the individual has not met the requirement referred to in ^{certificate.} section 24 (3) (b) if it is satisfied that the individual has acquired **5** or is capable of acquiring the skills that will enable him to meet that requirement in respect of that class of repair work.

(2) A tradesman's certificate referred to in subsection (1) shall be designated by the Council as a provisional tradesman's certificate.

10 (3) A provisional tradesman's certificate is subject to such conditions and restrictions as may be specified on it by the Council at the time it grants the certificate.

(4) If the holder of a provisional tradesman's certificate does repair work in breach of any condition or restriction to which **15** the certificate is subject, he shall, for the purposes of section 22, be deemed not to be the holder of a tradesman's certificate when he does that work.

(5) Where an individual who holds or has held a provisional tradesman's certificate applies, not more than 3 months **20** after the expiry date specified on the provisional tradesman's certificate, for the grant of a tradesman's certificate, the appropriate fee in respect of that application shall be deemed to have been paid.

25 **26.** A tradesman's certificate shall be in the form approved ^{Form of} by the Minister and, without prejudice to the inclusion in the ^{trades-} certificate of any other particulars, shall— ^{man's} ^{certificate.}

(a) specify the date of issue of the certificate;

(b) specify the name of the individual to whom the certificate is granted;

Motor Vehicle Repairs.

- (c) specify the class or classes of repair work in respect of which the certificate is granted; and
- (d) in the case of a provisional tradesman's certificate—
 - (i) specify the conditions and restrictions to which the certificate is subject; and
 - (ii) specify the date until and including which the certificate is in force.

27. (1) A tradesman's certificate has effect from and including its date of issue. Duration of certificate.

- 10 (2) A tradesman's certificate continues in force—
- (a) except as provided in paragraph (b)—until it is revoked or surrendered; or
 - (b) in the case of a provisional tradesman's certificate—until and including the date determined by the Council and specified on the certificate, or until it is revoked or surrendered, whichever first occurs,
- 15 but is not in force during any period of suspension.

DIVISION 3.—Loss Assessors' Certificates.

28. (1) On or after the relevant day, no person (other than an exempted person) shall permit a person employed by him to do any loss assessor's work unless the person so employed holds a loss assessor's certificate. Loss assessor's certificate.

Penalty : \$2,000.

25 (2) On or after the relevant day, no repairer or insurer (other than an exempted person) shall enter into an agreement for any loss assessor's work to be done by any person unless the latter person holds a loss assessor's certificate.

Penalty : \$2,000.

Motor Vehicle Repairs.

(3) On or after the relevant day, no person (other than an exempted person) shall perform any loss assessor's work for fee or reward unless he holds a loss assessor's certificate.

Penalty : \$200.

5 **29.** An application for the grant of a loss assessor's certificate shall be lodged with the Council. Application for loss assessor's certificate.

30. (1) Subject to subsection (3) and section 31, on payment of the appropriate fee the Council shall, when an application is made by an individual for the grant of a loss assessor's certificate, Grant of loss assessor's certificate.
10 grant such a certificate to the individual.

(2) The appropriate fee is \$25 or, where some other fee is prescribed, that other fee.

(3) The Council shall not grant a loss assessor's certificate to an individual unless it is satisfied that—

15 (a) the individual is of or above the age of 18 years and is a fit person to hold a loss assessor's certificate; and

(b) the individual—

20 (i) has such qualifications or has passed such examinations as may be prescribed in relation to loss assessors' certificates; or

(ii) has such other qualifications or experience or has passed such other examinations as may be determined by the Council in relation to loss assessors' certificates.

25 **31.** (1) The Council may grant to an individual a loss assessor's certificate notwithstanding that the individual has not met the requirement referred to in section 30 (3) (b) if it is satisfied that the individual has acquired or is capable of acquiring the skills that will enable him to meet that requirement. Provisional loss assessor's certificate.

Motor Vehicle Repairs.

(2) A loss assessor's certificate referred to in subsection (1) shall be designated by the Council as a provisional loss assessor's certificate.

(3) A provisional loss assessor's certificate is subject to 5 such conditions and restrictions as may be specified on it by the Council at the time it grants the certificate.

(4) If the holder of a provisional loss assessor's certificate does loss assessor's work in breach of any condition or restriction to which the certificate is subject, he shall for the purposes 10 of section 28 be deemed not to be the holder of a loss assessor's certificate when he does that work.

(5) Where an individual who holds or has held a provisional loss assessor's certificate applies, not more than 3 months after the expiry date specified on the provisional loss assessor's 15 certificate, for the grant of a loss assessor's certificate, the appropriate fee in respect of that application shall be deemed to have been paid.

32. A loss assessor's certificate shall be in the form approved by the Minister and, without prejudice to the inclusion in the 20 certificate of any other particulars, shall—

Form of
loss
assessor's
certificate.

- (a) specify the date of issue of the certificate;
- (b) specify the name of the individual to whom the certificate is granted; and
- (c) in the case of a provisional loss assessor's certificate—

- 25 (i) specify the conditions and restrictions to which the certificate is subject; and
- (ii) specify the date until and including which the certificate is in force.

33. (1) A loss assessor's certificate has effect from and 30 including its date of issue.

Duration
of loss
assessor's

Motor Vehicle Repairs.

- (2) A loss assessor's certificate continues in force—
- (a) except as provided in paragraph (b)—until it is revoked or surrendered; or
 - (b) in the case of a provisional loss assessor's certificate—
- 5 until and including the date determined by the Council and specified on the certificate, or until it is revoked or surrendered, whichever first occurs,
- but is not in force during any period of suspension.

DIVISION 4.—*Licences and Certificates Generally.*

- 10 34. (1) Where the Council refuses to grant a licence or certificate or to grant an application for the amendment of a licence, it shall cause a notice of refusal to be served on the applicant for the licence or certificate, or on the applicant for the amendment, as the case may require. Notice of refusal.
- 15 (2) In the case of a joint application for the grant or amendment of a licence it is a sufficient compliance with subsection (1) if the notice of refusal is served on any 1 of the applicants.
- (3) A notice of refusal shall state the reasons for the refusal.
- 20 (4) For the purposes of this Act, the Council shall be deemed to have refused to grant a licence or certificate or to grant an application for the amendment of a licence if it does not give a decision on an application—
- (a) duly made with respect to that grant; and
 - 25 (b) accompanied by the fee (if any) appropriate to that application,
- within 3 months after the application is lodged with the Council.

Motor Vehicle Repairs.

35. A holder of a licence or certificate may surrender it by delivering it to the Council with a notification in writing that the licence or certificate, as the case may be, is surrendered. Surrender of licence or certificate.
36. Where— Refund of fees.
- 5 (a) an application for a licence or certificate or for the amendment of a licence is withdrawn;
- (b) a licence or certificate is surrendered, revoked or suspended; or
- 10 (c) in any other circumstance prescribed in relation to licences or certificates,
- the Council may refund to the applicant or the holder of the licence or certificate, or to any other person who appears entitled thereto, the whole or any part of the fee which has been paid by the applicant or the holder of the licence or certificate.
- 15 37. If the Council is satisfied that a licence or certificate has been lost or destroyed it may, on payment of the prescribed fee, issue a duplicate licence or certificate which shall be of the same force as the original licence or certificate. Duplicate licence.
- 20 38. (1) The Council shall cause to be kept a register, in such form as it determines, of licences and certificates and shall cause to be recorded therein in respect of each licence or certificate— Register of licences and certificates.
- 25 (a) the matters which by this Act are required to be specified in the licence or certificate;
- (b) in the case of a licence—particulars of any amendment of the licence;
- (c) in the case of a licence—particulars of any fees paid, or due but not paid, in respect of the licence under section 21;

Motor Vehicle Repairs.

- (d) particulars of any revocation, suspension or surrender of the licence or certificate;
- 5 (e) in the case of a provisional tradesman's certificate or provisional loss assessor's certificate—particulars of any condition or restriction to which the certificate is subject; and
- (f) such other matters as may be prescribed.

(2) The Council may cause to be made such alterations in the register as are necessary to ensure that the matters recorded
10 therein in respect of any licence or certificate are accurate.

(3) The register may, at all reasonable hours, be inspected, and copies of all or any part of any entry in the register taken—

- (a) without payment, by—
 - 15 (i) any member of the police force in his capacity as such a member;
 - (ii) any public servant in his capacity as such a servant; and
 - (iii) any person authorised by the Council; or
- 20 (b) on payment of the prescribed fee, by any other person.

(4) The register shall be received in proceedings before the Council, the Disputes Committee, the Commissioner for Consumer Affairs or any court or tribunal as evidence of the matters required by or under this Act to be recorded in it, and any
25 document purporting to be certified by the Council to be a true copy of an entry in the register shall be received in proceedings before the Council, the Disputes Committee, the Commissioner for Consumer Affairs or any court or tribunal as evidence of any such matters contained in the entry.

Motor Vehicle Repairs.

39. A person shall not, in an application for—

- (a) a licence or certificate; or
- (b) the amendment of a licence,

False or misleading statements in applications.

make any statement which he knows to be false or misleading.

5 Penalty : \$500.

40. A person shall not hold himself out as—

- (a) a holder of a certificate if he does not hold a certificate; or
- (b) a holder of a particular certificate or a certificate of a particular kind if he does not hold that or such a certificate.

Holding out as holder of certificate.

10

Penalty : \$200.

PART IV.

DISCIPLINARY PROCEEDINGS.

15 **41.** In this Part, "defendant" means any person against whom a complaint is made under section 44 or who is the holder of a licence in relation to which the Disputes Committee has made a recommendation of revocation or suspension under section 55 (2) (b) (iv).

Interpretation: Part IV.

20 **42.** (1) The grounds on which the holder of a licence may be dealt with under this Part are—

- (a) that the holder of the licence made a statement in or in connection with his application for the licence that he knew to be false or misleading in a material particular;

Grounds for action against holder of licence.

Motor Vehicle Repairs.

- (b) that the holder of the licence has been convicted of an offence involving fraud or dishonesty punishable on conviction by imprisonment for 3 months or more, or of any offence against this Act or the regulations;
- 5 (c) that the holder of the licence has been guilty of fraudulent conduct or dishonesty in connection with his business as a repairer;
- (d) that the holder of the licence has carried on the business of a repairer in such a manner that the repair work done
10 in connection with that business has generally been below usual trade standards;
- (e) in the case of the holder of a licence (other than a joint licence) in respect of any class of repair work—that the material, manpower and financial resources of the holder
15 of the licence, together with those of any persons with whom he carries on the business of a repairer in partnership, are not sufficient to enable him to carry on the business of a repairer in respect of that class of repair work;
- 20 (f) in the case of the holder of a joint licence in respect of any class of repair work—that the holders of the licence do not together have sufficient material, manpower and financial resources to carry on the business of a repairer in respect of that class of repair work;
- 25 (g) that the holder of the licence (not being a corporation) has become bankrupt, applied to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounded with his creditors or made an assignment of his remuneration or estate for their benefit;
- 30 (h) that the holder of the licence (being a corporation)—
- (i) is in the course of being wound up;
 - (ii) is under official management;
 - (iii) is a corporation in respect of which a receiver or manager has been appointed; or
 - 35 (iv) has entered into a compromise or scheme of arrangement with its creditors;

Motor Vehicle Repairs.

- (i) that the holder of the licence has, for a period of 1 month or more, ceased to carry on the business of a repairer at the place specified in the licence for that purpose;
- 5 (j) that the holder of the licence is contravening another Act or an instrument made under another Act by carrying on at the place specified in the licence for that purpose the business of a repairer;
- 10 (k) in the case of the holder of a licence (being a corporation)—that any director of the corporation is convicted of an offence referred to in paragraph (b); or
- 15 (l) in the case of the holder of a licence other than a joint licence (being any person carrying on business as a repairer in partnership with any person)—that a licence held by the latter person has been revoked after a determination of a complaint in relation to the licence held by him on any ground specified in paragraph (b), (c), (d), (e), (g), (h), (j) or (k).
- 20 (2) The grounds referred to in subsection (1) (a), (b), (c), (d), (g), (h), (j) or (k) are deemed to exist, in the case of a joint licence, if those grounds apply to any holder of that licence.

43. The grounds on which the holder of a certificate may be dealt with under this Part are—

- 25 (a) that the holder of the certificate made a statement in or in connection with his application for the certificate that he knew to be false or misleading in a material particular;
- 30 (b) that the holder of the certificate has been convicted of an offence against this Act or the regulations;
- (c) in the case of the holder of any tradesman's certificate—that the holder of the certificate is not competent to do repair work of the class to which the certificate applies;

Grounds for
action
against
holder of
certificate.

Motor Vehicle Repairs.

- 5 (d) in the case of the holder of a provisional tradesman's certificate or provisional loss assessor's certificate—that the holder of the certificate has failed to comply with any condition or restriction to which the certificate is subject; or
- (e) in the case of the holder of a loss assessor's certificate—that the holder of the certificate is not competent to perform loss assessor's work.

10 **44.** (1) A complaint may be made to the Council that, in relation to any licence or certificate, 1 or more of the grounds specified respectively in section 42 (1) (a) to (1) or section 43 (a) to (e) exists or exist. ^{Manner of making complaint.}

(2) A complaint referred to in subsection (1) shall, except as provided by subsection (3), be accompanied by the prescribed
15 fee.

(3) A complaint referred to in subsection (1) need not be accompanied by the prescribed fee where it is made by—

- (a) a public servant in his capacity as such a servant; or
- (b) an inspector in his capacity as such an inspector.

20 **45.** (1) Upon receipt of a complaint made under section 44, together with the prescribed fee (where applicable) required by section 44 (2), or upon any recommendation made by the Disputes Committee to the Council under section 55 (2) (b) (iv), the Council shall consider the complaint or recommendation and, ^{Action on complaints or recommendations.}
25 if it is of the opinion that the nature of the complaint or recommendation warrants its so doing, shall cause a notice to be issued calling upon the person to whom the complaint or recommendation relates to show cause why he should not be dealt with under this Part and cause that notice to be served on that person.

Motor Vehicle Repairs.

(2) Subsection (1) does not apply so as to require the Council to consider any complaint which an officer of the Council, authorised by the Council for the purposes of this subsection, has determined to be of such a nature as not to warrant the issue of
5 a notice under subsection (1) with respect to the complaint.

(3) As soon as practicable after the receipt of a complaint, the Council shall cause the complainant to be informed in writing of any action taken under this section with respect to the complaint.

10 (4) The Council may, if in its opinion its investigations warrant its so doing and without having received a complaint or recommendation by the Disputes Committee, cause a notice to be issued to a person against whom a complaint may be made under section 44 to show cause why he should not be dealt with under
15 this Part and cause the notice to be served on that person.

(5) A notice served under subsection (1) or (4) shall—

(a) give particulars of the grounds upon which the defendant is required to show cause; and

20 (b) appoint a time and place for the holding of an inquiry for the defendant to show cause,
as required by the notice.

(6) Not earlier than the day on which the period fixed under subsection (7) in respect of a defendant expires, the Council shall at the time and place appointed by the notice served on the
25 defendant, or at such other time or place appointed by the Council and notified by notice in writing served on the defendant, cause an inquiry to be held into the grounds upon which the defendant has been called to show cause as required by that notice.

(7) The period referred to in subsection (6) is 7 days
30 after service on the defendant of the notice referred to in subsection (5).

Motor Vehicle Repairs.

46. (1) Any inquiry held under this Part shall be held before— Inquiries—
how held.

(a) the Council; or

5 (b) a committee of 1 or more members (including the Chairman) appointed by the Council to hold the inquiry,

and shall be held as in open court.

(2) Where a committee of 2 or more members is appointed under subsection (1) (b) to hold an inquiry under this Part—

10 (a) the Chairman shall preside at the inquiry; and

(b) the Chairman shall have, in addition to a deliberative vote, a casting vote on any matter arising during the inquiry in respect of which there is an equality of votes.

15 (3) The determination of the Council on an inquiry shall be given at a meeting of the Council at which a quorum is present.

(4) At any inquiry under this Part—

(a) the defendant may appear by himself or by a barrister, solicitor or agent appointed by the defendant; and

20 (b) the Council or the committee before which the inquiry is held—

(i) may conduct the inquiry in such manner as it sees fit and is not bound to observe rules of law governing the admission of evidence but may inform itself of any matter in such manner as it thinks fit;

25 (ii) may allow a barrister, solicitor, public servant or inspector, in each case instructed by the Council, to appear before the Council or that committee for the purpose of adducing evidence tending to establish the grounds upon which the defendant has been called upon to show cause as referred to in section 45;

30

Motor Vehicle Repairs.

- (iii) may call and receive evidence as to any matter relevant to the inquiry;
- (iv) may from time to time as it sees fit adjourn the inquiry; and
- 5 (v) may, subject to section 13 of the Oaths Act, 1900, require any evidence at the inquiry to be given on oath.

(5) An inquiry under this Part may be held in the absence of the defendant if the Council or the committee before
10 which the inquiry is held is satisfied that the defendant was served with reasonable notice of the time and place of the inquiry.

(6) Service of any such notice may be proved by the oath of the person who effected the service or by affidavit.

47. (1) The Council or the committee before which an **Subpoenas.**
15 inquiry under this Part is held may of its own motion or on the application of the defendant issue a subpoena in or to the effect of the prescribed form requiring the person to whom the subpoena is addressed to attend as a witness at the inquiry or so to attend and to produce at the inquiry any books, deeds, papers, writings or
20 articles in his possession or under his control relating to any matter relevant to the inquiry and specified in the subpoena.

(2) A person who is served with a subpoena addressed to him and to whom, at the time of service, is tendered an amount that is sufficient to cover his travelling and other out-of-pocket
25 expenses in attending the inquiry specified in the subpoena and producing anything required by the subpoena to be produced shall not, without reasonable cause, fail or refuse to obey the subpoena.

Penalty : \$200.

(3) A person to whom a subpoena is addressed is entitled
30 to receive—

- (a) where the subpoena was issued by the Council or a committee of its own motion, from the Council; or

Motor Vehicle Repairs.

- (b) where the subpoena was issued by the Council or a committee on the application of the defendant, from the defendant,

his reasonable costs, including any loss of earnings, incurred by him in obeying the subpoena, calculated in accordance with the scales relating to subpoenas issued out of the District Court.

48. (1) After an inquiry held under this Part the Council may, if it is of the opinion that there exists any ground specified in section 42 (1) (a) to (l) or 43 (a) to (e), as the case may require, for dealing with the defendant under this Part, make any of the following determinations, that is to say, the Council may:—

**Determina-
tion by
Council.**

- (a) determine that no further action be taken against the defendant;
- (b) caution or reprimand the defendant; or
- 15 (c) where the ground is specified—
- (i) in section 42 (1) (a) to (l)—revoke or suspend the licence held by the defendant; or
- (ii) in section 43 (a) to (e)—revoke or suspend the certificate held by the defendant.

20 (2) The Council may at any time remove a suspension made under subsection (1) (c).

49. (1) Before revoking or suspending a licence or certificate, the Council shall give each holder of the licence, or the holder of the certificate, an opportunity of showing cause why the Council should not revoke or suspend the licence or certificate for the reasons specified by the Council.

**Notice of
revocation,
etc.**

(2) Where the Council revokes or suspends a licence or certificate, it shall cause a notice of the revocation or suspension to be served on the holder of the licence or certificate.

Motor Vehicle Repairs.

(3) In the case of a joint licence it is a sufficient compliance with subsection (2) if the notice is served on any one of the holders of the licence.

(4) A notice under subsection (2) shall state the reasons for which the Council has revoked or suspended the licence or certificate.

(5) Subject to subsection (6), any revocation or suspension of a licence or certificate has effect as on and from the date that is 21 days after the date on which the notice of the revocation or suspension is served.

(6) Where the holder of a licence or certificate appeals under Part V against any revocation or suspension of the licence or certificate, the revocation or suspension shall have effect—

(a) only if the industrial magistrate hearing the appeal confirms the revocation or suspension or the appeal is withdrawn; and

(b) on—

(i) the date on which that industrial magistrate confirms the revocation or suspension or such later date as that magistrate orders; or

(ii) where the appeal is withdrawn—the date on which it is withdrawn or the date that is 21 days after the date on which notice of the revocation or suspension was served pursuant to this section, whichever is the later date.

(7) When the revocation or suspension of a licence or certificate has effect, the person who was or is the holder of the licence or certificate shall forthwith deliver it to the Council.

Penalty for an offence against this subsection: \$200.

Motor Vehicle Repairs.

PART V.

APPEALS.

50. (1) In this section—

Appeals.

“applicable date” means—

- 5 (a) in the case of an appeal against a refusal to grant a licence or certificate or to grant an application for the amendment of a licence, the date of service of the notice of the refusal; or
- 10 (b) in the case of an appeal against a revocation or suspension of a licence or certificate, the date of service of the notice of the revocation or suspension, as the case may be;

“registrar” means the industrial registrar appointed under the Industrial Arbitration Act, 1940.

15 (2) An applicant for the grant of a licence or certificate or for the amendment of a licence may appeal to an industrial magistrate against the refusal of the Council to grant the licence or certificate or to grant the application for the amendment of the licence.

20 (3) The holder of a licence or certificate may appeal to an industrial magistrate against the revocation or suspension by the Council of the licence or certificate.

(4) Notice of an appeal under this section, specifying the grounds of the appeal, shall be lodged with the registrar not later than 21 days after the applicable date.

(5) The registrar shall give notice of the time and place of the hearing of an appeal under this section to the Council and to the person appealing, and shall state in the notice to the Council the grounds of the appeal.

