

WESTERN AUSTRALIA

TRANSPORT
CO-ORDINATION
ACT 1966

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WESTERN AUSTRALIA

**TRANSPORT CO-ORDINATION
ACT 1966**

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WESTERN AUSTRALIA

TRANSPORT CO-ORDINATION ACT 1966

AN ACT to provide for the co-ordination, planning and advancement of all forms of transport in this State, to provide for the review, control and licensing of transport services and to provide for the licensing of certain persons who carry on the business of selling petroleum products and for incidental and other purposes.

[Long Title substituted by No. 54 of 1985 s. 4.]

PART I—PRELIMINARY

Short title

1. This Act may be cited as the *Transport Co-ordination Act 1966*¹.

[Section 1 amended by No. 54 of 1985 s. 5.]

Commencement

2. This Act shall come into operation on the date on which the *State Transport Co-ordination Act 1966*, comes into operation¹.

Objects of this Act

3. The objects of this Act are—

- (a) to provide for the co-ordination of the resources used for the provision of transport services for the people of this State and for the development of this State;
- (b) to ensure that the people of this State are provided, as far as is practicable, with reliable, efficient and economic transport services;
- (c) to provide for the rationalization and control of transport services by means of licensing and other measures wherever such measures contribute to the provision of reliable, efficient and economic transport services;
- (d) to provide for the reduction or elimination of controls imposed under this Act wherever practicable to ensure that transport services provided are reliable, efficient and economic for the people of this State;
- (e) to facilitate the formulation of policies relating to the provision of transport services.

[Section 3 inserted by No. 54 of 1985 s. 6.]

Interpretation

4. (1) In this Act, unless the contrary intention appears,—

“commercial goods vehicle” means a vehicle, other than a vehicle propelled by animal or human power, only, operating or used or intended to be used, on roads or streets for the transport of goods and includes any such vehicle so used or operated or used or intended to be used by or on behalf of the Crown for the carriage of goods for hire or reward and whether in connection with a railway or not;

“Department” means the department of the Public Service of the State principally assisting the Minister with the administration of this Act;

“Deputy Director General” means the Deputy Director General of Transport referred to in section 8;

“Director General” means the Director General of Transport referred to in section 8;

“goods” means chattels of every description;

“gross weight”, in relation to a commercial goods vehicle, means the sum of the unladen weight of the vehicle and the load that it is authorized, by its licence under this Act, to carry;

“licence” means a licence or permit issued under this Act and for the time being in force, and the verb “to license” has a corresponding meaning;

- “local authority” means the council of a municipality constituted under the *Local Government Act 1960*;
- “officer” means an officer of the Department and includes a member of the Police Force, or any other person acting in pursuance of powers or duties conferred on him under this Act and any person employed or engaged under this Act;
- “omnibus” means a motor vehicle used or intended to be used as a passenger vehicle to carry passengers for hire or reward, and includes any such vehicle so used or intended to be used by or on behalf of the Crown, or an agency of the Crown other than the Metropolitan (Perth) Passenger Transport Trust, and whether in connection with a railway or not, but does not include a vehicle licensed for use as a taxi-car under the *Taxi-cars (Co-ordination and Control) Act 1963*,² or Part IIIB;
- “operate”, as applied to a vehicle, means to carry, or offer or agree to carry, or to be responsible for arranging the carriage of, passengers or goods for hire or for any consideration, or in the course of or in connection with any trade or business whatever, and cognate expressions shall be construed accordingly;
- “owner”, in relation to a vehicle, includes every person who—
- (a) is the owner or a co-owner of the vehicle;
 - (aa) is the purchaser or hirer of the vehicle under a contract that for the purposes of the *Credit Act 1984* is a credit sale contract or who is the debtor under an agreement that pursuant to that Act is deemed to be a credit sale contract;
 - (b) has the use of the vehicle under a hiring, lease or hire-purchase agreement,
- but does not include an unpaid vendor of the vehicle under a hire-purchase agreement;
- “permit” means a permit issued under this Act and for the time being in force;
- “public vehicle” means any vehicle that is required to be licensed under this Act;
- “road” includes any street or place open to or used by the public, and all bridges and culverts and other things appurtenant thereto and used in connection therewith;
- “railway” means a railway within the meaning of the *Government Railways Act 1904*;
- “Schedule” means a schedule to this Act;
- “section” means a section of this Act;
- “transport service” means any service for the carriage of passengers or goods, whether by road, rail, air, or sea;

“vehicle” means a vehicle propelled by any means, other than animal or human power, and includes an aircraft, but does not include a vehicle used on a railway.

(2) For the purposes of this Act, a trailer and a semi-trailer is a vehicle separate from, and is deemed to be driven by the driver of, the vehicle by which it is drawn.

(2a) For the purposes of this Act, a vehicle which draws a semi-trailer or a trailer which is operating is itself operating.

(3) For the purposes of this Act, a motor vehicle shall be deemed not to be used or intended to be used as a passenger vehicle to carry passengers for hire or reward by reason only of the carriage of passengers or the offer to carry passengers if the carriage or offer is made pursuant to a motor vehicle pooling arrangement.

(4) For the purposes of subsection (3), a carriage of passengers or an offer to carry passengers is made pursuant to a motor vehicle pooling arrangement if the carriage or offer is—

- (a) incidental to the main purpose of the journey;
- (b) not the result of touting for passengers by the driver or any other person on any road; and
- (c) made pursuant to an arrangement for the carriage of the passengers for a consideration limited to—
 - (i) an undertaking by or on behalf of the passenger to carry the driver or a member of the driver’s family on a similar journey; or
 - (ii) the payment of an amount which does not contain any element of profit in respect of the operation of the motor vehicle or the motor vehicle pool or any recompense for the time of the driver.

