STATE TRANSPORT (CO-ORDINATION) (TRANSPORT ADMINISTRATION) AMENDMENT ACT 1988 No. 113

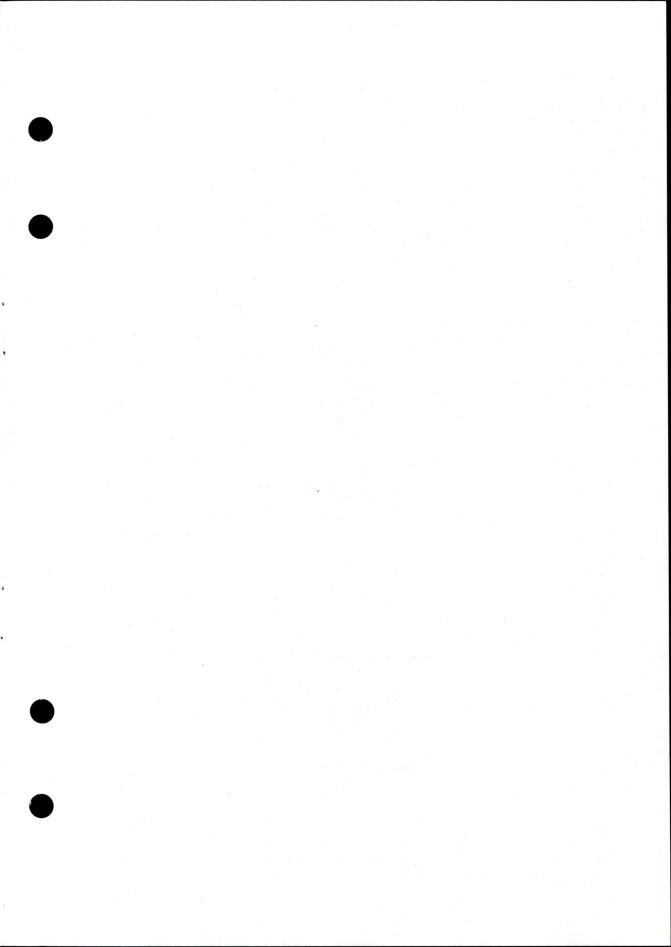
NEW SOUTH WALES



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SCHEDULE 1—AMENDMENTS



STATE TRANSPORT (CO-ORDINATION) (TRANSPORT ADMINISTRATION) AMENDMENT ACT 1988 No. 113

NEW SOUTH WALES



Act No. 113, 1988

An Act to amend the State Transport (Co-ordination) Act 1931 as a consequence of the enactment of the Transport Administration Act 1988 and the repeal of the Transport Act 1930; and for other purposes. [Assented to 21 December 1988]

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the State Transport (Co-ordination) (Transport Administration) Amendment Act 1988.

Commencement

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

Amendment of State Transport (Co-ordination) Act 1931 No. 32

3. The State Transport (Co-ordination) Act 1931 is amended as set out in Schedule 1.

SCHEDULE 1—AMENDMENTS

(Sec. 3)

(1) The whole Act (except any provision or matter being omitted by this Act)—

Omit "Commissioner" wherever occurring, insert instead "Secretary".

(2) Section 1 (Short title)—

Omit "State Transport (Co-ordination) Act", insert instead "Transport Licensing Act".

- (3) Section 3 (Definitions)—
 - (a) Section 3 (1), definition of "Agent"— Omit the definition.
 - (b) Section 3 (1), definition of "Commissioner"— Omit the definition.
 - (c) Section 3 (1), definition of "Officer"—

Omit the definition, insert instead:

"Officer" means any person employed by the State Transit Authority, or any other person, of whose services the Secretary makes use for the purposes of the administration of this Act, and includes any member of the Police Force.

(d) Section 3 (1), definition of "Secretary"—

After the definition of "Regulations", insert:

"Secretary" means the Secretary of the Ministry of Transport.

