

FIRST PRINT

STATE TRANSPORT (CO-ORDINATION) AMENDMENT BILL 1986

NEW SOUTH WALES



EXPLANATORY NOTE

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

The Transport (Amendment) Bill 1986 and the Transfer of Public Vehicles (Taxation) Amendment Bill 1986 are cognate with this Bill.

The object of this Bill is to amend the State Transport (Co-ordination) Act 1931 for the purposes of—

- (a) providing for the fees for new licenses granted for certain public motor vehicles, other than motor omnibuses, to be fixed at amounts equivalent to the current market value of those licenses;
- (b) enabling the Commissioner for Motor Transport to impose certain additional conditions in respect of licenses for public motor vehicles;
- (c) enabling the holders of licenses for taxi-cabs to use non-licensed motor vehicles in substitution for those taxi-cabs in certain circumstances subject to compliance with certain specified requirements;
- (d) enabling the holder of a motor omnibus license to engage a licensed taxi-cab operator to operate under certain conditions the route or service to which the omnibus license relates;
- (e) regulating the operation of taxi-service radio communication networks; and
- (f) conferring on the Governor further powers to make regulations with respect to the operation of taxi-cabs.

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides that the proposed Act will, with the exception of Schedule 1 (2) and other minor provisions, commence on a day to be appointed by the Governor-in-Council.

Clause 3 is a formal provision which gives effect to the Schedule of amendments to the State Transport (Co-ordination) Act 1931 ("the Principal Act").

Schedule 1 (1) amends section 12 of the Principal Act, which prohibits public motor vehicles from being operated in certain cases unless they are licensed under that Act. The amendment permits another motor vehicle to be substituted for a licensed taxi-cab provided that it meets certain specified requirements, such as the display of the number-plates allocated to the licensed taxi-cab.

Schedule 1 (2) amends section 14 of the Principal Act, which deals with applications for, and the issue of, licenses under that Act. The amendment enables a license fee to be imposed for the issue of a license for a public motor vehicle, other than a motor omnibus. In future such a license will, in most cases, be granted by offering it at a public auction or submitting it to public tender or by such other means as will, in the opinion of the Commissioner for Motor Transport, secure the payment for the license of a license fee equivalent to its current market value.

Schedule 1 (3) amends section 17 of the Principal Act, which provides for licenses granted under that Act to be subject to terms and conditions prescribed by regulations or determined by the Commissioner for Motor Transport. Under the amendment, it will be possible to prescribe terms and conditions relating to the use of another motor vehicle in substitution for a licensed taxi-cab, to the use of a taxi-cab to carry on a motor omnibus service or operate on a route in accordance with a contract or an agreement entered into under section 134A of the Transport Act 1930 or proposed section 17B (Schedule 1 (4)), and to the driving of a taxi-cab by persons other than the licensee.

Schedule 1 (4) inserts proposed sections 17B-17D into the Principal Act.

Proposed section 17B will enable the holder of a motor omnibus license to enter into a contract or an arrangement with the holder of a taxi-cab license for the taxi-cab to operate on the route to which the motor omnibus license relates on specified days and at specified times. It is contemplated that the taxi-cab would be used at times when it would be uneconomic for the relevant motor omnibus to operate on the route. Such a contract or arrangement will not have effect unless approved by the Commissioner for Motor Transport. The Commissioner will be able to impose conditions as a condition precedent to giving an approval to such a contract or an arrangement and will be empowered in certain circumstances to revoke such an approval.

Proposed section 17C provides that a taxi-cab will not, for the purposes of prescribed provisions of the Principal Act, the Transport Act 1930 and regulations in force under those Acts, be regarded as such when being used to operate on a licensed motor omnibus route.

Proposed section 17D provides that, where a contract or an arrangement entered into under proposed section 17B is approved by the Commissioner for Motor Transport, the motor omnibus license concerned is deemed to be modified to the extent that it is inconsistent with the contract or arrangement or any condition approved by the Commissioner.

Schedule 1 (5) amends section 21 of the Principal Act, which empowers the Commissioner for Motor Transport to cancel a public motor vehicle license in specified circumstances. The ambit of subsection (1) of that section is being extended so as to enable such a license to be cancelled for a contravention of, or a failure to comply with, a provision of the Transport Act 1930 or of regulations under that Act. The revision of subsection (2) of that section is consequential on the rewriting of subsection (1).

Schedule 1 (6) inserts in the Principal Act proposed sections 22A and 22B.

Proposed section 22A authorises the holder of a license granted in respect of a taxi-cab a right to operate in certain circumstances another motor vehicle in place of the taxi-cab. When being used in place of a taxi-cab, it will be necessary for the other motor vehicle to display both its own registration plates and the license plates allocated to the taxi-cab.

Proposed section 22B will prohibit the operation of a taxi-service radio communication network unless there is in force in respect of the network an authority granted under the proposed section. Such an authority will be subject to conditions and restrictions prescribed by regulation or by the Commissioner for Motor Transport. The Commissioner will be empowered to revoke such an authority or to suspend its operation in certain circumstances. A contravention of the section or a contravention or failure to comply with a condition or restriction to which such an authority is subject will be an offence against the Principal Act. There will be a right of appeal to a Local Court against a refusal to grant such an authority, the imposition or variation of a condition or restriction imposed in respect of such an authority and the revocation or suspension of such an authority.

