

# PASSENGER TRANSPORT ACT 1990 No. 39

## NEW SOUTH WALES



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**PASSENGER TRANSPORT ACT 1990 No. 39**

**NEW SOUTH WALES**



**Act No. 39, 1990**

An Act to regulate public transport services; to repeal the Transport Licensing Act 1931 and certain other enactments; and for other purposes. [Assented to 22 June 1990]

The Legislature of New South Wales enacts:

**PART 1 - PRELIMINARY**

**Short title**

1. This Act may be cited as the Passenger Transport Act 1990.

**Commencement**

2. This Act commences on a day or days to be appointed by proclamation.

**Definitions**

3. In this Act:

"**accredited service operator**", in relation to a public passenger service, means a person accredited under Division 1 of Part 2 for a service of that kind (or for services that include such a service);

"**authorised officer**" means a person appointed by the Director-General to be an authorised officer for the purposes of this Act;

"**bus**" means a motor vehicle which seats more than 8 adult persons, and includes a vehicle of any class prescribed by the regulations for the purposes of this definition;

"**Director-General**" means the Director-General, Department of Transport;

"**driver**" means a person who drives any public passenger vehicle (or, where the vehicle is a vessel, means the master for the time being of the vessel);

"**ferry**" means a vessel which seats more than 8 adult persons, and includes a vessel of any class prescribed by the regulations for the purposes of this definition;

"**holder**", in relation to a service contract, means the person who (apart from the Director-General) is a party to the contract;

"**licence**" means a licence (including a short-term licence) for a taxi-cab, or a licence for a private hire vehicle, in force under this Act;

"**long-distance service**" means a public passenger service conducted according to one or more regular routes, in which each passenger is carried for a distance of not less than 40 kilometres;

**"passenger"** does not include the driver of a public passenger vehicle (or, where the vehicle is a vessel, the master or crew of the vessel);

**"private hire vehicle"** means a motor vehicle (other than a bus or taxi-cab) which is used to provide a public passenger service (other than a regular passenger service, a long-distance service or a tourist service);

**"public passenger service"** means the carriage of passengers for a fare or other consideration:

- (a) by motor vehicle along a public street; or
- (b) by vessel within any New South Wales waterway;

**"public passenger vehicle"** means:

- (a) a bus used to provide a public passenger service; or
- (b) a ferry used to provide a regular passenger service; or
- (c) a taxi-cab or private hire vehicle; or
- (d) a vehicle declared by a regulation under section 6 to be a public passenger vehicle;

**"public street"** has the same meaning as in the Traffic Act 1909;

**"regular passenger service"** means a public passenger service conducted according to regular routes and timetables, but does not include a tourist service or a long-distance service;

**"service contract"** means a contract entered into under Part 3;

**"taxi-cab"** means a motor vehicle:

- (a) which is used to provide a public passenger service (other than a regular passenger service, a long-distance service or a tourist service); and
- (b) which, for the purpose of procuring passengers, is made to ply or stand for hire in a public street;

**"tourist service"** means a public passenger service provided by a bus or ferry, or by a vehicle of a kind prescribed by the regulations, being a service designed for the carriage of tourists to a common destination;

"vehicle" includes a vessel.

### **Objects**

4. The objects of this Act are:

- (a) to require the accreditation, by the Director-General, of the operators of and drivers involved in public passenger services; and
- (b) to dispense with the licensing of ferries and buses used to provide a public passenger service, providing instead for:
  - (i) ferry and bus services to be operated under fixed-term contracts entered into between the Director-General and operators; and
  - (ii) deregulation of long-distance and tourist services; and
  - (iii) regulation of government and non-government buses and ferries on a more equal basis; and
- (c) to encourage the provision of school bus services on a more commercial basis, without disregarding the reasonable expectations of traditional service operators; and
- (d) to consolidate and re-enact, with certain modifications, those provisions of the Transport Licensing Act 1931 that relate to the regulation of taxi-cabs and private hire vehicles and (without substantial alteration) the provisions of the Transfer of Public Vehicles (Taxation) Act 1969.

### **Crown bound by Act**

5. (1) This Act binds the Crown not only in right of New South Wales but also, in so far as the legislative power of Parliament permits, in all its other capacities.

(2) In particular, this Act, in so far as it applies to public passenger services, applies to any such services carried on by the State Transit Authority and the State Rail Authority.

### **Other public passenger vehicles**

6. (1) The regulations may declare that any specified class of vehicles, being vehicles used for the carriage of passengers for hire or for any consideration or in the course of any trade or business, are to be taken to be public passenger vehicles for the purposes of this Act.



(2) The regulations may apply all or any of the provisions of this Act (with or without modification) to any such class of vehicles.

## **PART 2 - CREDENTIALS OF OPERATORS AND DRIVERS**

### **Division 1 - Accreditation of operators**

#### **Accreditation**

7. (1) A person who:

- (a) carries on a public passenger service by means of a bus or other motor vehicle; or
- (b) carries on a regular passenger service by means of a ferry, being in either case a service operating within, or partly within, New South Wales is guilty of an offence unless the person is an accredited service operator for that service.

Maximum penalty: 100 penalty units.

(2) The purpose of accreditation under this Division is to attest:

- (a) that the accredited person is (or, in the case of an accredited corporation, the designated directors and managers of the corporation are) considered to be of good repute and in all other respects fit and proper to be responsible for the operation of a public passenger service; and
- (b) that the accredited person has demonstrated the capacity to meet the government's standards of:
  - (i) financial viability; and
  - (ii) safety of passengers and the public; and
  - (iii) vehicle maintenance,

to the degree and in the manner required in respect of services of the kind specified in the accreditation.

(3) Standards for the purposes of subsection (2) (b):

- (a) may be prescribed by the regulations; or
- (b) to the extent that they are not so prescribed, may be determined and published by the Director-General and made available to interested persons.

(4) Any person wishing to obtain from the Director-General a copy of a standard published under subsection (3) (b) must pay the fee (if any) prescribed by the regulations.

**Procedure**

8. (1) Having regard to the purpose of accreditation, the Director-General may accredit persons applying for accreditation.

(2) For the purposes of this section:

- (a) a corporation may nominate, and the Director-General may accept the nomination of, any number of its directors and managers; and
- (b) further nominations may be made and accepted from time to time; and
- (c) a person so nominated becomes a designated director or manager, as referred to in section 7 (2) (a), only when the Director-General certifies acceptance of the nomination.

(3) Procedures for the purposes of this section may be settled by the Director-General, subject to any provision in that behalf made by the regulations.

**Style of accreditation**

9. (1) Particulars of accreditation are to be given in writing by the Director-General to the accredited person.

(2) An accreditation may be given so as to be general or limited, that is to say:

- (a) appropriate for all public passenger services; or
- (b) appropriate only for the service or services designated in the accreditation, or for a service or services having the scope or characteristics so designated.

**Variation, suspension or cancellation of accreditation**

10. (1) Having regard to the purpose of accreditation, the Director-General may at any time vary, suspend or cancel any person's accreditation.

(2) The accreditation of a corporation is automatically cancelled when there is no designated director or manager for the purposes of section 7 (2) (a).

## **Division 2 - Drivers' authorities**

### **Authorities**

11. (1) A person who drives a public passenger vehicle is guilty of an offence unless the person is the holder of an appropriate authority under this Division.

Maximum penalty: 20 penalty units.

(2) The purpose of an authority under this Division is to attest:

- (a) that the authorised person is considered to be of good repute and in all other respects a fit and proper person to be the driver of a public passenger vehicle; and
- (b) that the authorised person is considered to have sufficient responsibility and aptitude to drive the vehicle or vehicles to which the authority relates:
  - (i) in accordance with the conditions under which a public passenger service is operated; and
  - (ii) in accordance with law and custom.

(3) The regulations may create categories or grades of authority.

### **Criteria and procedure**

12. (1) Having regard to the purpose of an authority, the Director-General may grant authorities to persons applying for them.

(2) Applicants must meet any criteria set forth in the regulations and must satisfy the Director-General as to any matter the Director-General considers relevant.

(3) Procedures for the purposes of this section may be settled by the Director-General, subject to any provision in that behalf made by the regulations.

### **Style of authority**

13. (1) An authority is to be given in writing by the Director-General to the person authorised.

(2) The authority must specify the kind or kinds of vehicles for which it is appropriate.

**Variation, suspension or cancellation of authority**

14. Having regard to the purpose of an authority, the Director-General may at any time vary, suspend or cancel any person's authority.

**Division 3 - Fees**

**Fees**

15. An applicant for an accreditation or authority under this Part must pay any fee fixed by the regulations for consideration of the application.

**PART 3 - REGULAR PASSENGER SERVICES**

**Service contracts**

16. (1) The terms and conditions on which any regular passenger service is to be carried on within, or partly within, New South Wales are to be set forth in a contract entered into between an accredited operator and the Director-General (on behalf of the Crown).

(2) The Director-General may invite contracts by tender or in such other manner as the Director-General thinks fit.

(3) A person who carries on a regular passenger service otherwise than under the authority of a service contract is guilty of an offence.

Maximum penalty: 100 penalty units.

(4) This section has effect subject to this Act and the regulations.

**Nature of contracts**

17. (1) A service contract must make provision with respect to:

- (a) the period for which it operates; and
- (b) the manner in which it may be terminated; and
- (c) standards of safety for passengers and the public, and of vehicle maintenance; and
- (d) any other matters required by this Act or the regulations to be specified in it.

(2) A service contract may make provision for or with respect to:

- (a) monetary or other penalties for breaches of the contract and the recovery of any such monetary penalties; and

- (b) bonds for the performance of any or any specified obligations under the contract; and
- (c) such other matters as the parties think fit to include in the circumstances of the case.

(3) The contract may provide for the periodic review, in a manner and at such periods as the contract may specify, of any matter for the time being determined by or under it.

### **Commercial and non-commercial contracts**

18. (1) For the purpose of determining the manner in which a contract holder is to be remunerated for the performance of services under the contract, a service contract may be classified as a "commercial" or a "non-commercial" contract.

(2) Under a commercial contract, the holder's remuneration is to be derived from revenue generated by passengers' fares.

(3) Under a non-commercial contract, the holder's remuneration is to be a contract price, or remuneration fixed at an agreed rate, payable by the Crown to the holder in the manner provided by the contract.

(4) A commercial contract is to be entered into for a term of 5 years.

(5) A non-commercial contract may be entered into for any term (subject, in the case of school bus services, to the regulations).

(6) Nothing in this section precludes the holder of a non-commercial contract from charging and collecting fares from passengers in accordance with the contract.

### **Fares**

19. (1) A commercial contract must fix a scale of maximum fares.

(2) The scale must be fixed at not less than the average level of fares for the time being prevailing in the industry for comparable services, and due allowance must be made for inflationary movements in the costs of providing the service.

(3) Maximum fares should be specified in terms of the distance for which a passenger, on payment of a fare, is entitled to be carried. For that purpose the contract may resort to terms of average or minimum distances, but it is not sufficient to describe distance in terms only of the intervals between stopping-places along a route.

(4) Under a non-commercial contract, provision may be made for adjustments in respect of any shortfall or surplus resulting from the difference between the agreed contract price and any revenue generated by fares.

### **Service levels**

20. (1) In this section, "service levels" means:

- (a) the periods of time during which services are to be operated; and
- (b) the frequency and extent of operation of services during any specified period of time.

(2) A service contract must fix a scale of minimum service levels.

(3) In fixing the scale for a service to be carried on under a commercial contract, regard should be had to:

- (a) the needs of the community to be served by the service; and
- (b) the average service levels for the time being prevailing in the industry with respect to communities which have similar population densities and which are in other respects comparable.

(4) For the purposes of subsection (3) (b), average service levels may be analysed with respect to significant time categories such as peak work-based journey periods, shopping off-peak hours, Sundays and holidays, and so forth.

### **Exclusive rights**

21. (1) A service contract must specify a region or route of operation.

(2) A route may proceed across land or water or both, and a region may consist of a geographical or navigational area or both.

(3) A commercial contract operating on a particular route is to confer on the holder the exclusive right to operate regular passenger services on that route.

(4) The right conferred on a holder by subsection (3) precludes the Director-General from subsequently entering into a contract with any other person for the operation of a similar service along a route sufficiently proximate that it would result in substantial competition with the service carried on by that holder.

- (5) A commercial contract operating in a region may either:
- (a) confer on the holder the exclusive right to operate regular passenger services in the region; or
  - (b) confer on the holder a right to operate such services in the region, being a right that is an exclusive right except with respect to a route or routes specified in the contract or in a variation made to the contract.

#### **New services**

22. (1) If, while a commercial contract is on foot with respect to a particular region or route:

- (a) the Director-General determines that, in the public interest, additional services should be provided in that region or on, or in proximity to, that route; and
- (b) the holder of the contract declines to vary the contract, or enter into a new contract, for the provision of those additional services,

the holder thereby waives the exclusive right to operate regular passenger services in that region or on that route, but only to the extent necessary to enable the operation of those additional services by someone else.

(2) The Director-General may propose the terms and conditions of any variation of the holder's contract or of any new contract to be offered to the holder.

(3) Subsection (1) does not apply if, considering the nature and extent of the proposed additional services, the terms and conditions proposed by the Director-General are unreasonable in light of the provisions of this Act and the regulations and the circumstances of the case.

(4) For the purposes of subsection (3), the average level of fares prevailing in the industry for comparable services must be considered, together with any other matters relevant to the circumstances of the case.

(5) In the event that additional services proposed by the Director-General affect the exclusive rights of two or more contract holders, it is the duty of all parties to endeavour to agree on a just compromise of their respective rights. Failing such an agreement, the exclusive rights of any one of them (called the "first holder") are, to the

extent necessary to enable the additional services to be performed by someone else, extinguished by this subsection when:

- (a) a variation of contract is effected, or a new contract is entered into, with another holder so affected, if the proposed additional services are likely to reduce patronage of the services operated by that other holder to a greater extent than they would reduce those of the first holder; or
- (b) a new contract is entered into jointly with two or more other holders, patronage of whose services is likely to be reduced to any such greater extent.

(6) Section 28 applies to subsection (5) as though all the holders affected were bound by a common agreement.

### **Renewal of commercial contracts**

**23. (1)** At the end of the term of a commercial contract, and thereafter from time to time at the end of each term for which the contract is renewed in accordance with this section, the holder is entitled to a renewal of the contract for a further term of 5 years, unless:

- (a) the holder's previous performance under the contract has been unsatisfactory in a manner and to an extent that would have enabled the contract to be cancelled during its term if the Director-General had taken steps to do so; or
- (b) the region or route of operation of the contract is varied in accordance with section 24.