30 (6) An appeal shall be dealt with by way of rehearing on the evidence, if any, given before the Council and on any evidence in addition to or in substitution for the evidence so given.

Motor Vehicle Repairs.

(7) The hearing of an appeal may proceed notwithstanding any omission or error in a notice under subsection (5) or the failure to give any such notice if the industrial magistrate is satisfied that the person appealing and the Council had knowledge of the time and place of the hearing and were not prejudiced by any such omission or error or by the failure to give any such notice.

(8) Where relevant, a document purporting to be certified by the Disputes Committee and to set out a determination of that Committee under section 55 shall be received in proceedings before an industrial magistrate under this section as evidence of the determination.

(9) An industrial magistrate shall hear and determine an appeal made to him under this section and may confirm (with or without variation) or disallow the refusal, revocation or suspension appealed against, or make such other order as to him seems in the circumstances to be just.

(10) An industrial magistrate may disallow the refusal, revocation or suspension appealed against if, in all of the circumstances of the case, he considers it fair and reasonable to do so.

(11) The decision of an industrial magistrate in respect of an appeal made under this section shall be final and shall be binding on the person appealing and on the Council which shall take such steps as may be necessary to give effect to the decision.

(12) Where an application for the grant or amendment of a joint licence is refused or a joint licence is revoked or suspended, an appeal under this section may be made either by 1 of the applicants or holders, as the case may be, on behalf of all the applicants or holders, or by all of the applicants or holders jointly, but not otherwise.

Motor Vehicle Repairs.

PART VI.

DISPUTES.

51. (1) In this Part, except in so far as the context or subject-matter otherwise indicates or requires— Interpretation:
Part VI.

- 5 “applicant” means a person who makes an application;
- “application” means an application under section 52 (1) to the Disputes Committee, but does not include an application that has been withdrawn;
- 10 “dispute” means a disagreement which is the subject of an application;
- “owner” in relation to a motor vehicle includes any hirer, lessee or insurer of the motor vehicle;
- “tribunal” includes a consumer claims tribunal constituted under the Consumer Claims Tribunals Act, 1974.

15 (2) A reference in this Part to a repairer includes a reference to a person who was a repairer when he repaired a motor vehicle that is the subject of such a disagreement as is referred to in section 52 (1) or of a dispute, notwithstanding that he has ceased to be a repairer since the vehicle was repaired.

20 **52.** (1) Where, in relation to a motor vehicle, a disagreement Disputes. exists between the owner of the vehicle and a repairer concerning any 1 or more of the following matters, namely—

- (a) the manner in which any repair work has been done;
- 25 (b) the fair cost owed by the owner to the repairer for the carrying out of any repair work; or
- (c) any other matter or thing, whether or not of the same kind as a matter referred to in paragraph (a) or (b), arising out of the application of this Act,

30 the owner may apply in writing to the Disputes Committee to investigate and determine the disagreement.

Motor Vehicle Repairs.

(2) The powers conferred by this Part shall not be exercised in connection with any matter in issue in a dispute—

- 5 (a) if the repair work which is the subject of the dispute was done before the day appointed and notified under section 2 (2);
- 10 (b) if that matter is, at the time when the application relating to the dispute is received by the Disputes Committee, the subject of an application under Part V of the Motor Dealers Act, 1974, and that application has not been withdrawn;
- 15 (c) if, at that time, that matter has been determined by the Commissioner for Consumer Affairs pursuant to Part V of the Motor Dealers Act, 1974, or the Commissioner for Consumer Affairs determines that matter pursuant to an application under Part V of the Motor Dealers Act, 1974, made at or before that time;
- 20 (d) if proceedings in respect of that matter are pending before a court or a tribunal at that time, unless those proceedings are discontinued before judgment is given by the court or a determination is made by the tribunal; or
- (e) if, at that time, that matter has been decided by a court or a tribunal, or a court or a tribunal decides that matter pursuant to proceedings which are pending at that time.

25 (3) Where an application is made to the Disputes Committee a court or a tribunal has no jurisdiction in connection with any matter in issue in the dispute to which the application relates—

- 30 (a) unless subsection (2) (d) or (e) applies in respect of that matter;
- (b) unless the application is withdrawn; or
- (c) except in respect of proceedings commenced in a court or a tribunal after the matter has been dealt with under this Part.

(4) An application may be withdrawn at any time.

Motor Vehicle Repairs.

53. (1) Where an application is made to the Disputes Settlement of disputes. Committee under section 52 (1), the Chairman shall use his best endeavours by communication with the applicant and the repairer, or otherwise, to settle the dispute.

5 (2) The Chairman may appoint any inspector to assist him in the exercise of his function under subsection (1).

(3) An inspector appointed under subsection (2) to assist the Chairman may enter at any reasonable time any place occupied by a repairer at which the inspector has reasonable grounds for 10 believing that a motor vehicle which is the subject of a dispute is situated and there examine that motor vehicle.

(4) Where the Chairman settles a dispute the application concerned shall be deemed to have been withdrawn.

(5) A dispute shall not be treated as having been settled 15 unless the terms of the settlement are incorporated in a document and signed by the applicant, the repairer and the Chairman.

(6) Where a dispute is settled as provided in this section the settlement shall have the same force and effect as it would have if it were a determination by the Disputes Committee under section 20 55.

(7) A document purporting to be signed by the Chairman and to set out the terms of a settlement shall be received by the Commissioner for Consumer Affairs when acting pursuant to Part V of the Motor Dealers Act, 1974, and in proceedings before any 25 court or tribunal as evidence of that settlement and the terms thereof.

54. (1) Where the Chairman is unable under section 53 to settle a dispute he shall refer the dispute to the Disputes Committee. Investigation by Disputes Committee.

(2) The Disputes Committee shall investigate any dispute 30 referred to it by the Chairman.

Motor Vehicle Repairs.

(3) In any investigation by the Disputes Committee—

(a) the applicant or repairer may appear by himself or, with the leave of that Committee, by a barrister, solicitor or agent appointed by him; and

5 (b) the Disputes Committee—

(i) shall have regard to natural justice;

(ii) subject to subparagraph (i), may conduct the investigation in such manner as it sees fit and is not bound to observe rules of law governing the admission of evidence but may inform itself of any matter in such manner as it thinks fit;

10 (iii) may allow a barrister, solicitor, public servant or inspector, in each case instructed by the Council, to appear before the Disputes Committee for the purpose of adducing evidence;

15 (iv) may call and receive evidence as to any matter relevant to the investigation;

(v) may from time to time as it sees fit adjourn the investigation; and

20 (vi) may, subject to section 13 of the Oaths Act, 1900, require any evidence at the investigation to be given on oath.

(4) An investigation under this section may be held in the absence of the repairer if the Disputes Committee is satisfied
25 that the repairer was served with reasonable notice of the time and place of the investigation.

(5) Service of any such notice may be proved by the oath of the person who effected the service or by affidavit.

55. (1) After investigating a dispute under section 54, the
30 Disputes Committee shall determine each of the matters which
are the subject of the dispute.

Determina-
tion by
Disputes
Committee.

Motor Vehicle Repairs.

(2) The Disputes Committee may, in accordance with its determination under subsection (1) and as part of its determination of the dispute—

- (a) dismiss the application relating to the dispute; or
- 5 (b) subject to subsection (3), do any 1 or more of the following :—
 - (i) make an order for the payment of money;
 - (ii) make an order that specified work be done within a specified time;
 - 10 (iii) make any ancillary order necessary for the effectuation of an order referred to in subparagraph (i) or (ii);
 - (iv) make a recommendation to the Council that any licence held by a repairer who was a party to the dispute be revoked or suspended; or
 - 15 (v) make a recommendation to the Council that a payment of a specified sum be made out of the Contingency Fund to the person who made the application under section 52 (1) in relation to the dispute or to such other person as to the Disputes Committee seems appropriate.

(3) The Disputes Committee shall not, in making an order under subsection (2) (b) (i) to (iii) as part of its determination of a dispute, order the payment of any money or the
25 doing of any work—

- (a) if the amount of the payment, the value of the work or the sum of the amount of the payment and the value of the work, as the case may be, exceeds \$3,000;
- 30 (b) in respect of any repair work if the work was done before the day appointed and notified under section 2 (2);
- (c) in respect of any loss consisting of damage to a motor vehicle or other object, or injury to any person, arising out of a motor vehicle accident; or
- 35 (d) in respect of any loss consisting of damage to a motor vehicle of a prescribed class.

Motor Vehicle Repairs.

(4) A document purporting to be certified by the Disputes Committee and to set out a determination of that Committee under this section shall be received by the Commissioner for Consumer Affairs when acting pursuant to Part V of the Motor Dealers Act, 1974, and in proceedings before any court or tribunal as evidence of that determination.

56. (1) Where the Disputes Committee as part of its determination of a dispute makes an order for the payment of money, the person entitled to that payment may enforce the order by filing, free of charge, with the registrar of a court of competent jurisdiction—

Enforcement of orders.

- (a) a copy of the order certified by the Disputes Committee to be a true copy; and
- (b) an affidavit by that person as to the amount unpaid under the order,

and thereupon that registrar shall enter judgment in favour of that person for the amount specified in the affidavit as being unpaid.

(2) Where the Disputes Committee as part of its determination of a dispute makes an order that specified work be done within a specified time on a motor vehicle by a repairer, and the repairer fails to do that work within the specified time, the owner of the motor vehicle may cause that work to be done, and thereafter the fair cost of that work shall be a debt enforceable by the owner against that repairer in any court of competent jurisdiction.

(3) Notwithstanding anything to the contrary in any Act or law, where an order is made by the Disputes Committee that specified work be done, the repairer named in the order shall not have a lien over the motor vehicle to which the order relates in relation to any work done or purporting to have been done by the repairer in obedience to the order.

(4) The regulations may make provisions additional to those of this section for the enforcement of any orders made as part of a determination of the Disputes Committee.

Motor Vehicle Repairs.

57. A person shall not make any statement which he knows to be false or misleading in any application or in or in relation to any proceeding for the investigation or determination of a dispute. False or misleading statements.

Penalty : \$500.

5

PART VII.

FINANCE.

58. There shall be established in the Special Deposits Account in the Treasury a Motor Vehicle Repair Industry Account into which shall be deposited all money received by the Council and Motor Vehicle Repair Industry Account. from which shall be paid all amounts required to meet expenditure incurred in accordance with this Act.

59. The Treasurer may advance such money to the Council on such terms as to repayment and interest as he and the Council may agree on. Grants to Council.

15 **60.** (1) The Council shall establish the following funds in its books :— Establishment of funds.

- (a) the Motor Vehicle Repair Industry General Fund;
- (b) the Motor Vehicle Repair Industry Contingency Fund;
and
- 20 (c) the Motor Vehicle Repair Industry Education and Research Fund.

(2) The funds mentioned in subsection (1) shall be separate and distinct.

Motor Vehicle Repairs.

61. (1) The General Fund shall consist of—

General
Fund.

- (a) all money received by or due to the Council as charges or fees under this Act;
- 5 (b) all money received by the Council under section 59 and allocated by the Council to the General Fund; and
- (c) all investments made by the Council out of money in the General Fund and the proceeds of any such investments.

(2) The General Fund may be applied in—

- 10 (a) meeting the expenses incurred in or in connection with the performance of the functions of the Council and of the Disputes Committee;
- (b) making payments to the Treasurer in accordance with subsection (3) and section 69 (6);
- 15 (c) making payments to the Contingency Fund in accordance with any direction of the Treasurer referred to in section 62 (1) (a);
- (d) making payments to the Education and Research Fund in accordance with any direction of the Treasurer referred to in section 66 (1) (a); and
- 20 (e) any lawful purpose under this Act in respect of which expenditure is not chargeable to the Contingency Fund or the Education and Research Fund.

(3) The Council shall, as required by notices in writing
25 from time to time given to the Council by the Treasurer, pay to the Treasurer for payment into the Consolidated Revenue Fund the amount specified in any such notice and certified by the Treasurer to be the amount chargeable against the Council in respect of the Chairman and in respect of officers and temporary
30 employees of the Public Service appointed for the purpose of carrying out the provisions of this Act.

Motor Vehicle Repairs.

62. (1) The Contingency Fund shall consist of— Contingency Fund.

- (a) such money as the Treasurer may from time to time direct to be allocated to that fund from the General Fund;
- 5 (b) all money received by the Council under section 59 and allocated by the Council to the Contingency Fund;
- (c) all investments made by the Council out of money in the Contingency Fund and the proceeds of any such investments; and
- 10 (d) any money recovered by the Council in the exercise of any rights, or the pursuit of any remedies, to which it is subrogated under section 64.

(2) Subject to section 65, there shall be paid out of the Contingency Fund the amount of any loss which is certified by 15 the Council pursuant to section 63.

63. (1) Any person wishing to make a claim against the Contingency Fund shall submit his claim in writing, verified by statutory declaration, to the Council. Claims against Contingency Fund.

20 (2) Subject to this section, if the Council is satisfied that a person who submits a claim has incurred a loss in connection with the repair of a motor vehicle by reason of the fact that the repair work was not competently done, the Council may certify the amount of the loss or \$3,000, whichever is the lesser amount.

(3) No loss shall be certified by the Council under 25 subsection (2)—

- (a) if the loss was incurred in connection with repair work done before the day appointed and notified under section 2 (2);
- 30 (b) if the loss was incurred by the claimant (including any statutory body representing the Crown) in connection with any repair work done by an employee of the claimant;

Motor Vehicle Repairs.

- (c) if the loss consists of damage to a motor vehicle or other object, or injury to any person, arising out of a motor vehicle accident;
- 5 (d) if the loss consists of damage done to a motor vehicle of a prescribed class;
- (e) if the loss is or has been the subject of a claim under Part VI of the Motor Dealers Act, 1974, unless the claim has been withdrawn or dismissed; or
- 10 (f) if the Council is not satisfied that the claimant has taken all reasonable steps to exercise such legal remedies and other rights of action as are available in respect of the loss incurred by him.

64. On payment out of the Contingency Fund of any amount certified by the Council under section 63, the Council shall be
15 subrogated to the extent of such payment to all the rights and remedies of the claimant against the person in relation to whom the claim arose or any other person incurring any liability to the claimant in relation to the subject-matter of the claim or the legal personal representatives or other persons having authority to
20 administer any estate concerned, and the claimant shall not, to the extent of such payment, be entitled to enforce those rights or remedies.

Subrogation where claim allowed.

65. Where the amount standing to the credit of the Contingency Fund is insufficient to pay all the amounts certified by
25 the Council under section 63 in any financial year, any amount so certified, so far as it remains unpaid, shall be charged against future receipts of the Contingency Fund and shall be paid out of the Contingency Fund when sufficient money is available therein.

Deferred payments out of Contingency Fund.

66. (1) The Education and Research Fund shall consist of—
30 (a) such money as the Treasurer may from time to time direct to be allocated to that fund from the General Fund;

Education and Research Fund.

Motor Vehicle Repairs.

(b) all money received by the Council under section 59 and allocated by the Council to the Education and Research Fund; and

5 (c) all investments made by the Council out of money in the Education and Research Fund and the proceeds of any such investments.

(2) The Council may, with the approval of the Treasurer, from time to time appropriate any part of the money in the Education and Research Fund towards—

10 (a) the encouragement of apprenticeship, by way of subsidy or otherwise, in any trade associated with the motor vehicle repair industry; or

15 (b) the assistance of education or research in, or any public purpose connected with, repair work or loss assessors' work.

67. The Council may invest money held in the General Fund, ^{Investment.} the Contingency Fund or the Education and Research Fund in any securities authorised by section 14 of the Trustee Act, 1925.

68. (1) The Council shall cause to be kept proper accounts ^{Accounts.} and records in relation to all its operations.

(2) The Council shall, as soon as practicable, but within 6 months, after the end of each financial year of the Council, prepare and submit to the Minister for presentation to Parliament a statement of accounts, together with the Auditor-General's 25 certificate given under this section in relation to the statement.

(3) The statement of accounts shall be in a form approved by the Auditor-General, and shall include such information as is requested by him, and shall exhibit a true and fair view of the financial position and transactions of the Council.

Motor Vehicle Repairs.

- (4) The Council shall, as soon as practicable, but within 4 months, after the end of the financial year to which a statement of accounts relates, transmit the statement to the Auditor-General for verification and certification.
- 5 (5) The Auditor-General's certificate shall state that he has audited the accounts of the Council relating to the relevant financial year, and shall indicate whether the statement of accounts complies with subsection (3), and shall set forth any qualification subject to which the certificate is given.
- 10 (6) Nothing in this section prevents the alteration of the statement of accounts, with the approval of the Auditor-General, after its receipt by him and before its submission to the Minister.
- (7) The Minister shall lay the statement of accounts, or cause it to be laid, together with the Auditor-General's certificate,
15 before both Houses of Parliament as soon as practicable after the receipt by him of the statement.
- (8) The financial year of the Council shall be the year ending on 30th June.
- 20 **69.** (1) The accounts and records of financial transactions of the Council, and records relating to assets of or in the custody of the Council, shall be inspected and audited by the Auditor-General. Audit of accounts.
- (2) For the purposes of any such inspection and audit, the Auditor-General or a person authorised by him is entitled at all reasonable times to full and free access to the accounts, records,
25 documents and papers of the Council and may make copies thereof or take extracts therefrom.
- (3) The Auditor-General or a person authorised by him may require a person, being a member, officer or temporary employee of the Council, to furnish him with such information in

Motor Vehicle Repairs.

the possession of the person or to which the person has access as the Auditor-General or authorised person considers necessary for the purposes of the functions of the Auditor-General under this Act, and the person shall comply with the requirement.

5 Penalty : \$200.

(4) The Auditor-General may dispense with all or any part of the detailed inspection and audit of any accounts or records referred to in subsection (1).

(5) The Auditor-General shall report to the Council and
10 the Minister on the result of any such inspection and audit, and as to such irregularities or other matters as in his judgment call for special notice or as are prescribed.

(6) Towards defraying the costs and expenses of any such inspection and audit, the Council shall pay to the Consolidated
15 Revenue Fund such amounts, at such times, as the Treasurer decides.

PART VIII.

GENERAL.

70. (1) The Council may, by instrument in writing, Delegation.
20 delegate—

- (a) to any member;
- (b) to any committee established under section 14; or
- (c) to any officer or temporary employee appointed under section 12,

25 the performance of such of the functions (other than this power of delegation) conferred or imposed on the Council by or under this or any other Act as may be specified in the instrument of delegation and may, by such an instrument, revoke wholly or in part any such delegation.

Motor Vehicle Repairs.

(2) A function, the performance of which has been delegated under this section, may, while the delegation remains unrevoked, be performed from time to time in accordance with the terms of the delegation by the delegate to whom the performance
5 thereof has been delegated.

(3) A delegation under this section may be made subject to such conditions or limitations as to the performance of any of the functions delegated, or as to time or circumstance, as may be specified in the instrument of delegation.

10 (4) Notwithstanding any delegation made under this section, the Council may continue to perform all or any of the functions delegated.

(5) Any act or thing done or suffered by a delegate while acting in the performance of a delegation under this section shall
15 have the same force and effect as if the act or thing had been done or suffered by the Council.

(6) An instrument purporting to be signed by a delegate of the Council in his capacity as such a delegate shall in all courts and before all persons acting judicially be received in evidence as
20 if it were an instrument executed by the Council and, until the contrary is proved, shall be deemed to be an instrument signed by a delegate of the Council under this section.

71. Except as is expressly provided in this Act, nothing in this Act shall have the effect of limiting, restricting or otherwise affect-
25 ing any right or remedy which a person would have if this Act had not been enacted. Other rights and remedies not affected.

72. The provisions of this Act have effect notwithstanding any stipulation to the contrary and no contract or agreement made or
entered into before, on or after the day appointed and notified
30 under section 2 (2) operates to annul, vary or exclude any of the provisions of this Act. Contracting out void.

Motor Vehicle Repairs.

73. (1) The Council may, by notice in writing, require any person to furnish to it, within such period as may be specified in the notice, such information in connection with any repair work or loss assessor's work as may be so specified and as is within his knowledge or in his custody or under his control. Council may require information.

(2) A person shall not neglect or fail to comply with a requirement made under subsection (1).

Penalty : \$1,000.

(3) Any information furnished pursuant to a requirement made under subsection (1) shall not, if the person furnishing the information objected, at the time of furnishing it, to doing so on the ground that it may tend to incriminate him or might be used in any proceedings against him under Part IV, be admissible in evidence in any prosecution against that person for any offence, not being the offence of neglecting or failing to comply with any requirement made under that subsection, or be admissible in any such proceedings.

74. (1) Except where he has reasonable excuse for not doing so, the holder of a licence shall on demand, at the place of business in respect of which the licence is granted, produce that licence to an inspector. Production of licences and certificates.

(2) Except where he has reasonable excuse for not doing so, the holder of a tradesman's certificate shall on demand, at any place of business in respect of which a licence is granted and where he does repair work, produce the certificate to an inspector.

(3) Except where he has reasonable excuse for not doing so, the holder of a loss assessor's certificate shall on demand, at any place where he does loss assessor's work, produce the certificate to an inspector.

Penalty : \$100.

Motor Vehicle Repairs.

75. (1) An inspector may, for the purpose of ascertaining whether a person is contravening or has contravened this Act or the regulations, enter, at any reasonable time, any place which the inspector has reasonable grounds for believing is a place at which the person carries on business.

Power
of entry
and examina-
tion.