Schedule 1 (7) amends section 38 of the Principal Act, which provides for the recovery and appropriation of penalties, by making it clear that offences under the Principal Act or regulations made under that Act are to be dealt with summarily by a Local Court consisting of a single magistrate.

Schedule 1 (8) inserts into the Principal Act proposed section 39A which will require amounts paid or recovered as license fees to be paid into the Road Transport and Traffic Fund established under the Transport Act 1930.

Schedule 1 (9) amends section 44 of the Principal Act, which provides for certain allegations in the relevant information, complaint or claim to be treated as prima facie evidence in certain court proceedings. The amendment extends the operation of the section to allegations relating to an authority to operate a taxi-service radio communication network.

Schedule 1 (10) amends section 48 of the Principal Act, which empowers regulations to be made for the purposes of the Principal Act, so as to enable regulations to be made with respect to requirements for taxi-service radio communication networks that will be authorised under proposed section 22B of the Principal Act. The amendment will also enable further regulations to be made with respect to the operation of taxi-cabs, the conduct and duties of drivers of taxi-cabs and other matters relating to taxi services.

STATE TRANSPORT (CO-ORDINATION) AMENDMENT BILL 1986

NEW SOUTH WALES



TABLE OF PROVISIONS

1. Short title
2. Commencement
3. Amendment of Act No. 32, 1931

SCHEDULE 1—AMENDMENTS TO THE STATE TRANSPORT (CO-
ORDINATION) ACT 1931

STATE TRANSPORT (CO-ORDINATION) AMENDMENT BILL 1986

NEW SOUTH WALES



No. , 1986

A BILL FOR

An Act to amend the State Transport (Co-ordination) Act 1931 for the purposes of making further provision with respect to the licensing of certain classes of public motor vehicles, of providing for the substitution, in certain circumstances, of certain kinds of motor vehicles for licensed taxi-cabs, and of regulating the operation of taxi-service radio communication networks, and for other purposes.

See also Transport (Amendment) Bill 1986; Transfer of Public Vehicles (Taxation) Amendment Bill 1986.

State Transport (Co-ordination) Amendment 1986

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 **Short title**

1. This Act may be cited as the "State Transport (Co-ordination) Amendment Act 1986".

Commencement

10 2. (1) Sections 1 and 2, and Schedule 1 (2) and section 3 in its application to that provision, shall commence on the date of assent to this Act.

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

15 **Amendment of Act No. 32, 1931**

3. The State Transport (Co-ordination) Act 1931 is amended in the manner set forth in Schedule 1.

SCHEDULE 1

(Sec. 3)

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AMENDMENTS TO THE STATE TRANSPORT
(CO-ORDINATION) ACT 1931

(1) Section 12 (**Public motor vehicle not to be operated in certain cases unless vehicle licensed**)—

(a) Section 12 (1), (1A)—

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Omit section 12 (1), insert instead:

(1) Subject to subsection (1A), any person who operates a public motor vehicle otherwise than in the course of interstate trade is guilty of an offence against this Act, unless the person is the holder of a license issued in respect of the vehicle.

SCHEDULE 1—*continued*AMENDMENTS TO THE STATE TRANSPORT (CO-ORDINATION)
ACT 1931—*continued*

(1A) Subsection (1) does not apply to—

(a) the operation of a public motor vehicle in accordance with an exemption granted under section 19 or a permit issued under section 22; or

5 (b) the operation of a motor vehicle in place of a taxi-cab in accordance with section 22A.

(b) Section 12 (2)—
Before “In any prosecution”, insert “(3)”.

(2) Section 14 (**Licenses**)—

10 (a) Section 14 (3)—
After “determined”, insert “application”.

(b) Section 14 (4)—
After “determined”, insert “renewal”.

(c) Section 14 (5)–(7)—

15 After section 14 (4), insert:

(5) In addition to the determined application fee referred to in subsection (3), a license fee is payable whenever a license is first granted in respect of a public motor vehicle, other than a motor omnibus.

20 (6) Subject to subsection (7), the amount of the license fee referred to in subsection (5) shall be determined by inviting the applicants for the license to bid for it at a public auction or to submit sealed tenders for it or by using such other method chosen by the Commissioner as will, in the Commissioner’s opinion, yield
25 as the fee for the license an amount equivalent to its current value on the open market.

(7) With the approval of the Minister, the Commissioner may fix a license fee at less than the current value of the license on the open market or may decide not to impose any license fee for the
30 license.

State Transport (Co-ordination) Amendment 1986

SCHEDULE 1—*continued*

AMENDMENTS TO THE STATE TRANSPORT (CO-ORDINATION)
ACT 1931—*continued*

(3) Section 17 (**Certain conditions of license**)—

Section 17 (2) (c)—

After section 17 (2) (b), insert:

(c) where the public motor vehicle is a taxi-cab—

- 5 (i) the use in accordance with section 22A of another motor vehicle in substitution for the taxi-cab;
- 10 (ii) the use of the taxi-cab, in accordance with the terms and conditions of a contract or an arrangement entered into under, and approved by the Commissioner in accordance with, section 134A of the Transport Act 1930 or section 17B of this Act, to carry on a motor omnibus service or to operate on a route ordinarily operated by a motor omnibus; or
- 15 (iii) the hours during which the taxi-cab is permitted to operate as a public motor vehicle; and
- (d) where the public motor vehicle is a taxi-cab or private hire car, the driving of the vehicle by persons other than the holder of the license.