(e) Section 3 (1), definition of "Transport district"— Omit the definition, insert instead:

"Transport district" means a transport district for the time being established under section 107 of the Transport Administration Act 1988.

(f) Section 3 (2)—

Omit the subsection.

(4) Section 4A—

After section 3B, insert:

Act applies to STA and SRA

- 4A. (1) This Act applies to and in respect of public passenger vehicles or ferries owned or operated by the State Transit Authority or the State Rail Authority.
- (2) The regulations may exclude any such vehicle or ferry from a specified provision of this Act on such conditions (if any) as may be specified in the regulations.
- (5) Section 8 (Minister or Commissioner may require information), section 10 (Advice and reports by Commissioner), section 11 (Temporary transfer and utilisation of officers of authorities etc.)—

Omit the sections.

- (6) Section 14 (Licences)—
 - (a) Section 14 (2) (d)—

Before "particulars", insert "if available,".

(b) Section 14 (3), (4), (5)—

Omit "determined" wherever occurring, insert instead "prescribed".

(c) Section 14 (6)—

Omit "Commissioner's", insert instead "Secretary's".

- (7) Section 16 (Provisions relating to licences)—
 - (a) Section 16 (1) (a)—

Omit "or the Transport Act 1930".

(b) Section 16 (1)—

Omit "Motor Traffic" wherever occurring, insert instead "Traffic".

(c) Section 16 (9)—

Omit the subsection, insert instead:

(9) An application for the transfer of a licence for a taxi-cab or private hire car shall not be granted by the Secretary if the appropriate transfer tax under the Transfer of Public Vehicles (Taxation) Act 1969 has not been paid.

(d) Section 16 (11), (12)— Omit the subsections.

(8) Section 16A—

After section 16, insert:

Issue of licences in conjunction with registration

- 16A. (1) A licence for a public passenger vehicle may, at the direction of the Secretary, be included in the form of registration for the vehicle issued under the Traffic Act 1909 by the Roads and Traffic Authority.
- (2) A licence issued by the Roads and Traffic Authority under subsection (1) shall be taken to have been issued by the Secretary.
- (3) Any fee paid in connection with a licence so issued may be collected by the Roads and Traffic Authority and paid to the Secretary.
- (4) The Authority may retain from any fee required to be paid to the Secretary such commission as may be agreed between the Authority and the Secretary.
- (9) Section 17 (Certain conditions of licence)—
 - (a) Section 17 (2) (c) (ii)—

Omit "section 134A of the Transport Act 1930 or section 17B of this Act", insert instead "section 17B".

(b) Section 17 (3) (f1)— Omit the paragraph.

(c) Section 17 (3) (g)—

Omit the paragraph, insert instead:

- (g) the construction and equipment of the vehicle; and
- (10) Section 17A (Variations of licence)—

Section 17A (3)—

Omit "determined", insert instead "prescribed".

(11) Section 17C (Taxi-cab not to be regarded as such while operating on an omnibus route)—

Omit "or the Transport Act 1930, or of the regulations in force under either of those Acts", insert instead "or the regulations".

(12) Section 20 (Agents etc. to be licensed)—

Omit the section.

(13) Section 21 (Cancellation of licence)—

(a) Section 21 (1) (a)—

Omit "or the Transport Act 1930" and "in force under either of those Acts".

(b) Section 21 (3)—

Omit "the Motor Traffic Act 1909, the Transport Act 1930", insert instead "the Traffic Act 1909".

(14) Section 22 (Permits to use vehicle for carriage of passengers)—

Section 22 (1)—

Omit "determined", insert instead "prescribed".

(15) Section 22A (Stand-by taxi-cabs)—

Section 22A (2) (b), (c)—

Omit "Motor Traffic" wherever occurring, insert instead "Traffic".

(16) Section 23 (Delegation)—

Omit the section.

- (17) Section 24 (Appeals)—
 - (a) Section 24 (1)—

Omit "the Transport Appeal Court established under section 167 of the Transport Act 1930", insert instead "the District Court".