(2) If a contract is renewed, it is to be renewed, with due regard to the provisions of this Part relating to fares and other matters, on the same basis as if it were an original contract, and in such a manner as to preserve the exclusive rights of the holder.

(3) If the region or route of operation of the contract is varied under section 24, the holder (unless otherwise disentitled) is entitled to a further contract if the variation consists of a minor extension or diminution of the region or route, or is otherwise of a sufficiently minor character that a further contract may be entered into in substantially the same terms as the previous contract.

(4) An entitlement under subsection (3) is to be regarded for the purposes of this Act as an entitlement to renewal of the previous contract.



(5) The rights of a holder under this section are to be taken to be satisfied if the holder declines to enter into a renewed contract, drawn up and duly tendered to the holder, whose terms meet all the requirements of this Part.

#### **Variation of region or route**

24. (1) The region or route of operation of a service contract cannot be varied during the term of the contract except by consent of the parties.

(2) The region or route of a commercial contract offered pursuant to section 23 as a renewal of a previous contract must be the same as the region or route defined in respect of that previous contract except by consent of the parties or by a determination of the Director-General under this section.

(3) A renewal of contract may be offered in respect of a varied region or route if the variation:

- (a) is necessary to extend services in developing areas; or
- (b) is necessary as a result of altered traffic conditions or for reasons of public safety; or
- (c) is otherwise necessary for improvement of transport services in the public interest.

#### **Assignment of benefit of service contracts**

25. (1) The benefit of a service contract may not be assigned by its holder without the consent of the Director-General.

(2) If the Director-General is satisfied:

- (a) that the person nominated is an accredited service operator of an appropriate kind; and
- (b) that adequate provision will be made by that person for the conduct of the service concerned,

the Director-General may, by instrument in writing, consent to such an assignment.

(3) When the benefit of a contract is assigned, the assignee is bound, by force of this subsection, to perform the obligations which the assignor was bound under the contract to perform.

(4) Any purported assignment in contravention of this section is void.

**Variation, suspension or cancellation of service contracts**

26. (1) A service contract may, at any time during its currency, be varied, suspended or cancelled by the Director-General if:

- (a) there has been a serious or persistent failure to observe the terms and conditions of the contract; or
- (b) the holder is convicted of an offence against this Act or the regulations with respect to the furnishing of information concerning the service.

(2) A service contract is automatically cancelled when the holder ceases to be an accredited service operator or ceases to be an accredited service operator of an appropriate kind.

(3) Nothing in this Act prevents the Director-General from making such arrangements as the Director-General thinks fit for the provision, by an accredited service operator, of temporary services in place of any regular passenger services for the time being discontinued by a variation, suspension or cancellation under this section.

**Fee for service contract**

27. (1) In addition to any other fee payable under this Act, a contract fee is payable to the Director-General when a service contract for a regular passenger service is first awarded or is subsequently renewed.

(2) The Director-General may determine the amount of the fee, subject to any maximum amount prescribed by the regulations.

(3) The fee should reflect the administrative costs associated with negotiating, preparing and entering into the contract and the estimated costs associated with subsequent monitoring by the Director-General of the holder's performance.

**Provisions of this Part form part of contract**

28. (1) Every contract entered into for the purposes of this Part is to be taken to include all the provisions of this Part (section 16 excepted) that confer or impose any rights, powers or duties on the parties, and any contravention of such a provision may be remedied at law or in equity as though the provision were one to which the parties had by contract agreed.

(2) In proceedings for any such remedy, every duty imposed on either party by any such provision is to be regarded as a duty performable for the benefit of the other party.

(3) To the extent that an adequate alternative remedy is provided by this section, no other proceedings by way of judicial review of any decision or action of the Director-General may be taken by or on behalf of the holder of a service contract.

## **PART 4 - TAXI-CABS AND PRIVATE HIRE VEHICLES**

### **Division 1 - Licensing requirements**

#### **Requirement for licences**

**29.** A person who carries on a public passenger service by means of a taxi-cab or private hire vehicle:

- (a) otherwise than under the authority of a licence for the taxi-cab or private hire vehicle issued to that person; or
- (b) otherwise than in accordance with the terms and conditions of such a licence,

is guilty of an offence.

Maximum penalty: 100 penalty units.

#### **Applications for licences or renewals**

**30.** An application for a licence, or the renewal of a licence, for a taxi-cab or private hire vehicle:

- (a) must be made to the Director-General in a form and manner approved by the Director-General; and
- (b) must be accompanied by the fee (if any) prescribed by the regulations.

#### **Issue and term of licences**

**31. (1)** The Director-General may issue or renew a licence for a taxi-cab or private hire vehicle to an applicant unless the Director-General is of the opinion:

- (a) that, in the public interest, the application should not be granted; or
- (b) that the applicant is not an accredited service operator of an appropriate kind; or

(c) that, in the circumstances of the case, the application does not warrant investigation.

(2) Every licence (other than a short-term licence granted under section 32) continues in force (unless sooner cancelled or surrendered) for a period determined by the Director-General and specified in the licence, and is renewable from time to time.

### **Short-term licences**

**32. (1)** If an applicant for a licence requests a short-term licence, the Director-General may grant the applicant a licence of 12 months' duration.

(2) Such a licence is not renewable and cannot be transferred except on the application of the holder's legal personal representative or of a trustee of the holder's estate.

### **Area of operation of licences**

**33. (1)** A licence for a taxi-cab or private hire vehicle may specify the area of operation of the taxi-cab or private hire vehicle.

(2) If no area is specified then the taxi-cab or private hire vehicle may be used to carry on a public passenger service anywhere in New South Wales.

(3) A licence for a taxi-cab or private hire vehicle does not confer on any person an exclusive right to operate a taxi-cab or private hire vehicle in the area of operation specified in the licence.

### **Conditions of licences**

**34. (1)** A licence for a taxi-cab or private hire vehicle may make provision for or with respect to:

- (a) any fares to be charged or other arrangements for remuneration to be made; and
- (b) such other conditions as the Director-General thinks fit to impose in the circumstances of the case.

(2) The fares to be charged, or other arrangements for remuneration to be made, in respect of a taxi-cab or private hire vehicle must be determined by the Director-General having regard to:

- (a) the public interest; and
  - (b) the general level of fares or other rates of remuneration applying to taxi-cabs or private hire vehicles.
- (3) Any provision made in a licence in accordance with this section is subject to the regulations.

#### **Variation of terms and conditions**

35. (1) If the Director-General considers it to be in the public interest, the Director-General may, by notice in writing to the licensee, vary the area of operation or conditions of a licence for a taxi-cab or private hire vehicle at any time during its currency.

(2) A licensee may, on application made in writing and accompanied by the prescribed fee (if any), request a variation of the area of operation or conditions of the licence for a taxi-cab or private hire vehicle, and the Director-General, having regard to the public interest:

- (a) may grant the variation and may endorse the licence accordingly; or
- (b) may refuse to grant the variation.

(3) The conditions of the licence for a taxi-cab or private hire vehicle may, for the purposes of this section, be varied by the addition, substitution or deletion of one or more conditions.

#### **Transfer of licences**

36. (1) The licence (not being a short-term licence) for a taxi-cab or private hire vehicle may not be transferred by the licensee, but the licensee or the licensee's legal personal representative may apply to the Director-General to transfer the licence, for the balance of its term, to a nominated person.

(2) If the person nominated is an accredited service operator of an appropriate kind, the Director-General must transfer the licence to that person for the balance of its term.

(3) The Director-General must, however, withhold approval of a transfer if the appropriate transfer tax under Division 2 has not been paid.

**Suspension or cancellation of licences**

37. The licence for a taxi-cab or private hire vehicle may, at any time during its currency, be suspended or cancelled by the Director-General if:

- (a) owing to the default of the licensee or the agents or employees of the licensee:
  - (i) the provisions of this Act or the regulations; or
  - (ii) the terms and conditions of the licence, have not been or are not being complied with; or
- (b) the service has been or is being conducted in such a manner as to cause danger to the public; or
- (c) the licensee is convicted of an offence against this Act or the regulations with respect to the furnishing of information concerning the public passenger service carried on under the authority of the licence; or
- (d) the licensee does not have a policy of insurance covering third-party property damage in respect of the taxi-cab or private hire vehicle, being a policy:
  - (i) issued by the Government Insurance Office or any corporation authorised under the Insurance Act 1973 of the Commonwealth to carry on insurance business; and
  - (ii) providing cover which in the opinion of the Director-General is sufficient for the taxi-cab or private hire vehicle.

**Licence fee for ordinary licences**

38. (1) In addition to any application fee, a licence fee is payable to the Director-General when a licence (other than a short-term licence) is first issued.

(2) The amount of the licence fee must be determined by inviting applicants for the licence to bid for it at a public auction or to submit sealed tenders for it or by using such other method chosen by the Director-General as will, in the Director-General's opinion, yield as the fee for the licence an amount equivalent to its current value on the open market.

(3) The Director-General may, in circumstances specified in the regulations, fix the licence fee at less than the current value of the

licence on the open market or decide not to impose a licence fee for the licence.

(4) The licence fee is payable by the person to whom the licence is issued in the manner determined by the Director-General.

#### **Licence fee for short-term licences**

39. (1) The fee for a short-term licence is an amount determined by the Director-General.

(2) The amount determined should reflect the Director-General's estimate of what such a licence would be worth on the open market if it were transferable.

#### **Stand-by taxi-cabs**

40. (1) The holder of a licence for a taxi-cab may, if the taxi-cab is out of operation while undergoing repair or service, operate in place of that taxi-cab another motor vehicle even though no licence is in force for it, but only if that other motor vehicle complies with the requirements of this section.

(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; and
- (b) be registered under the Traffic Act 1909; and
- (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 Traffic Act 1909; and
- (d) comply, to the satisfaction of the Director-General, with the standards prescribed for taxi-cabs; and
- (e) except to the extent authorised by the Director-General, conform to the terms and conditions imposed by the licence for that taxi-cab; and
- (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 this section, that

motor vehicle is to be taken, for the purposes of this Act, to be a taxi-cab for which a licence is in force.

**Authority required for operation of taxi-service radio communication network**

41. (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.

(2) A person must 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 Director-General and, where such an authority is in force, unless the conditions and restrictions to which the authority is subject are complied with.

Maximum penalty: 10 penalty units.

(3) A person may apply to the Director-General for such an authority.

(4) The Director-General may refuse to grant such an authority on the grounds that:

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

but otherwise the Director-General must grant the authority on application.

(5) An authority is subject to such conditions and restrictions as are prescribed by the regulations or as are imposed by the Director-General in the public interest.

(6) The Director-General may from time to time, by notice in writing given to the holder of an authority:



- (a) vary a condition or restriction of the authority; or
- (b) impose an additional condition or restriction on that holder; or
- (c) revoke a condition or restriction.

(7) If the holder of an authority fails to comply with a condition or restriction to which the authority is subject, the Director-General may revoke the authority or suspend its operation for a period not exceeding 12 months.

#### **Inspection of vehicles etc.**

42. (1) An authorised officer may, on reasonable notice, enter and inspect any vehicle:

- (a) which is licensed as a taxi-cab or private hire vehicle under this Act; or
- (b) which, in the opinion of the Director-General, is required by this Act to be so licensed.

(2) Such an inspection may be carried out as often as the Director-General considers it desirable in the public interest.

### **Division 2 - Transfer tax**

#### **Definitions**

43. (1) In this Division, "**transport district**" means a transport district established under the Transport Administration Act 1988 or that was previously established under the Transport Act 1930.

(2) For the purposes of this Division, the current market value of the licence for a taxi-cab which is transferred is an amount that, in the opinion of the Director-General, represents the current market value, at the date of the transfer, of the licence.

#### **Transfer of licences for taxi-cabs**

44. (1) If:

- (a) the licence in respect of a taxi-cab authorised to operate in a transport district:
  - (i) was first granted under the Transport Licensing Act 1931 before 25 December 1986 (the date of commencement of the Transfer of Public Vehicles (Taxation) Amendment Act 1986); or

- (ii) was first granted under the Transport Licensing Act 1931, or under this Act, on or after that date but is not a licence to which subsection (2) applies; and
- (b) the holder of the licence transfers it to another person, there is to be charged, levied, collected and paid for the use of the Crown in right of New South Wales:
  - (c) if the transfer takes place after the commencement of this section and before 24 December 1996 - a tax on the transfer of the licence at the rates calculated in accordance with Schedule 1; and
  - (d) if the transfer takes place on or after 24 December 1996 - a tax on the transfer of the licence calculated at the rate of 2.5 per cent of its current market value.

**(2) If:**

- (a) the licence in respect of a taxi-cab authorised to operate in a transport district was first granted under the Transport Licensing Act 1931, or under this Act, on or after 25 December 1986 (the date of commencement of the Transfer of Public Vehicles (Taxation) Amendment Act 1986); and
- (b) the licence fee payable in respect of the grant of the licence was an amount equivalent to the then current market value of the licence; and
- (c) the holder of the licence transfers it to another person, there is to be charged, levied, collected and paid for the use of the Crown in right of New South Wales a tax on the transfer of the licence calculated at the rate of 2.5 per cent of its current market value.

**(3) If:**

- (a) the taxi-cab to which a licence relates is not authorised to operate in a transport district; and
- (b) the holder of the licence transfers it to another person, there is to be charged, levied, collected and paid for the use of the Crown in right of New South Wales a tax on the transfer of the licence calculated at the rate of 2.5 per cent of its current market value.

**Transfer of licences for private hire vehicles**

**45.** There is to be charged, levied, collected and paid for the use of the Crown in right of New South Wales a tax of \$500:

- (a) on the transfer of a licence for a private hire car granted under the Transport Licensing Act 1931; and
- (b) on the transfer of a licence for a private hire vehicle granted under this Act.

### **Exemption from tax**

46. The transfer of a licence for a taxi-cab or private hire vehicle is exempt from tax under this Division if the holder of the licence has died and the transferee is entitled to the licence under the will or on the intestacy of the holder.

## **PART 5 - REVIEW OF CERTAIN DECISIONS**

### **Division 1 - Notifications**

#### **Notification of decisions of the Director-General**

47. (1) When the Director-General makes a decision that is able to be reviewed, or against which an appeal lies, under this Part, it is the duty of the Director-General to cause any person entitled to request the review, or to lodge the appeal, to be notified in writing of the fact of the decision and of the reasons for it.

(2) Any such decision has effect from the time the notice is given and continues in effect unless rescinded by the Director-General or by a Court determining an appeal under Division 3.