(2) For the purpose of or in connection with an inspection under subsection (1), an inspector may—

- 10 (a) require any person employed or engaged at any place entered pursuant to that subsection to produce to the inspector such records, or other documents, as are required to be kept under this Act or the regulations and are in the custody or under the control of the person so employed or engaged;
- 15 (b) examine with respect to matters under this Act or the regulations any person employed or engaged at any place so entered; and
- 20 (c) make such examination and inquiries as he thinks necessary to ascertain whether the requirements of this Act or the regulations are being or have been contravened.

76. A person shall not—

- 25 (a) refuse or intentionally delay the admission to any place of an inspector in the exercise by him of any of his powers under this Act or the regulations;
- (b) intentionally obstruct an inspector in the exercise by him of any such power;
- (c) fail to comply with a request or requirement of an inspector made under this Act for the production of any record or other document; or
- 30 (d) conceal any person from an inspector or prevent any person from appearing before or being examined by an inspector or attempt so to conceal or prevent any person.

Offence
to
obstruct
inspector.

Penalty : \$500.

Motor Vehicle Repairs.

77. A person shall not disclose any information obtained by him in connection with the administration or execution of this Act, unless the disclosure is made—

Disclosure
of informa-
tion.

- 5 (a) with the consent of the person from whom the information was obtained;
- (b) in connection with the administration or execution of this Act;
- 10 (c) subject to section 73 (3), for the purposes of any legal proceedings arising out of this Act or of any report of any such proceedings; or
- (d) for the purpose of an inquiry held under Part IV or an investigation made under Part VI.

Penalty : \$1,000.

78. (1) Where in any proceedings (whether for an offence against this Act or otherwise) it is proved that on a certain day or during any period a person was the holder of a licence in respect of any class of repair work, a tradesman's certificate in respect of any class of repair work or a loss assessor's certificate, it shall be presumed, in the absence of proof to the contrary, that the person was carrying on business as a repairer in respect of that class of repair work, was doing repair work of that class or was doing loss assessor's work, as the case may be, on that day or during that period, as the case may be.

Evidence.

(2) A certificate purporting to be under the hand of a prescribed officer certifying that a person was or was not, on a date specified in the certificate, a holder of a licence in respect of any class of repair work so specified, a tradesman's certificate in respect of any class of repair work so specified or a loss assessor's certificate, as the case may be, is admissible in evidence in any proceedings and is prima facie evidence of the matters stated therein.

Motor Vehicle Repairs.

79. (1) In any legal proceedings by or against the Council or the Disputes Committee no proof shall be required (until evidence is given to the contrary) of—

Proof of certain matters not required.

- (a) the due constitution of the Council or that Committee;
- 5 (b) any resolution or determination of the Council or that Committee;
- (c) the appointment of any member of the Council or that Committee; or
- 10 (d) the presence of a quorum at any meeting at which any determination is made or any act is done by the Council or that Committee.

(2) Subsection (1) does not affect section 55 (4).

80. (1) Where by or under this Act a notice or other document is required to be, or may be, given or served, that notice or other document may be given to or served on—

Service of notice, etc.

- (a) an individual—
 - (i) by delivering it to him personally;
 - 20 (ii) by leaving it at his place of residence last known to the Council with someone who apparently resides there or at his place of business or employment last known to the Council with someone who is apparently employed there, being in either case a person who has or who apparently has attained the age of 16 years; or
 - 25 (iii) by posting it by certified mail in an envelope duly stamped and addressed to him at the place of his residence, business or employment last known to the Council; or
- (b) a corporation—
 - 30 (i) by delivering it to a person who is or who is apparently concerned in the management of the corporation;

Motor Vehicle Repairs.

- 5 (ii) by leaving it at the only or principal place of business, or the registered office, of the corporation with a person apparently employed there, being a person who has or who apparently has attained the age of 16 years; or
- (iii) by posting it by certified mail in an envelope duly stamped and addressed to the corporation at the only or principal place of business of the corporation last known to the Council.

10 (2) A notice or document that is delivered, left or posted in accordance with subsection (1) shall be deemed to have been given or served on its being so delivered or left or, if it is posted, shall, in the absence of evidence to the contrary, be prima facie
15 delivered in the ordinary course of post.

81. (1) A notice, summons, writ or other proceeding required to be served on the Council may be served—

Service of
notice,
etc., on
the Council.

- 20 (a) by being left with some person apparently employed in the administration of this Act at the office of the Council; or
- (b) in the case of a notice, by posting it by certified mail in an envelope duly stamped and addressed to the Council at its office.

- (2) Any document referred to in subsection (1) shall—
- 25 (a) be deemed to have been served upon its being so left; or
- (b) in the case of a notice served by so posting it, be prima facie deemed to have been served when it would have been delivered in the ordinary course of post.

Motor Vehicle Repairs.

82. (1) Every document (including deeds and contracts) shall be deemed to be duly executed by the Council—

Execution
of
documents.

- (a) if sealed with the seal of the Council in accordance with section 38 (II) of the Interpretation Act, 1897; or
- 5 (b) if executed by any 2 members of the Council, or by 1 member of the Council and an officer of the Council, who have been appointed for that purpose.

(2) A document executed in accordance with subsection (1) shall, subject to any exception which may be taken to it on
10 any ground other than the competence of the executing party, be effective to bind the Council and its successors, and may be varied or discharged in the same manner as provided for the execution of documents under subsection (1).

83. (1) Every summons, process, demand, order, notice, statement or other document requiring authentication by the
15 Council may be sufficiently authenticated without the seal of the Council if signed by the Chairman.

Authentica-
tion of
documents.

(2) Every summons, process, demand, order, notice, statement or other document requiring authentication by the
20 Disputes Committee may be sufficiently authenticated if signed by the Chairman.

84. (1) No matter or thing done, and no contract entered into, by the Council, and no matter or thing done by a member
25 of the Council shall, if the matter or thing was done, or the contract was entered into, in good faith for the purposes of executing this Act or the regulations, subject a member or other person personally to any action, liability, claim or demand.

Protection
from
liability.

(2) No matter or thing done by the Disputes Committee
30 or by a member of the Disputes Committee or any other person acting under the direction of the Disputes Committee shall, if the matter or thing was done in good faith for the purposes of executing

Motor Vehicle Repairs.

this Act or the regulations, subject a member of the Disputes Committee or other person personally to any action, liability, claim or demand.

(3) Nothing in subsection (1) shall exempt a member or 5 other person from liability to be surcharged with the amount of any payment which is disallowed by the Auditor-General in the accounts of, or relating to, the Council and which the member or other person authorised or joined in authorising.

85. (1) Any charge, fee, remuneration or money due to the 10 Council under the provisions of this Act or the regulations may be recovered by the Council as a debt in a court of competent jurisdiction. Recovery of charges.

(2) Proceedings for the recovery of any charge, fee, remuneration or money so due to the Council shall be deemed 15 to be for the recovery of a debt or liquidated demand.

86. (1) The Council shall, as soon as practicable after the 30th day of June, but not later than the 31st day of December, in 20 each year forward to the Minister a report of its work and activities for the year ended that 30th day of June then last past. Annual report.

(2) The Minister shall lay that report, or cause it to be laid, before both Houses of Parliament as soon as practicable after the receipt by him of that report.

87. (1) Proceedings for an offence against this Act or the regulations may— Proceedings.

25 (a) be taken and prosecuted by any person acting with the authority of the Minister or a prescribed officer; and

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(b) be disposed of summarily before an industrial magistrate or before a court of petty sessions constituted by a stipendiary magistrate sitting alone.

(2) In a prosecution for any offence against this Act or the regulations, an authority to prosecute, purporting to have been signed by the Minister or a prescribed officer, shall be evidence of such authority without proof of the signature of the Minister or the prescribed officer, as the case may be.

(3) The provisions of the Industrial Arbitration Act, 1940, and the regulations made under that Act, relating to proceedings before an industrial magistrate and to appeals from an industrial magistrate to the Industrial Commission of New South Wales apply to proceedings before an industrial magistrate for offences against this Act or the regulations as if the proceedings under this Act were proceedings under that Act.

(4) In proceedings for an offence against this Act or the regulations the informant may conduct his case himself, or by a barrister or solicitor, by an agent authorised by him in writing, or by a public servant or an inspector.

(5) Any proceedings for an offence against this Act or the regulations shall be commenced by information laid at any time within 1 year after the time when the offence is alleged to have been committed.

88. (1) Where a corporation contravenes, whether by act or omission, any provision of this Act or the regulations, each director of the corporation, and each officer concerned with the management of the corporation, shall be deemed to have contravened the same provision unless he satisfies the court that—

- (a) the corporation contravened the provision without his knowledge;
- (b) he was not in a position to influence the conduct of the corporation in relation to its contravention of the provision; or

Motor Vehicle Repairs.

(c) he, being in such a position, used all due diligence to prevent the contravention of the provision by the corporation.

5 (2) A person may be proceeded against and convicted under a provision pursuant to subsection (1) whether or not the corporation has been proceeded against or been convicted under that provision.

10 (3) Nothing in subsection (1) prejudices or affects any liability imposed by a provision of this Act or the regulations on any corporation by which an offence against that provision is actually committed.

89. (1) The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act and, in particular, for or with respect to—

- (a) applications for licences and certificates;
- (b) advertising by repairers;
- (c) the records to be kept by repairers;
- 20 (d) the display of signs by repairers;
- (e) the powers of inspectors;
- (f) inquiries held for the purposes of Part IV, investigations made under Part VI and the hearing of appeals under Part V;
- 25 (g) the charging and payment of a fee for any inspection made or information supplied by the Council;
- (h) the furnishing by the holders of licences of any information (including particulars of any persons apprenticed to them or to any of their employees);
- 30 (i) the display of licences and certificates;

Motor Vehicle Repairs.

- (j) the conduct of examinations for the purposes of this Act;
- (k) the manner of doing any repair work (including the techniques and materials to be used); and
- 5 (l) regulating the conduct of any person who is required to hold a licence, or his servants or agents, in carrying on the business to which the licence relates.
- (2) A provision of a regulation may—
- 10 (a) apply generally or be limited in its application by reference to specified exceptions or factors;
- (b) apply differently according to different factors of a specified kind; or
- 15 (c) authorise any matter or thing to be from time to time determined, applied or regulated by any specified person, body or committee,
- or may do any combination of those things.
- (3) Without affecting the generality of subsection (1) or (2), the regulations may prescribe different fees in respect of
- 20 different classes of repair work.
- (4) The regulations may impose a penalty not exceeding \$500 for an offence against the regulations.

SCHEDULE 1.

Sec. 9 (1).

25 PROVISIONS RELATING TO THE CONSTITUTION AND MEMBERSHIP OF THE COUNCIL.

1. A person who is of or above the age of 65 years shall not be appointed as a member. **Age of member.**

*Motor Vehicle Repairs.*SCHEDULE 1—*continued.*PROVISIONS RELATING TO THE CONSTITUTION AND MEMBERSHIP OF
THE COUNCIL—*continued.*

2. The provisions of the Public Service Act, 1979, do not apply to or in
5 respect of the appointment by the Governor of a member and a member
is not, in his capacity as a member, subject to the provisions of that Act
during his term of office. Public Service Act, 1979, not to apply to member.
3. A member shall, subject to this Act, be appointed for such term, not
10 exceeding 7 years, as is specified in the instrument of his appointment and
shall, if otherwise qualified, be eligible for reappointment as a member. Term of office.
4. The office of a member, other than the Chairman, shall, for the
purposes of any Act, be deemed not to be an office or place of profit under
the Crown. Office of member not to be office of profit under Crown.
5. The Chairman shall devote the whole of his time to the duties of his
15 office. Chairman to be full-time member.
6. Where by or under any Act provision is made requiring the holder of
an office specified therein to devote the whole of his time to the duties of
his office, or prohibiting him from engaging in employment outside the
duties of his office, that provision shall not operate to disqualify him from
20 holding that office and also the office of a member, other than the Chairman,
or from accepting and retaining any remuneration (including travelling and
subsistence allowances) paid to him under clause 8. Member (other than Chairman) holding other office.
7. The Chairman is entitled to be paid—
25 (a) remuneration in accordance with the Statutory and Other Offices
Remuneration Act, 1975; and Remuneration, etc., of Chairman.
(b) such travelling and subsistence allowances as the Minister may from
time to time determine in respect of him.
8. Each member (other than the Chairman) is entitled to be paid out
30 of the General Fund such remuneration (including travelling and subsistence
allowances) for attending meetings and transacting the business of the
Council as the Minister may from time to time determine in respect of him. Remuneration, etc., of member (other than Chairman).
9. The Governor may remove a member from office for any cause which
to him seems sufficient. Removal from office.

*Motor Vehicle Repairs.*SCHEDULE 1—*continued.*PROVISIONS RELATING TO THE CONSTITUTION AND MEMBERSHIP OF
THE COUNCIL—*continued.*

10. A member shall be deemed to have vacated his office— Vacation
of office.
- 5 (a) if he dies;
- (b) if he resigns his office by writing under his hand addressed to the
Minister and the Minister accepts his resignation;
- 10 (c) if he becomes bankrupt, applies to take the benefit of any law for
the relief of bankrupt or insolvent debtors, compounds with his
creditors or makes an assignment of his remuneration, allowances
or estate for their benefit;
- 15 (d) if he becomes a temporary patient, a continued treatment patient, a
protected person or an incapable person within the meaning of
the Mental Health Act, 1958, or a person under detention under
Part VII of that Act;
- 20 (e) if he is convicted in New South Wales of a crime or offence which
is punishable by imprisonment for 12 months or upwards or if he
is convicted elsewhere than in New South Wales of a crime or
offence which, if committed in New South Wales, would be a
crime or offence so punishable;
- 25 (f) if, being a member other than the Chairman, he is absent from
3 consecutive meetings of the Council of which reasonable notice
has been given to him, unless on leave granted to him by the
Council or unless, before the expiration of 4 weeks after the last
of those meetings, he is excused by the Council for his absence
from those meetings;
- (g) if he is removed from office by the Governor;
- (h) if he ceases to reside in New South Wales;
- (i) upon his attaining the age of 65 years;
- 30 (j) if, being the Chairman, he engages during his term of office in any
paid employment outside the duties of his office; or
- 35 (k) if, being the Chairman, he absents himself from duty for a period
exceeding 14 consecutive days except on leave granted by the
Minister, unless his absence is caused by illness or other
unavoidable cause.

11. (1) The Minister may at any time appoint as an alternate member Alternate
members.
to act during the absence or illness of a member a person who is nominated
in the same manner, if any, as the person for whom he is the alternate
member.

Motor Vehicle Repairs.

SCHEDULE 1—*continued.*

PROVISIONS RELATING TO THE CONSTITUTION AND MEMBERSHIP OF
THE COUNCIL—*continued.*

5 (2) An alternate member shall have and may exercise, while acting as a member, the functions, as such a member, of the person for whom he is the alternate member.

(3) An alternate member for the Chairman shall have and may exercise, while acting as the Chairman, the functions of the Chairman.

10 (4) A member is, for the purposes of subclause (1) of this clause, deemed to be absent from his office if there is a vacancy in that office which has not been filled.

15 (5) No person shall be concerned to inquire whether or not any occasion has arisen requiring or authorising a person to act in the office of a member or the Chairman, and all things done or omitted to be done by that person while so acting shall be as valid and effectual and shall have the same consequence as if they had been done or omitted to be done by that member or the Chairman, as the case may be.

12. (1) In this clause—

20 “statutory body” means any body declared under clause 14 to be a statutory body for the purposes of this Schedule;

Preservation of rights of Chairman.

“superannuation scheme” means a scheme, fund or arrangement under which any superannuation or retirement benefits are provided and which is established by or under any Act.

25 (2) Subject to subclause (3) of this clause and to the terms of his appointment, where the Chairman was, immediately before his appointment as Chairman—

(a) an officer of the Public Service;

(b) an officer of the Teaching Service within the meaning of the Teaching Service Act, 1970;

30 (c) a contributor to a superannuation scheme;

(d) an officer employed by a statutory body; or

(e) a person in respect of whom provision was made by any Act that he retain any rights accrued or accruing to him as an officer or employee,

35 he—

(f) shall retain any rights accrued or accruing to him as such an officer, contributor or person;

Motor Vehicle Repairs.

SCHEDULE 1—*continued.*

PROVISIONS RELATING TO THE CONSTITUTION AND MEMBERSHIP OF
THE COUNCIL—*continued.*

- 5 (g) may continue to contribute to any superannuation scheme to which he was a contributor immediately before his appointment as Chairman; and
- (h) shall be entitled to receive any deferred or extended leave and any payment, pension or gratuity,
- 10 as if he had continued to be such an officer, contributor or person during his service as Chairman, and—
 - (i) his service as Chairman shall be deemed to be service as an officer or employee for the purpose of any law under which those rights accrued or were accruing, under which he continues to contribute or by which that entitlement is conferred; and
 - 15 (j) he shall be deemed to be an officer or employee for the purpose of the superannuation scheme to which he is entitled to contribute under this clause.

(3) If the Chairman would, but for this subclause, be entitled under subclause (2) of this clause to contribute to a superannuation scheme or 20 to receive any payment, pension or gratuity under that scheme he shall not be so entitled upon his becoming (whether upon his appointment as Chairman or at any later time while he holds office as Chairman) a contributor to any other superannuation scheme, and the provisions of subclause (2) (j) of this clause cease to apply to or in respect of him in any case 25 where he becomes a contributor to such another superannuation scheme.

(4) Subclause (3) of this clause does not prevent the payment to the Chairman upon his ceasing to be a contributor to a superannuation scheme of such amount as would have been payable to him if he had ceased, by 30 reason of his resignation, to be an officer or employee for the purposes of that scheme.

(5) The Chairman shall not, in respect of the same period of service, be entitled to claim a benefit under this Act and another Act.

13. (1) In this clause—

“retiring age” means—

- 35 (a) in relation to a person who was immediately before his appointment as Chairman, an officer of the Public Service or an officer of the Teaching Service within the meaning of the Teaching Service Act, 1970—the age of 60 years; and

Chairman entitled to reappointment in former employment in certain cases.

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SCHEDULE 1—*continued.*

PROVISIONS RELATING TO THE CONSTITUTION AND MEMBERSHIP OF
THE COUNCIL—*continued.*

- 5 (b) in relation to a person who was, immediately before his
appointment as Chairman, an officer or employee of a
statutory body—the age at which officers or employees
10 (being officers or employees of the class to which that person
belonged immediately before his appointment as Chairman),
as the case may be, of that statutory body are entitled to
retire;

“statutory body” means any body declared under clause 14 to be a
statutory body for the purposes of this Schedule.

- (2) A person who ceases to be Chairman otherwise than pursuant
to clause 10 (paragraph (b) excepted), shall, if he has not attained the
15 retiring age, be entitled to be appointed, where, immediately before his
appointment as Chairman, he was—

- (a) an officer of the Public Service—to some office in the Public
Service;
- 20 (b) an officer of the Teaching Service—to some office in the Teaching
Service; or
- (c) an officer or employee of a statutory body—to some office in the
service of that body,

not lower in classification and salary than that which he held immediately
before his appointment as Chairman.

- 25 14. The Governor may, by proclamation published in the Gazette, declare
any body constituted by or under any Act to be a statutory body for the
purposes of this Schedule. Declaration
of statutory
bodies.
-

Motor Vehicle Repairs.

SCHEDULE 2.

Sec. 9 (2).

PROVISIONS RELATING TO MEETINGS OF THE COUNCIL.

1. The number of members which constitutes a quorum at any meeting Quorum.
of the Council is 5.
- 5 2. A duly convened meeting of the Council at which a quorum is present Meetings.
shall be competent to transact any business of the Council.
3. Questions arising at a meeting of the Council shall be determined by a Determina-
majority of votes of the members present and voting. tion of
questions.
4. A decision of a majority of the members present and voting at a Decisions.
10 meeting of the Council shall be the decision of the Council.
5. At a meeting of the Council— Presiding
(a) the Chairman; at meeting.
(b) in the absence of the Chairman, where there is an alternate
member for the Chairman, that alternate member; or
15 (c) in the absence of the Chairman and, where there is an alternate
member for the Chairman, in the absence of that alternate mem-
ber, a member elected by the members present at the meeting
from their number,
shall preside.
- 20 6. The person presiding at a meeting of the Council has a deliberative Votes.
vote and, in the event of an equality of votes, also has a casting vote.
7. (1) The procedure for the calling of, and for the conduct of business General
at, meetings of the Council shall, subject to any procedure that is specified procedure.
in this Act or prescribed, be as determined by the Council.
- 25 (2) The first meeting of the Council shall be called in such manner
as the Minister directs.

Motor Vehicle Repairs.

SCHEDULE 2—*continued.*

PROVISIONS RELATING TO MEETINGS OF THE COUNCIL—*continued.*

8. The Council shall cause full and accurate minutes to be kept of its Minutes.
proceedings at meetings and shall submit to the Minister a copy of the
5 minutes of each meeting within 14 days after the day on which it was held.

9. (1) Except in relation to its functions under Part IV, the Council Transaction
may, if it thinks fit, transact any of its business by the circulation of papers, of business
and a resolution in writing approved in writing by a majority of the outside
members of the Council shall be as valid and effectual as if it had been meetings.
10 passed at a meeting of the Council by the votes of the members approving
the resolution.

(2) Where there is an equality of votes in respect of any business
transacted under subclause (1) of this clause, the Chairman shall have a
casting vote as well as a deliberative vote.