(4) Sections 17B–17D—

20 After section 17A, insert:

Right of holder of a motor omnibus license to enter into certain contracts or arrangements with respect to the operation of a motor omnibus service

25 17B. (1) The holder of a motor omnibus license may enter into a contract or an arrangement with the holder of a taxi-cab license for the operation of the taxi-cab on the route to which the motor omnibus license relates.

30 (2) The terms of a contract or an arrangement entered into under subsection (1) may be varied by the parties to the contract or arrangement.

State Transport (Co-ordination) Amendment 1986

SCHEDULE 1—*continued*

AMENDMENTS TO THE STATE TRANSPORT (CO-ORDINATION)
ACT 1931—*continued*

(3) A contract or an arrangement entered into under subsection (1), or a variation of the terms of such a contract or an arrangement in accordance with subsection (2), does not have effect unless and until it is approved by the Commissioner.

5 (4) The Commissioner must not approve a contract or an arrangement entered into under subsection (1) if the prescribed circumstances do not exist and may refuse to approve such a contract or an arrangement if it does not—

10 (a) specify the days on which, and the times at which, the taxi-cab is scheduled to operate on the route to which the motor omnibus license relates;

 (b) prescribe the means by which the taxi-cab is, when operating on that route, required to be identified as the vehicle so operating;

15 (c) specify the stops at which passengers may board or alight from the taxi-cab when so operating;

 (d) prescribe, as the fares that the driver of the taxi-cab is permitted to charge passengers, the same fares as those that the holder of the motor omnibus license is permitted to charge when operating the omnibus; or

20 (e) provide, with respect to the operation of the taxi-cab on the route, for such other matters (if any) as are prescribed.

 (5) The Commissioner may impose conditions on the parties to a contract or an arrangement entered into under subsection (1), or a variation of the terms of such a contract or arrangement in accordance with subsection (2), as a condition precedent to the giving of an approval under this section to the contract, arrangement or variation.

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State Transport (Co-ordination) Amendment 1986

SCHEDULE 1—*continued*

AMENDMENTS TO THE STATE TRANSPORT (CO-ORDINATION)
ACT 1931—*continued*

5 (6) The Commissioner may from time to time impose additional conditions on the parties to a contract or arrangement approved under this section and may, at the request of the parties to the contract or arrangement concerned or on the initiative of the Commissioner, vary or revoke a condition imposed under subsection (5) or this subsection.

10 (7) The variation of a condition, or the imposition of an additional condition, under subsection (6) does not take effect until notified in writing to the parties to the contract or arrangement concerned.

(8) The Commissioner may revoke an approval given under this section in respect of a contract or an arrangement entered into under subsection (1) if—

15 (a) the prescribed circumstances referred to in subsection (4) have ceased to exist;

(b) the Commissioner is not satisfied that—

(i) the terms of the contract or arrangement are being observed; or

20 (ii) any conditions imposed under subsection (5) or (6) on the parties to the contract or arrangement are being complied with; or

(c) any variation of the terms of the contract or arrangement has been implemented before the variation has been approved by the Commissioner.

25 (9) The Commissioner must not take action under subsection (8) in respect of a matter referred to in paragraph (b) or (c) of that subsection without providing the parties to the contract or arrangement concerned with an opportunity to be heard.

SCHEDULE 1—*continued*AMENDMENTS TO THE STATE TRANSPORT (CO-ORDINATION)
ACT 1931—*continued*

- 5 (10) While a licensed taxi-cab is operating on a route to which a motor omnibus license relates in accordance with a contract or arrangement entered into under, and for the time being approved by the Commissioner in accordance with, this section, the driver of the taxi-cab is not required to hold a motor omnibus driver's license.

Taxi-cab not to be regarded as such while operating on a motor omnibus route

- 10 17C. While a licensed taxi-cab is operating on a route to which a motor omnibus license relates in accordance with a contract or an arrangement approved by the Commissioner under section 17B, that vehicle shall, for the purposes only of a prescribed provision of this Act or the Transport Act 1930, or of the regulations in force under either of those Acts, be regarded as if it were not a
15 licensed taxi-cab.

Modification of motor omnibus license where route operated by taxi-cab in accordance with an approved contract or arrangement

- 20 17D. Where a contract or arrangement entered into under section 17B is for the time being approved by the Commissioner in accordance with that section—

- 25 (a) the motor omnibus license to which the contract or arrangement relates shall be deemed to authorise, on the days and at the times specified in the contract or arrangement, the taxi-cab specified in the contract or arrangement to operate on the route to which that license relates in place of the motor omnibus;
- 30 (b) the terms of the contract or arrangement, and any conditions imposed on the parties to the contract or arrangement in accordance with section 17B (5) or (6), shall be deemed to be terms and conditions of the license; and

State Transport (Co-ordination) Amendment 1986

SCHEDULE 1—*continued*

AMENDMENTS TO THE STATE TRANSPORT (CO-ORDINATION)
ACT 1931—*continued*

- (c) if the terms of the contract or arrangement, or the conditions so imposed, are inconsistent with the terms and conditions of the license, the license shall be deemed to be modified accordingly.