### **Division 2 - Review by review panels**

#### **Review of decisions concerning service contracts**

48. The holder of a service contract who is aggrieved by any decision of the Director-General:

- (a) with respect to the variation, suspension, cancellation, renewal or transfer of the contract; or
  - (b) that affects the holder's exclusive rights under the contract,
- may request the Director-General to cause the decision to be reviewed under this Division.

#### **Review panels**

49. For the purposes of a review requested under this Part, the Minister may appoint a review panel consisting of nominees of the Director-General, who are to be taken to represent the Department of

Transport, and persons who, in the opinion of the Director-General, are representative of persons engaged in carrying on a passenger transport business.

### **Conduct of review**

50. (1) A request for a review under this Part must be accompanied by a written submission from the person who requests it, setting out the reasons why that person thinks the decision concerned is incorrect or should not have been made.

(2) A review panel may decline to investigate any case that is not supported by such a submission or if the submission concerned appears on the face of it to be frivolous or vexatious or to be otherwise not worth considering.

(3) Otherwise the panel must, in accordance with any directions of the Director-General, consider any case referred to it and report to the Director-General, setting out its reasons why the relevant decision of the Director-General should stand or should be reconsidered by the Director-General, as the case requires.

### **Effect of review**

51. (1) The Director-General is not bound to accept any recommendation of a review panel.

(2) Nothing in this Part affects the operation of section 28.

## **Division 3 - Appeals**

### **Appeals**

52. (1) Any person whose application under Part 2 has been refused, or whose accreditation has been varied, suspended or cancelled, may appeal to the Local Court.

(2) If, on an appeal to the Court by a driver employed by the State Transit Authority whose authority has been varied, suspended or cancelled, the Court is satisfied that another dispute pending before the Transport Appeals Board involves substantially the same issues, it may remit the appeal for hearing by that Board. In that event, the Transport Appeals Board has jurisdiction to hear and determine the appeal, and section 53 applies to that Board as if it were the Local Court.

(3) A licensee or an applicant for a licence who is aggrieved by any decision of the Director-General with respect to:

- (a) the issue, transfer, suspension, refusal or cancellation of a licence; or
- (b) the conditions imposed by the Director-General on a licence, or any variation or proposed variation of them,

may appeal to the Local Court.

(4) A person aggrieved by a decision of the Director-General with respect to a network referred to in section 41, or by the refusal of an application under that section, may appeal to the Local Court.

(5) In this section, "the Local Court" means any Local Court constituted by a Magistrate sitting alone, but if the regulations specify that an appeal is to be heard at the Local Court at a particular address, the appeal may be heard only at the Court so constituted at that address.

(6) An appeal must be lodged within the time prescribed by the regulations.

### **Conduct of appeals**

**53. (1)** The Director-General is entitled to answer an appeal under this Division.

(2) In deciding an appeal, it is the duty of the Court, having regard to this Act and the regulations, the circumstances of the case and the public interest, to declare the decision that the Director-General ought to have made in the matter, and to determine the appeal accordingly.

(3) Nothing in subsection (2) precludes the Court from hearing evidence of any fact or circumstance alleged to have been unknown to the Director-General at the material time.

(4) The decision of the Court in the matter is final, and in cases where the appeal is allowed, it is the duty of the Director-General to give effect to that decision.

**PART 6 - MISCELLANEOUS**

**Offences involving credentials**

**54.** A person who:

- (a) by any false statement or misrepresentation, obtains or attempts to obtain any accreditation or authority under this Act or procures or attempts to procure a service contract; or
- (b) forges or fraudulently alters or uses any such accreditation or authority; or
- (c) fraudulently allows any such accreditation or authority to be used by any other person,

is guilty of an offence.

Maximum penalty: 20 penalty units.

**Offenders to state name and address**

**55. (1)** A person reasonably suspected by a member of the Police Force or by an authorised officer to be committing or to have committed an offence against this Act or the regulations may be required to state his or her full name and residential address.

**(2)** A person who:

- (a) fails or refuses to comply with the requirements of a member of the Police Force or authorised officer made under this section; or
- (b) in purported compliance with such a requirement, states a name that is not his or her name or an address that is not his or her residential address,

is guilty of an offence.

Maximum penalty: 5 penalty units.

**(3)** A person is not guilty of an offence under this section unless it is established that the member of the Police Force or authorised officer:

- (a) warned the person that a failure or refusal to comply with the requirement is an offence; and
- (b) identified himself or herself as a member of the Police Force or as an authorised officer, as the case requires.

### **Obstruction**

56. A person who hinders or obstructs an authorised officer in the execution of his or her powers, authorities, duties or functions under this Act or the regulations is guilty of an offence against this Act.

Maximum penalty: 5 penalty units.

### **Powers of authorised officers**

57. (1) A power expressed by this Act or the regulations to be conferred on an authorised officer may be exercised only by an authorised officer whose instrument of appointment authorises the officer to exercise that power.

(2) When exercising any power under this Act, an authorised officer must comply with any person's request (being a request that is reasonable in the circumstances) to produce identification indicating that he or she is an authorised officer.

(3) The Director-General is to issue each authorised officer with means of identification for the purposes of this section.

### **Offences by corporations**

58. (1) If a corporation contravenes any provision of this Act or the regulations, each person who is a director of the corporation or who is concerned in the management of the corporation is to be taken to have contravened the same provision if the person knowingly authorised or permitted the contravention.

(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 convicted under that provision.

(3) Nothing in this section affects any liability imposed on a corporation for an offence committed by the corporation against this Act or the regulations.

### **Penalty notices for certain offences**

59. (1) In this section:

"penalty notice" means a notice to the effect that, if the person served with the notice does not wish to have an alleged offence dealt with by a court, the person may pay, in accordance with the notice, the penalty specified in the notice;

**"penalty notice offence"** means an offence against this Act or the regulations declared by the regulations to be a penalty notice offence.

(2) An authorised officer may serve a penalty notice on a person who appears to the officer to have committed a penalty notice offence.

(3) The amount of the penalty to be specified in a penalty notice is the amount prescribed by the regulations for the alleged offence concerned, being an amount not exceeding the maximum amount of penalty which could be imposed for the offence by a court.

(4) A penalty notice may be served personally or by post.

(5) If the amount of the penalty prescribed by the regulations for an alleged offence is paid under this section, no person is liable to any further proceedings for the alleged offence.

(6) Payment of a penalty under this section is not to be regarded as an admission of liability for the purpose of, nor in any way affect or prejudice, any civil claim, action or proceeding arising out of the same occurrence.

(7) This section does not limit the operation of any other provision of this or any other Act or of any statutory rule.

### **Proceedings for offences**

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

### **Recovery of amounts due**

61. Any fees, charges or taxes payable under this Act or the regulations may be recovered by the Director-General as a debt in any court of competent jurisdiction.

### **Records and evidence from records**

62. (1) The Director-General must keep records of the grant, refusal, variation, suspension and cancellation of accreditations, authorities, contracts and licences under this Act.

(2) A certificate purporting to be signed by the Director-General and certifying that:



- (a) on a date specified in the certificate; or
- (b) during any period so specified,

the particulars set forth in the certificate as to any matter required to be recorded under this section did or did not appear on or from the records is, for the purposes of any legal proceedings, prima facie evidence of what it certifies.

- (3) Such a certificate is admissible in any proceedings:
  - (a) without proof of the authenticity of the Director-General's signature; and
  - (b) without production of any record or document on which the certificate is founded.

### **Regulations**

**63. (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.

**(2)** In particular, the regulations may make provision for or with respect to the following:

- (a) the prohibition or restriction of the use of public passenger vehicles on any specified public street or any portion of a public street, or within any specified area, either generally or within certain hours; and
- (b) the sections, terminal points and stopping-places on bus or ferry routes; and
- (c) the number of public passenger vehicles of any class or description which may ply or stand for hire in any public street; and
- (d) the regulation or prohibition of eating, drinking or smoking in public passenger vehicles; and
- (e) the methods which may be adopted by the drivers of public passenger vehicles plying for hire in any public street and the regulation or prohibition of plying for hire in any particular street or part of a street; and
- (f) the prohibition of any person from touting or calling out or otherwise importuning any person to use a public passenger vehicle; and

- (g) requirements as to service contracts, licences and authorities under this Act, including:
  - (i) their form, and the terms, conditions and particulars applying to them; and
  - (ii) forms and conditions to be observed when submitting applications or tenders for them; and
  - (iii) matters relating to their award, refusal, transfer, suspension, cancellation or surrender; and
  - (iv) conditions of service applicable to school bus services or in other special circumstances; and
- (h) the adjustment of payments and refunds in connection with contract and licence fees; and
- (i) the conduct of passengers and drivers on public passenger vehicles; and
- (j) the powers and duties of drivers of public passenger vehicles and of authorised officers; and
- (k) the authority of drivers of buses or other public passenger vehicles, and of authorised officers, to eject persons guilty of any contravention of a regulation; and
- (l) the dress to be worn by the drivers of public passenger vehicles; and
- (m) the wearing of badges by drivers of public passenger vehicles and the regulation of the form and description, and the issue, wearing and return, of those badges; and
- (n) the taking up or setting down of passengers or other matters incidental to the transport of passengers; and
- (o) the carriage of passengers' luggage or other goods, and animals, on public passenger vehicles; and
- (p) the regulation or prohibition of the carriage of passengers standing in or on any part of a public passenger vehicle; and
- (q) the publication of fares or other arrangements for remuneration payable by passengers on public passenger vehicles; and
- (r) the collection of fares or other remuneration, and the determination of maximum or minimum fares or rates of remuneration, payable for the carriage of passengers or of passengers' luggage or other goods by public passenger vehicles; and

- (s) the remuneration of persons constituting a review panel; and
- (t) the furnishing by accredited service operators of returns (verified as prescribed) containing information (including particulars of income and expenditure) necessary or convenient to be ascertained to enable any matter concerning a public passenger service (including its profitability) to be determined; and
- (u) the furnishing by owners of public passenger vehicles of returns and other information, verified as prescribed; and
- (v) the imposition of penalties for the failure, neglect or refusal by a passenger to pay any fare or for quitting the public passenger vehicle before paying the fare; and
- (w) the age of vehicles that may be used as public passenger vehicles; and
- (x) the design, equipment and fittings (internal or external) of public passenger vehicles; and
- (y) the more effective checking of time-tables and ensuring that buses or ferries are not withdrawn from the ordinary route for special service unless the approval of the Director-General is first obtained; and
- (z) the compilation, publication and observance of time-tables; and
- (aa) the custody and return of property left in public passenger vehicles, the payment of compensation for any such property and the disposal or sale of any such property not claimed and the time of any such disposal or sale; and
- (bb) the regulation or prohibition of advertisements within or on the outside of public passenger vehicles; and
- (cc) the declaration of the speed not to be exceeded by buses whether generally or in any specified locality or on any specified public street or part of a public street; and
- (dd) the exhibition in or on any public passenger vehicle of such notices in the public interest as the Director-General considers necessary; and
- (ee) the erection and display of signs and notices for the guidance of the drivers of public passenger vehicles and the public; and
- (ff) the records and accounts to be kept by holders of service contracts and the holders of provisional authorities and the manner of keeping them; and

- (gg) the records to be kept by the drivers and owners of public passenger vehicles and by accredited service operators, the manner of keeping those records and their inspection; and
- (hh) the sale of tickets and the conditions under which tickets must be sold; and
- (ii) the granting of free or concession passes on public passenger vehicles; and
- (jj) generally as to the regulation and control of public passenger vehicles, their drivers and passengers.

(3) The regulations may exempt, or provide for the exemption (either absolutely or subject to conditions) of, any person or vehicle or any class of persons or vehicles from all or any of the provisions of this Act.

(4) The regulations may create offences punishable by a penalty not exceeding 20 penalty units.

#### **Repeals and savings**

64. (1) Each Act specified in Schedule 2 is repealed.

(2) Regulations in force under the Transport Licensing Act 1931 are repealed.

(3) Schedule 3 has effect.

#### **Consequential amendment of other Acts**

65. Each Act specified in Schedule 4 is amended as set out in that Schedule.

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**SCHEDULE 1 - TAX ON TRANSFER OF LICENCES  
FOR TAXI-CABS**

(Sec. 44)

1. Except in a case referred to in paragraph 2, the tax payable on the transfer of the licence is:

If the licence was first granted 6 years or less before the date of approval of the transfer	25 per cent of the current market value of the licence
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If the licence was first granted more than 6 but not more than 7 years before the date of approval of the transfer	23 per cent of the current market value of the licence
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If the licence was first granted more than 7 but not more than 8 years before the date of approval of the transfer	21 per cent of the current market value of the licence
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If the licence was first granted more than 8 but not more than 9 years before the date of approval of the transfer	19 per cent of the current market value of the licence
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If the licence was first granted more than 9 but not more than 10 years before the date of approval of the transfer	17 per cent of the current market value of the licence
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SCHEDULE 1 - TAX ON TRANSFER OF LICENCES FOR  
TAXI-CABS - *continued*

If the licence was first granted more than 10 but not more than 11 years before the date of approval of the transfer

15 per cent of the current market value of the licence

If the licence was first granted more than 11 but not more than 12 years before the date of approval of the transfer

12.5 per cent of the current market value of the licence

If the licence was first granted more than 12 but not more than 13 years before the date of approval of the transfer

10 per cent of the current market value of the licence

If the licence was first granted more than 13 but not more than 14 years before the date of approval of the transfer

7.5 per cent of the current market value of the licence

If the licence was first granted more than 14 but not more than 15 years before the date of approval of the transfer

5 per cent of the current market value of the licence

If the licence was first granted more than 15 years before the date of approval of the transfer

2.5 per cent of the current market value of the licence

If a licence, in this paragraph referred to as an "original licence", that was granted otherwise than pursuant to a transfer of a licence has been transferred otherwise than by way of purchase or by way of gift *inter vivos*, any licence granted pursuant to that or any subsequent transfer

**SCHEDULE 1 - TAX ON TRANSFER OF LICENCES FOR  
TAXI-CABS - *continued***

by which the right to operate a taxi-cab or private hire vehicle conferred by that original licence is conferred on the transferee is to be taken, for the purposes of this paragraph, to have been granted on the day on which the original licence was granted.

2. In the case of a purchased licence within the meaning of this paragraph, the tax payable on the transfer of the licence is 2.5 per cent of the current market value of the licence.