15

SCHEDULE 3.

Sec. 13 (4).

PROVISIONS RELATING TO THE CONSTITUTION AND MEMBERSHIP OF
THE DISPUTES COMMITTEE.

1. (1) The Disputes Committee shall consist of 5 persons, of whom— Membership.
- 20 (a) 1 shall be the Chairman of the Council who shall be chairman of
the Disputes Committee;
- (b) 1 shall be a person appointed by the Minister on the nomination
of the Minister for Consumer Affairs;
- 25 (c) 1 shall be a person appointed by the Minister from a panel of 3
persons nominated by the Council of the National Roads and
Motorists' Association;
- (d) 1 shall be a person appointed by the Minister from a panel of 3
persons—
- (i) 1 of whom is nominated by the Council of the Motor
Traders' Association of New South Wales;

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SCHEDULE 3—*continued.*PROVISIONS RELATING TO THE CONSTITUTION AND MEMBERSHIP OF
THE DISPUTES COMMITTEE—*continued.*

- 5 (ii) 1 of whom is nominated by the General Council of the Service Station Association of New South Wales; and
- (iii) 1 of whom is nominated by the National Executive of the Metal Trades Industry Association of Australia; and
- (e) 1 shall be a person appointed by the Minister from a panel of 3 persons—
- 10 (i) 1 of whom is nominated by the State Council of the New South Wales Branch of the Vehicle Builders' Employees Federation of Australia;
- (ii) 1 of whom is nominated by the State Executive of the Australasian Society of Engineers; and
- 15 (iii) 1 of whom is nominated by the State Council of The Amalgamated Metal Workers' and Shipwrights' Union.
- (2) A person may be appointed as a member of the Disputes Committee notwithstanding that he is also a member of the Council.
- (3) Where, pursuant to subclause (1) (c), (d) or (e) of this clause, 20 any nomination of a person for the purpose of the constitution of a panel is not made within the time or in the manner specified by the Minister in a written notice given to the body entitled to make the nomination, the Minister may appoint a person to be a member of the Disputes Committee instead of the person required to be appointed from that panel and the 25 person so appointed shall be deemed to have been duly nominated.
- (4) Where a body referred to in any provision of subclause (1) (c), (d) or (e) of this clause changes its name and the Minister is satisfied that the change of name is not accompanied by any change in the nature of the body, he may, by order published in the Gazette, so certify and, subject 30 to subclause (5) of this clause, as from the date of that publication, the reference in the provision shall be deemed to be a reference to the body under that changed name.
- (5) The power of the Minister under subclause (4) of this clause may be exercised in relation to a body under a changed name as if that 35 body, under that changed name, were referred to in subclause (1) of this clause.

*Motor Vehicle Repairs.*SCHEDULE 3—*continued.*PROVISIONS RELATING TO THE CONSTITUTION AND MEMBERSHIP OF
THE DISPUTES COMMITTEE—*continued.*

2. (1) The Chairman shall have power to co-opt or invite persons to Attendance
5 participate in the proceedings and deliberations of the Disputes Committee. by experts.
- (2) The Chairman shall not co-opt or invite a person under sub-
clause (1) of this clause unless the person is on a panel of persons
nominated for the purposes of this clause by the Minister for their expertise
in technical matters in the field of motor vehicle repairs.
- 10 (3) At any meeting which a person co-opted or invited under
subclause (1) of this clause attends, he is deemed to be a member of the
Disputes Committee.
3. A member of the Disputes Committee (other than the Chairman) Term of
shall, subject to clause 6, be appointed for a term of 3 years, and shall, office.
15 if otherwise qualified, be eligible for reappointment as a member of the
Disputes Committee.
4. Each member of the Disputes Committee (other than the Chairman) Remunera-
is entitled to be paid out of the General Fund such remuneration (including tion.
travelling and subsistence allowances) for attending meetings and transacting
20 the business of that Committee as the Minister may from time to time
determine in respect of him.
5. The Minister may remove a member of the Disputes Committee (other Removal
than the Chairman) from office for any cause which to him seems sufficient. from
office.
6. A member of the Disputes Committee (other than the Chairman) Vacation of
25 shall be deemed to have vacated his office— office.
- (a) if he dies;
- (b) if he resigns his office by writing under his hand addressed to the
Minister and the Minister accepts his resignation;
- 30 (c) if he becomes bankrupt, applies to take the benefit of any law
for the relief of bankrupt or insolvent debtors, compounds with
his creditors or makes an assignment of his remuneration,
allowances or estates for their benefit;

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SCHEDULE 3—*continued.*

PROVISIONS RELATING TO THE CONSTITUTION AND MEMBERSHIP OF
THE DISPUTES COMMITTEE—*continued.*

- 5 (d) if he becomes a temporary patient, a continued treatment patient,
a protected person or an incapable person within the meaning of
the Mental Health Act, 1958, or a person under detention under
Part VII of that Act;
- 10 (e) if he is convicted in New South Wales of a crime or offence
which is punishable by imprisonment for 12 months or upwards
or if he is convicted elsewhere than in New South Wales of a
crime or offence which, if committed in New South Wales, would
be a crime or offence so punishable;
- (f) if he is removed from office by the Minister; or
- (g) if he ceases to reside in New South Wales.

15

SCHEDULE 4.

Sec. 13 (5).

PROVISIONS RELATING TO MEETINGS OF THE DISPUTES COMMITTEE.

1. The number of persons which constitutes a quorum at any meeting
of the Disputes Committee is 2, of whom 1 shall be the Chairman of the
Council or, if he is absent, the alternate member for the Chairman
20 appointed under clause 11 of Schedule 1. Quorum.
2. A duly convened meeting of the Disputes Committee at which a
quorum is present shall be competent to transact any business of that
Committee. Meetings.
- 25 3. Questions arising at a meeting of the Disputes Committee shall be
determined by a majority of votes of the members of that Committee who
are present and voting. Determina-
tion of
questions.
4. A decision of a majority of the members of the Disputes Committee
present and voting at a meeting of that Committee shall be the decision of
that Committee. Decisions.

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SCHEDULE 4—*continued.*

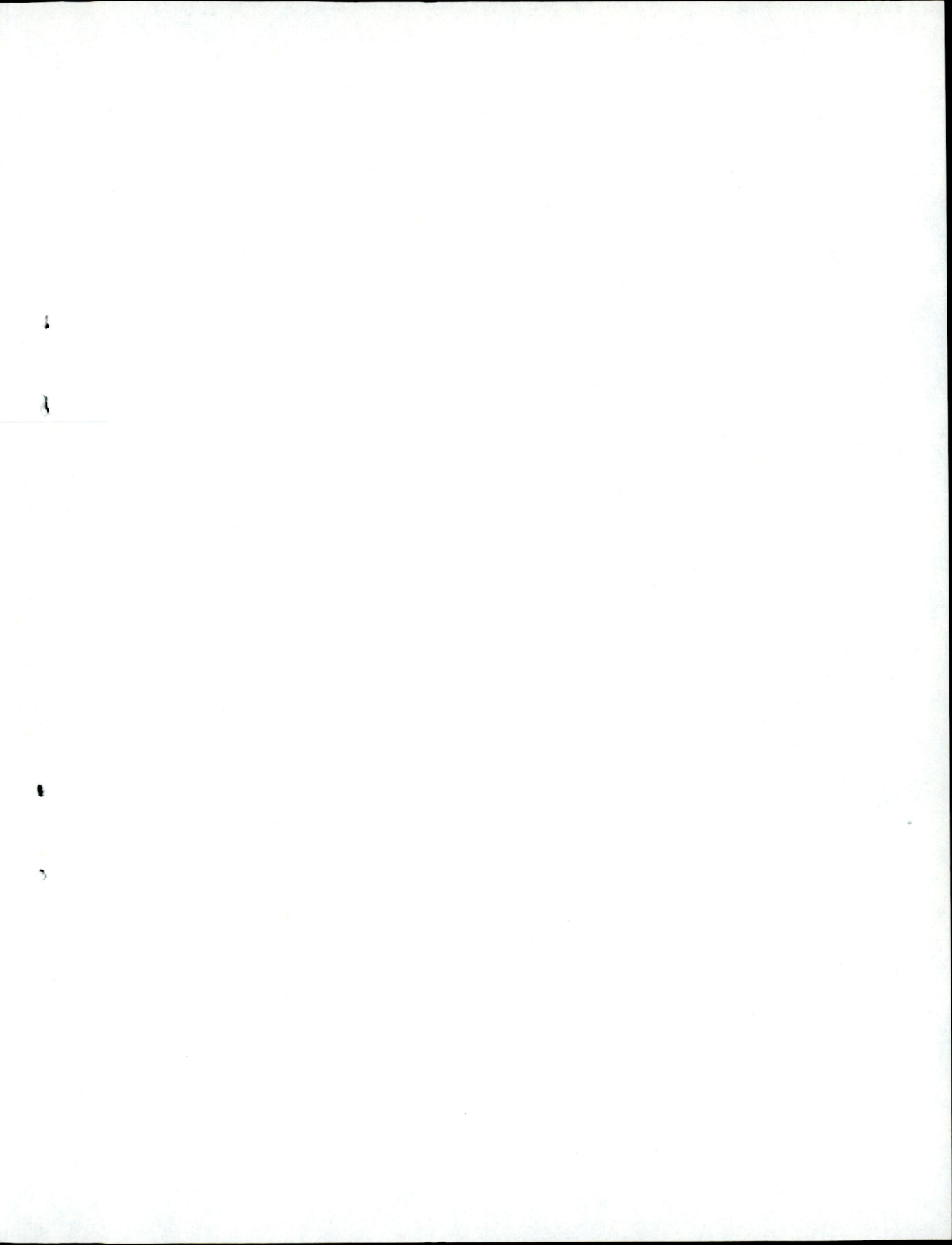
PROVISIONS RELATING TO MEETINGS OF THE
DISPUTES COMMITTEE—*continued.*

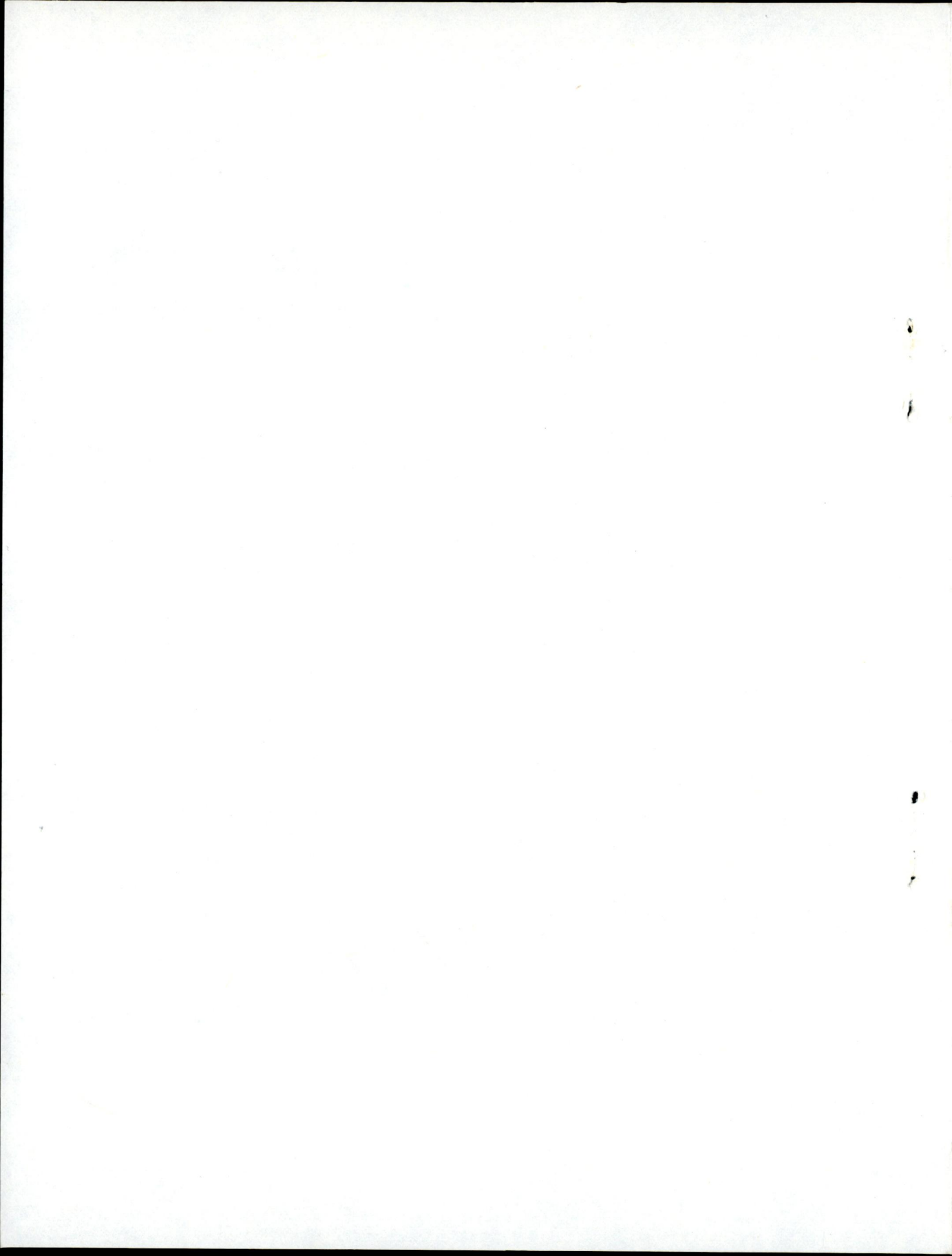
5. At a meeting of the Disputes Committee the Chairman of the Council Presiding or, if he is absent, the alternate member for the Chairman appointed under clause 11 of Schedule 1 shall preside.
6. The person presiding at a meeting of the Disputes Committee has a deliberative vote and, in the event of an equality of votes, also has a casting vote.
- 10 7. Subject to Part VI, the procedure of the Disputes Committee for the transaction of any of its business shall be— General procedure.
- (a) as directed by the Council; and
 - (b) subject to any directions of the Council under paragraph (a), as determined by the Disputes Committee itself.

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1980

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MOTOR VEHICLE REPAIRS ACT, 1980, No. 71

New South Wales



ANNO VICESIMO NONO

ELIZABETHÆ II REGINÆ

Act No. 71, 1980.

An Act to constitute the Motor Vehicle Repair Industry Council and to confer on it functions with respect to the licensing of repair businesses and the certification of repair tradesmen and loss assessors; to constitute the Motor Vehicle Repair Disputes Committee; and for other purposes. [Assented to, 29th April, 1980.]

See also Statutory and Other Offices Remuneration (Motor Vehicle Repairs) Amendment Act, 1980; and Motor Dealers (Motor Vehicle Repairs) Amendment Act, 1980.

Motor Vehicle Repairs.

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

PART I.

PRELIMINARY.

Short
title.

1. This Act may be cited as the "Motor Vehicle Repairs Act, 1980".

Commence-
ment.

2. (1) This section and section 1 shall commence on the date of assent to this Act.

(2) Except as provided in subsection (1), this Act shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

Arrange-
ment.

3. This Act is divided as follows :—

PART I.—PRELIMINARY—ss. 1–6.

PART II.—THE COUNCIL AND THE DISPUTES COMMITTEE—
ss. 7–14.

PART III.—LICENCES AND CERTIFICATES—ss. 15–40.

DIVISION 1.—*Repairers' Licences*—ss. 15–21.

DIVISION 2.—*Tradesmen's Certificates*—ss. 22–27.

DIVISION 3.—*Loss Assessors' Certificates*—ss. 28–33.

DIVISION 4.—*Licences and Certificates Generally*—ss. 34–
40.

PART IV.—DISCIPLINARY PROCEEDINGS—ss. 41–49.

PART V.—APPEALS—s. 50.

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PART VI.—DISPUTES—*ss.* 51–57.

PART VII.—FINANCE—*ss.* 58–69.

PART VIII.—GENERAL—*ss.* 70–89.

SCHEDULE 1.—PROVISIONS RELATING TO THE CONSTITUTION AND MEMBERSHIP OF THE COUNCIL.

SCHEDULE 2.—PROVISIONS RELATING TO MEETINGS OF THE COUNCIL.

SCHEDULE 3.—PROVISIONS RELATING TO THE CONSTITUTION AND MEMBERSHIP OF THE DISPUTES COMMITTEE.

SCHEDULE 4.—PROVISIONS RELATING TO MEETINGS OF THE DISPUTES COMMITTEE.

4. (1) In this Act, except in so far as the context or subject-matter otherwise indicates or requires— Interpretation.

“automotive electrician” means a person who repairs electrical equipment, systems or circuits in motor vehicles;

“body maker” means a person who makes motor vehicle bodies (otherwise than in the course of manufacturing new motor vehicles) or who repairs motor vehicle bodies;

“brake mechanic” means a person who repairs brake equipment or systems in motor vehicles;

“certificate” means tradesman’s certificate or loss assessor’s certificate;

“Chairman” means the person appointed and holding office as Chairman of the Council;

“commercial vehicle owner” means a person who, for the purposes of any business carried on by him, uses a motor vehicle for the carriage of passengers or goods;

“Commissioner for Consumer Affairs” means the Commissioner for Consumer Affairs appointed pursuant to section 13 of the Consumer Protection Act, 1969, and includes any person appointed to act as such pursuant to section 14 of that Act;

Motor Vehicle Repairs.

- “committee” means a committee established under section 14;
- “Contingency Fund” means the Motor Vehicle Repair Industry Contingency Fund established under section 60 (1) (b);
- “Council” means the Motor Vehicle Repair Industry Council constituted by section 7;
- “Disputes Committee” means the Motor Vehicle Repair Disputes Committee constituted by section 13;
- “Education and Research Fund” means the Motor Vehicle Repair Industry Education and Research Fund established under section 60 (1) (c);
- “exempted person”, when used in or in relation to any provision of this Act, means a person, or a person belonging to a class of person, exempted from the operation of that provision under section 5;
- “front end specialist” means a person who repairs the steering or suspension systems of motor vehicles;
- “functions” includes powers, authorities and duties;
- “General Fund” means the Motor Vehicle Repair Industry General Fund established under section 60 (1) (a);
- “holder” means—
- (a) in relation to a joint licence, each person to whom the licence is granted or deemed under section 20 (8) (d) to be granted; or
 - (b) in relation to any other licence or to a certificate, the person to whom the licence or certificate is granted;
- “individual” means a person other than a corporation;
- “industrial magistrate” means an industrial magistrate appointed under the Industrial Arbitration Act, 1940;
- “inspector” means a person appointed under section 12 (1) or (2) (b) as an inspector;

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“joint application” means an application made pursuant to section 16 (2) for the grant of a joint licence;

“joint licence” means a licence granted pursuant to section 17 (2) (b);

“licence” means a licence granted under section 17;

“loss assessor’s certificate” means a loss assessor’s certificate granted under section 30, and includes a provisional loss assessor’s certificate;

“loss assessor’s work” means the work of assessing whether damaged motor vehicles can be repaired or the cost of repairs to damaged motor vehicles, but does not include any such work when it is done for the purposes of the business of a repairer by the repairer or his employee;

“member” means a member of the Council;

“motor cycle mechanic” means a person who performs the work of a motor mechanic only on motor cycles;

“motor mechanic” means a person who repairs the engines or transmissions, or the fuel, induction, exhaust, electrical, steering, suspension or braking systems, of motor vehicles;

“motor vehicle” means any motor car, motor carriage, motor cycle or other vehicle propelled wholly or partly by any volatile spirit, steam, gas, oil or electricity, or by any means other than human or animal power, and includes a trailer, but does not include—

- (a) a vehicle used on a railway or tramway;
- (b) any vehicle which is constructed or adapted otherwise than for the carriage of passengers or goods over public roads; or
- (c) anything prescribed for the purposes of this definition;

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“painter tradesman” means a person who paints motor vehicles (otherwise than in the course of their manufacture), but does not include a person who only prepares the surface of a motor vehicle for its finish coat of paint;

“panelbeater” means a person who repairs the structural components, frames or panel work of motor vehicles;

“prescribed tradesman” means a tradesman belonging to a prescribed class of tradesman;

“provisional loss assessor’s certificate” means a loss assessor’s certificate which is designated as a provisional loss assessor’s certificate under section 31;

“provisional tradesman’s certificate” means a tradesman’s certificate which is designated as a provisional tradesman’s certificate under section 25;

“regulations” means regulations made under this Act;

“relevant day” means such day, being a day not less than 3 months after the day appointed and notified under section 2 (2), as may be appointed by the Governor as the relevant day for the purposes of this Act and as may be notified by proclamation published in the Gazette;

“repair” includes examine, detect faults in, adjust, carry out maintenance on, overhaul, replace, alter and paint;

“repair work” means the work of—

- (a) an automotive electrician;
- (b) a body maker;
- (c) a brake mechanic;
- (d) a front end specialist;
- (e) a motor cycle mechanic;
- (f) a motor mechanic;
- (g) a painter tradesman;
- (h) a panelbeater;

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- (i) a transmission specialist; and
- (j) a prescribed tradesman,

but does not include work that is prescribed as exempt for the purposes of this definition;

“repairer” means a person who carries on the business of repairing motor vehicles, but does not include—

- (a) a person who does repair work only on motor vehicles owned or used by him; or
- (b) a person who does repair work on motor vehicles only in the course of his employment with another person;

“tradesman’s certificate” means a tradesman’s certificate granted under section 24, and includes a provisional tradesman’s certificate;

“transmission specialist” means a person who repairs any of the following parts of motor vehicles, namely, the gears, clutch, driveshaft and differential, and the controlling systems for those parts.