5 (5) Section 21 (**Cancellation of license**)—

Section 21 (1), (2)—

Omit the subsections, insert instead:

(1) The Commissioner may cancel a license in respect of a public motor vehicle if the holder—

10 (a) contravenes or fails to comply with a provision of this Act or the Transport Act 1930 or the regulations in force under either of those Acts; or

15 (b) contravenes or fails to comply with a term, condition or authority of or attaching to the license or of or attaching to an exemption granted by the Commissioner under section 18 (8) or (9).

20 (2) The cancellation of a license under subsection (1) is in addition to any penalty which has been or may be imposed in respect of a contravention of, or a failure to comply with, a provision referred to in paragraph (a) of that subsection.

(6) Sections 22A, 22B—

After section 22, insert:

Stand-by taxi-cabs

25 22A. (1) The holder of a license granted in respect of a taxi-cab may, in the prescribed circumstances, operate in place of that taxi-cab another motor vehicle even though no license is in force for it, but only if that other motor vehicle complies with the requirements of subsection (2).

SCHEDULE 1—*continued*AMENDMENTS TO THE STATE TRANSPORT (CO-ORDINATION)
ACT 1931—*continued*

(2) A motor vehicle that is operated in place of a licensed taxi-cab must—

- (a) display the number-plates allocated to the taxi-cab by virtue of its being so licensed;
- 5 (b) be registered under the Motor Traffic Act 1909;
- (c) in addition to the number-plates referred to in paragraph (a), display the number-plates allocated to that vehicle by virtue of its registration under the Motor Traffic Act 1909;
- 10 (d) comply, to the satisfaction of the Commissioner, with the standards prescribed for taxi-cabs;
- (e) except to the extent authorised by the Commissioner, conform to the terms and conditions imposed by the license for that taxi-cab;
- 15 (f) display a sign in accordance with the regulations identifying the vehicle as a stand-by taxi-cab; and
- (g) comply with such other requirements as are prescribed for the purposes of this subsection.

(3) While a motor vehicle which is being operated in place of a licensed taxi-cab complies with the requirements of subsection (2), that motor vehicle shall, for the purposes of this Act, be deemed to be a taxi-cab for which a license is in force.

Authority required for operation of taxi-cab radio communication network

22B. (1) In this section—

25 “taxi-service radio communication network” means a radio communication network operated from a central transmission station that enables messages to be transmitted by radio from a radio transmitter located at that station to the radio units of 2 or more taxi-cabs and from those units
30 to that transmitter.

SCHEDULE 1—*continued*AMENDMENTS TO THE STATE TRANSPORT (CO-ORDINATION)
ACT 1931—*continued*

5 (2) A person shall not operate, or participate in the operation of, a taxi-service radio communication network unless there is in force in respect of that network a written authority of the Commissioner granted under subsection (4) and, where such an authority is in force, unless the conditions and restrictions to which the authority is subject are complied with.

(3) Any person may make an application in writing to the Commissioner for an authority referred to in subsection (2).

10 (4) The Commissioner may refuse to grant an authority that is the subject of an application made under subsection (3) on the grounds that—

(a) the application does not contain sufficient information to enable the Commissioner to decide the matter;

15 (b) the radio communication network to which the application relates does not comply with the requirements (if any) prescribed in respect of taxi-service radio communication networks; or

(c) it would not in the opinion of the Commissioner be in the public interest for the authority to be granted,

20 but otherwise the Commissioner must grant the authority.

(5) If the Commissioner refuses to grant an authority that is the subject of an application made under subsection (3), the Commissioner must notify the applicant in writing of the refusal and the grounds on which it is based.

25 (6) An authority granted under subsection (4) is subject to such conditions and restrictions as are prescribed or as are imposed under subsection (7).

30 (7) In granting an authority under subsection (4), the Commissioner may impose such conditions and restrictions, not inconsistent with this Act or the regulations, as appear to the Commissioner to be necessary in the public interest.

SCHEDULE 1—*continued*AMENDMENTS TO THE STATE TRANSPORT (CO-ORDINATION)
ACT 1931—*continued*

(8) The Commissioner may from time to time, by notice in writing given to the holder of the authority concerned—

- (a) vary a condition or restriction imposed under subsection (7) or paragraph (b);
- 5 (b) impose an additional condition or restriction on that holder; or
- (c) revoke a condition or restriction imposed under subsection (7) or paragraph (b).

10 (9) If the holder of an authority granted under subsection (4) fails to comply with a condition or restriction to which the authority is subject, the Commissioner may revoke the authority or suspend its operation for a period not exceeding 12 months.

15 (10) For the purposes of subsection (2), where the operation of an authority is suspended under subsection (9), the authority shall be deemed not to have been granted under subsection (4).

(11) The Commissioner shall not—

- (a) refuse to grant an authority that is the subject of an application made under subsection (3); or
- 20 (b) revoke an authority granted under subsection (4) or suspend the operation of such an authority,

without providing the applicant or, as the case may be, the holder of the authority with an opportunity to be heard.

(12) A person who—

- (a) contravenes subsection (2); or
- 25 (b) contravenes or fails to comply with a condition or restriction to which an authority granted under subsection (4) is subject,

is guilty of an offence against this Act.