For the purposes of this paragraph:

- (a) where a licence, in this paragraph referred to as an "original licence", that was granted otherwise than pursuant to a transfer of a licence has been transferred, and that or any subsequent transfer, by which the right to operate a taxi-cab or private hire vehicle conferred by that original licence is conferred on the transferee, was made by virtue of a purchase of the licence by the transferee or by virtue of a gift inter vivos of the licence to the transferee - the licence granted pursuant to that or any subsequent transfer is to be taken to be a purchased licence; and
- (b) where a licence has been surrendered and another licence has been issued to a nominee of the holder of the first-mentioned licence pursuant to an application in that behalf duly made under the Transport Licensing Act 1931 or under this Act - that other licence is to be taken to be a purchased licence; and
- (c) where a licence for a taxi-cab has been issued to a person on the surrender by him or her of a licence for a private hire vehicle acquired by him or her by way of purchase or by way of gift inter vivos, the licence for the taxi-cab is to be taken not to have been granted but is to be taken to have been purchased by the person to whom it was issued.

**SCHEDULE 2 - REPEALS**

(Sec. 64 (1))

Transport Licensing Act 1931 No. 32  
Transfer of Public Vehicles (Taxation) Act 1969 No. 35

SCHEDULE 2 - REPEALS - *continued*

State Transport (Co-ordination) Amendment Act 1986 No. 138  
State Transport (Co-ordination) Amendment Act 1987 No. 297  
State Transport (Co-ordination) Amendment Act 1988 No. 36  
State Transport (Co-ordination) (Transport Administration)  
Amendment Act 1988 No. 113

**SCHEDULE 3 - SAVINGS AND TRANSITIONAL PROVISIONS**

(Sec. 64 (3))

**Definition**

1. In this Schedule, "the former Act" means the Transport Licensing Act 1931.

**Regulations**

2. (1) The regulations may contain provisions of a saving or transitional nature consequent on the enactment of this Act.

(2) In particular, the regulations may make provision for or with respect to:

(a) the classification (as "commercial" or "non-commercial") of licences that, by the operation of this Schedule or of a regulation, are to be regarded as operating, from a specified date, as service contracts; and

(b) the transitional application of any regulation imposing a limit on the age of a vehicle that may be used as a public passenger vehicle.

(3) Any such provision may, if the regulations so provide, take effect from the date of assent to this Act or a later date.

(4) To the extent to which any such provision takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as:

(a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication; or

(b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication.



**SCHEDULE 3 - SAVINGS AND TRANSITIONAL PROVISIONS**

*- continued*

**Operators of regular passenger services**

3. (1) A person who, immediately before the commencement of Part 3, was licensed under the former Act to carry on a regular passenger service may still do so, without benefit of a service contract authorising the service, until such a contract is entered into, unless the parties otherwise agree or the Director-General sooner enters into a service contract with another person for the operation of the service.

(2) The right conferred by subclause (1) may be varied, cancelled, suspended and otherwise dealt with in the same manner as the relevant licence under the former Act.

(3) A person to whom this clause applies is to be regarded, on and after the commencement of Part 3, as holding (subject to this Act) an accreditation under this Act that is appropriate for the service concerned.

(4) Rights conferred by a licence under the former Act held, at the commencement of Part 3, by any person are preserved by this subsection for the benefit of that person but any such rights are subject to the provisions of that Part, and to the powers, duties and functions of the Director-General under that Part, as if they were rights conferred on a holder by that Part or by a service contract entered into for the purposes of that Part.

(5) For the purposes of subclause (4), the region or route of operation of a licensed service is to be taken to be the region or route of operation of a service identified in a service contract.

**Tax on transfer of licences for taxi-cabs and private hire vehicles**

4. Division 2 of Part 4 does not operate to impose a tax on the transfer of a licence in respect of which a tax has been paid under the Transfer of Public Vehicles (Taxation) Act 1969 or in respect of which a tax is payable by virtue of that Act and any saving contained in the Interpretation Act 1987.

**SCHEDULE 3 - SAVINGS AND TRANSITIONAL PROVISIONS**  
*- continued*

**Drivers of vehicles used in regular passenger services**

5. (1) The Director-General, by order published in the Gazette, may:
- (a) set out criteria, in the nature of qualifications or experience, for the purposes of this clause; and
  - (b) declare that a person satisfying those criteria is authorised, for a period specified in the order or (if, with respect to any class of cases, the order so provides) for an indefinite period, in the same manner as if he or she held an authority under Division 2 of Part 2 of this Act.
- (2) Any such order has effect in accordance with its tenor.
- (3) The benefit of such an order may be varied, suspended or cancelled in the same circumstances as an authority under Division 2 of Part 2 may be varied, suspended or cancelled.

**Licences for taxi-cabs and private hire cars**

6. A licence in force, immediately before the commencement of this clause, under the former Act with respect to a taxi-cab or private hire car is to be taken to be a licence of the same type issued under this Act, and conferring the same authority on its holder, as if this Act had been in force when the licence was issued.

**SCHEDULE 4 - CONSEQUENTIAL AMENDMENT OF OTHER ACTS**

(Sec. 65)

**Industrial Arbitration Act 1940 No. 2**

- (1) Section 5 (1), definition of "Contract of bailment":  
Omit "private hire car", insert instead "private hire vehicle".
- (2) Section 5 (1), definition of "Public vehicle":
- (a) Omit "private hire car", insert instead "private hire vehicle".
  - (b) Omit "Transport Licensing Act 1931", insert instead "Passenger Transport Act 1990".

SCHEDULE 4 - CONSEQUENTIAL AMENDMENT OF  
OTHER ACTS - *continued*

**Transport Administration Act 1988 No. 109**

- (1) Section 37 (**Functions relating to the licensing and regulation of public passenger vehicles or ferries**):

Omit "Transport Licensing Act 1931", insert instead "Passenger Transport Act 1990".

- (2) Section 43 (**Power of Secretary to contract**):

At the end of the section, insert:

(2) Nothing in this section limits the operation of any provision of the Passenger Transport Act 1990.

- (3) Section 85 (**Orders fixing charges**):

After section 85 (4), insert:

(5) An order under this Division is void in respect of services for which the charges are for the time being fixed differently under the Passenger Transport Act 1990.

**Justices Act 1902 No. 27**

In section 100I (1), in paragraph (a) of the definition of "penalty notice", insert, in alphabetical order:

Passenger Transport Act 1990, section 59;

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[*Minister's second reading speech made in -  
Legislative Assembly on 8 May 1990  
Legislative Council on 31 May 1990*]

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FIRST PRINT

## PASSENGER TRANSPORT BILL 1990

NEW SOUTH WALES



### EXPLANATORY NOTE

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

This Bill provides a scheme for the regulation of passenger transport, replacing the scheme embodied in the Transport Licensing Act 1931. The main features of the new scheme are broadly outlined in the statement of objects of the proposed Act (in clause 4 of the Bill).

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#### PART 1 - PRELIMINARY

**Clause 1** specifies the short title of the proposed Act.

**Clause 2** provides for the commencement of the proposed Act on a proclaimed day or days.

**Clause 3** defines the various kinds of public passenger services and vehicles to which the proposed Act is to apply, and terms and expressions used in the proposed Act.

**Clause 4** contains a brief description of the objects of the proposed Act.

**Clause 5** provides that the proposed Act binds the Crown. In particular, it is to apply to bus and ferry services operated by the State Transit Authority and the State Rail Authority.

**Clause 6** enables regulations to be made which identify types of public passenger vehicles not for the time being dealt with by the proposed Act and which may apply the proposed Act to those vehicles.

**PART 2 - CREDENTIALS OF OPERATORS AND DRIVERS**

**Division 1 - Accreditation of operators**

**Clause 7** describes the purpose of accreditation of the operators of public passenger services, and prohibits the carrying on of such services by persons who are not accredited.

**Clause 8** enables the Director-General of the Department of Transport to issue accreditations according to procedures determined by the Director-General or by the regulations.

**Clause 9** requires accreditations to be particularised in writing, specifying the services for which they are appropriate.

**Clause 10** enables the variation, suspension or cancellation of an operator's accreditation by the Director-General. Such action may only be taken in light of a failure by the operator to meet standards of financial viability, reputation, safety or maintenance standards or other standards on which accreditation is based.

**Division 2 - Drivers' authorities**

**Clause 11** describes the purpose of the issue of authorities to the drivers of public passenger vehicles, and prohibits the driving of such a vehicle by persons who are not authorised.

**Clause 12** requires applicants for a driver's authority to meet criteria specified by the regulations or by the Director-General and enables the issue of authorities according to procedures determined by the Director-General or by the regulations.

**Clause 13** requires an authority to be particularised in writing, specifying the vehicles for which it is appropriate.

**Clause 14** enables the variation, suspension or cancellation of a driver's authority by the Director-General. Such action may only be taken in light of a failure by the driver to meet standards of aptitude or reputation or other standards on which the authority is based.

**Division 3 - Fees**

**Clause 15** allows a fee to be prescribed for investigation of an application for any credential under Part 2 of the proposed Act.

**PART 3 - REGULAR PASSENGER SERVICES**

**Clause 16** requires each accredited operator desiring to operate a regular passenger service to enter into a service contract with the Director-General (on behalf of the Crown), and prohibits the carrying on of a regular passenger service otherwise than under a service contract.

**Clause 17** describes certain matters for which the service contract must make provision and certain other matters for which it may make provision. The contract must specify its duration, the manner in which it may be terminated, the safety and vehicle maintenance standards to be observed and any other matters required by the

## *Passenger Transport 1990*

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proposed Act or the regulations to be specified. It may make provision relating to penalties for breaches of the contract, bonds securing performance under it and such other matters as the parties consider appropriate. The contract may also provide for the periodic review of any matter determined by or under it.

Clause 18 provides for service contracts to be classified as "commercial" or "non-commercial". The holder of a commercial contract is to be remunerated from revenue from fares, whereas the holder of a non-commercial contract will be paid a fixed contract price, or at an agreed rate, by the government.

Clause 19 requires a commercial contract to fix a scale of maximum fares. Such a scale under a commercial contract must be fixed at not less than the average level prevailing for comparable services and must have due regard to inflationary factors likely to affect costs.

Clause 20 requires a service contract to specify a scale of minimum service levels. In fixing the scale, regard must be had to industry averages in relation to the times at which services are provided, and their frequency, in communities of comparable needs and population densities.

Clause 21 provides that a commercial contract that specifies a route of operation is to confer the exclusive right to operate regular passenger services on that route. The right of a holder of a contract that specifies a region of operation is to be an exclusive right to operate regular passenger services in that region (subject to any existing route specified in the contract).

Clause 22 contains the mechanism by which the Director-General may arrange the provision of additional services in a region or on or near to a route in respect of which there is already a commercial contract on foot, taking into account the existing rights of contract-holders.

Clause 23 provides that the holder of a commercial contract who has performed satisfactorily under that contract is generally entitled to a renewal, at the expiry of its term, for a further period of 5 years.

Clause 24 provides that the region or route of operation of a contract may be varied only by consent of the parties. The clause further provides that any renewal of a commercial contract offered under clause 23 must be in relation to the same region or route as that defined in the expired contract unless the parties agree otherwise or the Director-General determines that the variation is necessary for reasons of public interest.

Clause 25 provides that the benefit of a service contract is not assignable without the consent of the Director-General. The Director-General's consent is not to be given unless the Director-General is satisfied that the person has the appropriate accreditation and will make adequate provision for the conduct of the service.

Clause 26 describes the circumstances in which the Director-General may vary, suspend or cancel a service contract. These include a serious or persistent failure to observe the provisions of the contract or a conviction of the holder for an offence relating to the furnishing of information regarding the service. Should the holder lose the appropriate accreditation, his contract will automatically be cancelled.

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**Clause 27** provides that a fee, additional to any other fee payable under the proposed Act, is payable in respect of each award or renewal of a service contract.

**Clause 28** provides that those provisions of proposed Part 3 (except for the provision that creates an offence) that confer or impose any rights, powers or duties on the parties are to be taken to be included in each service contract. Any contravention of such a provision may be remedied in the ordinary way that breaches of contract may be remedied, and the availability of such a remedy precludes persons from resorting to judicial review of the decisions of the Director-General.

### **PART 4 - TAXI-CABS AND PRIVATE HIRE VEHICLES**

#### **Division 1 - Licensing requirements**

**Clause 29** prohibits the provision of a taxi-cab or private hire vehicle service otherwise than under the authority of, and in accordance with the terms and conditions of, an appropriate licence.

**Clause 30** specifies the manner in which application for the appropriate licence or renewal of licence is to be made.

**Clause 31** describes the circumstances in which the Director-General is not to issue or renew a licence. The clause also provides that the duration of a licence (other than a licence granted under clause 32) is to be determined by the Director-General and specified in it.

**Clause 32** enables the Director-General to issue, on the applicant's request, a short-term licence, valid for a period of 12 months. Such a licence (which is not renewable) is transferable only on the death or incapacity of the holder.

**Clause 33** requires a licence to specify the area in which the vehicle concerned may operate. (If no area is specified, the vehicle may operate anywhere in New South Wales.) The licence does not confer any exclusive right to operate in the area specified in it.

**Clause 34** provides that a licence may specify certain conditions (which will be subject to the regulations). The conditions may include the fares etc. to be charged (which may be determined by the Director-General having regard to the public interest and to the general level of fares etc. applying to similar vehicles).

**Clause 35** empowers the Director-General to vary the area of operation or the conditions specified in a licence. The licensee may request such a variation and the Director-General may (having regard to the public interest) accede to or refuse the request.

**Clause 36** provides that a licensee may not transfer a licence. The Director-General must, however, on the application of the licensee (or his legal personal representative), transfer the licence to a nominated person if the person has the appropriate accreditation and the relevant transfer tax payable under proposed Division 2 has been paid. If that tax has not been paid, the Director-General must withhold approval of the transfer.



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Clause 37 describes certain circumstances in which the Director-General may suspend or cancel a licence. These include:

- (a) non-compliance with the provisions of the proposed Act or the regulations, or with the terms and conditions of the licence, where the non-compliance is attributable to default by the licensee or the licensee's agents or employees;
- (b) conduct of the service in a dangerous manner;
- (c) the conviction of the licensee of an offence relating to the furnishing of information regarding the service; and
- (d) the licensee's failure to obtain a satisfactory policy of insurance.

Clause 38 provides that a fee, additional to any application fee and being an amount equivalent to the current open market value of the licence, is payable on the first issue of a licence (other than a short-term licence). The Director-General is empowered, however, in circumstances specified in the regulations, to set the fee at an amount less than that value, or to decide not to impose any fee.

Clause 39 provides for a fee to be payable for a short-term licence.