(2) A reference in this Act to the business of a repairer does not include any part of that business—

- (a) in which the repairs done do not include any repair work as defined in subsection (1); or
- (b) which is a business in respect of which a person is required to hold a licence under the Motor Dealers Act, 1974.

(3) A reference in this Act to the performance of a function includes, where the function is a power or authority, the exercise of that power or authority.

5. (1) The Governor may, by regulation made under this Act, exempt from the operation of all or any of the provisions of this Act any person or class of person. Exemptions.

Motor Vehicle Repairs.

(2) An exemption under subsection (1) may be given unconditionally or subject to such conditions as may be prescribed in respect of the exemption.

(3) Where an exemption under subsection (1) is given subject to conditions, the exemption does not have effect during any period when the conditions are not complied with.

Approved forms.

6. (1) An application under this Act shall be made in or to the effect of a form approved by the Minister.

(2) The Minister may approve different forms for the purpose of making different applications.

PART II.

THE COUNCIL AND THE DISPUTES COMMITTEE.

Constitution of the Council.

7. (1) There is hereby constituted a corporation under the corporate name of the "Motor Vehicle Repair Industry Council".

(2) The Council is, for the purpose of any Act, a statutory body representing the Crown.

Members of Council.

8. (1) The Council shall consist of 9 members, appointed by the Governor, of whom—

- (a) 1 shall be appointed as Chairman of the Council by the instrument of his appointment;
- (b) 1 shall be a person chosen by the Minister from a panel of 3 persons nominated by the Council of the National Roads and Motorists' Association;

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- (c) 1 shall be a person chosen by the Minister from a panel of 3 persons nominated by the Council of the Motor Traders' Association of New South Wales;
- (d) 1 shall be a person chosen by the Minister from a panel of 3 persons nominated by the General Council of the Service Station Association of New South Wales;
- (e) 1 shall be a person chosen by the Minister from a panel of 3 persons nominated by the National Executive of the Metal Trades Industry Association of Australia;
- (f) 1 shall be a person chosen by the Minister from a panel of 3 persons nominated by the State Council of the New South Wales Branch of the Vehicle Builders' Employees Federation of Australia;
- (g) 1 shall be a person chosen by the Minister from a panel of 3 persons nominated by the State Executive of the Australasian Society of Engineers;
- (h) 1 shall be a person chosen by the Minister from a panel of 3 persons nominated by the State Council of The Amalgamated Metal Workers' and Shipwrights' Union; and
- (i) 1 shall be a person chosen by the Minister from a panel of 3 persons nominated by the National Council of the Institute of Automotive Mechanical Engineers.

(2) Where, for the purposes of subsection (1), nominations of persons to constitute a panel are not made within the time or in the manner specified by the Minister in a written notice given to the body entitled to make the nominations, the Governor may appoint a person to be a member instead of the person required to be appointed from that panel and the person so appointed shall be deemed to have been duly nominated.

(3) Where a body referred to in any provision of subsection (1) changes its name and the Minister is satisfied that the change of name is not accompanied by any change in the nature of the body, he may, by order published in the Gazette, so certify and, subject to subsection (4), as from the date of that publication, the reference in the provision shall be deemed to be a reference to the body under that changed name.

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(4) The power of the Minister under subsection (3) may be exercised in relation to a body under a changed name as if that body, under that changed name, were referred to in subsection (1).

Provisions relating to the constitution, membership and meetings of the Council.

9. (1) Schedule 1 has effect with respect to the constitution and membership of the Council.

(2) Schedule 2 has effect with respect to the meetings of the Council.

Functions of the Council.

10. The Council shall have and may perform the functions conferred or imposed on it by or under this or any other Act.

Council to promote standards and education.

11. (1) In this section, "motor vehicle repair work" includes loss assessor's work.

(2) The Council shall—

- (a) keep under review the standard of motor vehicle repair work;
- (b) promote improvement in the standard of motor vehicle repair work;
- (c) keep under review the manpower and training requirements in the motor vehicle repair industry;
- (d) make reports and recommendations to the Minister and the Minister for the time being administering the Technical and Further Education Act, 1974, with respect to the manpower and training requirements of the motor vehicle repair industry;
- (e) promote and undertake research into the motor vehicle repair industry; and
- (f) whenever it considers it necessary to do so or it is requested by the Minister to do so, make reports or recommendations to the Minister with respect to the motor vehicle repair industry.

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12. (1) Such officers and temporary employees as may be necessary for the purpose of carrying out the provisions of this Act shall be appointed under and subject to the Public Service Act, 1979. Officers
and
employees.

(2) For the purpose of performing its functions, the Council may—

(a) with the approval of the Minister of the department concerned and on such terms as may be arranged, make use of the services of any officers or temporary employees of a Government department; and

(b) with the approval of the Public Service Board, appoint and employ, on a casual basis and on such other terms as may be approved by the Council, persons to act in the administration of this Act.

(3) A person referred to in subsection (2) (b) is not, in his capacity as an employee of the Council, an officer within the meaning of the Public Service Act, 1979, but, if the terms and conditions upon which he is appointed so provide, any specified provisions of that Act or the regulations thereunder, whether with or without specified modifications, shall apply to and in respect of him as if he were a temporary employee within the meaning of that Act.

13. (1) There is hereby constituted a corporation under the corporate name of the “Motor Vehicle Repair Disputes Committee”. Disputes
Committee.

(2) The Disputes Committee is, for the purposes of any Act, a statutory body representing the Crown.

(3) The functions of the Disputes Committee are the functions conferred or imposed on it by Part VI.

(4) Schedule 3 has effect with respect to the constitution and membership of the Disputes Committee.

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(5) Schedule 4 has effect with respect to the meetings of the Disputes Committee.

Committees
of the
Council.

14. (1) The Council may establish committees to advise the Council on such matters relating to the Council's functions as are referred to them by the Council.

(2) The Council shall establish a committee to advise the Council on such matters relating to the Council's functions in respect of the certification and regulation of loss assessors as are referred to it by the Council.

(3) A committee shall consist of the Chairman of the Council, who shall be chairman of the committee, and such other persons (including, in the case of the committee established under subsection (2), 1 or more loss assessors), whether members of the Council or not, as may be appointed by the Council.

(4) The Council may determine a quorum for a meeting of a committee.

(5) The procedure for the calling of, and for the conduct of business at, meetings of a committee shall be in accordance with any directions given by the Council or, in the absence of any such directions, as may be determined by the committee.

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PART III.

LICENCES AND CERTIFICATES.

DIVISION 1.—*Repairers' Licences.*

15. (1) On or after the relevant day, no person (other than Licences. an exempted person) shall—

- (a) carry on or advertise that he carries on or is willing to carry on the business of a repairer in respect of any repair work unless he is the holder of a licence in respect of a class of repair work that includes that repair work; or
- (b) carry on the business of a repairer at any place of business unless he is the holder of a licence granted in respect of that place of business.

Penalty : \$2,000.

(2) A person carries on the business of a repairer if he does so either by himself, as a member of a partnership or by his servant or agent.

(3) The holder of a licence in respect of a class of repair work who carries on the business of a repairer in respect of any other class of repair work does not contravene subsection (1) if—

- (a) that other class of repair work is done by the holder of a licence in respect of a class of repair work that includes that other class of repair work pursuant to an agreement between the holders of those licences; and
- (b) he does not advertise that he carries on or is willing to carry on the business of a repairer in respect of that other class of repair work.

16. (1) An application for the grant of a licence shall—

- (a) be lodged with the Council; and
- (b) specify the class or classes of repair work in respect of which the application is made.

Application
for grant
of licence.

Motor Vehicle Repairs.

(2) Two or more persons intending to carry on in partnership the business of a repairer may, but are not required to, apply for the grant of a joint licence.

(3) A joint application shall specify the names of the persons to whom the licence is to be granted.

(4) Where an application (including a joint application) is made for the grant of a licence to a corporation, the names of the directors of the corporation shall be specified in the application.

(5) Subject to subsection (6), where the business of a repairer is to be carried on at more than 1 place of business a separate application for the grant of a licence in respect of each such place shall be lodged with the Council.

(6) Where the business of a repairer is to be carried on at more than 1 place of business but, by reason of the close proximity of those places, the person applying for the grant of the licence considers it reasonable that a single licence only should be required in respect of those places, he may include a reference to all of those places in an application for the grant of a single licence.

Disposal of
applica-
tions.

17. (1) This section is subject to section 18.

(2) On payment of the appropriate fee the Council shall, when an application is made for the grant of a licence in respect of any class of repair work—

- (a) by a person (other than a person referred to in paragraph (b)), grant a licence in respect of that class of repair work to the person; or
- (b) by 2 or more persons making a joint application, grant a licence in respect of that class of repair work and in the joint names of the persons specified in the application pursuant to section 16 (3).

Motor Vehicle Repairs.

(3) Where, pursuant to section 16 (6), a reference to 2 or more places of business is included in an application for the grant of a single licence the Council, if it grants the licence, may—

- (a) grant the licence in respect of all of those places; or
- (b) grant the licence in respect of 1 or some only of those places.

(4) Where the Council grants a single licence in respect of 2 or more places of business, those places are together, for the purposes of this Act, the place of business in respect of which the licence is granted.

(5) The appropriate fee is \$100 or, where some other fee is prescribed, that other fee.

18. (1) The Council shall not grant a licence in respect of any class of repair work unless it is satisfied—

Refusal of application for grant of licence.

- (a) in the case of an application by an individual, that the individual—
 - (i) is of or above the age of 18 years and is a fit person to hold a licence; and
 - (ii) has sufficient material, manpower and financial resources to carry on the business of a repairer in respect of that class of repair work;
- (b) in the case of an application by a corporation, that—
 - (i) the corporation is a fit person to hold a licence;
 - (ii) each of the directors of the corporation is of or above the age of 18 years and would, if the application were made by him, be a fit person to hold a licence; and
 - (iii) the corporation has sufficient material, manpower and financial resources to carry on the business of a repairer in respect of that class of repair work;

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- (c) in the case of a joint application, that—
- (i) each individual and corporation to whom or to which the licence is to be granted has the qualifications referred to in paragraphs (a) (i) and (b) (i) and (ii) respectively; and
 - (ii) the individuals and corporations to whom or to which the licence is to be granted together have sufficient material, manpower and financial resources to carry on the business of a repairer in respect of that class of repair work; and
- (d) that the applicant has such other qualifications as may be prescribed.

(2) Where the applicant for a licence in respect of any class of repair work (not being a joint licence) proposes to carry on the business of a repairer in partnership with 1, or more than 1, person, the Council shall not refuse to grant the licence under subsection (1) (a) (ii) or (b) (iii) unless the Council is satisfied that the applicant's material, manpower and financial resources, together with those of the person or persons with whom he proposes to carry on that business in partnership, are not sufficient to enable him to carry on the business of a repairer in respect of that class of repair work.

(3) The Council shall not grant a licence in respect of any place of business unless the applicant satisfies the Council that the business of a repairer may be carried on at that place without contravening any other Act or any instrument made under any other Act.

Form of
licence.

19. A licence shall be in the form approved by the Minister and, without prejudice to the inclusion in the licence of any other particulars, shall—

- (a) specify the date of issue of the licence;
- (b) specify the class of repair work in respect of which the licence is granted;

Motor Vehicle Repairs.

- (c) specify the place of business in respect of which the licence is granted;
- (d) specify the name of the person or, in the case of a joint licence the names of the persons, to whom the licence is granted; and
- (e) where the licence (including a joint licence) is granted to a corporation, specify the names of the directors of the corporation.

20. (1) The applications to which this section relates are ^{Amendment} applications for the amendment— _{of licence.}

- (a) of a licence by substituting for, or adding to, the reference in the licence to a class of repair work a reference to another class of repair work;
- (b) of a licence by substituting for the reference in the licence to a place of business a reference to another place of business;
- (c) of a licence by including a reference to an additional place of business in respect of which the licence is granted if it is in close proximity to the existing place of business in respect of which the licence is granted;
- (d) of a joint licence by specifying in the licence the name of any person;
- (e) of a licence (including a joint licence) held by a corporation by specifying in the licence the name of any person who is a director of the corporation; or
- (f) of a licence in such other manner as may be prescribed.

(2) Subject to subsection (3), where the holder of a licence makes an application to which this section relates and pays the prescribed fee, the Council shall grant the application and amend the licence in accordance with the application.

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(3) The Council shall not grant an application by a person under this section unless it is satisfied that the licence as amended could have been granted by it to the person on an application made under section 16 at the same time as the application under this section.

(4) Where a person becomes a director of a corporation that is the holder of a licence and his name is not specified as a director in the licence, the corporation shall, within 1 month after that person becomes a director, make the application referred to in subsection (1) (e).

Penalty : \$500.

(5) Where an application made pursuant to subsection (4) is refused the person to whom the application relates shall forthwith give up his directorship of the corporation concerned.

Penalty : \$200.

(6) Where an application made pursuant to subsection (4) is refused the person to whom the application relates shall not again, within a period of 6 months after the refusal of the application, become a director of the corporation unless the corporation ceases to be the holder of a licence or the Council, pursuant to subsection (7), grants an application made under subsection (7) in relation to that person.

Penalty : \$200.

(7) A corporation that is the holder of a licence may apply to the Council for the approval of a person whom it is proposed to appoint or elect to be a director of the corporation and, subject to the regulations, the Council may refuse or grant the application.

(8) Where an application referred to in—

- (a) subsection (1) (a) is granted and the licence is amended by substituting or adding a reference to another class of repair work, that class of repair work is a class of repair work in respect of which the licence is granted;

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- (b) subsection (1) (b) is granted and the licence is amended by substituting a reference to another place of business, that place of business is a place of business in respect of which the licence is granted;
- (c) subsection (1) (c) is granted and the licence is amended by including a reference to an additional place of business, that place of business is a place of business in respect of which the licence is granted; or
- (d) subsection (1) (d) is granted and the licence is amended by specifying the name of the person concerned in the licence, that person shall be deemed to be a person to whom the licence is granted.

21. (1) A licence has effect from and including the date of issue of the licence. Duration of licence, and annual fee.

(2) A licence continues in force—

- (a) unless it ceases to have effect under subsection (5);
- (b) unless it is revoked or surrendered; and
- (c) except during any period of suspension.

(3) The appropriate fee in respect of a licence is payable annually on or before the anniversary of the date of issue of the licence in the year concerned.

(4) For the purposes of subsection (3), the appropriate fee is \$100 or, where some other fee is prescribed, that other fee.

(5) If the appropriate fee in respect of a licence is not paid in accordance with subsection (3), the licence ceases to have effect immediately following the anniversary concerned.

(6) When a licence ceases to have effect under subsection (5) the person who was the holder of the licence shall forthwith deliver it to the Council.

Penalty for an offence against this subsection : \$200.

Motor Vehicle Repairs.

DIVISION 2.—*Tradesmen's Certificates.*Tradesman's
certificate.

22. (1) On or after the relevant day, no repairer or commercial vehicle owner (other than an exempted person) shall permit a person employed by him to do any repair work unless the person so employed—

- (a) holds a tradesman's certificate in respect of a class of repair work that includes that repair work; or
- (b) is an apprentice and does that repair work in the course of his apprenticeship and under the supervision of a person who holds such a certificate.

Penalty : \$2,000.

(2) On or after the relevant day, no repairer (other than an exempted person) shall personally do any repair work in connection with his business unless he holds a tradesman's certificate in respect of a class of repair work that includes that repair work.

Penalty : \$2,000.

(3) On or after the relevant day, no repairer or commercial vehicle owner (other than an exempted person) shall enter into an agreement for any repair work to be done by any person who does not hold a licence.

Penalty : \$2,000.

(4) On or after the relevant day, an insurer with whom the owner of a motor vehicle has entered into any contract of insurance in respect of damage to that motor vehicle shall not enter into an agreement, or require the owner to enter into an agreement, for any repair work to be done on that motor vehicle by any person who does not hold a licence or specify in the contract of insurance a repairer who does not hold a licence.

Penalty : \$2,000.

Motor Vehicle Repairs.

23. An application for the grant of a tradesman's certificate shall— Application for tradesman's certificate.

- (a) be lodged with the Council; and
- (b) specify the class or classes of repair work in respect of which the application is made.

24. (1) Subject to subsection (3) and section 25, on payment of the appropriate fee the Council shall, when an application is made by an individual for the grant of a tradesman's certificate in respect of any class of repair work, grant to the individual a tradesman's certificate in respect of that class of repair work. Grant of tradesman's certificate.

(2) The appropriate fee is \$25 or, where some other fee is prescribed, that other fee.

(3) The Council shall not grant to an individual a tradesman's certificate in respect of any class of repair work unless it is satisfied that—

- (a) the individual is a fit person to hold a tradesman's certificate; and
- (b) the individual—
 - (i) has such qualifications or has passed such examinations as may be prescribed in relation to the tradesman's certificate in respect of that class of repair work; or
 - (ii) has such other qualifications or experience or has passed such other examinations as may be determined by the Council in relation to the tradesman's certificate in respect of that class of repair work.

Motor Vehicle Repairs.

Provisional
tradesman's
certificate.

25. (1) The Council may grant to an individual a tradesman's certificate in respect of any class of repair work notwithstanding that the individual has not met the requirement referred to in section 24 (3) (b) if it is satisfied that the individual has acquired or is capable of acquiring the skills that will enable him to meet that requirement in respect of that class of repair work.

(2) A tradesman's certificate referred to in subsection (1) shall be designated by the Council as a provisional tradesman's certificate.

(3) A provisional tradesman's certificate is subject to such conditions and restrictions as may be specified on it by the Council at the time it grants the certificate.

(4) If the holder of a provisional tradesman's certificate does repair work in breach of any condition or restriction to which the certificate is subject, he shall, for the purposes of section 22, be deemed not to be the holder of a tradesman's certificate when he does that work.

(5) Where an individual who holds or has held a provisional tradesman's certificate applies, not more than 3 months after the expiry date specified on the provisional tradesman's certificate, for the grant of a tradesman's certificate, the appropriate fee in respect of that application shall be deemed to have been paid.

Form of
trades-
man's
certificate.

26. A tradesman's certificate shall be in the form approved by the Minister and, without prejudice to the inclusion in the certificate of any other particulars, shall—

(a) specify the date of issue of the certificate;

(b) specify the name of the individual to whom the certificate is granted;

Motor Vehicle Repairs.

- (c) specify the class or classes of repair work in respect of which the certificate is granted; and
- (d) in the case of a provisional tradesman's certificate—
 - (i) specify the conditions and restrictions to which the certificate is subject; and
 - (ii) specify the date until and including which the certificate is in force.

27. (1) A tradesman's certificate has effect from and including its date of issue. Duration of certificate.

(2) A tradesman's certificate continues in force—

- (a) except as provided in paragraph (b)—until it is revoked or surrendered; or
- (b) in the case of a provisional tradesman's certificate—until and including the date determined by the Council and specified on the certificate, or until it is revoked or surrendered, whichever first occurs,

but is not in force during any period of suspension.

DIVISION 3.—Loss Assessors' Certificates.

28. (1) On or after the relevant day, no person (other than an exempted person) shall permit a person employed by him to do any loss assessor's work unless the person so employed holds a loss assessor's certificate. Loss assessor's certificate.

Penalty : \$2,000.

(2) On or after the relevant day, no repairer or insurer (other than an exempted person) shall enter into an agreement for any loss assessor's work to be done by any person unless the latter person holds a loss assessor's certificate.

Penalty : \$2,000.

Motor Vehicle Repairs.

(3) On or after the relevant day, no person (other than an exempted person) shall perform any loss assessor's work for fee or reward unless he holds a loss assessor's certificate.

Penalty : \$200.

Application
for loss
assessor's
certificate.

29. An application for the grant of a loss assessor's certificate shall be lodged with the Council.

Grant of
loss
assessor's
certificate.

30. (1) Subject to subsection (3) and section 31, on payment of the appropriate fee the Council shall, when an application is made by an individual for the grant of a loss assessor's certificate, grant such a certificate to the individual.

(2) The appropriate fee is \$25 or, where some other fee is prescribed, that other fee.

(3) The Council shall not grant a loss assessor's certificate to an individual unless it is satisfied that—

- (a) the individual is of or above the age of 18 years and is a fit person to hold a loss assessor's certificate; and
- (b) the individual—
 - (i) has such qualifications or has passed such examinations as may be prescribed in relation to loss assessors' certificates; or
 - (ii) has such other qualifications or experience or has passed such other examinations as may be determined by the Council in relation to loss assessors' certificates.

Provisional
loss
assessor's
certificate.

31. (1) The Council may grant to an individual a loss assessor's certificate notwithstanding that the individual has not met the requirement referred to in section 30 (3) (b) if it is satisfied that the individual has acquired or is capable of acquiring the skills that will enable him to meet that requirement.

Motor Vehicle Repairs.

(2) A loss assessor's certificate referred to in subsection (1) shall be designated by the Council as a provisional loss assessor's certificate.

(3) A provisional loss assessor's certificate is subject to such conditions and restrictions as may be specified on it by the Council at the time it grants the certificate.

(4) If the holder of a provisional loss assessor's certificate does loss assessor's work in breach of any condition or restriction to which the certificate is subject, he shall for the purposes of section 28 be deemed not to be the holder of a loss assessor's certificate when he does that work.