[Section 4 amended by No. 94 of 1972 s. 4 (1); No. 51 of 1975 s. 4; No. 93 of 1979 s. 4; No. 47 of 1980 s. 4; No. 48 of 1980 s. 3; No. 8 of 1981 s. 3; No. 106 of 1981 s. 25; No. 102 of 1984 s. 18; No. 30 of 1985 s. 3; No. 54 of 1985 s. 7.]

Act to be read subject to Commonwealth Constitution

5. This Act shall be construed subject to the *Commonwealth of Australia Constitution Act*, and so as not to exceed the legislative power of the State, to the intent that, where any provision hereof would, but for this section, be construed as being in excess of that power, it shall nevertheless be a valid enactment to the extent to which it is not in excess of that power.

[6. Section 6 repealed by No. 54 of 1985 s. 8.]

PART II—ADMINISTRATION

Division 1—The Minister

[Heading to this Division substituted by No. 54 of 1985 s. 9.]

Minister a body corporate

7³. (1) The Minister administering this Act shall for the purposes of this Act be a body corporate and shall be known by such designation as is conferred on him by the Governor under the *Constitution Acts Amendment Act 1899* and—

- (a) shall have a seal; and
- (b) is capable of acquiring, holding, giving security over and disposing of real and personal property and of suing and being sued in his corporate name.

(2) All courts and judges and persons acting judicially shall take judicial notice of the seal of the Minister affixed to any document and shall presume that it was duly affixed.

(3) An alteration of the designation of the Minister does not affect the corporate identity of the Minister and by force of this section the corporate identity of the Minister is continued under such designation as applies to him from time to time.

[Section 7 substituted by No. 54 of 1985 s. 10.]

Minister may join any body formed for related activities

7A. (1) Subject to this Act the Minister may—

- (a) become a member of or shareholder in; and
- (b) contribute funds to,

any body whether incorporated or not (in this section referred to as “the body”) which—

- (c) has its principal office within the Commonwealth; and
- (d) has among its principal objects the carrying out of research, investigations, inquiries or studies into the improvement of transport or transport safety, or both, within the Commonwealth.

(2) The Minister may be represented on the body by the Minister himself or by any officer of the Department authorized in that behalf in writing by the Minister.

(3) The Minister may—

- (a) take part in any activities of the body;
- (b) carry out any function, investigation and research for or on behalf of the body either alone or in association with any other person appointed by the body; and

- (c) contribute to the cost of any activity carried on by the body or by any person on its behalf.

[Section 7A inserted by No. 54 of 1985 s. 11.]

Transport Strategy Committees

7B. (1) The Minister may, by instrument in writing, establish such number of Transport Strategy Committees as appear to him from time to time to be desirable for the purposes of this Act.

(2) The function of a Transport Strategy Committee shall be to advise the Minister with respect to such matters relating to transport policy as are specified in the instrument by which the Committee is established.

(3) Subject to subsection (4), a Transport Strategy Committee shall continue in existence for such period as may be specified in the instrument by which it is established or if no such period is specified for such period as the Committee requires to complete its functions.

(4) The Minister may at any time by instrument in writing vary or revoke an instrument made under subsection (1).

(5) The Minister may appoint such persons as he thinks fit to be members of a Transport Strategy Committee and may at any time remove a member of a Committee.

(6) A member of a Transport Strategy Committee may resign at any time by notice in writing delivered to the Minister.

(7) The Director General, or an officer of the Department nominated by him, shall be the chairman and a member of every Transport Strategy Committee.

(8) The Director General shall provide to every Transport Strategy Committee such support services as the Committee may reasonably require to enable it to perform its functions.

(9) Where it is determined by the Minister that a member of a Transport Strategy Committee shall be entitled to remuneration or to any travelling or other allowance, it shall be fixed by the Minister on the recommendation of the Public Service Board.

(10) Subject to any directions which may have been given in writing by the Minister, a Transport Strategy Committee may regulate its own procedure.

[Section 7B inserted by No. 54 of 1985 s. 11.]

Unlawful disclosure of information

7C. A person who discloses any information or opinion that has been furnished to or obtained by a Transport Strategy Committee in confidence commits an offence unless the disclosure is made—

- (a) with the consent of the person providing the information or expressing the opinion; or

- (b) in connection with the administration of this Act and with the prior permission of the Director General.

Penalty: \$200.

[Section 7C inserted by No. 54 of 1985 s. 11.]

Minister may provide facilities

7D. (1) The Minister may establish, maintain and alter such facilities as in his opinion are necessary for the purpose of facilitating the movement of vehicles in any part of the State in accordance with the terms and conditions imposed under this Act or under any other Act in relation to the operation of any vehicle.

(2) The Minister may impose terms and conditions, including the payment of charges, for the use of any facilities provided under subsection (1).

[Section 7D inserted by No. 54 of 1985 s. 11.]

Director General of Transport

8. (1) There shall be appointed in the Department under and subject to the *Public Service Act 1978*—

- (a) a Director General of Transport;
- (b) a Deputy Director General of Transport,

and such other officers as may be necessary for the purposes of carrying out the provisions of this Act.

(2) The Minister may—

- (a) with the consent of a public authority in relation to a person employed by the public authority; or
- (b) with the consent of the Public Service Board, in relation to an officer of the Public Service of the State,

use the services of any person employed by the public authority or any officer of the Public Service of the State, as the case may be, for the purposes of assisting in carrying out the provisions of this Act.

(3) The Minister may after consultation with the Public Service Board engage under contracts for services such consultants and professional or technical or other assistance as it considers necessary to enable the Minister to exercise and perform his functions under this Act.

(4) For the purposes of this section “public authority” means any State instrumentality, State agency, or any public statutory body, corporate or unincorporate established by or under a law of the State.

[Section 8 substituted by No. 54 of 1985 s. 12.]