Clause 40 specifies the criteria that a vehicle (known as a "stand-by taxi-cab") must meet if it is to be used as a substitute for a licensed vehicle while that vehicle is undergoing repair or service.

Clause 41 prohibits the operation of a taxi-service radio communication network otherwise than in compliance with the terms and conditions contained in the Director-General's written authority in respect of it. The clause also specifies the grounds on which the Director-General may refuse to grant such an authority, and the grounds on which it may be revoked or suspended. The Director-General is further empowered to vary, add or revoke a condition or restriction of the authority.

Clause 42 provides for the inspection of licensed vehicles and of vehicles that the Director-General considers require licensing.

### **Division 2 - Transfer tax**

Clause 43 defines "transport district", and "current market value" of a taxi-cab licence, for the purposes of the proposed Division.

Clauses 44, 45 and 46 re-enact the substantive provisions of the Transfer of Public Vehicles (Taxation) Act 1969, which is repealed by the proposed Act (clause 64).

## **PART 5 - REVIEW OF CERTAIN DECISIONS**

### **Division 1 - Notifications**

Clause 47 requires that parties entitled to request a review of certain decisions made by the Director-General be given written notification of those decisions, and of the reasons for them. The clause also provides that the Director-General's decisions are effective from the time when the person concerned is notified, and

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remain in effect unless rescinded by the Director-General or by a Court hearing an appeal against the decision.

### **Division 2 - Review by review panels**

**Clause 48** entitles the holder of a service contract to request a review, by a review panel, of certain decisions of the Director-General.

**Clause 49** provides for the appointment of review panels.

**Clause 50** specifies the form any request for a review is to take. The clause further specifies the circumstances in which a panel may decline to investigate a case.

**Clause 51** relieves the Director-General of any obligation to accept any recommendation of the panel. It also specifies that nothing in the provisions relating to reviews affects the operation of clause 28 (which incorporates the provisions of proposed Part 3 into service contracts).

### **Division 3 - Appeals**

**Clause 52** specifies the classes of persons who may appeal under this Division to the Local Court against certain decisions affecting them.

**Clause 53** specifies the matters to which the Court must have regard when deciding an appeal. The clause also specifies that the Court's decision is final.

## **PART 6 - MISCELLANEOUS**

**Clause 54** prohibits certain activities relating to the provision of credentials.

**Clause 55** requires offenders to state their names and residential addresses to a member of the Police Force or to an authorised officer on request.

**Clause 56** prohibits the hindrance or obstruction of an authorised officer.

**Clause 57** specifies the extent to which authorised officers may exercise the powers conferred on them.

**Clause 58** provides that any director or manager of a corporation who knowingly authorised or permitted the corporation to contravene a provision of the proposed Act or of the regulations is to be taken to have contravened that provision.

**Clause 59** defines "penalty notice offence" and "penalty notice" and provides for the issue and service of such notices.

**Clause 60** specifies the venue for proceedings for offences.

**Clause 61** provides for the recovery of any money payable under the proposed Act or the regulations.

**Clause 62** requires the Director-General to keep certain records and provides that a certificate of the Director-General in relation to any matter in those records is prima facie evidence of what it certifies and is admissible in any legal proceedings.

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**Clause 63** empowers the Governor to make regulations in aid of the proposed Act.

**Clause 64** gives effect to the repeal of the Transport Licensing Act 1931 and other enactments and gives effect to a Schedule of savings and transitional provisions.

**Clause 65** gives effect to a Schedule of amendments of other Acts.

**SCHEDULE 1 - TAX ON TRANSFER OF LICENCES  
FOR TAXI-CABS**

This Schedule re-enacts a scale of transfer taxes that was contained in the Transfer of Public Vehicles (Taxation) Act 1969, repealed by the proposed Act.

**SCHEDULE 2 - REPEALS**

This Schedule lists the enactments repealed by the proposed Act.

**SCHEDULE 3 - SAVINGS AND TRANSITIONAL PROVISIONS**

This Schedule enacts appropriate savings and transitional provisions consequent on the enactment of the proposed Act and the repeal of the Transport Licensing Act 1931.

**SCHEDULE 4 - CONSEQUENTIAL AMENDMENT OF OTHER ACTS**

This Schedule contains amendments of other Acts that are made as a consequence of the enactment of the proposed Act and the repeal of the Transport Licensing Act 1931.

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The expression "penalty unit", used throughout the Bill, has its basis in section 56 of the Interpretation Act 1987. At present, 1 penalty unit is equivalent to \$100.

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FIRST PRINT

**PASSENGER TRANSPORT BILL 1990**

NEW SOUTH WALES



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- 62. Records and evidence from records
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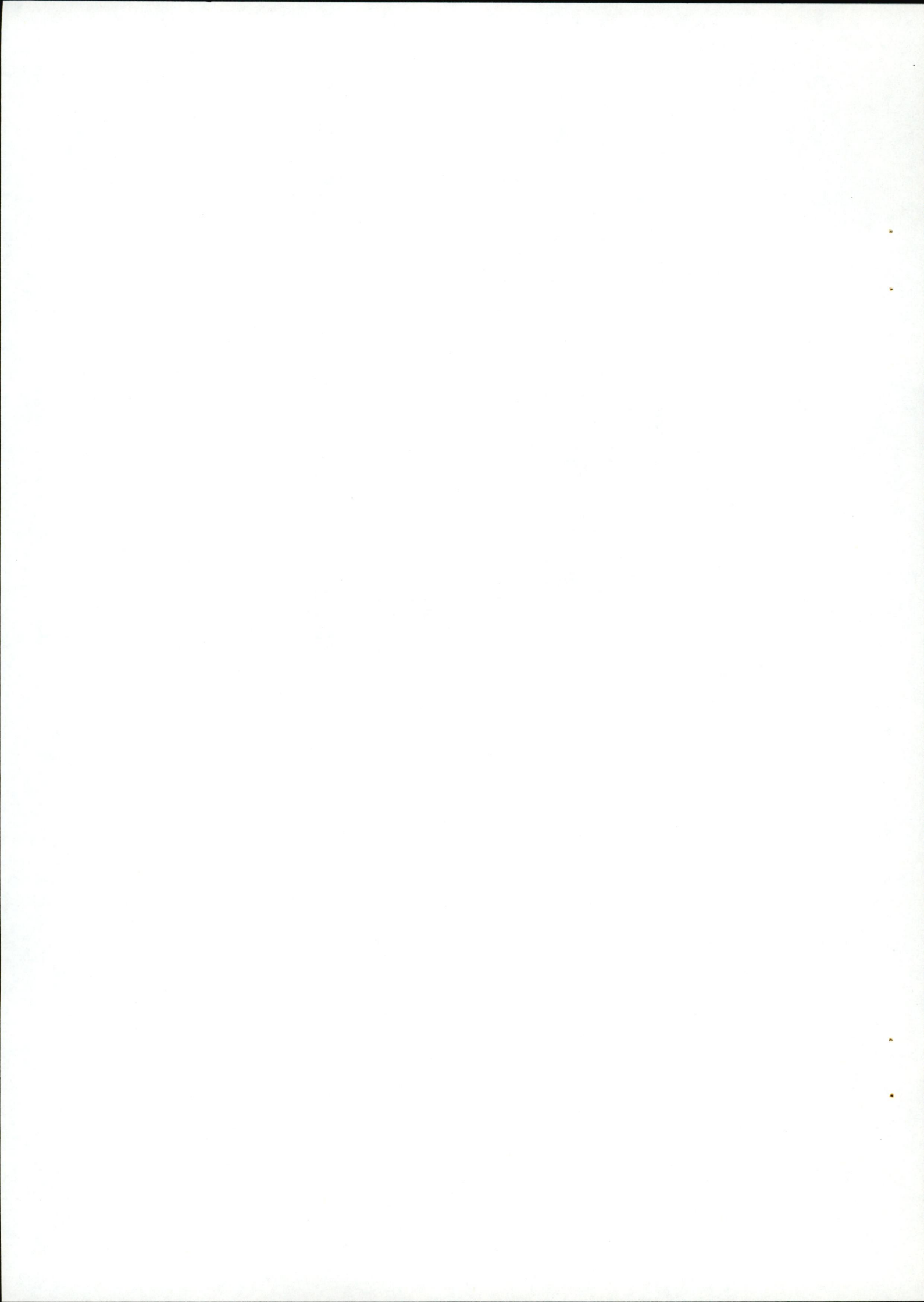
SCHEDULE 1 - TAX ON TRANSFER OF LICENCES FOR TAXI-CABS

SCHEDULE 2 - REPEALS

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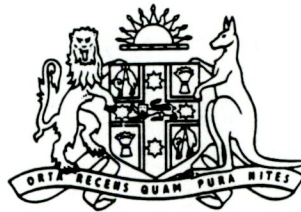
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**PASSENGER TRANSPORT BILL 1990**

NEW SOUTH WALES



No. , 1990

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**A BILL FOR**

An Act to regulate public transport services; to repeal the Transport Licensing Act 1931 and certain other enactments; and for other purposes.

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**The Legislature of New South Wales enacts:**

**PART 1 - PRELIMINARY**

**Short title**

1. This Act may be cited as the Passenger Transport Act 1990.

**Commencement**

2. This Act commences on a day or days to be appointed by proclamation.

**Definitions**

3. In this Act:

"**accredited service operator**", in relation to a public passenger service, means a person accredited under Division 1 of Part 2 for a service of that kind (or for services that include such a service);

"**authorised officer**" means a person appointed by the Director-General to be an authorised officer for the purposes of this Act;

"**bus**" means a motor vehicle which seats more than 8 adult persons, and includes a vehicle of any class prescribed by the regulations for the purposes of this definition;

"**Director-General**" means the Director-General, Department of Transport;

"**driver**" means a person who drives any public passenger vehicle (or, where the vehicle is a vessel, means the master for the time being of the vessel);

"**ferry**" means a vessel which seats more than 8 adult persons, and includes a vessel of any class prescribed by the regulations for the purposes of this definition;

"**holder**", in relation to a service contract, means the person who (apart from the Director-General) is a party to the contract;

"**licence**" means a licence (including a short-term licence) for a taxi-cab, or a licence for a private hire vehicle, in force under this Act;

"**long-distance service**" means a public passenger service conducted according to one or more regular routes, in which each passenger is carried for a distance of not less than 40 kilometres;

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**"passenger"** does not include the driver of a public passenger vehicle (or, where the vehicle is a vessel, the master or crew of the vessel);

**"private hire vehicle"** means a motor vehicle (other than a bus or taxi-cab) which is used to provide a public passenger service (other than a regular passenger service, a long-distance service or a tourist service);

**"public passenger service"** means the carriage of passengers for a fare or other consideration:

- (a) by motor vehicle along a public street; or
- (b) by vessel within any New South Wales waterway;

**"public passenger vehicle"** means:

- (a) a bus used to provide a public passenger service; or
- (b) a ferry used to provide a regular passenger service; or
- (c) a taxi-cab or private hire vehicle; or
- (d) a vehicle declared by a regulation under section 6 to be a public passenger vehicle;

**"public street"** has the same meaning as in the Traffic Act 1909;

**"regular passenger service"** means a public passenger service conducted according to regular routes and timetables, but does not include a tourist service or a long-distance service;

**"service contract"** means a contract entered into under Part 3;

**"taxi-cab"** means a motor vehicle:

- (a) which is used to provide a public passenger service (other than a regular passenger service, a long-distance service or a tourist service); and
- (b) which, for the purpose of procuring passengers, is made to ply or stand for hire in a public street;

**"tourist service"** means a public passenger service provided by a bus or ferry, or by a vehicle of a kind prescribed by the regulations, being a service designed for the carriage of tourists to a common destination;

"vehicle" includes a vessel.

**Objects**

4. The objects of this Act are:

- (a) to require the accreditation, by the Director-General, of the operators of and drivers involved in public passenger services; and
- (b) to dispense with the licensing of ferries and buses used to provide a public passenger service, providing instead for:
  - (i) ferry and bus services to be operated under fixed-term contracts entered into between the Director-General and operators; and
  - (ii) deregulation of long-distance and tourist services; and
  - (iii) regulation of government and non-government buses and ferries on a more equal basis; and
- (c) to encourage the provision of school bus services on a more commercial basis, without disregarding the reasonable expectations of traditional service operators; and
- (d) to consolidate and re-enact, with certain modifications, those provisions of the Transport Licensing Act 1931 that relate to the regulation of taxi-cabs and private hire vehicles and (without substantial alteration) the provisions of the Transfer of Public Vehicles (Taxation) Act 1969.

**Crown bound by Act**

5. (1) This Act binds the Crown not only in right of New South Wales but also, in so far as the legislative power of Parliament permits, in all its other capacities.

(2) In particular, this Act, in so far as it applies to public passenger services, applies to any such services carried on by the State Transit Authority and the State Rail Authority.

**Other public passenger vehicles**

6. (1) The regulations may declare that any specified class of vehicles, being vehicles used for the carriage of passengers for hire or for any consideration or in the course of any trade or business, are to be taken to be public passenger vehicles for the purposes of this Act.

(2) The regulations may apply all or any of the provisions of this Act (with or without modification) to any such class of vehicles.

## **PART 2 - CREDENTIALS OF OPERATORS AND DRIVERS**

### **Division 1 - Accreditation of operators**

#### **Accreditation**

7. (1) A person who:

- (a) carries on a public passenger service by means of a bus or other motor vehicle; or
- (b) carries on a regular passenger service by means of a ferry, being in either case a service operating within, or partly within, New South Wales is guilty of an offence unless the person is an accredited service operator for that service.

Maximum penalty: 100 penalty units.

(2) The purpose of accreditation under this Division is to attest:

- (a) that the accredited person is (or, in the case of an accredited corporation, the designated directors and managers of the corporation are) considered to be of good repute and in all other respects fit and proper to be responsible for the operation of a public passenger service; and
- (b) that the accredited person has demonstrated the capacity to meet the government's standards of:
  - (i) financial viability; and
  - (ii) safety of passengers and the public; and
  - (iii) vehicle maintenance,

to the degree and in the manner required in respect of services of the kind specified in the accreditation.

(3) Standards for the purposes of subsection (2) (b):

- (a) may be prescribed by the regulations; or
- (b) to the extent that they are not so prescribed, may be determined and published by the Director-General and made available to interested persons.

(4) Any person wishing to obtain from the Director-General a copy of a standard published under subsection (3) (b) must pay the fee (if any) prescribed by the regulations.

**Procedure**

8. (1) Having regard to the purpose of accreditation, the Director-General may accredit persons applying for accreditation.