(5) Where an individual who holds or has held a provisional loss assessor's certificate applies, not more than 3 months after the expiry date specified on the provisional loss assessor's certificate, for the grant of a loss assessor's certificate, the appropriate fee in respect of that application shall be deemed to have been paid.

32. A loss assessor's certificate shall be in the form approved by the Minister and, without prejudice to the inclusion in the certificate of any other particulars, shall—

Form of
loss
assessor's
certificate.

- (a) specify the date of issue of the certificate;
- (b) specify the name of the individual to whom the certificate is granted; and
- (c) in the case of a provisional loss assessor's certificate—
 - (i) specify the conditions and restrictions to which the certificate is subject; and
 - (ii) specify the date until and including which the certificate is in force.

33. (1) A loss assessor's certificate has effect from and including its date of issue.

Duration
of loss
assessor's
certificate.

Motor Vehicle Repairs.

(2) A loss assessor's certificate continues in force—

- (a) except as provided in paragraph (b)—until it is revoked or surrendered; or
- (b) in the case of a provisional loss assessor's certificate—until and including the date determined by the Council and specified on the certificate, or until it is revoked or surrendered, whichever first occurs,

but is not in force during any period of suspension.

DIVISION 4.—*Licences and Certificates Generally.*

Notice of
refusal.

34. (1) Where the Council refuses to grant a licence or certificate or to grant an application for the amendment of a licence, it shall cause a notice of refusal to be served on the applicant for the licence or certificate, or on the applicant for the amendment, as the case may require.

(2) In the case of a joint application for the grant or amendment of a licence it is a sufficient compliance with subsection (1) if the notice of refusal is served on any 1 of the applicants.

(3) A notice of refusal shall state the reasons for the refusal.

(4) For the purposes of this Act, the Council shall be deemed to have refused to grant a licence or certificate or to grant an application for the amendment of a licence if it does not give a decision on an application—

- (a) duly made with respect to that grant; and
- (b) accompanied by the fee (if any) appropriate to that application,

within 3 months after the application is lodged with the Council.

Motor Vehicle Repairs.

35. A holder of a licence or certificate may surrender it by delivering it to the Council with a notification in writing that the licence or certificate, as the case may be, is surrendered.

Surrender
of licence
or certifi-
cate.

36. Where—

Refund
of fees.

- (a) an application for a licence or certificate or for the amendment of a licence is withdrawn;
- (b) a licence or certificate is surrendered, revoked or suspended; or
- (c) in any other circumstance prescribed in relation to licences or certificates,

the Council may refund to the applicant or the holder of the licence or certificate, or to any other person who appears entitled thereto, the whole or any part of the fee which has been paid by the applicant or the holder of the licence or certificate.

37. If the Council is satisfied that a licence or certificate has been lost or destroyed it may, on payment of the prescribed fee, issue a duplicate licence or certificate which shall be of the same force as the original licence or certificate.

Duplicate
licence.

38. (1) The Council shall cause to be kept a register, in such form as it determines, of licences and certificates and shall cause to be recorded therein in respect of each licence or certificate—

Register of
licences and
certificates.

- (a) the matters which by this Act are required to be specified in the licence or certificate;
- (b) in the case of a licence—particulars of any amendment of the licence;
- (c) in the case of a licence—particulars of any fees paid, or due but not paid, in respect of the licence under section 21;

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- (d) particulars of any revocation, suspension or surrender of the licence or certificate;
- (e) in the case of a provisional tradesman's certificate or provisional loss assessor's certificate—particulars of any condition or restriction to which the certificate is subject; and
- (f) such other matters as may be prescribed.

(2) The Council may cause to be made such alterations in the register as are necessary to ensure that the matters recorded therein in respect of any licence or certificate are accurate.

(3) The register may, at all reasonable hours, be inspected, and copies of all or any part of any entry in the register taken—

- (a) without payment, by—
 - (i) any member of the police force in his capacity as such a member;
 - (ii) any public servant in his capacity as such a servant; and
 - (iii) any person authorised by the Council; or
- (b) on payment of the prescribed fee, by any other person.

(4) The register shall be received in proceedings before the Council, the Disputes Committee, the Commissioner for Consumer Affairs or any court or tribunal as evidence of the matters required by or under this Act to be recorded in it, and any document purporting to be certified by the Council to be a true copy of an entry in the register shall be received in proceedings before the Council, the Disputes Committee, the Commissioner for Consumer Affairs or any court or tribunal as evidence of any such matters contained in the entry.

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39. A person shall not, in an application for—

- (a) a licence or certificate; or
- (b) the amendment of a licence,

False or misleading statements in applications.

make any statement which he knows to be false or misleading.

Penalty : \$500.

40. A person shall not hold himself out as—

- (a) a holder of a certificate if he does not hold a certificate; or
- (b) a holder of a particular certificate or a certificate of a particular kind if he does not hold that or such a certificate.

Holding out as holder of certificate.

Penalty : \$200.

PART IV.

DISCIPLINARY PROCEEDINGS.

41. In this Part, “defendant” means any person against whom a complaint is made under section 44 or who is the holder of a licence in relation to which the Disputes Committee has made a recommendation of revocation or suspension under section 55 (2) (b) (iv).

Interpretation: Part IV.

42. (1) The grounds on which the holder of a licence may be dealt with under this Part are—

Grounds for action against holder of licence.

- (a) that the holder of the licence made a statement in or in connection with his application for the licence that he knew to be false or misleading in a material particular;

Motor Vehicle Repairs.

- (b) that the holder of the licence has been convicted of an offence involving fraud or dishonesty punishable on conviction by imprisonment for 3 months or more, or of any offence against this Act or the regulations;
- (c) that the holder of the licence has been guilty of fraudulent conduct or dishonesty in connection with his business as a repairer;
- (d) that the holder of the licence has carried on the business of a repairer in such a manner that the repair work done in connection with that business has generally been below usual trade standards;
- (e) in the case of the holder of a licence (other than a joint licence) in respect of any class of repair work—that the material, manpower and financial resources of the holder of the licence, together with those of any persons with whom he carries on the business of a repairer in partnership, are not sufficient to enable him to carry on the business of a repairer in respect of that class of repair work;
- (f) in the case of the holder of a joint licence in respect of any class of repair work—that the holders of the licence do not together have sufficient material, manpower and financial resources to carry on the business of a repairer in respect of that class of repair work;
- (g) that the holder of the licence (not being a corporation) has become bankrupt, applied to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounded with his creditors or made an assignment of his remuneration or estate for their benefit;
- (h) that the holder of the licence (being a corporation)—
 - (i) is in the course of being wound up;
 - (ii) is under official management;
 - (iii) is a corporation in respect of which a receiver or manager has been appointed; or
 - (iv) has entered into a compromise or scheme of arrangement with its creditors;

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- (i) that the holder of the licence has, for a period of 1 month or more, ceased to carry on the business of a repairer at the place specified in the licence for that purpose;
- (j) that the holder of the licence is contravening another Act or an instrument made under another Act by carrying on at the place specified in the licence for that purpose the business of a repairer;
- (k) in the case of the holder of a licence (being a corporation)—that any director of the corporation is convicted of an offence referred to in paragraph (b); or
- (l) in the case of the holder of a licence other than a joint licence (being any person carrying on business as a repairer in partnership with any person)—that a licence held by the latter person has been revoked after a determination of a complaint in relation to the licence held by him on any ground specified in paragraph (b), (c), (d), (e), (g), (h), (j) or (k).

(2) The grounds referred to in subsection (1) (a), (b), (c), (d), (g), (h), (j) or (k) are deemed to exist, in the case of a joint licence, if those grounds apply to any holder of that licence.

43. The grounds on which the holder of a certificate may be dealt with under this Part are—

- (a) that the holder of the certificate made a statement in or in connection with his application for the certificate that he knew to be false or misleading in a material particular;
- (b) that the holder of the certificate has been convicted of an offence against this Act or the regulations;
- (c) in the case of the holder of any tradesman's certificate—that the holder of the certificate is not competent to do repair work of the class to which the certificate applies;

Grounds for
action
against
holder of
certificate.

Motor Vehicle Repairs.

- (d) in the case of the holder of a provisional tradesman's certificate or provisional loss assessor's certificate—that the holder of the certificate has failed to comply with any condition or restriction to which the certificate is subject; or
- (e) in the case of the holder of a loss assessor's certificate—that the holder of the certificate is not competent to perform loss assessor's work.

Manner of making complaint.

44. (1) A complaint may be made to the Council that, in relation to any licence or certificate, 1 or more of the grounds specified respectively in section 42 (1) (a) to (1) or section 43 (a) to (e) exists or exist.

(2) A complaint referred to in subsection (1) shall, except as provided by subsection (3), be accompanied by the prescribed fee.

(3) A complaint referred to in subsection (1) need not be accompanied by the prescribed fee where it is made by—

- (a) a public servant in his capacity as such a servant; or
- (b) an inspector in his capacity as such an inspector.

Action on complaints or recommendations.

45. (1) Upon receipt of a complaint made under section 44, together with the prescribed fee (where applicable) required by section 44 (2), or upon any recommendation made by the Disputes Committee to the Council under section 55 (2) (b) (iv), the Council shall consider the complaint or recommendation and, if it is of the opinion that the nature of the complaint or recommendation warrants its so doing, shall cause a notice to be issued calling upon the person to whom the complaint or recommendation relates to show cause why he should not be dealt with under this Part and cause that notice to be served on that person.

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(2) Subsection (1) does not apply so as to require the Council to consider any complaint which an officer of the Council, authorised by the Council for the purposes of this subsection, has determined to be of such a nature as not to warrant the issue of a notice under subsection (1) with respect to the complaint.

(3) As soon as practicable after the receipt of a complaint, the Council shall cause the complainant to be informed in writing of any action taken under this section with respect to the complaint.

(4) The Council may, if in its opinion its investigations warrant its so doing and without having received a complaint or recommendation by the Disputes Committee, cause a notice to be issued to a person against whom a complaint may be made under section 44 to show cause why he should not be dealt with under this Part and cause the notice to be served on that person.

(5) A notice served under subsection (1) or (4) shall—

- (a) give particulars of the grounds upon which the defendant is required to show cause; and
- (b) appoint a time and place for the holding of an inquiry for the defendant to show cause,

as required by the notice.

(6) Not earlier than the day on which the period fixed under subsection (7) in respect of a defendant expires, the Council shall at the time and place appointed by the notice served on the defendant, or at such other time or place appointed by the Council and notified by notice in writing served on the defendant, cause an inquiry to be held into the grounds upon which the defendant has been called to show cause as required by that notice.

(7) The period referred to in subsection (6) is 7 days after service on the defendant of the notice referred to in subsection (5).

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Inquiries—
how held.

46. (1) Any inquiry held under this Part shall be held before—

- (a) the Council; or
- (b) a committee of 1 or more members (including the Chairman) appointed by the Council to hold the inquiry,

and shall be held as in open court.

(2) Where a committee of 2 or more members is appointed under subsection (1) (b) to hold an inquiry under this Part—

- (a) the Chairman shall preside at the inquiry; and
- (b) the Chairman shall have, in addition to a deliberative vote, a casting vote on any matter arising during the inquiry in respect of which there is an equality of votes.

(3) The determination of the Council on an inquiry shall be given at a meeting of the Council at which a quorum is present.

(4) At any inquiry under this Part—

- (a) the defendant may appear by himself or by a barrister, solicitor or agent appointed by the defendant; and
- (b) the Council or the committee before which the inquiry is held—
 - (i) may conduct the inquiry in such manner as it sees fit and is not bound to observe rules of law governing the admission of evidence but may inform itself of any matter in such manner as it thinks fit;
 - (ii) may allow a barrister, solicitor, public servant or inspector, in each case instructed by the Council, to appear before the Council or that committee for the purpose of adducing evidence tending to establish the grounds upon which the defendant has been called upon to show cause as referred to in section 45;

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- (iii) may call and receive evidence as to any matter relevant to the inquiry;
- (iv) may from time to time as it sees fit adjourn the inquiry; and
- (v) may, subject to section 13 of the Oaths Act, 1900, require any evidence at the inquiry to be given on oath.

(5) An inquiry under this Part may be held in the absence of the defendant if the Council or the committee before which the inquiry is held is satisfied that the defendant was served with reasonable notice of the time and place of the inquiry.

(6) Service of any such notice may be proved by the oath of the person who effected the service or by affidavit.

47. (1) The Council or the committee before which an ^{Subpoenas.} inquiry under this Part is held may of its own motion or on the application of the defendant issue a subpoena in or to the effect of the prescribed form requiring the person to whom the subpoena is addressed to attend as a witness at the inquiry or so to attend and to produce at the inquiry any books, deeds, papers, writings or articles in his possession or under his control relating to any matter relevant to the inquiry and specified in the subpoena.

(2) A person who is served with a subpoena addressed to him and to whom, at the time of service, is tendered an amount that is sufficient to cover his travelling and other out-of-pocket expenses in attending the inquiry specified in the subpoena and producing anything required by the subpoena to be produced shall not, without reasonable cause, fail or refuse to obey the subpoena.

Penalty : \$200.

(3) A person to whom a subpoena is addressed is entitled to receive—

- (a) where the subpoena was issued by the Council or a committee of its own motion, from the Council; or

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- (b) where the subpoena was issued by the Council or a committee on the application of the defendant, from the defendant,

his reasonable costs, including any loss of earnings, incurred by him in obeying the subpoena, calculated in accordance with the scales relating to subpoenas issued out of the District Court.

Determina-
tion by
Council.

48. (1) After an inquiry held under this Part the Council may, if it is of the opinion that there exists any ground specified in section 42 (1) (a) to (l) or 43 (a) to (e), as the case may require, for dealing with the defendant under this Part, make any of the following determinations, that is to say, the Council may:—

- (a) determine that no further action be taken against the defendant;
- (b) caution or reprimand the defendant; or
- (c) where the ground is specified—
- (i) in section 42 (1) (a) to (l)—revoke or suspend the licence held by the defendant; or
- (ii) in section 43 (a) to (e)—revoke or suspend the certificate held by the defendant.

(2) The Council may at any time remove a suspension made under subsection (1) (c).

Notice of
revocation,
etc.

49. (1) Before revoking or suspending a licence or certificate, the Council shall give each holder of the licence, or the holder of the certificate, an opportunity of showing cause why the Council should not revoke or suspend the licence or certificate for the reasons specified by the Council.

(2) Where the Council revokes or suspends a licence or certificate, it shall cause a notice of the revocation or suspension to be served on the holder of the licence or certificate.

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(3) In the case of a joint licence it is a sufficient compliance with subsection (2) if the notice is served on any one of the holders of the licence.

(4) A notice under subsection (2) shall state the reasons for which the Council has revoked or suspended the licence or certificate.

(5) Subject to subsection (6), any revocation or suspension of a licence or certificate has effect as on and from the date that is 21 days after the date on which the notice of the revocation or suspension is served.

(6) Where the holder of a licence or certificate appeals under Part V against any revocation or suspension of the licence or certificate, the revocation or suspension shall have effect—

(a) only if the industrial magistrate hearing the appeal confirms the revocation or suspension or the appeal is withdrawn; and

(b) on—

(i) the date on which that industrial magistrate confirms the revocation or suspension or such later date as that magistrate orders; or

(ii) where the appeal is withdrawn—the date on which it is withdrawn or the date that is 21 days after the date on which notice of the revocation or suspension was served pursuant to this section, whichever is the later date.

(7) When the revocation or suspension of a licence or certificate has effect, the person who was or is the holder of the licence or certificate shall forthwith deliver it to the Council.

Penalty for an offence against this subsection: \$200.

Motor Vehicle Repairs.

PART V.

APPEALS.

Appeals.

50. (1) In this section—

“applicable date” means—

- (a) in the case of an appeal against a refusal to grant a licence or certificate or to grant an application for the amendment of a licence, the date of service of the notice of the refusal; or
- (b) in the case of an appeal against a revocation or suspension of a licence or certificate, the date of service of the notice of the revocation or suspension, as the case may be;

“registrar” means the industrial registrar appointed under the Industrial Arbitration Act, 1940.

(2) An applicant for the grant of a licence or certificate or for the amendment of a licence may appeal to an industrial magistrate against the refusal of the Council to grant the licence or certificate or to grant the application for the amendment of the licence.

(3) The holder of a licence or certificate may appeal to an industrial magistrate against the revocation or suspension by the Council of the licence or certificate.

(4) Notice of an appeal under this section, specifying the grounds of the appeal, shall be lodged with the registrar not later than 21 days after the applicable date.

(5) The registrar shall give notice of the time and place of the hearing of an appeal under this section to the Council and to the person appealing, and shall state in the notice to the Council the grounds of the appeal.

(6) An appeal shall be dealt with by way of rehearing on the evidence, if any, given before the Council and on any evidence in addition to or in substitution for the evidence so given.

Motor Vehicle Repairs.

(7) The hearing of an appeal may proceed notwithstanding any omission or error in a notice under subsection (5) or the failure to give any such notice if the industrial magistrate is satisfied that the person appealing and the Council had knowledge of the time and place of the hearing and were not prejudiced by any such omission or error or by the failure to give any such notice.

(8) Where relevant, a document purporting to be certified by the Disputes Committee and to set out a determination of that Committee under section 55 shall be received in proceedings before an industrial magistrate under this section as evidence of the determination.

(9) An industrial magistrate shall hear and determine an appeal made to him under this section and may confirm (with or without variation) or disallow the refusal, revocation or suspension appealed against, or make such other order as to him seems in the circumstances to be just.

(10) An industrial magistrate may disallow the refusal, revocation or suspension appealed against if, in all of the circumstances of the case, he considers it fair and reasonable to do so.

(11) The decision of an industrial magistrate in respect of an appeal made under this section shall be final and shall be binding on the person appealing and on the Council which shall take such steps as may be necessary to give effect to the decision.

(12) Where an application for the grant or amendment of a joint licence is refused or a joint licence is revoked or suspended, an appeal under this section may be made either by 1 of the applicants or holders, as the case may be, on behalf of all the applicants or holders, or by all of the applicants or holders jointly, but not otherwise.

Motor Vehicle Repairs.

PART VI.

DISPUTES.

Interpre-
tation:
Part VI.

51. (1) In this Part, except in so far as the context or subject-matter otherwise indicates or requires—

“applicant” means a person who makes an application;

“application” means an application under section 52 (1) to the Disputes Committee, but does not include an application that has been withdrawn;

“dispute” means a disagreement which is the subject of an application;

“owner” in relation to a motor vehicle includes any hirer, lessee or insurer of the motor vehicle;

“tribunal” includes a consumer claims tribunal constituted under the Consumer Claims Tribunals Act, 1974.

(2) A reference in this Part to a repairer includes a reference to a person who was a repairer when he repaired a motor vehicle that is the subject of such a disagreement as is referred to in section 52 (1) or of a dispute, notwithstanding that he has ceased to be a repairer since the vehicle was repaired.

Disputes.

52. (1) Where, in relation to a motor vehicle, a disagreement exists between the owner of the vehicle and a repairer concerning any 1 or more of the following matters, namely—

(a) the manner in which any repair work has been done;

(b) the fair cost owed by the owner to the repairer for the carrying out of any repair work; or

(c) any other matter or thing, whether or not of the same kind as a matter referred to in paragraph (a) or (b), arising out of the application of this Act,

the owner may apply in writing to the Disputes Committee to investigate and determine the disagreement.

Motor Vehicle Repairs.

(2) The powers conferred by this Part shall not be exercised in connection with any matter in issue in a dispute—

- (a) if the repair work which is the subject of the dispute was done before the day appointed and notified under section 2 (2);
- (b) if that matter is, at the time when the application relating to the dispute is received by the Disputes Committee, the subject of an application under Part V of the Motor Dealers Act, 1974, and that application has not been withdrawn;
- (c) if, at that time, that matter has been determined by the Commissioner for Consumer Affairs pursuant to Part V of the Motor Dealers Act, 1974, or the Commissioner for Consumer Affairs determines that matter pursuant to an application under Part V of the Motor Dealers Act, 1974, made at or before that time;
- (d) if proceedings in respect of that matter are pending before a court or a tribunal at that time, unless those proceedings are discontinued before judgment is given by the court or a determination is made by the tribunal; or
- (e) if, at that time, that matter has been decided by a court or a tribunal, or a court or a tribunal decides that matter pursuant to proceedings which are pending at that time.

(3) Where an application is made to the Disputes Committee a court or a tribunal has no jurisdiction in connection with any matter in issue in the dispute to which the application relates—

- (a) unless subsection (2) (d) or (e) applies in respect of that matter;
- (b) unless the application is withdrawn; or
- (c) except in respect of proceedings commenced in a court or a tribunal after the matter has been dealt with under this Part.

(4) An application may be withdrawn at any time.

Motor Vehicle Repairs.

Settlement
of disputes.

53. (1) Where an application is made to the Disputes Committee under section 52 (1), the Chairman shall use his best endeavours by communication with the applicant and the repairer, or otherwise, to settle the dispute.

(2) The Chairman may appoint any inspector to assist him in the exercise of his function under subsection (1).

(3) An inspector appointed under subsection (2) to assist the Chairman may enter at any reasonable time any place occupied by a repairer at which the inspector has reasonable grounds for believing that a motor vehicle which is the subject of a dispute is situated and there examine that motor vehicle.

(4) Where the Chairman settles a dispute the application concerned shall be deemed to have been withdrawn.

(5) A dispute shall not be treated as having been settled unless the terms of the settlement are incorporated in a document and signed by the applicant, the repairer and the Chairman.