Application of *Financial Administration and Audit Act 1985*

9. The provisions of the *Financial Administration and Audit Act 1985* regulating the financial administration, audit and reporting of departments apply to and in respect of the Department and its operations.

[Section 9 inserted by No. 4 of 1986 Schedule 1.]

[10., 11., 12., 13. Sections 10, 11, 12 and 13 repealed by No. 54 of 1985 s. 13.]

Application of *Financial Administration and Audit Act 1985*

14. The provisions of the *Financial Administration and Audit Act 1985* regulating the financial administration, audit and reporting of statutory authorities apply to and in respect of the Commissioner and his operations.

[Section 14 inserted by No. 98 of 1985 Schedule 1.]

Delegation

15. (1) The Minister may, either generally or as otherwise provided by the instrument of delegation, by writing signed by him, delegate to the Director General or some other officer of the Department any of his functions, powers or duties under this Act.

(2) In any instrument of delegation under subsection (1) the Minister may authorize the Director General to subdelegate to any officer of the Department any function, power or duty referred to in the instrument of delegation and where the Minister does so the provisions of section 59 of the *Interpretation Act 1984* apply to and in relation to any such subdelegation as though the subdelegation were a delegation.

[Section 15 substituted by No. 54 of 1985 s. 14.]

Power to borrow money

15A. (1) The Minister shall have power to borrow money upon the guarantee of the Treasurer of the State for the purposes of carrying out his powers and functions under this Act, including the provision of premises and other facilities.

(2) The Minister is authorized with the prior approval in writing of the Treasurer to borrow money upon such terms and conditions only as the Treasurer approves.

(3) The Treasurer is hereby authorized to so approve and to give the guarantee, including the guarantee of interest, in subsection (1), for and on behalf of the Crown in right of the State.

(4) Any moneys borrowed by the Minister under this section may be raised as one loan or as several loans and in such manner as the Treasurer may approve, but the amount of the moneys so borrowed shall not in any one year exceed in the aggregate such amount as the Treasurer approves.

(5) Before a guarantee is given by the Treasurer under this section, the Minister shall give to the Treasurer such security as the Treasurer may require and shall execute all such instruments as may be necessary for the purpose.

(6) The Minister shall use all moneys borrowed under the power conferred by this section for the purposes of carrying this Act into effect.

[Section 15A inserted by No. 51 of 1975 s. 3; amended by No. 54 of 1985 s. 52.]

Division 2—Powers of the Minister and Director General

[Heading to this Division substituted by No. 54 of 1985 s. 15.]

Functions

15B. (1) Subject to this Act and to the general control of the Minister, the Director General is responsible for the administration of this Act.

(2) It is the function of the Director General—

- (a) to maintain an overview of existing transport services in this State and recommend to the Minister measures for achieving co-ordination of transport services in this State;
- (b) report to the Minister on transport policy or changes in transport policy and measures for achieving policy objectives;
- (c) report to the Minister on trends and developments relating to transport within the State and elsewhere and on transport requirements within the State;
- (d) provide assistance to the transport agencies when requested by the Minister or the agencies in the development and application of appropriate planning techniques and in the establishment and maintenance on a continuing basis of detailed plans for resource use, operations and, where appropriate, marketing;
- (e) assist and advise the Minister in his examination of the plans referred to in paragraph (d);
- (f) report to the Minister on sources and uses of funds for the advancement of transport in the State in order to meet both the Ministers need for advice on such matters and any such need which from time to time the Treasurer may have;
- (g) undertake, either directly or in association with other bodies or by the use of consultants, such research relating to transport as the Minister may require or as are considered necessary by the Minister to enable the Director General to perform his duties under this Act;
- (h) assist the Minister in carrying out the licensing, regulatory, tendering, and subsidy functions of the Minister under this Act;

- (j) advise the Minister on the administration of—
 - (i) the *Eastern Goldfields Transport Board Act 1984*; and
 - (ii) the *Tax-cars (Co-ordination and Control) Act 1963²*,
- (k) carry out such duties as directed by the Minister relating to matters associated with or affecting transport.

[Section 15B inserted by No. 47 of 1980 s. 7; amended by No. 30 of 1985 s. 4; No. 54 of 1985 s. 16.]

Tenders and subsidies

16. (1) The Minister—

- (a) may enter into negotiations or invite tenders, or both, for the provision of transport services, with or without inviting premiums or offering subsidies, where, in the opinion of the Minister, the requirements of a district are not adequately served by any form of transport; and
- (b) shall administer and direct the payment of such subsidies with respect to the provision of transport as may be authorized under this Act.

(2) The Minister having considered the tenders submitted in response to an invitation to tender for the provision of transport services may enter into negotiations with all or any of the persons who have responded to an invitation to tender or with any other person for the purpose of ensuring the provision of transport services of the kind referred to in the invitation to tender.

(3) All applications for licences in respect of public vehicles shall be made to the Director General.

(4) The Minister shall determine all applications for licences under this Act, other than licences under Part IIIA, and without limiting any of the provisions of this Act—

- (a) specify any conditions, restrictions and prohibitions applicable in relation to a licence; and
- (b) determine in respect of a particular licence or any class of licences the conditions, restrictions and prohibitions that apply in relation thereto.

[Section 16 substituted by No. 54 of 1985 s. 17.]

Conditions of tender

17. (1) The Minister may, in calling tenders under section 16, call them subject to any one or more of the conditions, restrictions and prohibitions attaching to the tender and any other conditions, restrictions or prohibitions, whether precedent or subsequent, or both, as

the Minister may in his discretion impose with respect to the acceptance of a tender including conditions that the tenderer will if his tender is accepted—

- (a) provide a minimum service, as specified by the Minister;
- (b) provide the minimum service for a minimum period, as specified by the Minister;
- (c) execute jointly and severally, with sureties of a number and kind to be approved by the Minister a bond in favour of the Minister, binding the tenderer and his sureties to the Minister in an amount to be specified by the Minister for the due compliance with every condition, restriction and prohibition imposed by the Minister.