(b) Section 24 (2)—

Omit "the Transport Appeal Court", insert instead "the District Court".

(c) Section 24 (3)—

Omit the subsection, insert instead:

- (3) The determination of the District Court on any appeal under subsection (1) shall be final and the Secretary shall give effect to the determination.
- (18) Section 28A—

After section 28, insert:

Conveyance of luggage by unlicensed vehicle

- 28A. (1) A person shall not cause or permit any motor vehicle to stand or ply for hire or for any consideration in a public street for the conveyance of luggage unless the vehicle is a public passenger vehicle which is—
 - (a) licensed under this Act; or
 - (b) exempt from the requirement to be licensed under this Act.

(2) A person who contravenes this section is guilty of an offence against this Act.

(19) Section 29 (Advertisements)—

Section 29 (1) (ii)—

Omit the paragraph.

(20) Section 30 (Records to be kept)—

Omit the section.

(21) Section 44 (Prima facie evidence)—

Section 44 (f)—

Omit the paragraph.

(22) Section 46A—

After section 46, insert:

Hours of employment of drivers of taxi-cabs and private hire cars (cf. Transport Act 1930, s. 239A)

- 46A. (1) If the hours of employment of the drivers of taxi-cabs or private hire cars or of any class of taxi-cabs or private hire cars are regulated by an award or industrial agreement, the provisions of the award or agreement regulating those hours, to the extent that any such drivers or their employees (if any) are not bound by the award or agreement, shall by force of this section be deemed to apply to and bind those drivers and any such employees.
- (2) A driver who contravenes any such provisions applied by this section is guilty of an offence.
- (3) This section applies only to taxi-cabs or private hire cars operating within a transport district.

(23) Section 47 (Authorised officer)—

Section 47 (1)—

Omit the subsection, insert instead:

- (1) A reference in this Act to an authorised officer is a reference to—
 - (a) a person authorised by the Secretary; or
 - (b) a member of the Police Force authorised by the Commissioner of Police.

(24) Section 49 (Schedule 1), section 50 (Report)—

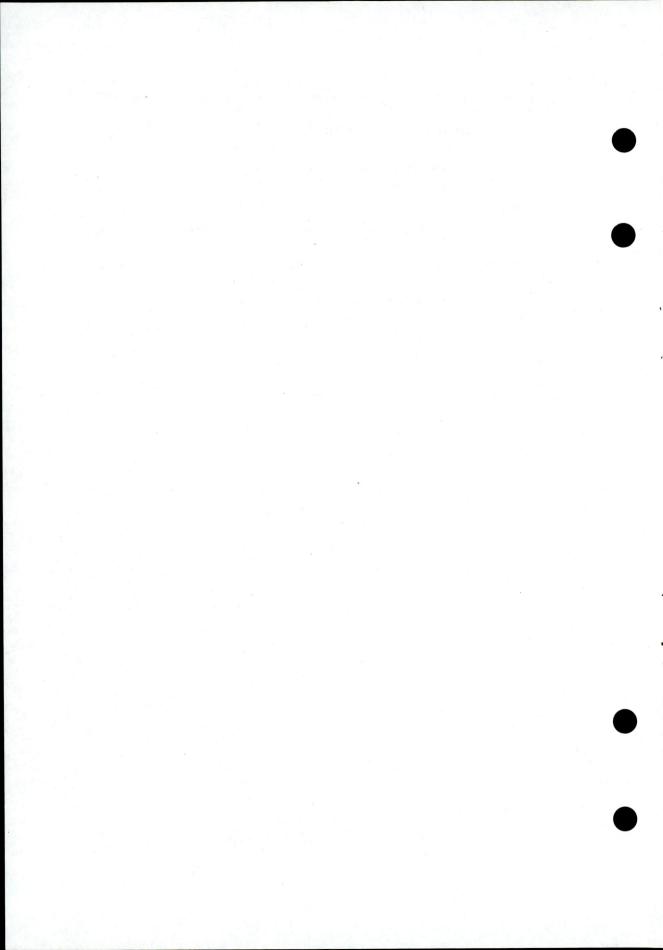
Omit the sections.