(6) Where a dispute is settled as provided in this section the settlement shall have the same force and effect as it would have if it were a determination by the Disputes Committee under section 55.

(7) A document purporting to be signed by the Chairman and to set out the terms of a settlement shall be received by the Commissioner for Consumer Affairs when acting pursuant to Part V of the Motor Dealers Act, 1974, and in proceedings before any court or tribunal as evidence of that settlement and the terms thereof.

Investiga-
tion by
Disputes
Committee.

54. (1) Where the Chairman is unable under section 53 to settle a dispute he shall refer the dispute to the Disputes Committee.

(2) The Disputes Committee shall investigate any dispute referred to it by the Chairman.

Motor Vehicle Repairs.

(3) In any investigation by the Disputes Committee—

- (a) the applicant or repairer may appear by himself or, with the leave of that Committee, by a barrister, solicitor or agent appointed by him; and
- (b) the Disputes Committee—
 - (i) shall have regard to natural justice;
 - (ii) subject to subparagraph (i), may conduct the investigation in such manner as it sees fit and is not bound to observe rules of law governing the admission of evidence but may inform itself of any matter in such manner as it thinks fit;
 - (iii) may allow a barrister, solicitor, public servant or inspector, in each case instructed by the Council, to appear before the Disputes Committee for the purpose of adducing evidence;
 - (iv) may call and receive evidence as to any matter relevant to the investigation;
 - (v) may from time to time as it sees fit adjourn the investigation; and
 - (vi) may, subject to section 13 of the Oaths Act, 1900, require any evidence at the investigation to be given on oath.

(4) An investigation under this section may be held in the absence of the repairer if the Disputes Committee is satisfied that the repairer was served with reasonable notice of the time and place of the investigation.

(5) Service of any such notice may be proved by the oath of the person who effected the service or by affidavit.

55. (1) After investigating a dispute under section 54, the Disputes Committee shall determine each of the matters which are the subject of the dispute.

Determina-
tion by
Disputes
Committee.

Motor Vehicle Repairs.

(2) The Disputes Committee may, in accordance with its determination under subsection (1) and as part of its determination of the dispute—

- (a) dismiss the application relating to the dispute; or
- (b) subject to subsection (3), do any 1 or more of the following :—
 - (i) make an order for the payment of money;
 - (ii) make an order that specified work be done within a specified time;
 - (iii) make any ancillary order necessary for the effectuation of an order referred to in subparagraph (i) or (ii);
 - (iv) make a recommendation to the Council that any licence held by a repairer who was a party to the dispute be revoked or suspended; or
 - (v) make a recommendation to the Council that a payment of a specified sum be made out of the Contingency Fund to the person who made the application under section 52 (1) in relation to the dispute or to such other person as to the Disputes Committee seems appropriate.

(3) The Disputes Committee shall not, in making an order under subsection (2) (b) (i) to (iii) as part of its determination of a dispute, order the payment of any money or the doing of any work—

- (a) if the amount of the payment, the value of the work or the sum of the amount of the payment and the value of the work, as the case may be, exceeds \$3,000;
- (b) in respect of any repair work if the work was done before the day appointed and notified under section 2 (2);
- (c) in respect of any loss consisting of damage to a motor vehicle or other object, or injury to any person, arising out of a motor vehicle accident; or
- (d) in respect of any loss consisting of damage to a motor vehicle of a prescribed class.

Motor Vehicle Repairs.

(4) A document purporting to be certified by the Disputes Committee and to set out a determination of that Committee under this section shall be received by the Commissioner for Consumer Affairs when acting pursuant to Part V of the Motor Dealers Act, 1974, and in proceedings before any court or tribunal as evidence of that determination.

56. (1) Where the Disputes Committee as part of its determination of a dispute makes an order for the payment of money, the person entitled to that payment may enforce the order by filing, free of charge, with the registrar of a court of competent jurisdiction—

Enforce-
ment of
orders.

- (a) a copy of the order certified by the Disputes Committee to be a true copy; and
- (b) an affidavit by that person as to the amount unpaid under the order,

and thereupon that registrar shall enter judgment in favour of that person for the amount specified in the affidavit as being unpaid.

(2) Where the Disputes Committee as part of its determination of a dispute makes an order that specified work be done within a specified time on a motor vehicle by a repairer, and the repairer fails to do that work within the specified time, the owner of the motor vehicle may cause that work to be done, and thereafter the fair cost of that work shall be a debt enforceable by the owner against that repairer in any court of competent jurisdiction.

(3) Notwithstanding anything to the contrary in any Act or law, where an order is made by the Disputes Committee that specified work be done, the repairer named in the order shall not have a lien over the motor vehicle to which the order relates in relation to any work done or purporting to have been done by the repairer in obedience to the order.

(4) The regulations may make provisions additional to those of this section for the enforcement of any orders made as part of a determination of the Disputes Committee.

Motor Vehicle Repairs.

False or
misleading
statements.

57. A person shall not make any statement which he knows to be false or misleading in any application or in or in relation to any proceeding for the investigation or determination of a dispute.

Penalty : \$500.

PART VII.

FINANCE.

Motor
Vehicle
Repair
Industry
Account.

58. There shall be established in the Special Deposits Account in the Treasury a Motor Vehicle Repair Industry Account into which shall be deposited all money received by the Council and from which shall be paid all amounts required to meet expenditure incurred in accordance with this Act.

Grants to
Council.

59. The Treasurer may advance such money to the Council on such terms as to repayment and interest as he and the Council may agree on.

Establish-
ment of
funds.

60. (1) The Council shall establish the following funds in its books :—

- (a) the Motor Vehicle Repair Industry General Fund;
- (b) the Motor Vehicle Repair Industry Contingency Fund;
and
- (c) the Motor Vehicle Repair Industry Education and Research Fund.

(2) The funds mentioned in subsection (1) shall be separate and distinct.

Motor Vehicle Repairs.

61. (1) The General Fund shall consist of—

General
Fund.

- (a) all money received by or due to the Council as charges or fees under this Act;
- (b) all money received by the Council under section 59 and allocated by the Council to the General Fund; and
- (c) all investments made by the Council out of money in the General Fund and the proceeds of any such investments.

(2) The General Fund may be applied in—

- (a) meeting the expenses incurred in or in connection with the performance of the functions of the Council and of the Disputes Committee;
- (b) making payments to the Treasurer in accordance with subsection (3) and section 69 (6);
- (c) making payments to the Contingency Fund in accordance with any direction of the Treasurer referred to in section 62 (1) (a);
- (d) making payments to the Education and Research Fund in accordance with any direction of the Treasurer referred to in section 66 (1) (a); and
- (e) any lawful purpose under this Act in respect of which expenditure is not chargeable to the Contingency Fund or the Education and Research Fund.

(3) The Council shall, as required by notices in writing from time to time given to the Council by the Treasurer, pay to the Treasurer for payment into the Consolidated Revenue Fund the amount specified in any such notice and certified by the Treasurer to be the amount chargeable against the Council in respect of the Chairman and in respect of officers and temporary employees of the Public Service appointed for the purpose of carrying out the provisions of this Act.

Motor Vehicle Repairs.

Contingency
Fund.**62.** (1) The Contingency Fund shall consist of—

- (a) such money as the Treasurer may from time to time direct to be allocated to that fund from the General Fund;
- (b) all money received by the Council under section 59 and allocated by the Council to the Contingency Fund;
- (c) all investments made by the Council out of money in the Contingency Fund and the proceeds of any such investments; and
- (d) any money recovered by the Council in the exercise of any rights, or the pursuit of any remedies, to which it is subrogated under section 64.

(2) Subject to section 65, there shall be paid out of the Contingency Fund the amount of any loss which is certified by the Council pursuant to section 63.

Claims
against
Contingency
Fund.**63.** (1) Any person wishing to make a claim against the Contingency Fund shall submit his claim in writing, verified by statutory declaration, to the Council.

(2) Subject to this section, if the Council is satisfied that a person who submits a claim has incurred a loss in connection with the repair of a motor vehicle by reason of the fact that the repair work was not competently done, the Council may certify the amount of the loss or \$3,000, whichever is the lesser amount.

(3) No loss shall be certified by the Council under subsection (2)—

- (a) if the loss was incurred in connection with repair work done before the day appointed and notified under section 2 (2);
- (b) if the loss was incurred by the claimant (including any statutory body representing the Crown) in connection with any repair work done by an employee of the claimant;

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- (c) if the loss consists of damage to a motor vehicle or other object, or injury to any person, arising out of a motor vehicle accident;
- (d) if the loss consists of damage done to a motor vehicle of a prescribed class;
- (e) if the loss is or has been the subject of a claim under Part VI of the Motor Dealers Act, 1974, unless the claim has been withdrawn or dismissed; or
- (f) if the Council is not satisfied that the claimant has taken all reasonable steps to exercise such legal remedies and other rights of action as are available in respect of the loss incurred by him.

64. On payment out of the Contingency Fund of any amount certified by the Council under section 63, the Council shall be subrogated to the extent of such payment to all the rights and remedies of the claimant against the person in relation to whom the claim arose or any other person incurring any liability to the claimant in relation to the subject-matter of the claim or the legal personal representatives or other persons having authority to administer any estate concerned, and the claimant shall not, to the extent of such payment, be entitled to enforce those rights or remedies. Subrogation where claim allowed.

65. Where the amount standing to the credit of the Contingency Fund is insufficient to pay all the amounts certified by the Council under section 63 in any financial year, any amount so certified, so far as it remains unpaid, shall be charged against future receipts of the Contingency Fund and shall be paid out of the Contingency Fund when sufficient money is available therein. Deferred payments out of Contingency Fund.

66. (1) The Education and Research Fund shall consist of— Education and Research Fund.

- (a) such money as the Treasurer may from time to time direct to be allocated to that fund from the General Fund;

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- (b) all money received by the Council under section 59 and allocated by the Council to the Education and Research Fund; and
- (c) all investments made by the Council out of money in the Education and Research Fund and the proceeds of any such investments.

(2) The Council may, with the approval of the Treasurer, from time to time appropriate any part of the money in the Education and Research Fund towards—

- (a) the encouragement of apprenticeship, by way of subsidy or otherwise, in any trade associated with the motor vehicle repair industry; or
- (b) the assistance of education or research in, or any public purpose connected with, repair work or loss assessors' work.

Investment. **67.** The Council may invest money held in the General Fund, the Contingency Fund or the Education and Research Fund in any securities authorised by section 14 of the Trustee Act, 1925.

Accounts. **68.** (1) The Council shall cause to be kept proper accounts and records in relation to all its operations.

(2) The Council shall, as soon as practicable, but within 6 months, after the end of each financial year of the Council, prepare and submit to the Minister for presentation to Parliament a statement of accounts, together with the Auditor-General's certificate given under this section in relation to the statement.

(3) The statement of accounts shall be in a form approved by the Auditor-General, and shall include such information as is requested by him, and shall exhibit a true and fair view of the financial position and transactions of the Council.

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(4) The Council shall, as soon as practicable, but within 4 months, after the end of the financial year to which a statement of accounts relates, transmit the statement to the Auditor-General for verification and certification.

(5) The Auditor-General's certificate shall state that he has audited the accounts of the Council relating to the relevant financial year, and shall indicate whether the statement of accounts complies with subsection (3), and shall set forth any qualification subject to which the certificate is given.

(6) Nothing in this section prevents the alteration of the statement of accounts, with the approval of the Auditor-General, after its receipt by him and before its submission to the Minister.

(7) The Minister shall lay the statement of accounts, or cause it to be laid, together with the Auditor-General's certificate, before both Houses of Parliament as soon as practicable after the receipt by him of the statement.

(8) The financial year of the Council shall be the year ending on 30th June.

69. (1) The accounts and records of financial transactions of the Council, and records relating to assets of or in the custody of the Council, shall be inspected and audited by the Auditor-General. Audit of accounts.

(2) For the purposes of any such inspection and audit, the Auditor-General or a person authorised by him is entitled at all reasonable times to full and free access to the accounts, records, documents and papers of the Council and may make copies thereof or take extracts therefrom.

(3) The Auditor-General or a person authorised by him may require a person, being a member, officer or temporary employee of the Council, to furnish him with such information in

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the possession of the person or to which the person has access as the Auditor-General or authorised person considers necessary for the purposes of the functions of the Auditor-General under this Act, and the person shall comply with the requirement.

Penalty : \$200.

(4) The Auditor-General may dispense with all or any part of the detailed inspection and audit of any accounts or records referred to in subsection (1).

(5) The Auditor-General shall report to the Council and the Minister on the result of any such inspection and audit, and as to such irregularities or other matters as in his judgment call for special notice or as are prescribed.

(6) Towards defraying the costs and expenses of any such inspection and audit, the Council shall pay to the Consolidated Revenue Fund such amounts, at such times, as the Treasurer decides.

PART VIII.

GENERAL.

Delegation. **70.** (1) The Council may, by instrument in writing, delegate—

- (a) to any member;
- (b) to any committee established under section 14; or
- (c) to any officer or temporary employee appointed under section 12,

the performance of such of the functions (other than this power of delegation) conferred or imposed on the Council by or under this or any other Act as may be specified in the instrument of delegation and may, by such an instrument, revoke wholly or in part any such delegation.

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(2) A function, the performance of which has been delegated under this section, may, while the delegation remains unrevoked, be performed from time to time in accordance with the terms of the delegation by the delegate to whom the performance thereof has been delegated.

(3) A delegation under this section may be made subject to such conditions or limitations as to the performance of any of the functions delegated, or as to time or circumstance, as may be specified in the instrument of delegation.

(4) Notwithstanding any delegation made under this section, the Council may continue to perform all or any of the functions delegated.

(5) Any act or thing done or suffered by a delegate while acting in the performance of a delegation under this section shall have the same force and effect as if the act or thing had been done or suffered by the Council.

(6) An instrument purporting to be signed by a delegate of the Council in his capacity as such a delegate shall in all courts and before all persons acting judicially be received in evidence as if it were an instrument executed by the Council and, until the contrary is proved, shall be deemed to be an instrument signed by a delegate of the Council under this section.

71. Except as is expressly provided in this Act, nothing in this Act shall have the effect of limiting, restricting or otherwise affecting any right or remedy which a person would have if this Act had not been enacted.

Other rights and remedies not affected.

72. The provisions of this Act have effect notwithstanding any stipulation to the contrary and no contract or agreement made or entered into before, on or after the day appointed and notified under section 2 (2) operates to annul, vary or exclude any of the provisions of this Act.

Contracting out void.

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Council may
require
informa-
tion.

73. (1) The Council may, by notice in writing, require any person to furnish to it, within such period as may be specified in the notice, such information in connection with any repair work or loss assessor's work as may be so specified and as is within his knowledge or in his custody or under his control.

(2) A person shall not neglect or fail to comply with a requirement made under subsection (1).

Penalty : \$1,000.

(3) Any information furnished pursuant to a requirement made under subsection (1) shall not, if the person furnishing the information objected, at the time of furnishing it, to doing so on the ground that it may tend to incriminate him or might be used in any proceedings against him under Part IV, be admissible in evidence in any prosecution against that person for any offence, not being the offence of neglecting or failing to comply with any requirement made under that subsection, or be admissible in any such proceedings.

Production
of licences
and
certificates.

74. (1) Except where he has reasonable excuse for not doing so, the holder of a licence shall on demand, at the place of business in respect of which the licence is granted, produce that licence to an inspector.

(2) Except where he has reasonable excuse for not doing so, the holder of a tradesman's certificate shall on demand, at any place of business in respect of which a licence is granted and where he does repair work, produce the certificate to an inspector.

(3) Except where he has reasonable excuse for not doing so, the holder of a loss assessor's certificate shall on demand, at any place where he does loss assessor's work, produce the certificate to an inspector.

Penalty : \$100.

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75. (1) An inspector may, for the purpose of ascertaining whether a person is contravening or has contravened this Act or the regulations, enter, at any reasonable time, any place which the inspector has reasonable grounds for believing is a place at which the person carries on business.

Power
of entry
and examina-
tion.

(2) For the purpose of or in connection with an inspection under subsection (1), an inspector may—

- (a) require any person employed or engaged at any place entered pursuant to that subsection to produce to the inspector such records, or other documents, as are required to be kept under this Act or the regulations and are in the custody or under the control of the person so employed or engaged;
- (b) examine with respect to matters under this Act or the regulations any person employed or engaged at any place so entered; and
- (c) make such examination and inquiries as he thinks necessary to ascertain whether the requirements of this Act or the regulations are being or have been contravened.

76. A person shall not—

- (a) refuse or intentionally delay the admission to any place of an inspector in the exercise by him of any of his powers under this Act or the regulations;
- (b) intentionally obstruct an inspector in the exercise by him of any such power;
- (c) fail to comply with a request or requirement of an inspector made under this Act for the production of any record or other document; or
- (d) conceal any person from an inspector or prevent any person from appearing before or being examined by an inspector or attempt so to conceal or prevent any person.

Offence
to
obstruct
inspector.

Penalty : \$500.

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Disclosure
of informa-
tion.

77. A person shall not disclose any information obtained by him in connection with the administration or execution of this Act, unless the disclosure is made—

- (a) with the consent of the person from whom the information was obtained;
- (b) in connection with the administration or execution of this Act;
- (c) subject to section 73 (3), for the purposes of any legal proceedings arising out of this Act or of any report of any such proceedings; or
- (d) for the purpose of an inquiry held under Part IV or an investigation made under Part VI.

Penalty : \$1,000.

Evidence.

78. (1) Where in any proceedings (whether for an offence against this Act or otherwise) it is proved that on a certain day or during any period a person was the holder of a licence in respect of any class of repair work, a tradesman's certificate in respect of any class of repair work or a loss assessor's certificate, it shall be presumed, in the absence of proof to the contrary, that the person was carrying on business as a repairer in respect of that class of repair work, was doing repair work of that class or was doing loss assessor's work, as the case may be, on that day or during that period, as the case may be.

(2) A certificate purporting to be under the hand of a prescribed officer certifying that a person was or was not, on a date specified in the certificate, a holder of a licence in respect of any class of repair work so specified, a tradesman's certificate in respect of any class of repair work so specified or a loss assessor's certificate, as the case may be, is admissible in evidence in any proceedings and is prima facie evidence of the matters stated therein.

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79. (1) In any legal proceedings by or against the Council or the Disputes Committee no proof shall be required (until evidence is given to the contrary) of—

Proof of certain matters not required.

- (a) the due constitution of the Council or that Committee;
- (b) any resolution or determination of the Council or that Committee;
- (c) the appointment of any member of the Council or that Committee; or
- (d) the presence of a quorum at any meeting at which any determination is made or any act is done by the Council or that Committee.

(2) Subsection (1) does not affect section 55 (4).

80. (1) Where by or under this Act a notice or other document is required to be, or may be, given or served, that notice or other document may be given to or served on—

Service of notice, etc.

- (a) an individual—
 - (i) by delivering it to him personally;
 - (ii) by leaving it at his place of residence last known to the Council with someone who apparently resides there or at his place of business or employment last known to the Council with someone who is apparently employed there, being in either case a person who has or who apparently has attained the age of 16 years; or
 - (iii) by posting it by certified mail in an envelope duly stamped and addressed to him at the place of his residence, business or employment last known to the Council; or
- (b) a corporation—
 - (i) by delivering it to a person who is or who is apparently concerned in the management of the corporation;

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- (ii) by leaving it at the only or principal place of business, or the registered office, of the corporation with a person apparently employed there, being a person who has or who apparently has attained the age of 16 years; or
- (iii) by posting it by certified mail in an envelope duly stamped and addressed to the corporation at the only or principal place of business of the corporation last known to the Council.

(2) A notice or document that is delivered, left or posted in accordance with subsection (1) shall be deemed to have been given or served on its being so delivered or left or, if it is posted, shall, in the absence of evidence to the contrary, be prima facie deemed to have been given or served when it would have been delivered in the ordinary course of post.

Service of
notice,
etc., on
the Council.

81. (1) A notice, summons, writ or other proceeding required to be served on the Council may be served—

- (a) by being left with some person apparently employed in the administration of this Act at the office of the Council;
or
- (b) in the case of a notice, by posting it by certified mail in an envelope duly stamped and addressed to the Council at its office.

(2) Any document referred to in subsection (1) shall—

- (a) be deemed to have been served upon its being so left;
or
- (b) in the case of a notice served by so posting it, be prima facie deemed to have been served when it would have been delivered in the ordinary course of post.

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82. (1) Every document (including deeds and contracts) shall be deemed to be duly executed by the Council—

Execution
of
documents.

- (a) if sealed with the seal of the Council in accordance with section 38 (II) of the Interpretation Act, 1897; or
- (b) if executed by any 2 members of the Council, or by 1 member of the Council and an officer of the Council, who have been appointed for that purpose.

(2) A document executed in accordance with subsection (1) shall, subject to any exception which may be taken to it on any ground other than the competence of the executing party, be effective to bind the Council and its successors, and may be varied or discharged in the same manner as provided for the execution of documents under subsection (1).

83. (1) Every summons, process, demand, order, notice, statement or other document requiring authentication by the Council may be sufficiently authenticated without the seal of the Council if signed by the Chairman.

Authentica-
tion of
documents.

(2) Every summons, process, demand, order, notice, statement or other document requiring authentication by the Disputes Committee may be sufficiently authenticated if signed by the Chairman.

84. (1) No matter or thing done, and no contract entered into, by the Council, and no matter or thing done by a member or any other person acting under the direction, or as a delegate, of the Council shall, if the matter or thing was done, or the contract was entered into, in good faith for the purposes of executing this Act or the regulations, subject a member or other person personally to any action, liability, claim or demand.