(2) The imposition, by the Minister, of conditions, restrictions and prohibitions on a licence pursuant to this section does not preclude his imposition of conditions, restrictions and prohibitions on the licence pursuant to section 16.

(3) Where a tenderer who has been granted a licence subject to conditions, restrictions or prohibitions or any of them, including the execution of a bond, imposed under the authority of this section, and thereafter fails, in any respect, duly to perform any one of the conditions, restrictions or prohibitions, then, without prejudice to the right or power of the Minister under this Act to cancel the licence granted to the tenderer, the Minister may take any proceedings at law or in equity in any court of competent jurisdiction to enforce payment under the bond against all or any of the persons thereby bound.

[Section 17 amended by No. 54 of 1985 s. 18.]

Delegation

18. (1) The Director General may, and shall at the request of the Minister to the extent specified in the request, either generally or in relation to any particular matter, by writing, delegate to the Deputy Director General any of his powers or functions under this, or any other, Act, except this power of delegation, so that the delegated powers and functions may be exercised by the Deputy Director General in accordance with the instrument of delegation.

(2) A delegation under this section is revocable at will by the Director General, but where the delegation was made at the request of the Minister the Director General shall not revoke the delegation unless the Minister so directs but otherwise the provisions of section 59 of the *Interpretation Act 1984* apply to and in relation to any delegation under this section.

[Section 18 amended by No. 54 of 1985 s. 19.]

Division 3—Construction or Closure of Railways

[*Heading to this Division inserted by No. 47 of 1980 s. 8.*]

Report on railways

18A. The Minister shall cause a report to be made by the Director General on the construction or closure of any railway and shall cause the report to be laid before each House of Parliament before the second reading in that House of any Bill for the construction or closure of the railway.

[*Section 18A substituted by No. 54 of 1985 s. 20.*]

PART III—LICENCES

*Division 1—General Provisions relating to Licensing of Public Vehicles***Application of Part**

19. (1) Notwithstanding the provisions of any other Act, but subject to the provisions of any notice published pursuant to subsection (2), this Part applies to and in relation to every vehicle that is operated by any person (including vehicles operated by the Crown, or by an agency of the Crown, in right of the State) other than vehicles operated under the *Metropolitan (Perth) Passenger Transport Trust Act 1957*.

(2) The Minister may by Order published in the *Government Gazette* grant exemptions from the provisions of this Part.

(3) An Order made under subsection (2) may be amended or revoked by the Minister by an Order published in the *Government Gazette*.

(4) Section 43 (7), (8) and (9) of the *Interpretation Act 1984* applies to an Order made under this section as though the Order were subsidiary legislation.

[*Section 19 substituted by No. 93 of 1979 s. 5; amended by No. 30 of 1985 s. 6.*]

[**19A.** *Section 19A repealed by No. 54 of 1985 s. 21.*]

Vehicles operating to be licensed

20. (1) Every vehicle that is operated after the coming into operation of this Act is required to be licensed under this Part.

(2) This section does not apply to any journey made for reward by a motor vehicle, that is not a commercial goods vehicle or omnibus, on any occasion with respect to which the Minister is satisfied that a special emergency justified the making of the journey.

[(3) repealed]

(4) For the purposes of determining whether or not a licence is required under this Part in respect of any commercial goods vehicle, where goods are to be conveyed from one place to another, and the carriage of those goods is effected by stages whether by one vehicle or by different vehicles, the whole distance over which the goods are, or are to be, carried shall be taken to comprise the one journey and every vehicle taking part in the carriage of the goods in the course of that journey is to be deemed to make the whole journey.

[Section 20 amended by No. 93 of 1979 s. 6; No. 54 of 1985 ss. 22 and 52.]

Fees for licences

21. (1) In respect of every public vehicle licence the following fees are payable to the Director General in the prescribed manner, in relation to the term of the licence or such shorter period as is prescribed, namely,—

- (a) for an omnibus licence under Division 2, a fee determined by the Minister and—
 - (i) based on, but not exceeding 6 per centum of, the gross earnings derived from the operation of the vehicle assessed in such manner as may be prescribed; or
 - (ii) based on, but not exceeding \$10 per annum for each unit of, the maximum number of passengers that the vehicle is licensed to carry at any one time,

whichever basis is, in the opinion of the Minister, the more appropriate;

- (aa) for an aircraft licence under Division 4, a fee determined by the Minister and—
 - (i) based on, but not exceeding 6 per centum of, the gross earnings of the vehicle assessed in such manner as may be prescribed; or
 - (ii) based on, but not exceeding 20 cents per annum for each kilogram of, the maximum permissible take-off weight specified in the Certificate of Airworthiness issued in respect of the vehicle under the *Air Navigation Regulations of the Commonwealth*,

whichever basis is, in the opinion of the Minister, the more appropriate;

- (b) for a commercial goods vehicle, other than a trailer or semi-trailer, a fee, not exceeding a fee calculated at the rate of \$2 per 50 kilograms of the gross weight of the vehicle, determined by the Minister; and

- (c) for a trailer or semi-trailer, a fee, not exceeding the appropriate fee provided by the Second Schedule, determined by the Minister.

(2) Subject to the limitations imposed by subsection (1), the Minister may at any time vary the fee determined by him in respect of any public vehicle licence.

(3) The Director General may, and at the direction of the Minister shall, refund the whole or any part of any licence fee paid in respect of any commercial goods vehicle, where the vehicle has not been operated in the manner or to the extent or for the period contemplated when the licence was issued.

(4) In assessing a licence fee based on the gross earnings derived from the operation of a vehicle, the Minister shall not take into account the amount of any subsidy paid or payable in respect of its operation.