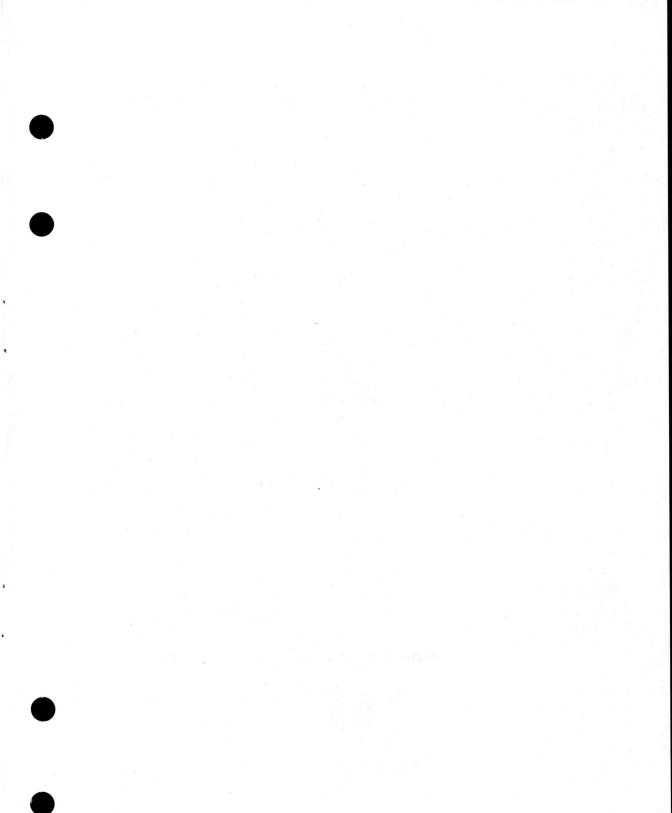
State Transport (Co-ordination) (Transport Administration) Amendment 1988