SCHEDULE 1—*continued*AMENDMENTS TO THE STATE TRANSPORT (CO-ORDINATION)
ACT 1931—*continued*

(13) Where a person—

(a) being an applicant under subsection (3), is aggrieved by the refusal of the Commissioner to grant an authority under subsection (4);

(b) being the holder of an authority granted under subsection (4), is aggrieved by the revocation, or the suspension of the operation of the authority, under subsection (9); or

(c) being such an applicant or the holder of such an authority, is aggrieved by the imposition of a condition or restriction under subsection (7) or (8) or the variation of such a condition or restriction,

that person may, within the period prescribed, lodge an appeal to a Local Court against the refusal, revocation, decision, condition or variation.

(14) A decision of the Commissioner under subsection (7), (8) (a) or (b) or (9) does not take effect—

(a) until the expiration of the period within which an appeal against the decision may be lodged under subsection (13); or

(b) where such an appeal is lodged and not withdrawn within that period—until the appeal is decided under subsection (15) or is withdrawn.

(15) The Local Court concerned shall decide the appeal on its merits according to what is reasonable in the circumstances and may confirm the decision appealed against or substitute for that decision any decision on the matter that could have been made by the Commissioner.

(16) Except on a question of law, the decision of a Local Court under subsection (15) is final and it is the duty of the Commissioner to give effect to it.

SCHEDULE 1—*continued*AMENDMENTS TO THE STATE TRANSPORT (CO-ORDINATION)
ACT 1931—*continued*(7) Section 38 (**Recovery and appropriation of penalties**)—

Section 38 (1)—

Omit the subsection, insert instead:

- 5 (1) Proceedings for an offence against this Act or the regulations shall be dealt with summarily before a Local Court constituted by a Magistrate sitting alone.

(8) Section 39A—

After section 39, insert:

10 **Certain amounts to be paid into the Road Transport and Traffic Fund**

39A. Any amount paid or recovered as a license fee for a license granted in respect of a public motor vehicle (not being a motor omnibus) shall be paid to the credit of the Road Transport and Traffic Fund established under the Transport Act 1930.

15 (9) Section 44 (**Prima facie evidence**)—

(a) Section 44 (a), (e), (f), (h), (i)—

Omit “is” wherever occurring, insert instead “was at a specified time”.

(b) Section 44 (b), (c), (d), (g)—

- 20 Omit “is not” wherever occurring, insert instead “was not at a specified time”.

(c) Section 44 (ga)–(gc)—

After section 44 (g), insert:

- 25 (ga) any person was at a specified time the holder of an authority under section 22B authorising the operation of a taxi-service radio communication network;

(gb) any person was not at a specified time the holder of such an authority;

SCHEDULE 1—*continued*AMENDMENTS TO THE STATE TRANSPORT (CO-ORDINATION)
ACT 1931—*continued*

(gc) such an authority had not at a specified time been granted in respect of a particular taxi-service radio communication network or, if it had been so granted, had at that time been revoked or had its operation suspended;

5 (10) Section 48 (**Regulations**)—

(a) Section 48 (8) (aa)—

After section 48 (8) (a), insert:

(aa) requirements as to a taxi-service radio communication network authorised under section 22B, including—

- 10 (i) the specifications for the network; and
(ii) the mode of operation for the network;

(b) Section 48 (8) (k)–(o)—

After section 48 (8) (j), insert:

- 15 (k) the operation of licensed taxi-cabs, including the terms and conditions under which they may be hired;
(l) the conduct of drivers of licensed taxi-cabs towards their passengers and other members of the public;
(m) the duties of drivers of licensed taxi-cabs;
(n) the dress to be worn by drivers of licensed taxi-cabs; and
20 (o) the conduct of passengers of licensed taxi-cabs, including provisions requiring passengers who damage or soil taxi-cabs to pay to the drivers of those taxi-cabs on demand a cleaning fee of a prescribed amount.

**STATE TRANSPORT (CO-ORDINATION) AMENDMENT
ACT 1986 No. 138**

NEW SOUTH WALES



TABLE OF PROVISIONS

1. Short title
2. Commencement
3. Amendment of Act No. 32, 1931

SCHEDULE 1—AMENDMENTS TO THE STATE TRANSPORT (CO-
ORDINATION) ACT 1931

**STATE TRANSPORT (CO-ORDINATION) AMENDMENT
ACT 1986 No. 138**

NEW SOUTH WALES



Act No. 138, 1986

An Act to amend the State Transport (Co-ordination) Act 1931 for the purposes of making further provision with respect to the licensing of certain classes of public motor vehicles, of providing for the substitution, in certain circumstances, of certain kinds of motor vehicles for licensed taxi-cabs, and of regulating the operation of taxi-service radio communication networks, and for other purposes. [Assented to, 17 December 1986]

See also Transport (Amendment) Act 1986; Transfer of Public Vehicles (Taxation) Amendment Act 1986.

State Transport (Co-ordination) Amendment 1986

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:

Short title

1. This Act may be cited as the "State Transport (Co-ordination) Amendment Act 1986".

Commencement

2. (1) Sections 1 and 2, and Schedule 1 (2) and section 3 in its application to that provision, shall commence on the date of assent to this Act.