[Section 21 amended by No. 6 of 1968 s. 22; No. 94 of 1972 s. 4 (1); No. 51 of 1975 s. 4; No. 9 of 1979 s. 10; No. 93 of 1979 s. 7; No. 54 of 1985 ss. 23 and 52.]

Weighing of public vehicle or goods

22. (1) Subject to this Act and to any regulations made under subsection (2), the weight of a public vehicle or of goods carried or to be carried by a commercial goods vehicle shall, if the Minister so orders, be determined at a weighbridge, or by means of such other mechanical device as may be approved by the Minister, and proof of the weight so determined shall be produced by the holder of, or an applicant for, a licence for the vehicle to the Director General or to any officer of the Department, on demand.

(2) The regulations may provide that the method of ascertainment of the weight of the vehicle or of any goods carried by the vehicle for the purposes of any other Act be adopted for the purposes of this Act.

[Section 22 amended by No. 54 of 1985 s. 24.]

Transfer of licence

23. (1) The Minister may on payment of the prescribed fee by the person who has become the owner of the vehicle, grant a transfer of a licence of a public vehicle, and that person shall, thereupon, become the licensee.

(2) An application for transfer may be refused for any reason for which an application for a licence by the same person for the same, or any, public vehicle might have been refused.

[Section 23 amended by No. 54 of 1985 s. 52.]

Division 2—Omnibuses

Licences for omnibuses

24. (1) Subject to this Division, the Minister may, on the application of the owner, grant a licence in respect of an omnibus.

(2) A licence is not required under this Division where—

- (a) a number of persons, on any special occasion, join in a common enterprise, to bear the expense of a journey undertaken for pleasure, in a privately owned motor vehicle; and
- (b) the journey has, as its destination, a place to which, on the day of the journey there was no service that might have been used.

[Section 24 amended by No. 54 of 1985 s. 52.]

Applications for licences

25. (1) Every application for an omnibus licence shall be in writing, setting out—

- (a) the routes on which or the area in which it is intended that the omnibus is to operate;
- (b) a description of the vehicle in respect of which the application is made;
- (c) the maximum number of passengers to be carried at any one time by the vehicle;
- (d) the service proposed to be provided;
- (e) the fares proposed to be charged; and
- (f) such other particulars as may be prescribed.

(2) Where the application relates to a licence required for a particular purpose of limited duration, notwithstanding subsection (1) the Minister may grant the licence without prior lodgement of the written application where he is satisfied that sufficient information has been made available to him to enable him so to do.

(3) A licence granted pursuant to subsection (2)—

- (a) shall be deemed to take effect upon verbal notification to the applicant that a licence will issue; but

- (b) shall be deemed not to have taken effect if the written application relating thereto is not received by the Director General within 14 days of the Minister's decision or if the information contained in the written application differs in a material particular from the information made available to the Minister prior to his decision.

[Section 25 amended by No. 56 of 1981 s. 5; No. 54 of 1985 ss. 25 and 52.]

Matters to be taken into consideration by Minister before grant or refusal of licence

26. The Minister may, before granting or refusing a licence for an omnibus, take into account any one or more of the following matters—

- (a) the necessity for the service proposed to be provided and the convenience that would be afforded to the public by the provision of the proposed service;
- (b) the existing service for the conveyance of passengers upon the routes, or within the area, proposed to be served in relation to—
 - (i) its present adequacy and possibilities for improvement to meet all reasonable public demands; and
 - (ii) the effect upon the existing service of the service proposed to be provided;
- (c) the condition of the roads to be included in any proposed route or area;
- (d) the character, qualifications and financial stability of the applicant; and
- (e) the interest of persons requiring transport to be provided, and of the community generally,

but shall not be obliged, in relation to any particular licence application, to take into account all of these matters.

[Section 26 amended by No. 47 of 1980 s. 9; No. 8 of 1981 s. 4; No. 54 of 1985 s. 52.]

Power to grant, etc., applications

27. (1) Subject to the provisions of this Division, the Minister may (with or without variation) grant, or may refuse, the application.

(2) The Minister may—

- (a) appoint stopping places at which passengers may be picked up or set down; and

(b) direct that passengers be not picked up or set down, other than at a stopping place, or stopping places so appointed, on any route or a section of the route, for which he has granted a omnibus licence.

(2a) In addition to the powers conferred on the Minister under subsection (2), the Minister may grant a licence in respect of the operation of a vehicle on a particular route on the condition that the crew of any vehicle operated by virtue of the licence shall disembark from the vehicle at such places on the route as are specified in the licence and shall be replaced by other crew who shall embark on the vehicle only at the places so specified.

(3) Notwithstanding the provisions of any other Act, the Minister may erect or cause to be erected at a stopping place appointed pursuant to subsection (2)—

- (a) any sign indicating and identifying the stopping place; and
- (b) shelters of such design and construction as he thinks fit,

but before erecting or causing the erection of any sign or shelter authorized by this subsection, the Minister shall cause the Director General to confer with the local authority concerned on the matter, and if agreement cannot be reached on the location, size and type of sign or shelter the matter shall be determined by the Minister and the Minister charged with the administration of the *Local Government Act 1960* or the Minister administering the *Main Roads Act 1930*, as the case may require.

(4) A local authority shall, if so required by the Minister, appoint within its district such stands for omnibuses as may be mutually agreed by the Minister and the local authority and, in the event of their failure to reach agreement, the matter shall be resolved in the manner provided by subsection (3) for the resolving of matters in dispute.

(5) In this section, the term "local authority" includes the Commissioner of Main Roads, where the section applies to any part of the Metropolitan Traffic Area, within the meaning of the *Road Traffic Act 1974*.

[Section 27 amended by No. 30 of 1985 s. 7; No. 54 of 1985 ss. 26 and 52.]