Protection
from
liability.

(2) No matter or thing done by the Disputes Committee or by a member of the Disputes Committee or any other person acting under the direction of the Disputes Committee shall, if the matter or thing was done in good faith for the purposes of executing

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this Act or the regulations, subject a member of the Disputes Committee or other person personally to any action, liability, claim or demand.

(3) Nothing in subsection (1) shall exempt a member or other person from liability to be surcharged with the amount of any payment which is disallowed by the Auditor-General in the accounts of, or relating to, the Council and which the member or other person authorised or joined in authorising.

Recovery of charges. **85.** (1) Any charge, fee, remuneration or money due to the Council under the provisions of this Act or the regulations may be recovered by the Council as a debt in a court of competent jurisdiction.

(2) Proceedings for the recovery of any charge, fee, remuneration or money so due to the Council shall be deemed to be for the recovery of a debt or liquidated demand.

Annual report. **86.** (1) The Council shall, as soon as practicable after the 30th day of June, but not later than the 31st day of December, in each year forward to the Minister a report of its work and activities for the year ended that 30th day of June then last past.

(2) The Minister shall lay that report, or cause it to be laid, before both Houses of Parliament as soon as practicable after the receipt by him of that report.

Proceedings. **87.** (1) Proceedings for an offence against this Act or the regulations may—

(a) be taken and prosecuted by any person acting with the authority of the Minister or a prescribed officer; and

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(b) be disposed of summarily before an industrial magistrate or before a court of petty sessions constituted by a stipendiary magistrate sitting alone.

(2) In a prosecution for any offence against this Act or the regulations, an authority to prosecute, purporting to have been signed by the Minister or a prescribed officer, shall be evidence of such authority without proof of the signature of the Minister or the prescribed officer, as the case may be.

(3) The provisions of the Industrial Arbitration Act, 1940, and the regulations made under that Act, relating to proceedings before an industrial magistrate and to appeals from an industrial magistrate to the Industrial Commission of New South Wales apply to proceedings before an industrial magistrate for offences against this Act or the regulations as if the proceedings under this Act were proceedings under that Act.

(4) In proceedings for an offence against this Act or the regulations the informant may conduct his case himself, or by a barrister or solicitor, by an agent authorised by him in writing, or by a public servant or an inspector.

(5) Any proceedings for an offence against this Act or the regulations shall be commenced by information laid at any time within 1 year after the time when the offence is alleged to have been committed.

88. (1) Where a corporation contravenes, whether by act or omission, any provision of this Act or the regulations, each director of the corporation, and each officer concerned with the management of the corporation, shall be deemed to have contravened the same provision unless he satisfies the court that—

(a) the corporation contravened the provision without his knowledge;

(b) he was not in a position to influence the conduct of the corporation in relation to its contravention of the provision; or

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(c) he, being in such a position, used all due diligence to prevent the contravention of the provision by the corporation.

(2) A person may be proceeded against and convicted under a provision pursuant to subsection (1) whether or not the corporation has been proceeded against or been convicted under that provision.

(3) Nothing in subsection (1) prejudices or affects any liability imposed by a provision of this Act or the regulations on any corporation by which an offence against that provision is actually committed.

Regulations.

89. (1) The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act and, in particular, for or with respect to—

- (a) applications for licences and certificates;
- (b) advertising by repairers;
- (c) the records to be kept by repairers;
- (d) the display of signs by repairers;
- (e) the powers of inspectors;
- (f) inquiries held for the purposes of Part IV, investigations made under Part VI and the hearing of appeals under Part V;
- (g) the charging and payment of a fee for any inspection made or information supplied by the Council;
- (h) the furnishing by the holders of licences of any information (including particulars of any persons apprenticed to them or to any of their employees);
- (i) the display of licences and certificates;

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- (j) the conduct of examinations for the purposes of this Act;
 - (k) the manner of doing any repair work (including the techniques and materials to be used); and
 - (l) regulating the conduct of any person who is required to hold a licence, or his servants or agents, in carrying on the business to which the licence relates.
- (2) A provision of a regulation may—
- (a) apply generally or be limited in its application by reference to specified exceptions or factors;
 - (b) apply differently according to different factors of a specified kind; or
 - (c) authorise any matter or thing to be from time to time determined, applied or regulated by any specified person, body or committee,

or may do any combination of those things.

(3) Without affecting the generality of subsection (1) or (2), the regulations may prescribe different fees in respect of licences or tradesmen's certificates which are granted in respect of different classes of repair work.

(4) The regulations may impose a penalty not exceeding \$500 for an offence against the regulations.

SCHEDULE 1.

Sec. 9 (1).

PROVISIONS RELATING TO THE CONSTITUTION AND MEMBERSHIP OF
THE COUNCIL.

1. A person who is of or above the age of 65 years shall not be appointed as a member. Age of member.

*Motor Vehicle Repairs.*SCHEDULE 1—*continued.*PROVISIONS RELATING TO THE CONSTITUTION AND MEMBERSHIP OF
THE COUNCIL—*continued.*

- Public Service Act, 1979, not to apply to member. 2. The provisions of the Public Service Act, 1979, do not apply to or in respect of the appointment by the Governor of a member and a member is not, in his capacity as a member, subject to the provisions of that Act during his term of office.
- Term of office. 3. A member shall, subject to this Act, be appointed for such term, not exceeding 7 years, as is specified in the instrument of his appointment and shall, if otherwise qualified, be eligible for reappointment as a member.
- Office of member not to be office of profit under Crown. 4. The office of a member, other than the Chairman, shall, for the purposes of any Act, be deemed not to be an office or place of profit under the Crown.
- Chairman to be full-time member. 5. The Chairman shall devote the whole of his time to the duties of his office.
- Member (other than Chairman) holding other office. 6. Where by or under any Act provision is made requiring the holder of an office specified therein to devote the whole of his time to the duties of his office, or prohibiting him from engaging in employment outside the duties of his office, that provision shall not operate to disqualify him from holding that office and also the office of a member, other than the Chairman, or from accepting and retaining any remuneration (including travelling and subsistence allowances) paid to him under clause 8.
- Remuneration, etc., of Chairman. 7. The Chairman is entitled to be paid—
(a) remuneration in accordance with the Statutory and Other Offices Remuneration Act, 1975; and
(b) such travelling and subsistence allowances as the Minister may from time to time determine in respect of him.
- Remuneration, etc., of member (other than Chairman). 8. Each member (other than the Chairman) is entitled to be paid out of the General Fund such remuneration (including travelling and subsistence allowances) for attending meetings and transacting the business of the Council as the Minister may from time to time determine in respect of him.
- Removal from office. 9. The Governor may remove a member from office for any cause which to him seems sufficient.

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SCHEDULE 1—*continued.*PROVISIONS RELATING TO THE CONSTITUTION AND MEMBERSHIP OF
THE COUNCIL—*continued.*

10. A member shall be deemed to have vacated his office— Vacation
of office.
- (a) if he dies;
 - (b) if he resigns his office by writing under his hand addressed to the Minister and the Minister accepts his resignation;
 - (c) if he becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration, allowances or estate for their benefit;
 - (d) if he becomes a temporary patient, a continued treatment patient, a protected person or an incapable person within the meaning of the Mental Health Act, 1958, or a person under detention under Part VII of that Act;
 - (e) if he is convicted in New South Wales of a crime or offence which is punishable by imprisonment for 12 months or upwards or if he is convicted elsewhere than in New South Wales of a crime or offence which, if committed in New South Wales, would be a crime or offence so punishable;
 - (f) if, being a member other than the Chairman, he is absent from 3 consecutive meetings of the Council of which reasonable notice has been given to him, unless on leave granted to him by the Council or unless, before the expiration of 4 weeks after the last of those meetings, he is excused by the Council for his absence from those meetings;
 - (g) if he is removed from office by the Governor;
 - (h) if he ceases to reside in New South Wales;
 - (i) upon his attaining the age of 65 years;
 - (j) if, being the Chairman, he engages during his term of office in any paid employment outside the duties of his office; or
 - (k) if, being the Chairman, he absents himself from duty for a period exceeding 14 consecutive days except on leave granted by the Minister, unless his absence is caused by illness or other unavoidable cause.

11. (1) The Minister may at any time appoint as an alternate member Alternate
members. a person who is nominated in the same manner, if any, as the person for whom he is the alternate member.

*Motor Vehicle Repairs.*SCHEDULE 1—*continued.*PROVISIONS RELATING TO THE CONSTITUTION AND MEMBERSHIP OF
THE COUNCIL—*continued.*

(2) An alternate member shall have and may exercise, while acting as a member, the functions, as such a member, of the person for whom he is the alternate member.

(3) An alternate member for the Chairman shall have and may exercise, while acting as the Chairman, the functions of the Chairman.

(4) A member is, for the purposes of subclause (1) of this clause, deemed to be absent from his office if there is a vacancy in that office which has not been filled.

(5) No person shall be concerned to inquire whether or not any occasion has arisen requiring or authorising a person to act in the office of a member or the Chairman, and all things done or omitted to be done by that person while so acting shall be as valid and effectual and shall have the same consequence as if they had been done or omitted to be done by that member or the Chairman, as the case may be.

Preserva-
tion of
rights of
Chairman.

12. (1) In this clause—

“statutory body” means any body declared under clause 14 to be a statutory body for the purposes of this Schedule;

“superannuation scheme” means a scheme, fund or arrangement under which any superannuation or retirement benefits are provided and which is established by or under any Act.

(2) Subject to subclause (3) of this clause and to the terms of his appointment, where the Chairman was, immediately before his appointment as Chairman—

- (a) an officer of the Public Service;
- (b) an officer of the Teaching Service within the meaning of the Teaching Service Act, 1970;
- (c) a contributor to a superannuation scheme;
- (d) an officer employed by a statutory body; or
- (e) a person in respect of whom provision was made by any Act that he retain any rights accrued or accruing to him as an officer or employee,

he—

- (f) shall retain any rights accrued or accruing to him as such an officer, contributor or person;

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SCHEDULE 1—*continued.*

PROVISIONS RELATING TO THE CONSTITUTION AND MEMBERSHIP OF
THE COUNCIL—*continued.*

- (g) may continue to contribute to any superannuation scheme to which he was a contributor immediately before his appointment as Chairman; and
- (h) shall be entitled to receive any deferred or extended leave and any payment, pension or gratuity,
as if he had continued to be such an officer, contributor or person during his service as Chairman, and—
 - (i) his service as Chairman shall be deemed to be service as an officer or employee for the purpose of any law under which those rights accrued or were accruing, under which he continues to contribute or by which that entitlement is conferred; and
 - (j) he shall be deemed to be an officer or employee for the purpose of the superannuation scheme to which he is entitled to contribute under this clause.

(3) If the Chairman would, but for this subclause, be entitled under subclause (2) of this clause to contribute to a superannuation scheme or to receive any payment, pension or gratuity under that scheme he shall not be so entitled upon his becoming (whether upon his appointment as Chairman or at any later time while he holds office as Chairman) a contributor to any other superannuation scheme, and the provisions of subclause (2) (j) of this clause cease to apply to or in respect of him in any case where he becomes a contributor to such another superannuation scheme.

(4) Subclause (3) of this clause does not prevent the payment to the Chairman upon his ceasing to be a contributor to a superannuation scheme of such amount as would have been payable to him if he had ceased, by reason of his resignation, to be an officer or employee for the purposes of that scheme.

(5) The Chairman shall not, in respect of the same period of service, be entitled to claim a benefit under this Act and another Act.

13. (1) In this clause—

“retiring age” means—

- (a) in relation to a person who was immediately before his appointment as Chairman, an officer of the Public Service or an officer of the Teaching Service within the meaning of the Teaching Service Act, 1970—the age of 60 years; and

Chairman entitled to reappointment in former employment in certain cases.

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SCHEDULE 1—*continued.*
 PROVISIONS RELATING TO THE CONSTITUTION AND MEMBERSHIP OF
 THE COUNCIL—*continued.*

- (b) in relation to a person who was, immediately before his appointment as Chairman, an officer or employee of a statutory body—the age at which officers or employees (being officers or employees of the class to which that person belonged immediately before his appointment as Chairman), as the case may be, of that statutory body are entitled to retire;

“statutory body” means any body declared under clause 14 to be a statutory body for the purposes of this Schedule.

(2) A person who ceases to be Chairman otherwise than pursuant to clause 10 (paragraph (b) excepted), shall, if he has not attained the retiring age, be entitled to be appointed, where, immediately before his appointment as Chairman, he was—

- (a) an officer of the Public Service—to some office in the Public Service;
- (b) an officer of the Teaching Service—to some office in the Teaching Service; or
- (c) an officer or employee of a statutory body—to some office in the service of that body,

not lower in classification and salary than that which he held immediately before his appointment as Chairman.

**Declaration
 of statutory
 bodies.**

14. The Governor may, by proclamation published in the Gazette, declare any body constituted by or under any Act to be a statutory body for the purposes of this Schedule.

Motor Vehicle Repairs.

SCHEDULE 2.

Sec. 9 (2).

PROVISIONS RELATING TO MEETINGS OF THE COUNCIL.

1. The number of members which constitutes a quorum at any meeting Quorum.
of the Council is 5.

2. A duly convened meeting of the Council at which a quorum is present Meetings.
shall be competent to transact any business of the Council.

3. Questions arising at a meeting of the Council shall be determined by a Determination
majority of votes of the members present and voting. of questions.

4. A decision of a majority of the members present and voting at a Decisions.
meeting of the Council shall be the decision of the Council.

5. At a meeting of the Council— Presiding
at meeting.
 - (a) the Chairman;
 - (b) in the absence of the Chairman, where there is an alternate
member for the Chairman, that alternate member; or
 - (c) in the absence of the Chairman and, where there is an alternate
member for the Chairman, in the absence of that alternate mem-
ber, a member elected by the members present at the meeting
from their number,shall preside.

6. The person presiding at a meeting of the Council has a deliberative Votes.
vote and, in the event of an equality of votes, also has a casting vote.

7. (1) The procedure for the calling of, and for the conduct of business General
at, meetings of the Council shall, subject to any procedure that is specified procedure.
in this Act or prescribed, be as determined by the Council.

(2) The first meeting of the Council shall be called in such manner
as the Minister directs.

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SCHEDULE 2—*continued.*PROVISIONS RELATING TO MEETINGS OF THE COUNCIL—*continued.*

Minutes. 8. The Council shall cause full and accurate minutes to be kept of its proceedings at meetings and shall submit to the Minister a copy of the minutes of each meeting within 14 days after the day on which it was held.

Transaction of business outside meetings. 9. (1) Except in relation to its functions under Part IV, the Council may, if it thinks fit, transact any of its business by the circulation of papers, and a resolution in writing approved in writing by a majority of the members of the Council shall be as valid and effectual as if it had been passed at a meeting of the Council by the votes of the members approving the resolution.

(2) Where there is an equality of votes in respect of any business transacted under subclause (1) of this clause, the Chairman shall have a casting vote as well as a deliberative vote.

Sec. 13 (4).

SCHEDULE 3.

PROVISIONS RELATING TO THE CONSTITUTION AND MEMBERSHIP OF
THE DISPUTES COMMITTEE.

- Membership. 1. (1) The Disputes Committee shall consist of 5 persons, of whom—
- (a) 1 shall be the Chairman of the Council who shall be chairman of the Disputes Committee;
 - (b) 1 shall be a person appointed by the Minister on the nomination of the Minister for Consumer Affairs;
 - (c) 1 shall be a person appointed by the Minister from a panel of 3 persons nominated by the Council of the National Roads and Motorists' Association;
 - (d) 1 shall be a person appointed by the Minister from a panel of 3 persons—
 - (i) 1 of whom is nominated by the Council of the Motor Traders' Association of New South Wales;

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SCHEDULE 3—*continued.*

PROVISIONS RELATING TO THE CONSTITUTION AND MEMBERSHIP OF
THE DISPUTES COMMITTEE—*continued.*

- (ii) 1 of whom is nominated by the General Council of the Service Station Association of New South Wales; and
 - (iii) 1 of whom is nominated by the National Executive of the Metal Trades Industry Association of Australia; and
- (e) 1 shall be a person appointed by the Minister from a panel of 3 persons—
- (i) 1 of whom is nominated by the State Council of the New South Wales Branch of the Vehicle Builders' Employees Federation of Australia;
 - (ii) 1 of whom is nominated by the State Executive of the Australasian Society of Engineers; and
 - (iii) 1 of whom is nominated by the State Council of The Amalgamated Metal Workers' and Shipwrights' Union.
- (2) A person may be appointed as a member of the Disputes Committee notwithstanding that he is also a member of the Council.
- (3) Where, pursuant to subclause (1) (c), (d) or (e) of this clause, any nomination of a person for the purpose of the constitution of a panel is not made within the time or in the manner specified by the Minister in a written notice given to the body entitled to make the nomination, the Minister may appoint a person to be a member of the Disputes Committee instead of the person required to be appointed from that panel and the person so appointed shall be deemed to have been duly nominated.
- (4) Where a body referred to in any provision of subclause (1) (c), (d) or (e) of this clause changes its name and the Minister is satisfied that the change of name is not accompanied by any change in the nature of the body, he may, by order published in the Gazette, so certify and, subject to subclause (5) of this clause, as from the date of that publication, the reference in the provision shall be deemed to be a reference to the body under that changed name.
- (5) The power of the Minister under subclause (4) of this clause may be exercised in relation to a body under a changed name as if that body, under that changed name, were referred to in subclause (1) of this clause.

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SCHEDULE 3—*continued.*PROVISIONS RELATING TO THE CONSTITUTION AND MEMBERSHIP OF
THE DISPUTES COMMITTEE—*continued.*

- Attendance by experts. 2. (1) The Chairman shall have power to co-opt or invite persons to participate in the proceedings and deliberations of the Disputes Committee.
- (2) The Chairman shall not co-opt or invite a person under subclause (1) of this clause unless the person is on a panel of persons nominated for the purposes of this clause by the Minister for their expertise in technical matters in the field of motor vehicle repairs.
- (3) At any meeting which a person co-opted or invited under subclause (1) of this clause attends, he is deemed to be a member of the Disputes Committee.
- Term of office. 3. A member of the Disputes Committee (other than the Chairman) shall, subject to clause 6, be appointed for a term of 3 years, and shall, if otherwise qualified, be eligible for reappointment as a member of the Disputes Committee.
- Remuneration. 4. Each member of the Disputes Committee (other than the Chairman) is entitled to be paid out of the General Fund such remuneration (including travelling and subsistence allowances) for attending meetings and transacting the business of that Committee as the Minister may from time to time determine in respect of him.
- Removal from office. 5. The Minister may remove a member of the Disputes Committee (other than the Chairman) from office for any cause which to him seems sufficient.
- Vacation of office. 6. A member of the Disputes Committee (other than the Chairman) shall be deemed to have vacated his office—
- (a) if he dies;
 - (b) if he resigns his office by writing under his hand addressed to the Minister and the Minister accepts his resignation;
 - (c) if he becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration, allowances or estates for their benefit;

Motor Vehicle Repairs.

SCHEDULE 3—*continued.*

PROVISIONS RELATING TO THE CONSTITUTION AND MEMBERSHIP OF
THE DISPUTES COMMITTEE—*continued.*

- (d) if he becomes a temporary patient, a continued treatment patient, a protected person or an incapable person within the meaning of the Mental Health Act, 1958, or a person under detention under Part VII of that Act;
- (e) if he is convicted in New South Wales of a crime or offence which is punishable by imprisonment for 12 months or upwards or if he is convicted elsewhere than in New South Wales of a crime or offence which, if committed in New South Wales, would be a crime or offence so punishable;
- (f) if he is removed from office by the Minister; or
- (g) if he ceases to reside in New South Wales.

SCHEDULE 4.

Sec. 13 (5).

PROVISIONS RELATING TO MEETINGS OF THE DISPUTES COMMITTEE.

1. The number of persons which constitutes a quorum at any meeting of the Disputes Committee is 2, of whom 1 shall be the Chairman of the Council or, if he is absent, the alternate member for the Chairman appointed under clause 11 of Schedule 1. Quorum.

2. A duly convened meeting of the Disputes Committee at which a quorum is present shall be competent to transact any business of that Committee. Meetings.

3. Questions arising at a meeting of the Disputes Committee shall be determined by a majority of votes of the members of that Committee who are present and voting. Determination of questions.

4. A decision of a majority of the members of the Disputes Committee present and voting at a meeting of that Committee shall be the decision of that Committee. Decisions.

Motor Vehicle Repairs.

SCHEDULE 4—*continued.*PROVISIONS RELATING TO MEETINGS OF THE
DISPUTES COMMITTEE—*continued.*

- Presiding at meeting. 5. At a meeting of the Disputes Committee the Chairman of the Council or, if he is absent, the alternate member for the Chairman appointed under clause 11 of Schedule 1 shall preside.
- Votes. 6. The person presiding at a meeting of the Disputes Committee has a deliberative vote and, in the event of an equality of votes, also has a casting vote.
- General procedure. 7. Subject to Part VI, the procedure of the Disputes Committee for the transaction of any of its business shall be—
- (a) as directed by the Council; and
 - (b) subject to any directions of the Council under paragraph (a), as determined by the Disputes Committee itself.

In the name and on behalf of Her Majesty I assent to this Act.

A. R. CUTLER,
Governor.

*Government House,
Sydney, 29th April, 1980.*



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