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

Amendment of Act No. 32, 1931

3. The State Transport (Co-ordination) Act 1931 is amended in the manner set forth in Schedule 1.

SCHEDULE 1

(Sec. 3)

AMENDMENTS TO THE STATE TRANSPORT
(CO-ORDINATION) ACT 1931

(1) Section 12 (**Public motor vehicle not to be operated in certain cases unless vehicle licensed**)—

(a) Section 12 (1), (1A)—

Omit section 12 (1), insert instead:

(1) Subject to subsection (1A), any person who operates a public motor vehicle otherwise than in the course of interstate trade is guilty of an offence against this Act, unless the person is the holder of a license issued in respect of the vehicle.

SCHEDULE 1—*continued*AMENDMENTS TO THE STATE TRANSPORT (CO-ORDINATION)
ACT 1931—*continued*

(1A) Subsection (1) does not apply to—

- (a) the operation of a public motor vehicle in accordance with an exemption granted under section 19 or a permit issued under section 22; or
- (b) the operation of a motor vehicle in place of a taxi-cab in accordance with section 22A.

(b) Section 12 (2)—
Before “In any prosecution”, insert “(3)”.

(2) Section 14 (**Licenses**)—

(a) Section 14 (3)—
After “determined”, insert “application”.

(b) Section 14 (4)—
After “determined”, insert “renewal”.

(c) Section 14 (5)–(7)—
After section 14 (4), insert:

(5) In addition to the determined application fee referred to in subsection (3), a license fee is payable whenever a license is first granted in respect of a public motor vehicle, other than a motor omnibus.

(6) Subject to subsection (7), the amount of the license fee referred to in subsection (5) shall be determined by inviting the applicants for the license to bid for it at a public auction or to submit sealed tenders for it or by using such other method chosen by the Commissioner as will, in the Commissioner’s opinion, yield as the fee for the license an amount equivalent to its current value on the open market.

(7) With the approval of the Minister, the Commissioner may fix a license fee at less than the current value of the license on the open market or may decide not to impose any license fee for the license.

State Transport (Co-ordination) Amendment 1986

SCHEDULE 1—*continued*

AMENDMENTS TO THE STATE TRANSPORT (CO-ORDINATION)
ACT 1931—*continued*

(3) Section 17 (**Certain conditions of license**)—

Section 17 (2) (c)—

After section 17 (2) (b), insert:

(c) where the public motor vehicle is a taxi-cab—

(i) the use in accordance with section 22A of another motor vehicle in substitution for the taxi-cab;

(ii) the use of the taxi-cab, in accordance with the terms and conditions of a contract or an arrangement entered into under, and approved by the Commissioner in accordance with, section 134A of the Transport Act 1930 or section 17B of this Act, to carry on a motor omnibus service or to operate on a route ordinarily operated by a motor omnibus; or

(iii) the hours during which the taxi-cab is permitted to operate as a public motor vehicle; and

(d) where the public motor vehicle is a taxi-cab or private hire car, the driving of the vehicle by persons other than the holder of the license.

(4) Sections 17B–17D—

After section 17A, insert:

Right of holder of a motor omnibus license to enter into certain contracts or arrangements with respect to the operation of a motor omnibus service

17B. (1) The holder of a motor omnibus license may enter into a contract or an arrangement with the holder of a taxi-cab license for the operation of the taxi-cab on the route to which the motor omnibus license relates.

(2) The terms of a contract or an arrangement entered into under subsection (1) may be varied by the parties to the contract or arrangement.

SCHEDULE 1—*continued*AMENDMENTS TO THE STATE TRANSPORT (CO-ORDINATION)
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(3) A contract or an arrangement entered into under subsection (1), or a variation of the terms of such a contract or an arrangement in accordance with subsection (2), does not have effect unless and until it is approved by the Commissioner.

(4) The Commissioner must not approve a contract or an arrangement entered into under subsection (1) if the prescribed circumstances do not exist and may refuse to approve such a contract or an arrangement if it does not—

- (a) specify the days on which, and the times at which, the taxi-cab is scheduled to operate on the route to which the motor omnibus license relates;
- (b) prescribe the means by which the taxi-cab is, when operating on that route, required to be identified as the vehicle so operating;
- (c) specify the stops at which passengers may board or alight from the taxi-cab when so operating;
- (d) prescribe, as the fares that the driver of the taxi-cab is permitted to charge passengers, the same fares as those that the holder of the motor omnibus license is permitted to charge when operating the omnibus; or
- (e) provide, with respect to the operation of the taxi-cab on the route, for such other matters (if any) as are prescribed.

(5) The Commissioner may impose conditions on the parties to a contract or an arrangement entered into under subsection (1), or a variation of the terms of such a contract or arrangement in accordance with subsection (2), as a condition precedent to the giving of an approval under this section to the contract, arrangement or variation.

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SCHEDULE 1—*continued*

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(6) The Commissioner may from time to time impose additional conditions on the parties to a contract or arrangement approved under this section and may, at the request of the parties to the contract or arrangement concerned or on the initiative of the Commissioner, vary or revoke a condition imposed under subsection (5) or this subsection.

(7) The variation of a condition, or the imposition of an additional condition, under subsection (6) does not take effect until notified in writing to the parties to the contract or arrangement concerned.