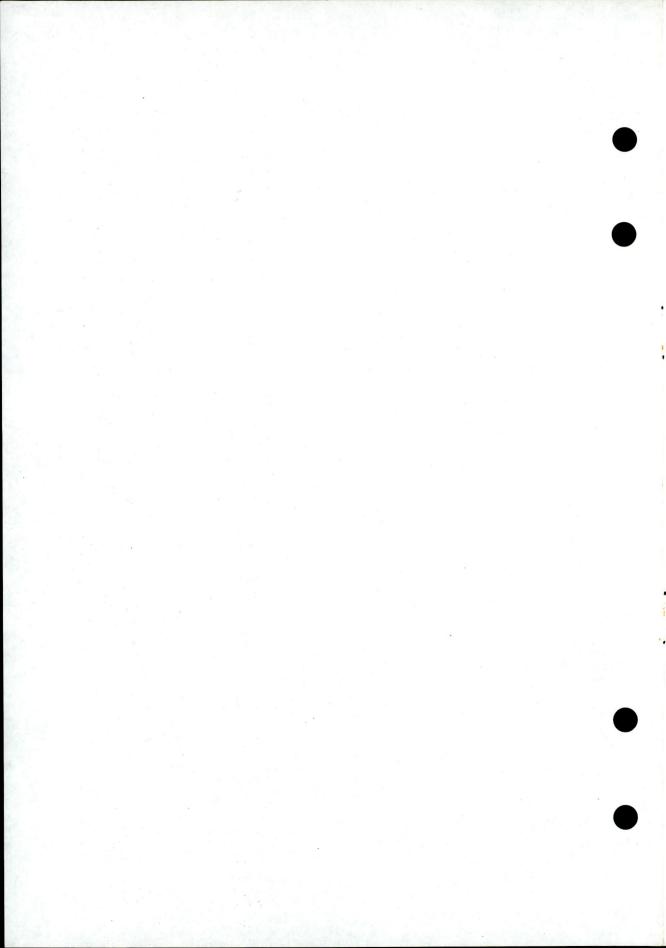
SCHEDULE 1—AMENDMENTS—continued

- (25) Schedule 1 (Business and rules etc.)—
 Omit the Schedule.
- (26) Schedules 2, 4—
 - (a) Omit "to 20 inclusive" wherever occurring, insert instead "and 19".
 - (b) Omit "Sections 22 and 23" wherever occurring, insert instead "Section 22".
 - (c) Omit "50" wherever occurring, insert instead "48".

[Minister's second reading speech made in— Legislative Assembly on 17 November 1988 Legislative Council on 1 December 1988]







STATE TRANSPORT (CO-ORDINATION) (TRANSPORT ADMINISTRATION) AMENDMENT BILL 1988

NEW SOUTH WALES



EXPLANATORY NOTE

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

This Bill is cognate with the Transport Administration Bill 1988.

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

- (a) to transfer to the Secretary of the Ministry of Transport the functions of the Commissioner for Motor Transport relating to the licensing and regulation of buses, taxi-cabs or other public passenger vehicles and ferries; and
- (b) to make consequential changes as a result of the proposed enactment of the Transport Administration Act 1988 and the proposed repeal of the Transport Act 1930; and
- (c) to change the short title of the Principal Act from the State Transport (Coordination) Act 1931 to the Transport Licensing Act 1931.

As a result of the proposed repeal of the Transport Act 1930, the licensing and control of buses, taxi-cabs and other public passenger vehicles in the Sydney, Newcastle and Wollongong metropolitan areas will no longer be duplicated. Such vehicles will continue to be licensed and regulated under the Principal Act and, in the case of buses, the conditions and restrictions imposed by service licences under the Transport Act 1930 will continue to be imposed by the relevant licences under the Principal Act.

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides that the proposed Act is to commence on a day or days to be appointed by proclamation.

Clause 3 is a formal provision which gives effect to the Schedule of amendments.

SCHEDULE 1—AMENDMENTS

Schedule 1 (1) omits references in the Principal Act to the Commissioner for Motor Transport and replaces them with references to the Secretary of the Ministry of Transport.

- Schedule 1 (2) changes the short title of the Principal Act from the State Transport (Co-ordination) Act 1931 to the Transport Licensing Act 1931.
 - Schedule 1 (3) amends section 3 (Definitions).
 - Schedule 1 (3) (a) is consequential on the amendment made by Schedule 1 (12).
- Schedule 1 (3) (b) omits the definition of "Commissioner" (being the Commissioner for Motor Transport) which is no longer required.
- Schedule 1 (3) (c) substitutes the definition of "officer" so that it refers to persons employed by the State Transit Authority or other persons of whose services the Secretary makes use (instead of to officers of the Department of Motor Transport).
- Schedule 1 (3) (d) inserts a definition of "Secretary", being the Secretary of the Ministry of Transport.
- Schedule 1 (3) (e) substitutes the definition of "transport district" as a consequence of the transfer of provisions constituting any such district to the proposed Transport Administration Act 1988.
- Schedule 1 (3) (f) omits a provision which provides that fees under the Principal Act are as determined by an order of the Commissioner of Motor Transport under the Transport Act 1930—the fees are to be prescribed by regulation.
- Schedule 1 (4) inserts proposed section 4A. The proposed section makes it clear that buses or ferries owned or operated by the proposed State Transit Authority or the State Rail Authority are required to be licensed under the Principal Act in the same way as privately operated buses or ferries.
- Schedule 1 (5) repeals section 8 (Minister or Commissioner may require information) and section 10 (Advice and reports by Commissioner). Those matters are to be dealt with under the proposed Transport Administration Act 1988. Schedule 1 (5) also repeals section 11 which deals with the staff employed for the purposes of the administration of the Principal Act. The proposed Transport Administration Act 1988 authorises the use of certain staff of the State Transit Authority for that purpose.
- Schedule 1 (6) (a) enables an application for a licence to be made before the registration of the public vehicle concerned has been granted under the Traffic Act 1909.
- Schedule 1 (6) (b) amends section 14 to provide for the fees payable in connection with licences to be prescribed by regulation.
 - Schedule 1 (6) (c) is consequential on the amendments made by Schedule 1 (1).
- Schedule 1 (7) amends section 16 (Provisions relating to licences) as a consequence of the proposed enactment of the Motor Traffic (Transport Administration) Amendment Act 1988 and by way of statute law revision.
- Schedule 1 (8) authorises licences under the Principal Act to be included in the registration of the public vehicle concerned under the Traffic Act 1909.
 - Schedule 1 (9) (a) is consequential on the repeal of the Transport Act 1930.
 - Schedule 1 (9) (b) is consequential on the repeal of the Transport Authorities Act 1980.
- Schedule 1 (9) (c) omits from the matters to be considered in granting licences matters concerned with the fitness and suitability of the vehicle since they are to be matters for consideration in the registration of the vehicle under the Traffic Act 1909.