Conditions of omnibus licences

28. It is an implied condition of every licence for an omnibus granted by the Minister that—

- (a) the vehicle be maintained in a fit and serviceable condition;
- (b) the provisions of any Act or regulation applicable to the vehicle and its operation be complied with;

- (c) the requirements of the *Motor Vehicle (Third Party Insurance) Act 1943*, relating to insurance be complied with in relation to the vehicle;
- (d) the provisions and the requirements of any relevant industrial award or agreement applying to persons engaged in the operation of the vehicle be complied with; and
- (e) a direction of the Minister regulating the use of places for the picking up and setting down of passengers be complied with.

[Section 28 amended by No. 54 of 1985 s. 52.]

Power to Minister to attach conditions to licences

29. (1) The Minister may, in his discretion, attach to any omnibus licence all or any of the following conditions, namely, a condition that—

- (a) the vehicle operate only upon a specified route or in a specified area;
- (b) not more than a specified number of passengers to be carried at any one time on the vehicle;
- (c) specified time tables be observed;
- (d) specified fares be charged;
- (e) prescribed records and statistics be kept and supplied to the Director General,

and may attach such other conditions as he thinks proper to impose, in the public interest.

(2) The Minister may add to, vary, or cancel any of the conditions attached, pursuant to the provisions of subsection (1), to an omnibus licence.

[Section 29 amended by No. 54 of 1985 ss. 27 and 52.]

Power to grant omnibus licences for period of 7 years

30. (1) A licence for an omnibus may be granted for a period of not more than 7 years or for a particular purpose of specified duration.

(2) A transfer of a licence for an omnibus shall not be granted, unless and until the Minister is satisfied that no money or other consideration by way of premium or otherwise is to be paid or given for the transfer of the portion of the term of the licence that is unexpired.

[Section 30 amended by No. 93 of 1979 s. 8; No. 54 of 1985 s. 52.]

Permits

31. (1) The Minister may grant to the owner of an omnibus licensed under this Part, a permit authorizing the vehicle to operate, subject to such conditions as may be imposed by the Minister,—

- (a) on any temporary deviation from the routes specified in the licence; or
- (b) temporarily on any route or in any area not specified in the licence.

(2) Every application for a permit under subsection (1) shall be in writing in the form prescribed.

(3) Notwithstanding subsection (2), the Minister may grant a permit without prior lodgement of the written application where he is satisfied that sufficient information has been made available to him to enable him so to do.

(4) A permit granted pursuant to subsection (3)—

- (a) shall be deemed to take effect upon verbal notification to the applicant that the permit will issue; but
- (b) shall be deemed not to have taken effect if the written application relating thereto is not received by the Director General within 14 days of the Minister's decision or if the information contained in the written application differs in a material particular from the information made available to the Minister prior to his decision.

[Section 31 amended by No. 56 of 1981 s. 6; No. 54 of 1985 ss. 28 and 52.]

Omnibuses to be registered as motor vehicles

32. A licence shall not be granted for an omnibus under this Part unless the vehicle is licensed in accordance with the *Road Traffic Act 1974*.

[Section 32 amended by No. 64 of 1970 s. 5.]

Division 3—Commercial Goods Vehicles

(1) Licensing

[Sub-heading to this Division inserted by No. 53 of 1977 s. 4.]

Application of Part

33. (1) Subject to this Division, the Minister may, on the application of the owner, grant a licence in respect of a commercial goods vehicle.

(2) A licence is not required under this Part in respect of any commercial goods vehicle that—

- (a) is operated solely in the area within 35 kilometres of the General Post Office, Perth;
- (b) is operated solely within 35 kilometres of the place of business of the owner; or
- (c) is being used otherwise than on a road.

[(3) deleted]

(4) A licence is not required for a commercial goods vehicle that is being used solely for any carriage specified in the First Schedule.

(5) The burden of proving that a commercial goods vehicle is exempted from the provisions of this Part under subsection (4), and that a licence in respect of that vehicle is not required thereunder lies upon the person claiming the exemption.

(6) Where in any proceedings for an offence against this Act the defendant proposes to claim an exemption from the provisions of this Part under subsection (4) the defendant shall, not later than 14 days before the date appointed for the hearing of the complaint, give the Director General written details of the exemption claimed.

[Section 33 amended by No. 94 of 1972 s. 4 (1); No. 93 of 1979 s. 9; No. 30 of 1985 s. 8; No. 54 of 1985 s. 52.]

Certain licences to be granted

34. (1) The Minister shall grant upon application a licence to operate any commercial goods vehicle—

- (a) wholly within 60 kilometres of the General Post Office, Perth; or
- (b) where the Governor by Order in Council (which may be varied or cancelled by a subsequent Order in Council made under this section) has determined that the provisions of this section shall apply in relation to any such vehicle.

(2) An Order in Council made for the purposes of this section may be made so as to apply—

- (a) to any specified vehicle, or to vehicles of a specified class;
- (b) to vehicles used for a specified purpose or any specified class of purpose; or
- (c) to vehicles whilst operated in a specified part of the State,

and may provide that the provisions of this section shall not apply to any vehicle (to which they otherwise would apply) if that vehicle is operated for a purpose or in a locality which is by that Order determined to be a purpose or locality in respect of which the Order is not to apply.

(3) The provisions of section 36, section 37, and section 39 do not apply to or in relation to a licence granted by the Minister under this section or to an application for a licence, but the provisions of this Part other than those sections shall apply to any such licence or application.

[Section 34 substituted by No. 93 of 1979 s. 10; amended by No. 54 of 1985 s. 52.]

Application for licence

35. (1) Every application for a commercial goods vehicle licence shall be in writing, setting out—

- (a) the route on which or the area in which it is intended that the commercial goods vehicle is to operate;
- (b) a description of the vehicle in respect of which the application is made;
- (c) the classes of goods proposed to be carried; and
- (d) such other particulars as may be prescribed.