(8) The Commissioner may revoke an approval given under this section in respect of a contract or an arrangement entered into under subsection (1) if—

- (a) the prescribed circumstances referred to in subsection (4) have ceased to exist;
- (b) the Commissioner is not satisfied that—
 - (i) the terms of the contract or arrangement are being observed; or
 - (ii) any conditions imposed under subsection (5) or (6) on the parties to the contract or arrangement are being complied with; or
- (c) any variation of the terms of the contract or arrangement has been implemented before the variation has been approved by the Commissioner.

(9) The Commissioner must not take action under subsection (8) in respect of a matter referred to in paragraph (b) or (c) of that subsection without providing the parties to the contract or arrangement concerned with an opportunity to be heard.

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SCHEDULE 1—*continued*

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(10) While a licensed taxi-cab is operating on a route to which a motor omnibus license relates in accordance with a contract or arrangement entered into under, and for the time being approved by the Commissioner in accordance with, this section, the driver of the taxi-cab is not required to hold a motor omnibus driver's license.

Taxi-cab not to be regarded as such while operating on a motor omnibus route

17C. While a licensed taxi-cab is operating on a route to which a motor omnibus license relates in accordance with a contract or an arrangement approved by the Commissioner under section 17B, that vehicle shall, for the purposes only of a prescribed provision of this Act or the Transport Act 1930, or of the regulations in force under either of those Acts, be regarded as if it were not a licensed taxi-cab.

Modification of motor omnibus license where route operated by taxi-cab in accordance with an approved contract or arrangement

17D. Where a contract or arrangement entered into under section 17B is for the time being approved by the Commissioner in accordance with that section—

- (a) the motor omnibus license to which the contract or arrangement relates shall be deemed to authorise, on the days and at the times specified in the contract or arrangement, the taxi-cab specified in the contract or arrangement to operate on the route to which that license relates in place of the motor omnibus;
- (b) the terms of the contract or arrangement, and any conditions imposed on the parties to the contract or arrangement in accordance with section 17B (5) or (6), shall be deemed to be terms and conditions of the license; and

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- (c) if the terms of the contract or arrangement, or the conditions so imposed, are inconsistent with the terms and conditions of the license, the license shall be deemed to be modified accordingly.

(5) Section 21 (**Cancellation of license**)—

Section 21 (1), (2)—

Omit the subsections, insert instead:

(1) The Commissioner may cancel a license in respect of a public motor vehicle if the holder—

- (a) contravenes or fails to comply with a provision of this Act or the Transport Act 1930 or the regulations in force under either of those Acts; or
- (b) contravenes or fails to comply with a term, condition or authority of or attaching to the license or of or attaching to an exemption granted by the Commissioner under section 18 (8) or (9).

(2) The cancellation of a license under subsection (1) is in addition to any penalty which has been or may be imposed in respect of a contravention of, or a failure to comply with, a provision referred to in paragraph (a) of that subsection.

(6) Sections 22A, 22B—

After section 22, insert:

Stand-by taxi-cabs

22A. (1) The holder of a license granted in respect of a taxi-cab may, in the prescribed circumstances, operate in place of that taxi-cab another motor vehicle even though no license is in force for it, but only if that other motor vehicle complies with the requirements of subsection (2).

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(2) A motor vehicle that is operated in place of a licensed taxi-cab must—

- (a) display the number-plates allocated to the taxi-cab by virtue of its being so licensed;
- (b) be registered under the Motor Traffic Act 1909;
- (c) in addition to the number-plates referred to in paragraph (a), display the number-plates allocated to that vehicle by virtue of its registration under the Motor Traffic Act 1909;
- (d) comply, to the satisfaction of the Commissioner, with the standards prescribed for taxi-cabs;
- (e) except to the extent authorised by the Commissioner, conform to the terms and conditions imposed by the license for that taxi-cab;
- (f) display a sign in accordance with the regulations identifying the vehicle as a stand-by taxi-cab; and
- (g) comply with such other requirements as are prescribed for the purposes of this subsection.

(3) While a motor vehicle which is being operated in place of a licensed taxi-cab complies with the requirements of subsection (2), that motor vehicle shall, for the purposes of this Act, be deemed to be a taxi-cab for which a license is in force.

Authority required for operation of taxi-cab radio communication network

22B. (1) In this section—

“taxi-service radio communication network” means a radio communication network operated from a central transmission station that enables messages to be transmitted by radio from a radio transmitter located at that station to the radio units of 2 or more taxi-cabs and from those units to that transmitter.

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SCHEDULE 1—*continued*

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ACT 1931—*continued*

(2) A person shall not operate, or participate in the operation of, a taxi-service radio communication network unless there is in force in respect of that network a written authority of the Commissioner granted under subsection (4) and, where such an authority is in force, unless the conditions and restrictions to which the authority is subject are complied with.

(3) Any person may make an application in writing to the Commissioner for an authority referred to in subsection (2).

(4) The Commissioner may refuse to grant an authority that is the subject of an application made under subsection (3) on the grounds that—

- (a) the application does not contain sufficient information to enable the Commissioner to decide the matter;
- (b) the radio communication network to which the application relates does not comply with the requirements (if any) prescribed in respect of taxi-service radio communication networks; or
- (c) it would not in the opinion of the Commissioner be in the public interest for the authority to be granted,

but otherwise the Commissioner must grant the authority.