(2) For the purposes of this section:

- (a) a corporation may nominate, and the Director-General may accept the nomination of, any number of its directors and managers; and
- (b) further nominations may be made and accepted from time to time; and
- (c) a person so nominated becomes a designated director or manager, as referred to in section 7 (2) (a), only when the Director-General certifies acceptance of the nomination.

(3) Procedures for the purposes of this section may be settled by the Director-General, subject to any provision in that behalf made by the regulations.

**Style of accreditation**

9. (1) Particulars of accreditation are to be given in writing by the Director-General to the accredited person.

(2) An accreditation may be given so as to be general or limited, that is to say:

- (a) appropriate for all public passenger services; or
- (b) appropriate only for the service or services designated in the accreditation, or for a service or services having the scope or characteristics so designated.

**Variation, suspension or cancellation of accreditation**

10. (1) Having regard to the purpose of accreditation, the Director-General may at any time vary, suspend or cancel any person's accreditation.

(2) The accreditation of a corporation is automatically cancelled when there is no designated director or manager for the purposes of section 7 (2) (a).

**Division 2 - Drivers' authorities**

**Authorities**

11. (1) A person who drives a public passenger vehicle is guilty of an offence unless the person is the holder of an appropriate authority under this Division.

Maximum penalty: 20 penalty units.

- (2) The purpose of an authority under this Division is to attest:
- (a) that the authorised person is considered to be of good repute and in all other respects a fit and proper person to be the driver of a public passenger vehicle; and
  - (b) that the authorised person is considered to have sufficient responsibility and aptitude to drive the vehicle or vehicles to which the authority relates:
    - (i) in accordance with the conditions under which a public passenger service is operated; and
    - (ii) in accordance with law and custom.
- (3) The regulations may create categories or grades of authority.

**Criteria and procedure**

12. (1) Having regard to the purpose of an authority, the Director-General may grant authorities to persons applying for them.

(2) Applicants must meet any criteria set forth in the regulations and must satisfy the Director-General as to any matter the Director-General considers relevant.

(3) Procedures for the purposes of this section may be settled by the Director-General, subject to any provision in that behalf made by the regulations.

**Style of authority**

13. (1) An authority is to be given in writing by the Director-General to the person authorised.

(2) The authority must specify the kind or kinds of vehicles for which it is appropriate.

**Variation, suspension or cancellation of authority**

14. Having regard to the purpose of an authority, the Director-General may at any time vary, suspend or cancel any person's authority.

**Division 3 - Fees**

**Fees**

15. An applicant for an accreditation or authority under this Part must pay any fee fixed by the regulations for consideration of the application.

**PART 3 - REGULAR PASSENGER SERVICES**

**Service contracts**

16. (1) The terms and conditions on which any regular passenger service is to be carried on within, or partly within, New South Wales are to be set forth in a contract entered into between an accredited operator and the Director-General (on behalf of the Crown).

(2) The Director-General may invite contracts by tender or in such other manner as the Director-General thinks fit.

(3) A person who carries on a regular passenger service otherwise than under the authority of a service contract is guilty of an offence.

Maximum penalty: 100 penalty units.

(4) This section has effect subject to this Act and the regulations.

**Nature of contracts**

17. (1) A service contract must make provision with respect to:

- (a) the period for which it operates; and
- (b) the manner in which it may be terminated; and
- (c) standards of safety for passengers and the public, and of vehicle maintenance; and
- (d) any other matters required by this Act or the regulations to be specified in it.

(2) A service contract may make provision for or with respect to:

- (a) monetary or other penalties for breaches of the contract and the recovery of any such monetary penalties; and



- (b) bonds for the performance of any or any specified obligations under the contract; and
- (c) such other matters as the parties think fit to include in the circumstances of the case.

(3) The contract may provide for the periodic review, in a manner and at such periods as the contract may specify, of any matter for the time being determined by or under it.

#### **Commercial and non-commercial contracts**

18. (1) For the purpose of determining the manner in which a contract holder is to be remunerated for the performance of services under the contract, a service contract may be classified as a "commercial" or a "non-commercial" contract.

(2) Under a commercial contract, the holder's remuneration is to be derived from revenue generated by passengers' fares.

(3) Under a non-commercial contract, the holder's remuneration is to be a contract price, or remuneration fixed at an agreed rate, payable by the Crown to the holder in the manner provided by the contract.

(4) A commercial contract is to be entered into for a term of 5 years.

(5) A non-commercial contract may be entered into for any term (subject, in the case of school bus services, to the regulations).

(6) Nothing in this section precludes the holder of a non-commercial contract from charging and collecting fares from passengers in accordance with the contract.

#### **Fares**

19. (1) A commercial contract must fix a scale of maximum fares.

(2) The scale must be fixed at not less than the average level of fares for the time being prevailing in the industry for comparable services, and due allowance must be made for inflationary movements in the costs of providing the service.

(3) Maximum fares should be specified in terms of the distance for which a passenger, on payment of a fare, is entitled to be carried. For that purpose the contract may resort to terms of average or minimum distances, but it is not sufficient to describe distance in terms only of the intervals between stopping-places along a route.

(4) Under a non-commercial contract, provision may be made for adjustments in respect of any shortfall or surplus resulting from the difference between the agreed contract price and any revenue generated by fares.

**Service levels**

20. (1) In this section, "service levels" means:

- (a) the periods of time during which services are to be operated; and
- (b) the frequency and extent of operation of services during any specified period of time.

(2) A service contract must fix a scale of minimum service levels.

(3) In fixing the scale for a service to be carried on under a commercial contract, regard should be had to:

- (a) the needs of the community to be served by the service; and
- (b) the average service levels for the time being prevailing in the industry with respect to communities which have similar population densities and which are in other respects comparable.

(4) For the purposes of subsection (3) (b), average service levels may be analysed with respect to significant time categories such as peak work-based journey periods, shopping off-peak hours, Sundays and holidays, and so forth.

**Exclusive rights**

21. (1) A service contract must specify a region or route of operation.

(2) A route may proceed across land or water or both, and a region may consist of a geographical or navigational area or both.

(3) A commercial contract operating on a particular route is to confer on the holder the exclusive right to operate regular passenger services on that route.

(4) The right conferred on a holder by subsection (3) precludes the Director-General from subsequently entering into a contract with any other person for the operation of a similar service along a route sufficiently proximate that it would result in substantial competition with the service carried on by that holder.

- (5) A commercial contract operating in a region may either:
- (a) confer on the holder the exclusive right to operate regular passenger services in the region; or
  - (b) confer on the holder a right to operate such services in the region, being a right that is an exclusive right except with respect to a route or routes specified in the contract or in a variation made to the contract.

**New services**

22. (1) If, while a commercial contract is on foot with respect to a particular region or route:

- (a) the Director-General determines that, in the public interest, additional services should be provided in that region or on, or in proximity to, that route; and
- (b) the holder of the contract declines to vary the contract, or enter into a new contract, for the provision of those additional services,

the holder thereby waives the exclusive right to operate regular passenger services in that region or on that route, but only to the extent necessary to enable the operation of those additional services by someone else.

(2) The Director-General may propose the terms and conditions of any variation of the holder's contract or of any new contract to be offered to the holder.

(3) Subsection (1) does not apply if, considering the nature and extent of the proposed additional services, the terms and conditions proposed by the Director-General are unreasonable in light of the provisions of this Act and the regulations and the circumstances of the case.

(4) For the purposes of subsection (3), the average level of fares prevailing in the industry for comparable services must be considered, together with any other matters relevant to the circumstances of the case.

(5) In the event that additional services proposed by the Director-General affect the exclusive rights of two or more contract holders, it is the duty of all parties to endeavour to agree on a just compromise of their respective rights. Failing such an agreement, the exclusive rights of any one of them (called the "first holder") are, to the

extent necessary to enable the additional services to be performed by someone else, extinguished by this subsection when:

- (a) a variation of contract is effected, or a new contract is entered into, with another holder so affected, if the proposed additional services are likely to reduce patronage of the services operated by that other holder to a greater extent than they would reduce those of the first holder; or
- (b) a new contract is entered into jointly with two or more other holders, patronage of whose services is likely to be reduced to any such greater extent.

(6) Section 28 applies to subsection (5) as though all the holders affected were bound by a common agreement.

#### **Renewal of commercial contracts**

**23. (1)** At the end of the term of a commercial contract, and thereafter from time to time at the end of each term for which the contract is renewed in accordance with this section, the holder is entitled to a renewal of the contract for a further term of 5 years, unless:

- (a) the holder's previous performance under the contract has been unsatisfactory in a manner and to an extent that would have enabled the contract to be cancelled during its term if the Director-General had taken steps to do so; or
- (b) the region or route of operation of the contract is varied in accordance with section 24.

(2) If a contract is renewed, it is to be renewed, with due regard to the provisions of this Part relating to fares and other matters, on the same basis as if it were an original contract, and in such a manner as to preserve the exclusive rights of the holder.

(3) If the region or route of operation of the contract is varied under section 24, the holder (unless otherwise disentitled) is entitled to a further contract if the variation consists of a minor extension or diminution of the region or route, or is otherwise of a sufficiently minor character that a further contract may be entered into in substantially the same terms as the previous contract.

(4) An entitlement under subsection (3) is to be regarded for the purposes of this Act as an entitlement to renewal of the previous contract.

(5) The rights of a holder under this section are to be taken to be satisfied if the holder declines to enter into a renewed contract, drawn up and duly tendered to the holder, whose terms meet all the requirements of this Part.

**Variation of region or route**

24. (1) The region or route of operation of a service contract cannot be varied during the term of the contract except by consent of the parties.

(2) The region or route of a commercial contract offered pursuant to section 23 as a renewal of a previous contract must be the same as the region or route defined in respect of that previous contract except by consent of the parties or by a determination of the Director-General under this section.

(3) A renewal of contract may be offered in respect of a varied region or route if the variation:

- (a) is necessary to extend services in developing areas; or
- (b) is necessary as a result of altered traffic conditions or for reasons of public safety; or
- (c) is otherwise necessary for improvement of transport services in the public interest.

**Assignment of benefit of service contracts**

25. (1) The benefit of a service contract may not be assigned by its holder without the consent of the Director-General.

(2) If the Director-General is satisfied:

- (a) that the person nominated is an accredited service operator of an appropriate kind; and
- (b) that adequate provision will be made by that person for the conduct of the service concerned,

the Director-General may, by instrument in writing, consent to such an assignment.

(3) When the benefit of a contract is assigned, the assignee is bound, by force of this subsection, to perform the obligations which the assignor was bound under the contract to perform.

(4) Any purported assignment in contravention of this section is void.

**Variation, suspension or cancellation of service contracts**

26. (1) A service contract may, at any time during its currency, be varied, suspended or cancelled by the Director-General if:

- (a) there has been a serious or persistent failure to observe the terms and conditions of the contract; or
- (b) the holder is convicted of an offence against this Act or the regulations with respect to the furnishing of information concerning the service.

(2) A service contract is automatically cancelled when the holder ceases to be an accredited service operator or ceases to be an accredited service operator of an appropriate kind.

(3) Nothing in this Act prevents the Director-General from making such arrangements as the Director-General thinks fit for the provision, by an accredited service operator, of temporary services in place of any regular passenger services for the time being discontinued by a variation, suspension or cancellation under this section.

**Fee for service contract**

27. (1) In addition to any other fee payable under this Act, a contract fee is payable to the Director-General when a service contract for a regular passenger service is first awarded or is subsequently renewed.

(2) The Director-General may determine the amount of the fee, subject to any maximum amount prescribed by the regulations.

(3) The fee should reflect the administrative costs associated with negotiating, preparing and entering into the contract and the estimated costs associated with subsequent monitoring by the Director-General of the holder's performance.

**Provisions of this Part form part of contract**

28. (1) Every contract entered into for the purposes of this Part is to be taken to include all the provisions of this Part (section 16 excepted) that confer or impose any rights, powers or duties on the parties, and any contravention of such a provision may be remedied at law or in equity as though the provision were one to which the parties had by contract agreed.

(2) In proceedings for any such remedy, every duty imposed on either party by any such provision is to be regarded as a duty performable for the benefit of the other party.

(3) To the extent that an adequate alternative remedy is provided by this section, no other proceedings by way of judicial review of any decision or action of the Director-General may be taken by or on behalf of the holder of a service contract.

## **PART 4 - TAXI-CABS AND PRIVATE HIRE VEHICLES**

### **Division 1 - Licensing requirements**

#### **Requirement for licences**

29. A person who carries on a public passenger service by means of a taxi-cab or private hire vehicle:

- (a) otherwise than under the authority of a licence for the taxi-cab or private hire vehicle issued to that person; or
- (b) otherwise than in accordance with the terms and conditions of such a licence,

is guilty of an offence.

Maximum penalty: 100 penalty units.

#### **Applications for licences or renewals**

30. An application for a licence, or the renewal of a licence, for a taxi-cab or private hire vehicle:

- (a) must be made to the Director-General in a form and manner approved by the Director-General; and
- (b) must be accompanied by the fee (if any) prescribed by the regulations.

#### **Issue and term of licences**

31. (1) The Director-General may issue or renew a licence for a taxi-cab or private hire vehicle to an applicant unless the Director-General is of the opinion:

- (a) that, in the public interest, the application should not be granted; or
- (b) that the applicant is not an accredited service operator of an appropriate kind; or

(c) that, in the circumstances of the case, the application does not warrant investigation.

(2) Every licence (other than a short-term licence granted under section 32) continues in force (unless sooner cancelled or surrendered) for a period determined by the Director-General and specified in the licence, and is renewable from time to time.

#### **Short-term licences**

**32. (1)** If an applicant for a licence requests a short-term licence, the Director-General may grant the applicant a licence of 12 months' duration.

(2) Such a licence is not renewable and cannot be transferred except on the application of the holder's legal personal representative or of a trustee of the holder's estate.

#### **Area of operation of licences**

**33. (1)** A licence for a taxi-cab or private hire vehicle may specify the area of operation of the taxi-cab or private hire vehicle.

(2) If no area is specified then the taxi-cab or private hire vehicle may be used to carry on a public passenger service anywhere in New South Wales.

(3) A licence for a taxi-cab or private hire vehicle does not confer on any person an exclusive right to operate a taxi-cab or private hire vehicle in the area of operation specified in the licence.

#### **Conditions of licences**

**34. (1)** A licence for a taxi-cab or private hire vehicle may make provision for or with respect to:

- (a) any fares to be charged or other arrangements for remuneration to be made; and
- (b) such other conditions as the Director-General thinks fit to impose in the circumstances of the case.