Schedule 1 (10) amends section 17A to provide for the fees payable in connection with the variation of licences to be prescribed by regulation.

Schedule 1 (11) is consequential on the repeal of the Transport Act 1930.

Schedule 1 (12) omits provisions for the licensing of agents of public vehicle operators. The provisions have not been used in recent years. If necessary the activities of any such agents can be regulated by means of the conditions of licences granted to the operators of public vehicles.

Schedule 1 (13) is consequential on the repeal of the Transport Act 1930.

Schedule 1 (14) amends section 22 to provide for the fees for permits to use public passenger vehicles to be prescribed by regulation.

Schedule 1 (15) is consequential on the proposed change in the title of the Motor Traffic Act 1909.

Schedule 1 (16) omits the power of delegation in section 23 because the Secretary is to have a general power of delegation under the proposed Transport Administration Act 1988.

Schedule 1 (17) provides that appeals under the Principal Act are to be made to the District Court instead of the Judge of that Court who is constituted as the Transport Appeal Court under the Transport Act 1930.

Schedule 1 (18) inserts proposed section 28A. The proposed section prohibits the practice of conveying a passenger and the passenger's luggage in a motor vehicle and imposing a charge which is purportedly in respect of the conveyance of the luggage only. This practice has been a device for avoiding the requirement that a vehicle used to convey passengers for a charge be licensed under the Principal Act. The prohibition is presently contained in Regulation 141 of the regulations under the Motor Traffic Act 1909.

Schedule 1 (19)-(21) are consequential on the repeal of section 20 by Schedule 1 (12).

Schedule 1 (22) re-enacts section 239A of the Transport Act 1930 which relates to the hours of driving of taxi-cabs and private hire cars. The Motor Traffic Act 1909 at present deals only with the hours of driving of heavy vehicles.

Schedule 1 (23) amends section 47 (Authorised officers) as a consequence of the change in the staff to be used in the administration of the Principal Act.

Schedule 1 (24) and (25) omit provisions on matters which are to be dealt with in the proposed Transport Administration Act 1988.

Schedule 1 (26) makes miscellaneous consequential amendments.

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STATE TRANSPORT (CO-ORDINATION) (TRANSPORT ADMINISTRATION) AMENDMENT BILL 1988

NEW SOUTH WALES



TABLE OF PROVISIONS

- Short title
 Commencement
 Amendment of State Transport (Co-ordination) Act 1931 No. 32

SCHEDULE 1—AMENDMENTS

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STATE TRANSPORT (CO-ORDINATION) (TRANSPORT ADMINISTRATION) AMENDMENT BILL 1988

NEW SOUTH WALES



No., 1988

A BILL FOR

An Act to amend the State Transport (Co-ordination) Act 1931 as a consequence of the enactment of the Transport Administration Act 1988 and the repeal of the Transport Act 1930; and for other purposes.