(2) Where the application relates to a licence required for a particular purpose of limited duration, notwithstanding the provisions of subsection (1) the Minister may grant the licence without prior lodgement of the written application where he is satisfied that sufficient information has been made available to him to enable him so to do.

(3) A licence granted pursuant to subsection (2)—

- (a) shall be deemed to take effect upon verbal notification to the applicant that a licence will issue; but
- (b) shall be deemed not to have taken effect if the written application relating thereto is not received by the Director General within 14 days of the Minister's decision or if the information contained in the written application differs in a material particular from the information made available to the Minister prior to his decision.

[Section 35 amended by No. 51 of 1975 s. 5; No. 47 of 1980 s. 10; No. 54 of 1985 ss. 29 and 52.]

Matters to be taken into consideration by the Minister before grant or refusal of licence

36. Before granting or refusing a licence for a commercial goods vehicle, the Minister—

- (a) may take into account any one or more of the following matters—
 - (i) the necessity for the service proposed to be provided and the convenience that would be afforded to the public by the provision of the proposed service;

(ii) the existing service for the carriage of goods upon the routes, or within the area, proposed to be served in relation to—

(I) its present adequacy and possibilities for improvement to meet all reasonable public demands; and

(II) the effect upon the existing service of the service proposed to be provided;

(iii) the condition of the roads to be included in any proposed route or area;

(iv) the character, qualifications, and financial stability of the applicant; and

(v) the interests of persons requiring transport to be provided, and of the community generally,

but shall not be obliged, in relation to any particular licence application, to take into account all of these matters; and

(b) shall take into consideration economic development and decentralization; and

(c) may take into consideration such other factors as he thinks fit.

[Section 36 substituted by No. 8 of 1981 s. 5; amended by No. 54 of 1985 ss. 30 and 52.]

Power of Minister to grant or refuse application for licence

37. Subject to the provisions of this Division, the Minister may (with or without variation) grant, or may refuse an application for a commercial goods vehicle licence.

[Section 37 amended by No. 54 of 1985 s. 52.]

Condition of commercial goods vehicle licence

38. It is an implied condition of every licence for a commercial goods vehicle granted by the Minister—

(a) that the vehicle be maintained in a fit and serviceable condition;

(b) that the provisions of any Act or regulation applicable to the vehicle and its operation be complied with;

(c) that, in relation to the vehicle, the provisions of section 48, relating to the limitation of hours of driving, be observed, and that the provisions and the requirements of any relevant industrial award or agreement applying to any persons engaged in its operation be complied with; and

(d) that the vehicle carry no load exceeding that stipulated in, and authorized by, the licence.

[Section 38 amended by No. 54 of 1985 s. 52.]

Power of Minister to attach conditions to licence

39. (1) The Minister may, in his discretion, attach to any commercial goods vehicle licence all or any of the following conditions, namely a condition that—

- (a) the vehicle operate only upon specified routes or in a specified area; and
- (b) prescribed records be kept;

and may attach such other conditions as he thinks proper to impose, in the public interest.

(2) The Minister may add to, vary or cancel any of the conditions attached, pursuant to the provisions of subsection (1), to a commercial goods vehicle licence.

[Section 39 amended by No. 54 of 1985 s. 52.]

Period of licence

40. The Minister may grant a licence for a commercial goods vehicle,—

- (a) for a period of one year; or
- (b) for a particular purpose of specified duration.

[Section 40 amended by No. 93 of 1979 s. 12; No. 54 of 1985 s. 52.]

Permits

41. (1) The Minister, may grant to the owner of any commercial goods vehicle licensed under this Division a permit authorizing the vehicle to operate subject to such conditions as may be imposed by the Minister—

- (a) on any deviation from the routes specified in the licence; or
- (b) temporarily, on any route or in any area not specified in the licence.

(2) Every application for a permit under subsection (1) shall be in writing in the form prescribed.

(3) Notwithstanding subsection (2), the Minister may grant a permit without prior lodgement of the written application where he is satisfied that sufficient information has been made available to him to enable him so to do.

(4) A permit granted pursuant to subsection (3)—

- (a) shall be deemed to take effect upon verbal notification to the applicant that the permit will issue; but

- (b) shall be deemed not to have taken effect if the written application relating thereto is not received by the Director General within 14 days of the Minister's decision or if the information contained in the written application differs in a material particular from the information made available to the Minister prior to his decision.

[Section 41 amended by No. 56 of 1981 s. 7; No. 54 of 1985 ss. 31 and 52.]

Commercial goods vehicles to be registered as motor vehicles

42. A licence shall not be granted for any commercial goods vehicle under this Division unless the vehicle is licensed for its class, under the *Road Traffic Act 1974*.

- (2) Recommendations in respect of operation
pursuant to subcontracts

[*Sub-heading to this Division inserted by No. 53 of 1977 s. 4.*]

Interpretation

42A. In this subdivision, unless the contrary intention appears—

“authorized person” means a person who is authorized in writing by the Director General to assist the Director General in the exercise of his functions and the discharge of his duties pursuant to this subdivision;

“prime contractor” means any person who for any consideration agrees with a consignor or consignee to transport goods for the consignor or consignee, or to arrange the transport of goods for the consignor or consignee;

“service” or “services” in relation to a sub-contractor means the operation of a commercial goods vehicle for the transport of goods which a prime contractor has agreed with a consignor or consignee to transport, or to arrange to transport, for the consignor or consignee;

“sub-contractor” means an owner of a commercial goods vehicle who is, under a contract for service, engaged by any person to operate the commercial goods vehicle for the transport of goods which a prime contractor has agreed with a consignor or consignee to transport, or to arrange to transport, for the consignor or consignee.