(2) The fares to be charged, or other arrangements for remuneration to be made, in respect of a taxi-cab or private hire vehicle must be determined by the Director-General having regard to:



- (a) the public interest; and
- (b) the general level of fares or other rates of remuneration applying to taxi-cabs or private hire vehicles.

(3) Any provision made in a licence in accordance with this section is subject to the regulations.

#### **Variation of terms and conditions**

35. (1) If the Director-General considers it to be in the public interest, the Director-General may, by notice in writing to the licensee, vary the area of operation or conditions of a licence for a taxi-cab or private hire vehicle at any time during its currency.

(2) A licensee may, on application made in writing and accompanied by the prescribed fee (if any), request a variation of the area of operation or conditions of the licence for a taxi-cab or private hire vehicle, and the Director-General, having regard to the public interest:

- (a) may grant the variation and may endorse the licence accordingly; or
- (b) may refuse to grant the variation.

(3) The conditions of the licence for a taxi-cab or private hire vehicle may, for the purposes of this section, be varied by the addition, substitution or deletion of one or more conditions.

#### **Transfer of licences**

36. (1) The licence (not being a short-term licence) for a taxi-cab or private hire vehicle may not be transferred by the licensee, but the licensee or the licensee's legal personal representative may apply to the Director-General to transfer the licence, for the balance of its term, to a nominated person.

(2) If the person nominated is an accredited service operator of an appropriate kind, the Director-General must transfer the licence to that person for the balance of its term.

(3) The Director-General must, however, withhold approval of a transfer if the appropriate transfer tax under Division 2 has not been paid.

**Suspension or cancellation of licences**

37. The licence for a taxi-cab or private hire vehicle may, at any time during its currency, be suspended or cancelled by the Director-General if:

- (a) owing to the default of the licensee or the agents or employees of the licensee:
  - (i) the provisions of this Act or the regulations; or
  - (ii) the terms and conditions of the licence, have not been or are not being complied with; or
- (b) the service has been or is being conducted in such a manner as to cause danger to the public; or
- (c) the licensee is convicted of an offence against this Act or the regulations with respect to the furnishing of information concerning the public passenger service carried on under the authority of the licence; or
- (d) the licensee does not have a policy of insurance covering third-party property damage in respect of the taxi-cab or private hire vehicle, being a policy:
  - (i) issued by the Government Insurance Office or any corporation authorised under the Insurance Act 1973 of the Commonwealth to carry on insurance business; and
  - (ii) providing cover which in the opinion of the Director-General is sufficient for the taxi-cab or private hire vehicle.

**Licence fee for ordinary licences**

38. (1) In addition to any application fee, a licence fee is payable to the Director-General when a licence (other than a short-term licence) is first issued.

(2) The amount of the licence fee must be determined by inviting applicants for the licence to bid for it at a public auction or to submit sealed tenders for it or by using such other method chosen by the Director-General as will, in the Director-General's opinion, yield as the fee for the licence an amount equivalent to its current value on the open market.

(3) The Director-General may, in circumstances specified in the regulations, fix the licence fee at less than the current value of the

licence on the open market or decide not to impose a licence fee for the licence.

(4) The licence fee is payable by the person to whom the licence is issued in the manner determined by the Director-General.

#### **Licence fee for short-term licences**

39. (1) The fee for a short-term licence is an amount determined by the Director-General.

(2) The amount determined should reflect the Director-General's estimate of what such a licence would be worth on the open market if it were transferable.

#### **Stand-by taxi-cabs**

40. (1) The holder of a licence for a taxi-cab may, if the taxi-cab is out of operation while undergoing repair or service, operate in place of that taxi-cab another motor vehicle even though no licence is in force for it, but only if that other motor vehicle complies with the requirements of this section.

(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; and
- (b) be registered under the Traffic Act 1909; and
- (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 Traffic Act 1909; and
- (d) comply, to the satisfaction of the Director-General, with the standards prescribed for taxi-cabs; and
- (e) except to the extent authorised by the Director-General, conform to the terms and conditions imposed by the licence for that taxi-cab; and
- (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 this section, that

motor vehicle is to be taken, for the purposes of this Act, to be a taxi-cab for which a licence is in force.

**Authority required for operation of taxi-service radio communication network**

41. (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.

(2) A person must 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 Director-General and, where such an authority is in force, unless the conditions and restrictions to which the authority is subject are complied with.

Maximum penalty: 10 penalty units.

(3) A person may apply to the Director-General for such an authority.

(4) The Director-General may refuse to grant such an authority on the grounds that:

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

but otherwise the Director-General must grant the authority on application.

(5) An authority is subject to such conditions and restrictions as are prescribed by the regulations or as are imposed by the Director-General in the public interest.

(6) The Director-General may from time to time, by notice in writing given to the holder of an authority:

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- (a) vary a condition or restriction of the authority; or
- (b) impose an additional condition or restriction on that holder; or
- (c) revoke a condition or restriction.

(7) If the holder of an authority fails to comply with a condition or restriction to which the authority is subject, the Director-General may revoke the authority or suspend its operation for a period not exceeding 12 months.

### **Inspection of vehicles etc.**

42. (1) An authorised officer may, on reasonable notice, enter and inspect any vehicle:

- (a) which is licensed as a taxi-cab or private hire vehicle under this Act; or
- (b) which, in the opinion of the Director-General, is required by this Act to be so licensed.

(2) Such an inspection may be carried out as often as the Director-General considers it desirable in the public interest.

## **Division 2 - Transfer tax**

### **Definitions**

43. (1) In this Division, "transport district" means a transport district established under the Transport Administration Act 1988 or that was previously established under the Transport Act 1930.

(2) For the purposes of this Division, the current market value of the licence for a taxi-cab which is transferred is an amount that, in the opinion of the Director-General, represents the current market value, at the date of the transfer, of the licence.

### **Transfer of licences for taxi-cabs**

44. (1) If

- (a) the licence in respect of a taxi-cab authorised to operate in a transport district:
  - (i) was first granted under the Transport Licensing Act 1931 before 25 December 1986 (the date of commencement of the Transfer of Public Vehicles (Taxation) Amendment Act 1986); or

- (ii) was first granted under the Transport Licensing Act 1931, or under this Act, on or after that date but is not a licence to which subsection (2) applies; and
  - (b) the holder of the licence transfers it to another person, there is to be charged, levied, collected and paid for the use of the Crown in right of New South Wales:
    - (c) if the transfer takes place after the commencement of this section and before 24 December 1996 - a tax on the transfer of the licence at the rates calculated in accordance with Schedule 1; and
    - (d) if the transfer takes place on or after 24 December 1996 - a tax on the transfer of the licence calculated at the rate of 2.5 per cent of its current market value.
- (2) If:
- (a) the licence in respect of a taxi-cab authorised to operate in a transport district was first granted under the Transport Licensing Act 1931, or under this Act, on or after 25 December 1986 (the date of commencement of the Transfer of Public Vehicles (Taxation) Amendment Act 1986); and
  - (b) the licence fee payable in respect of the grant of the licence was an amount equivalent to the then current market value of the licence; and
  - (c) the holder of the licence transfers it to another person, there is to be charged, levied, collected and paid for the use of the Crown in right of New South Wales a tax on the transfer of the licence calculated at the rate of 2.5 per cent of its current market value.
- (3) If:
- (a) the taxi-cab to which a licence relates is not authorised to operate in a transport district; and
  - (b) the holder of the licence transfers it to another person, there is to be charged, levied, collected and paid for the use of the Crown in right of New South Wales a tax on the transfer of the licence calculated at the rate of 2.5 per cent of its current market value.

**Transfer of licences for private hire vehicles**

45. There is to be charged, levied, collected and paid for the use of the Crown in right of New South Wales a tax of \$500:

- (a) on the transfer of a licence for a private hire car granted under the Transport Licensing Act 1931; and
- (b) on the transfer of a licence for a private hire vehicle granted under this Act.

**Exemption from tax**

46. The transfer of a licence for a taxi-cab or private hire vehicle is exempt from tax under this Division if the holder of the licence has died and the transferee is entitled to the licence under the will or on the intestacy of the holder.

**PART 5 - REVIEW OF CERTAIN DECISIONS**

**Division 1 - Notifications**

**Notification of decisions of the Director-General**

47. (1) When the Director-General makes a decision that is able to be reviewed, or against which an appeal lies, under this Part, it is the duty of the Director-General to cause any person entitled to request the review, or to lodge the appeal, to be notified in writing of the fact of the decision and of the reasons for it.

(2) Any such decision has effect from the time the notice is given and continues in effect unless rescinded by the Director-General or by a Court determining an appeal under Division 3.

**Division 2 - Review by review panels**

**Review of decisions concerning service contracts**

48. The holder of a service contract who is aggrieved by any decision of the Director-General:

- (a) with respect to the variation, suspension, cancellation, renewal or transfer of the contract; or
  - (b) that affects the holder's exclusive rights under the contract,
- may request the Director-General to cause the decision to be reviewed under this Division.

**Review panels**

49. For the purposes of a review requested under this Part, the Minister may appoint a review panel consisting of nominees of the Director-General, who are to be taken to represent the Department of

Transport, and persons who, in the opinion of the Director-General, are representative of persons engaged in carrying on a passenger transport business.

**Conduct of review**

50. (1) A request for a review under this Part must be accompanied by a written submission from the person who requests it, setting out the reasons why that person thinks the decision concerned is incorrect or should not have been made.

(2) A review panel may decline to investigate any case that is not supported by such a submission or if the submission concerned appears on the face of it to be frivolous or vexatious or to be otherwise not worth considering.

(3) Otherwise the panel must, in accordance with any directions of the Director-General, consider any case referred to it and report to the Director-General, setting out its reasons why the relevant decision of the Director-General should stand or should be reconsidered by the Director-General, as the case requires.

**Effect of review**

51. (1) The Director-General is not bound to accept any recommendation of a review panel.

(2) Nothing in this Part affects the operation of section 28.

**Division 3 - Appeals**

**Appeals**

52. (1) Any person whose application under Part 2 has been refused, or whose accreditation has been varied, suspended or cancelled, may appeal to the Local Court.

(2) If, on an appeal to the Court by a driver employed by the State Transit Authority whose authority has been varied, suspended or cancelled, the Court is satisfied that another dispute pending before the Transport Appeals Board involves substantially the same issues, it may remit the appeal for hearing by that Board. In that event, the Transport Appeals Board has jurisdiction to hear and determine the appeal, and section 53 applies to that Board as if it were the Local Court.



(3) A licensee or an applicant for a licence who is aggrieved by any decision of the Director-General with respect to:

- (a) the issue, transfer, suspension, refusal or cancellation of a licence; or
- (b) the conditions imposed by the Director-General on a licence, or any variation or proposed variation of them,

may appeal to the Local Court.

(4) A person aggrieved by a decision of the Director-General with respect to a network referred to in section 41, or by the refusal of an application under that section, may appeal to the Local Court.

(5) In this section, "the Local Court" means any Local Court constituted by a Magistrate sitting alone, but if the regulations specify that an appeal is to be heard at the Local Court at a particular address, the appeal may be heard only at the Court so constituted at that address.

(6) An appeal must be lodged within the time prescribed by the regulations.

#### **Conduct of appeals**

53. (1) The Director-General is entitled to answer an appeal under this Division.

(2) In deciding an appeal, it is the duty of the Court, having regard to this Act and the regulations, the circumstances of the case and the public interest, to declare the decision that the Director-General ought to have made in the matter, and to determine the appeal accordingly.

(3) Nothing in subsection (2) precludes the Court from hearing evidence of any fact or circumstance alleged to have been unknown to the Director-General at the material time.

(4) The decision of the Court in the matter is final, and in cases where the appeal is allowed, it is the duty of the Director-General to give effect to that decision.

**PART 6 - MISCELLANEOUS**

**Offences involving credentials**

**54.** A person who:

- (a) by any false statement or misrepresentation, obtains or attempts to obtain any accreditation or authority under this Act or procures or attempts to procure a service contract; or
- (b) forges or fraudulently alters or uses any such accreditation or authority, or
- (c) fraudulently allows any such accreditation or authority to be used by any other person,

is guilty of an offence.

Maximum penalty: 20 penalty units.

**Offenders to state name and address**

**55. (1)** A person reasonably suspected by a member of the Police Force or by an authorised officer to be committing or to have committed an offence against this Act or the regulations may be required to state his or her full name and residential address.

**(2)** A person who:

- (a) fails or refuses to comply with the requirements of a member of the Police Force or authorised officer made under this section; or
- (b) in purported compliance with such a requirement, states a name that is not his or her name or an address that is not his or her residential address,

is guilty of an offence.

Maximum penalty: 5 penalty units.

**(3)** A person is not guilty of an offence under this section unless it is established that the member of the Police Force or authorised officer:

- (a) warned the person that a failure or refusal to comply with the requirement is an offence; and
- (b) identified himself or herself as a member of the Police Force or as an authorised officer, as the case requires.

**Obstruction**

56. A person who hinders or obstructs an authorised officer in the execution of his or her powers, authorities, duties or functions under this Act or the regulations is guilty of an offence against this Act.

Maximum penalty: 5 penalty units.

**Powers of authorised officers**

57. (1) A power expressed by this Act or the regulations to be conferred on an authorised officer may be exercised only by an authorised officer whose instrument of appointment authorises the officer to exercise that power.

(2) When exercising any power under this Act, an authorised officer must comply with any person's request (being a request that is reasonable in the circumstances) to produce identification indicating that he or she is an authorised officer.

(3) The Director-General is to issue each authorised officer with means of identification for the purposes of this section.

**Offences by corporations**

58. (1) If a corporation contravenes any provision of this Act or the regulations, each person who is a director of the corporation or who is concerned in the management of the corporation is to be taken to have contravened the same provision if the person knowingly authorised or permitted the contravention.

(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 convicted under that provision.

(3) Nothing in this section affects any liability imposed on a corporation for an offence committed by the corporation against this Act or the regulations.

**Penalty notices for certain offences**

59. (1) In this section:

"penalty notice" means a notice to the effect that, if the person served with the notice does not wish to have an alleged offence dealt with by a court, the person may pay, in accordance with the notice, the penalty specified in the notice;

"**penalty notice offence**" means an offence against this Act or the regulations declared by the regulations to be a penalty notice offence.

(2) An authorised officer may serve a penalty notice on a person who appears to the officer to have committed a penalty notice offence.

(3) The amount of the penalty to be specified in a penalty notice is the amount prescribed by the regulations for the alleged offence concerned, being an amount not exceeding the maximum amount of penalty which could be imposed for the offence by a court.

(4) A penalty notice may be served personally or by post.