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the State Transport (Co-ordination) (Transport Administration) Amendment Act 1988.

5 Commencement

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

Amendment of State Transport (Co-ordination) Act 1931 No. 32

3. The State Transport (Co-ordination) Act 1931 is amended as set out 10 in Schedule 1.

SCHEDULE 1—AMENDMENTS

(Sec. 3)

- (1) The whole Act (except any provision or matter being omitted by this Act)—
- Omit "Commissioner" wherever occurring, insert instead "Secretary".
 - (2) Section 1 (Short title)—

Omit "State Transport (Co-ordination) Act", insert instead "Transport Licensing Act".

- 20 (3) Section 3 (Definitions)—
 - (a) Section 3 (1), definition of "Agent"—
 Omit the definition.
 - (b) Section 3 (1), definition of "Commissioner"— Omit the definition.
- 25 (c) Section 3 (1), definition of "Officer"—

Omit the definition, insert instead:

"Officer" means any person employed by the State Transit Authority, or any other person, of whose services the Secretary makes use for the purposes of the administration of this Act, and includes any member of the Police Force.

(d) Section 3 (1), definition of "Secretary"—

After the definition of "Regulations", insert:

"Secretary" means the Secretary of the Ministry of Transport.

(e) Section 3 (1), definition of "Transport district"— Omit the definition, insert instead:

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"Transport district" means a transport district for the time being established under section 107 of the Transport Administration Act 1988.

(f) Section 3 (2)—

5 Omit the subsection.

(4) Section 4A—

After section 3B, insert:

Act applies to STA and SRA

- 4A. (1) This Act applies to and in respect of public passenger vehicles or ferries owned or operated by the State Transit Authority or the State Rail Authority.
 - (2) The regulations may exclude any such vehicle or ferry from a specified provision of this Act on such conditions (if any) as may be specified in the regulations.
- 15 (5) Section 8 (Minister or Commissioner may require information), section 10 (Advice and reports by Commissioner), section 11 (Temporary transfer and utilisation of officers of authorities etc.)—

Omit the sections.

- (6) Section 14 (Licences)—
- 20 (a) Section 14 (2) (d)—
 Before "particulars", insert "if available,".
 - (b) Section 14 (3), (4), (5)—

Omit "determined" wherever occurring, insert instead "prescribed".

25 (c) Section 14 (6)—
Omit "Commissioner's", insert instead "Secretary's".

- (7) Section 16 (Provisions relating to licences)—
 - (a) Section 16 (1) (a)—

Omit "or the Transport Act 1930".

30 (b) Section 16 (1)—

Omit "Motor Traffic" wherever occurring, insert instead "Traffic".

(c) Section 16 (9)—

Omit the subsection, insert instead:

(9) An application for the transfer of a licence for a taxi-cab or private hire car shall not be granted by the Secretary if the appropriate transfer tax under the Transfer of Public Vehicles (Taxation) Act 1969 has not been paid.

(d) Section 16 (11), (12)—
Omit the subsections.

(8) Section 16A—

10

15

After section 16, insert:

- 5 Issue of licences in conjunction with registration
 - 16A. (1) A licence for a public passenger vehicle may, at the direction of the Secretary, be included in the form of registration for the vehicle issued under the Traffic Act 1909 by the Roads and Traffic Authority.
 - (2) A licence issued by the Roads and Traffic Authority under subsection (1) shall be taken to have been issued by the Secretary.
 - (3) Any fee paid in connection with a licence so issued may be collected by the Roads and Traffic Authority and paid to the Secretary.
 - (4) The Authority may retain from any fee required to be paid to the Secretary such commission as may be agreed between the Authority and the Secretary.
 - (9) Section 17 (Certain conditions of licence)—
 - (a) Section 17 (2) (c) (ii)—
- Omit "section 134A of the Transport Act 1930 or section 17B of this Act", insert instead "section 17B".
 - (b) Section 17 (3) (f1)— Omit the paragraph.
 - (c) Section 17 (3) (g)—
- Omit the paragraph, insert instead:
 - (g) the construction and equipment of the vehicle; and
 - (10) Section 17A (Variations of licence)—

Section 17A (3)—

Omit "determined", insert instead "prescribed".