(5) If the Commissioner refuses to grant an authority that is the subject of an application made under subsection (3), the Commissioner must notify the applicant in writing of the refusal and the grounds on which it is based.

(6) An authority granted under subsection (4) is subject to such conditions and restrictions as are prescribed or as are imposed under subsection (7).

(7) In granting an authority under subsection (4), the Commissioner may impose such conditions and restrictions, not inconsistent with this Act or the regulations, as appear to the Commissioner to be necessary in the public interest.

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ACT 1931—*continued*

(8) The Commissioner may from time to time, by notice in writing given to the holder of the authority concerned—

- (a) vary a condition or restriction imposed under subsection (7) or paragraph (b);
- (b) impose an additional condition or restriction on that holder; or
- (c) revoke a condition or restriction imposed under subsection (7) or paragraph (b).

(9) If the holder of an authority granted under subsection (4) fails to comply with a condition or restriction to which the authority is subject, the Commissioner may revoke the authority or suspend its operation for a period not exceeding 12 months.

(10) For the purposes of subsection (2), where the operation of an authority is suspended under subsection (9), the authority shall be deemed not to have been granted under subsection (4).

(11) The Commissioner shall not—

- (a) refuse to grant an authority that is the subject of an application made under subsection (3); or
- (b) revoke an authority granted under subsection (4) or suspend the operation of such an authority,

without providing the applicant or, as the case may be, the holder of the authority with an opportunity to be heard.

(12) A person who—

- (a) contravenes subsection (2); or
- (b) contravenes or fails to comply with a condition or restriction to which an authority granted under subsection (4) is subject,

is guilty of an offence against this Act.

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(13) Where a person—

- (a) being an applicant under subsection (3), is aggrieved by the refusal of the Commissioner to grant an authority under subsection (4);
- (b) being the holder of an authority granted under subsection (4), is aggrieved by the revocation, or the suspension of the operation of the authority, under subsection (9); or
- (c) being such an applicant or the holder of such an authority, is aggrieved by the imposition of a condition or restriction under subsection (7) or (8) or the variation of such a condition or restriction,

that person may, within the period prescribed, lodge an appeal to a Local Court against the refusal, revocation, decision, condition or variation.

(14) A decision of the Commissioner under subsection (7), (8) (a) or (b) or (9) does not take effect—

- (a) until the expiration of the period within which an appeal against the decision may be lodged under subsection (13); or
- (b) where such an appeal is lodged and not withdrawn within that period—until the appeal is decided under subsection (15) or is withdrawn.

(15) The Local Court concerned shall decide the appeal on its merits according to what is reasonable in the circumstances and may confirm the decision appealed against or substitute for that decision any decision on the matter that could have been made by the Commissioner.

(16) Except on a question of law, the decision of a Local Court under subsection (15) is final and it is the duty of the Commissioner to give effect to it.

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SCHEDULE 1—*continued*

AMENDMENTS TO THE STATE TRANSPORT (CO-ORDINATION)
ACT 1931—*continued*

(7) Section 38 (**Recovery and appropriation of penalties**)—

Section 38 (1)—

Omit the subsection, insert instead:

(1) Proceedings for an offence against this Act or the regulations shall be dealt with summarily before a Local Court constituted by a Magistrate sitting alone.

(8) Section 39A—

After section 39, insert:

Certain amounts to be paid into the Road Transport and Traffic Fund

39A. Any amount paid or recovered as a license fee for a license granted in respect of a public motor vehicle (not being a motor omnibus) shall be paid to the credit of the Road Transport and Traffic Fund established under the Transport Act 1930.

(9) Section 44 (**Prima facie evidence**)—

(a) Section 44 (a), (c), (f), (h), (i)—

Omit “is” wherever occurring, insert instead “was at a specified time”.

(b) Section 44 (b), (c), (d), (g)—

Omit “is not” wherever occurring, insert instead “was not at a specified time”.

(c) Section 44 (ga)–(gc)—

After section 44 (g), insert:

(ga) any person was at a specified time the holder of an authority under section 22B authorising the operation of a taxi-service radio communication network;

(gb) any person was not at a specified time the holder of such an authority;

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- (gc) such an authority had not at a specified time been granted in respect of a particular taxi-service radio communication network or, if it had been so granted, had at that time been revoked or had its operation suspended;

(10) Section 48 (**Regulations**)—

(a) Section 48 (8) (aa)—

After section 48 (8) (a), insert:

- (aa) requirements as to a taxi-service radio communication network authorised under section 22B, including—

- (i) the specifications for the network; and
- (ii) the mode of operation for the network;

(b) Section 48 (8) (k)–(o)—

After section 48 (8) (j), insert:

- (k) the operation of licensed taxi-cabs, including the terms and conditions under which they may be hired;
- (l) the conduct of drivers of licensed taxi-cabs towards their passengers and other members of the public;
- (m) the duties of drivers of licensed taxi-cabs;
- (n) the dress to be worn by drivers of licensed taxi-cabs; and
- (o) the conduct of passengers of licensed taxi-cabs, including provisions requiring passengers who damage or soil taxi-cabs to pay to the drivers of those taxi-cabs on demand a cleaning fee of a prescribed amount.