(5) If the amount of the penalty prescribed by the regulations for an alleged offence is paid under this section, no person is liable to any further proceedings for the alleged offence.

(6) Payment of a penalty under this section is not to be regarded as an admission of liability for the purpose of, nor in any way affect or prejudice, any civil claim, action or proceeding arising out of the same occurrence.

(7) This section does not limit the operation of any other provision of this or any other Act or of any statutory rule.

#### **Proceedings for offences**

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

#### **Recovery of amounts due**

61. Any fees, charges or taxes payable under this Act or the regulations may be recovered by the Director-General as a debt in any court of competent jurisdiction.

#### **Records and evidence from records**

62. (1) The Director-General must keep records of the grant, refusal, variation, suspension and cancellation of accreditations, authorities, contracts and licences under this Act.

(2) A certificate purporting to be signed by the Director-General and certifying that:

(a) on a date specified in the certificate; or  
(b) during any period so specified,  
the particulars set forth in the certificate as to any matter required to be recorded under this section did or did not appear on or from the records is, for the purposes of any legal proceedings, prima facie evidence of what it certifies.

- (3) Such a certificate is admissible in any proceedings:
- (a) without proof of the authenticity of the Director-General's signature; and
  - (b) without production of any record or document on which the certificate is founded.

### **Regulations**

63. (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.

(2) In particular, the regulations may make provision for or with respect to the following:

- (a) the prohibition or restriction of the use of public passenger vehicles on any specified public street or any portion of a public street, or within any specified area, either generally or within certain hours; and
- (b) the sections, terminal points and stopping-places on bus or ferry routes; and
- (c) the number of public passenger vehicles of any class or description which may ply or stand for hire in any public street; and
- (d) the regulation or prohibition of eating, drinking or smoking in public passenger vehicles; and
- (e) the methods which may be adopted by the drivers of public passenger vehicles plying for hire in any public street and the regulation or prohibition of plying for hire in any particular street or part of a street; and
- (f) the prohibition of any person from touting or calling out or otherwise importuning any person to use a public passenger vehicle; and

- (g) requirements as to service contracts, licences and authorities under this Act, including:
  - (i) their form, and the terms, conditions and particulars applying to them; and
  - (ii) forms and conditions to be observed when submitting applications or tenders for them; and
  - (iii) matters relating to their award, refusal, transfer, suspension, cancellation or surrender; and
  - (iv) conditions of service applicable to school bus services or in other special circumstances; and
- (h) the adjustment of payments and refunds in connection with contract and licence fees; and
- (i) the conduct of passengers and drivers on public passenger vehicles; and
- (j) the powers and duties of drivers of public passenger vehicles and of authorised officers; and
- (k) the authority of drivers of buses or other public passenger vehicles, and of authorised officers, to eject persons guilty of any contravention of a regulation; and
- (l) the dress to be worn by the drivers of public passenger vehicles; and
- (m) the wearing of badges by drivers of public passenger vehicles and the regulation of the form and description, and the issue, wearing and return, of those badges; and
- (n) the taking up or setting down of passengers or other matters incidental to the transport of passengers; and
- (o) the carriage of passengers' luggage or other goods, and animals, on public passenger vehicles; and
- (p) the regulation or prohibition of the carriage of passengers standing in or on any part of a public passenger vehicle; and
- (q) the publication of fares or other arrangements for remuneration payable by passengers on public passenger vehicles; and
- (r) the collection of fares or other remuneration, and the determination of maximum or minimum fares or rates of remuneration, payable for the carriage of passengers or of passengers' luggage or other goods by public passenger vehicles; and

- (s) the remuneration of persons constituting a review panel; and
- (t) the furnishing by accredited service operators of returns (verified as prescribed) containing information (including particulars of income and expenditure) necessary or convenient to be ascertained to enable any matter concerning a public passenger service (including its profitability) to be determined; and
- (u) the furnishing by owners of public passenger vehicles of returns and other information, verified as prescribed; and
- (v) the imposition of penalties for the failure, neglect or refusal by a passenger to pay any fare or for quitting the public passenger vehicle before paying the fare; and
- (w) the age of vehicles that may be used as public passenger vehicles; and
- (x) the design, equipment and fittings (internal or external) of public passenger vehicles; and
- (y) the more effective checking of time-tables and ensuring that buses or ferries are not withdrawn from the ordinary route for special service unless the approval of the Director-General is first obtained; and
- (z) the compilation, publication and observance of time-tables; and
- (aa) the custody and return of property left in public passenger vehicles, the payment of compensation for any such property and the disposal or sale of any such property not claimed and the time of any such disposal or sale; and
- (bb) the regulation or prohibition of advertisements within or on the outside of public passenger vehicles; and
- (cc) the declaration of the speed not to be exceeded by buses whether generally or in any specified locality or on any specified public street or part of a public street; and
- (dd) the exhibition in or on any public passenger vehicle of such notices in the public interest as the Director-General considers necessary; and
- (ee) the erection and display of signs and notices for the guidance of the drivers of public passenger vehicles and the public; and
- (ff) the records and accounts to be kept by holders of service contracts and the holders of provisional authorities and the manner of keeping them; and

- (gg) the records to be kept by the drivers and owners of public passenger vehicles and by accredited service operators, the manner of keeping those records and their inspection; and
- (hh) the sale of tickets and the conditions under which tickets must be sold; and
- (ii) the granting of free or concession passes on public passenger vehicles; and
- (jj) generally as to the regulation and control of public passenger vehicles, their drivers and passengers.

(3) The regulations may exempt, or provide for the exemption (either absolutely or subject to conditions) of, any person or vehicle or any class of persons or vehicles from all or any of the provisions of this Act.

(4) The regulations may create offences punishable by a penalty not exceeding 20 penalty units.

**Repeals and savings**

64. (1) Each Act specified in Schedule 2 is repealed.

(2) Regulations in force under the Transport Licensing Act 1931 are repealed.

(3) Schedule 3 has effect.

**Consequential amendment of other Acts**

65. Each Act specified in Schedule 4 is amended as set out in that Schedule.

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**SCHEDULE 1 - TAX ON TRANSFER OF LICENCES  
FOR TAXI-CABS**

(Sec. 44)

1. Except in a case referred to in paragraph 2, the tax payable on the transfer of the licence is:

If the licence was first granted 6 years or less before the date of approval of the transfer

25 per cent of the current market value of the licence

If the licence was first granted more than 6 but not more than 7 years before the date of approval of the transfer

23 per cent of the current market value of the licence

If the licence was first granted more than 7 but not more than 8 years before the date of approval of the transfer

21 per cent of the current market value of the licence

If the licence was first granted more than 8 but not more than 9 years before the date of approval of the transfer

19 per cent of the current market value of the licence

If the licence was first granted more than 9 but not more than 10 years before the date of approval of the transfer

17 per cent of the current market value of the licence

SCHEDULE 1 - TAX ON TRANSFER OF LICENCES FOR  
TAXI-CABS - *continued*

If the licence was first granted more than 10 but not more than 11 years before the date of approval of the transfer

15 per cent of the current market value of the licence

If the licence was first granted more than 11 but not more than 12 years before the date of approval of the transfer

12.5 per cent of the current market value of the licence

If the licence was first granted more than 12 but not more than 13 years before the date of approval of the transfer

10 per cent of the current market value of the licence

If the licence was first granted more than 13 but not more than 14 years before the date of approval of the transfer

7.5 per cent of the current market value of the licence

If the licence was first granted more than 14 but not more than 15 years before the date of approval of the transfer

5 per cent of the current market value of the licence

If the licence was first granted more than 15 years before the date of approval of the transfer

2.5 per cent of the current market value of the licence

If a licence, in this paragraph referred to as an "original licence", that was granted otherwise than pursuant to a transfer of a licence has been transferred otherwise than by way of purchase or by way of gift inter vivos, any licence granted pursuant to that or any subsequent transfer

**SCHEDULE 1 - TAX ON TRANSFER OF LICENCES FOR  
TAXI-CABS - *continued***

by which the right to operate a taxi-cab or private hire vehicle conferred by that original licence is conferred on the transferee is to be taken, for the purposes of this paragraph, to have been granted on the day on which the original licence was granted.

2. In the case of a purchased licence within the meaning of this paragraph, the tax payable on the transfer of the licence is 2.5 per cent of the current market value of the licence.

For the purposes of this paragraph:

- (a) where a licence, in this paragraph referred to as an "original licence", that was granted otherwise than pursuant to a transfer of a licence has been transferred, and that or any subsequent transfer, by which the right to operate a taxi-cab or private hire vehicle conferred by that original licence is conferred on the transferee, was made by virtue of a purchase of the licence by the transferee or by virtue of a gift inter vivos of the licence to the transferee - the licence granted pursuant to that or any subsequent transfer is to be taken to be a purchased licence; and
- (b) where a licence has been surrendered and another licence has been issued to a nominee of the holder of the first-mentioned licence pursuant to an application in that behalf duly made under the Transport Licensing Act 1931 or under this Act - that other licence is to be taken to be a purchased licence; and
- (c) where a licence for a taxi-cab has been issued to a person on the surrender by him or her of a licence for a private hire vehicle acquired by him or her by way of purchase or by way of gift inter vivos, the licence for the taxi-cab is to be taken not to have been granted but is to be taken to have been purchased by the person to whom it was issued.

**SCHEDULE 2 - REPEALS**

(Sec. 64 (1))

Transport Licensing Act 1931 No. 32  
Transfer of Public Vehicles (Taxation) Act 1969 No. 35

SCHEDULE 2 - REPEALS - *continued*

State Transport (Co-ordination) Amendment Act 1986 No. 138  
State Transport (Co-ordination) Amendment Act 1987 No. 297  
State Transport (Co-ordination) Amendment Act 1988 No. 36  
State Transport (Co-ordination) (Transport Administration)  
Amendment Act 1988 No. 113

**SCHEDULE 3 - SAVINGS AND TRANSITIONAL PROVISIONS**  
(Sec. 64 (3))

**Definition**

1. In this Schedule, "the former Act" means the Transport Licensing Act 1931.

**Regulations**

2. (1) The regulations may contain provisions of a saving or transitional nature consequent on the enactment of this Act.

(2) In particular, the regulations may make provision for or with respect to:

- (a) the classification (as "commercial" or "non-commercial") of licences that, by the operation of this Schedule or of a regulation, are to be regarded as operating, from a specified date, as service contracts; and
- (b) the transitional application of any regulation imposing a limit on the age of a vehicle that may be used as a public passenger vehicle.

(3) Any such provision may, if the regulations so provide, take effect from the date of assent to this Act or a later date.

(4) To the extent to which any such provision takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as:

- (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication; or
- (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication.

SCHEDULE 3 - SAVINGS AND TRANSITIONAL PROVISIONS  
*- continued*

**Operators of regular passenger services**

3. (1) A person who, immediately before the commencement of Part 3, was licensed under the former Act to carry on a regular passenger service may still do so, without benefit of a service contract authorising the service, until such a contract is entered into, unless the parties otherwise agree or the Director-General sooner enters into a service contract with another person for the operation of the service.

(2) The right conferred by subclause (1) may be varied, cancelled, suspended and otherwise dealt with in the same manner as the relevant licence under the former Act.

(3) A person to whom this clause applies is to be regarded, on and after the commencement of Part 3, as holding (subject to this Act) an accreditation under this Act that is appropriate for the service concerned.

(4) Rights conferred by a licence under the former Act held, at the commencement of Part 3, by any person are preserved by this subsection for the benefit of that person but any such rights are subject to the provisions of that Part, and to the powers, duties and functions of the Director-General under that Part, as if they were rights conferred on a holder by that Part or by a service contract entered into for the purposes of that Part.

(5) For the purposes of subclause (4), the region or route of operation of a licensed service is to be taken to be the region or route of operation of a service identified in a service contract.

**Tax on transfer of licences for taxi-cabs and private hire vehicles**

4. Division 2 of Part 4 does not operate to impose a tax on the transfer of a licence in respect of which a tax has been paid under the Transfer of Public Vehicles (Taxation) Act 1969 or in respect of which a tax is payable by virtue of that Act and any saving contained in the Interpretation Act 1987.

**SCHEDULE 3 - SAVINGS AND TRANSITIONAL PROVISIONS**  
*- continued*

**Drivers of vehicles used in regular passenger services**

5. (1) The Director-General, by order published in the Gazette, may:
- (a) set out criteria, in the nature of qualifications or experience, for the purposes of this clause; and
  - (b) declare that a person satisfying those criteria is authorised, for a period specified in the order or (if, with respect to any class of cases, the order so provides) for an indefinite period, in the same manner as if he or she held an authority under Division 2 of Part 2 of this Act.
- (2) Any such order has effect in accordance with its tenor.
- (3) The benefit of such an order may be varied, suspended or cancelled in the same circumstances as an authority under Division 2 of Part 2 may be varied, suspended or cancelled.

**Licences for taxi-cabs and private hire cars**

6. A licence in force, immediately before the commencement of this clause, under the former Act with respect to a taxi-cab or private hire car is to be taken to be a licence of the same type issued under this Act, and conferring the same authority on its holder, as if this Act had been in force when the licence was issued.

**SCHEDULE 4 - CONSEQUENTIAL AMENDMENT OF OTHER ACTS**

(Sec. 65)

**Industrial Arbitration Act 1940 No. 2**

- (1) Section 5 (1), definition of "Contract of bailment":  
Omit "private hire car", insert instead "private hire vehicle".
- (2) Section 5 (1), definition of "Public vehicle":
  - (a) Omit "private hire car", insert instead "private hire vehicle".
  - (b) Omit "Transport Licensing Act 1931", insert instead "Passenger Transport Act 1990".

SCHEDULE 4 - CONSEQUENTIAL AMENDMENT OF  
OTHER ACTS - *continued*

**Transport Administration Act 1988 No. 109**

- (1) **Section 37 (Functions relating to the licensing and regulation of public passenger vehicles or ferries):**

Omit "Transport Licensing Act 1931", insert instead "Passenger Transport Act 1990".

- (2) **Section 43 (Power of Secretary to contract):**

At the end of the section, insert:

(2) Nothing in this section limits the operation of any provision of the Passenger Transport Act 1990.

- (3) **Section 85 (Orders fixing charges):**

After section 85 (4), insert:

(5) An order under this Division is void in respect of services for which the charges are for the time being fixed differently under the Passenger Transport Act 1990.

**Justices Act 1902 No. 27**

In section 100I (1), in paragraph (a) of the definition of "penalty notice", insert, in alphabetical order:

Passenger Transport Act 1990, section 59;

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