30 (11) Section 17c (Taxi-cab not to be regarded as such while operating on an omnibus route)—

Omit "or the Transport Act 1930, or of the regulations in force under either of those Acts", insert instead "or the regulations".

(12) Section 20 (Agents etc. to be licensed)—

35 Omit the section.

(13) Section 21 (Cancellation of licence)—

(a) Section 21 (1) (a)—

Omit "or the Transport Act 1930" and "in force under either of those Acts".

5 (b) Section 21 (3)—

Omit "the Motor Traffic Act 1909, the Transport Act 1930", insert instead "the Traffic Act 1909".

(14) Section 22 (Permits to use vehicle for carriage of passengers)—

Section 22 (1)—

Omit "determined", insert instead "prescribed".

(15) Section 22A (Stand-by taxi-cabs)—

Section 22A (2) (b), (c)—

Omit "Motor Traffic" wherever occurring, insert instead "Traffic".

(16) Section 23 (Delegation)—

15 Omit the section.

(17) Section 24 (Appeals)—

(a) Section 24 (1)—

Omit "the Transport Appeal Court established under section 167 of the Transport Act 1930", insert instead "the District Court".

20 (b) Section 24 (2)—

Omit "the Transport Appeal Court", insert instead "the District Court".

(c) Section 24 (3)—

Omit the subsection, insert instead:

25 (3) The determination of the District Court on any appeal under subsection (1) shall be final and the Secretary shall give effect to the determination.

(18) Section 28A—

After section 28, insert:

30 Conveyance of luggage by unlicensed vehicle

- 28A. (1) A person shall not cause or permit any motor vehicle to stand or ply for hire or for any consideration in a public street for the conveyance of luggage unless the vehicle is a public passenger vehicle which is—
- 35 (a) licensed under this Act; or
 - (b) exempt from the requirement to be licensed under this Act.

(2) A person who contravenes this section is guilty of an offence against this Act.

(19) Section 29 (Advertisements)—

Section 29 (1) (ii)—

Omit the paragraph.

(20) Section 30 (Records to be kept)—

Omit the section.

(21) Section 44 (Prima facie evidence)—

Section 44 (f)—

10 Omit the paragraph.

(22) Section 46A—

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After section 46, insert:

Hours of employment of drivers of taxi-cabs and private hire cars (cf. Transport Act 1930, s. 239A)

- 15
 46A. (1) If the hours of employment of the drivers of taxi-cabs or private hire cars or of any class of taxi-cabs or private hire cars are regulated by an award or industrial agreement, the provisions of the award or agreement regulating those hours, to the extent that any such drivers or their employees (if any) are not bound by the award or agreement, shall by force of this section be deemed to apply to and bind those drivers and any such employees.
 - (2) A driver who contravenes any such provisions applied by this section is guilty of an offence.
 - (3) This section applies only to taxi-cabs or private hire cars operating within a transport district.

(23) Section 47 (Authorised officer)—

Section 47 (1)—

Omit the subsection, insert instead:

- 30 (1) A reference in this Act to an authorised officer is a reference to—
 - (a) a person authorised by the Secretary; or
 - (b) a member of the Police Force authorised by the Commissioner of Police.

35 (24) Section 49 (Schedule 1), section 50 (Report)—

Omit the sections.

- (25) Schedule 1 (Business and rules etc.)—
 Omit the Schedule.
- (26) Schedules 2, 4—

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- (a) Omit "to 20 inclusive" wherever occurring, insert instead "and 19".
- (b) Omit "Sections 22 and 23" wherever occurring, insert instead "Section 22".
- (c) Omit "50" wherever occurring, insert instead "48".