[Section 42A see note under sub-heading. S. 42A amended by No. 54 of 1985 s. 52.]

Inquiries and recommendations by the Director General

42B. (1) The Director General shall from time to time, as provided by this subdivision, inquire into and recommend the minimum rates of remuneration for the services supplied by a sub-contractor from south of the 26th parallel of latitude to the north thereof.

(2) A recommendation of the Director General—

- (a) shall be in writing; and
- (b) shall be signed by the Director General.

(3) A copy of every recommendation made by the Director General shall be published in the *Government Gazette*.

(4) Without limiting the generality of subsection (1), a recommendation made by the Director General may recommend any one or all of the following—

- (a) different minimum rates according to the difference in quality, description, or volume of the service supplied, or in respect of the different forms, modes, conditions, terms, or localities of operation of commercial goods vehicles;
- (b) different minimum rates for different parts of the State;
- (c) minimum rates according to any principle or condition specified in the recommendation.

[Section 42B see note under sub-heading. S. 42B amended by No. 54 of 1985 s. 52.]

Certificate of authority to operate from south of the 26th parallel to the north thereof

42C. (1) Notwithstanding anything contained elsewhere in this Act, on and after the appointed day a person shall not, for hire or reward, operate a commercial goods vehicle from south of the 26th parallel of latitude to the north thereof, unless he is the holder of a Certificate of Authority issued to him by the Minister for that purpose.

(2) The Minister may, on payment of the prescribed fee, issue such a certificate to the owner of a licensed commercial goods vehicle, if the Minister is satisfied that it is in the public interest to do so, and may attach to the certificate such conditions as to the mode of operation of the vehicle as he thinks proper to impose in the public interest.

(3) Subject to subsection (4) such a certificate shall be valid for such period, not exceeding 12 months, as is determined by the Minister and is specified on the certificate.

(4) The Minister may revoke such a certificate at any time if he is satisfied that it is in the public interest to do so, or if he is satisfied that the owner has not complied with any one or more of the conditions relating to the certificate.

(5) The prescribed fee shall not exceed \$50 per annum and—

- (a) where the certificate is for a period of less than one year the fee shall be one-twelfth of the prescribed fee for each month or portion thereof the certificate is valid; and
- (b) where the certificate is revoked the fee shall be as for the period the certificate was valid and any excess paid shall be refunded.

(6) In this section “appointed day” means such date as is, for the purposes of this section, fixed by the Governor by Order in Council published in the *Government Gazette*.

[Section 42C see note under sub-heading. S. 42C amended by No. 54 of 1985 s. 52.]

Further functions and powers of the Director General

42D. (1) The Director General may, and at the direction of the Minister shall, conduct such investigations, inquiries, study, or research as he considers necessary or desirable for the purposes of this subdivision, and for the purposes of informing, and making recommendations to, the Minister on matters related to the operational and economic stability of the commercial goods vehicle sector of the transport industry in this State.

(2) For the purposes of exercising the functions, and discharging the duties imposed on him by this subdivision, the Director General has the powers, authority, and protection of a Royal Commission under the *Royal Commissions Act 1968* and the provisions of that Act apply with such modifications as are necessary, to and in relation to any investigation and inquiry that he may make for the purposes of this subdivision.

[Section 42D see note under sub-heading. S. 42D amended by No. 54 of 1985 ss. 32 and 52.]

Information

42E. Without limiting the power of the Director General as provided by section 42D (2), for the purpose of obtaining information necessary for the effective operation of this subdivision the Director General or an authorized person may request and receive from—

- (a) persons involved in the operation of, and persons for whom goods are transported or are to be transported by, commercial goods vehicles; and
- (b) organizations which are acknowledged by the Director General as representative of identifiable groups of such persons,

information, in writing or otherwise, in relation to the operation of commercial goods vehicles from south of the 26th parallel to the north thereof.

[Section 42E see note under sub-heading. S. 42E amended by No. 54 of 1985 ss. 33 and 52.]

Secrecy

42F. A person who discloses any information relating to any business that has been furnished to him or obtained by him pursuant to this subdivision is, unless the disclosure is made—

- (a) with the consent of the person carrying on or operating the business;
- (b) in connection with the administration of this Act; or
- (c) for the purposes of any legal proceedings in respect of an offence as provided by section 42G or of any report of such proceedings,

guilty of an offence against this Act.

Penalty: \$1 000.

[Section 42F see note under sub-heading.]

Offences as to information

42G. A person who, when requested to give any information pursuant to section 42E, fails to do so unless there is reasonable cause for failing to do so (proof of which shall lie on that person), or knowingly makes any false or misleading statement in relation thereto, commits an offence against this Act for which the penalty is \$1 000, and, in the case of the offence continuing, \$1 000 for each day the offence continues.

[Section 42G see note under sub-heading.]

Further effect of offences

42H. (1) When an offence as provided by section 42G is committed by the holder of a commercial goods vehicle licence the Minister may revoke the licence.

(2) Where an offence as provided by section 42G is committed by a person who is not the holder of a commercial goods vehicle licence and that person subsequently applies for a licence for a commercial goods vehicle, the Minister may refuse to grant such a licence to that person on the grounds that he has committed such an offence.

[Section 42H see note under sub-heading. S. 42H amended by No. 54 of 1985 s. 52.]

Division 4—Aircraft

Licences for aircraft

43. (1) Subject to this Division, the Minister may, on the application of the owner, grant a licence in respect of an aircraft.

(2) A licence is not required under this Part in respect of an aircraft used for the purpose only of transporting—

- (a) a legally qualified medical practitioner in the course of his professional duties; or
- (b) a sick or injured person to or from medical aid, in a case of emergency.

(3) The Minister shall not grant a licence in respect of an aircraft, unless he is satisfied that all laws of the Commonwealth relating to the aircraft and its operation have been, and will at all times be, complied with; but, subject thereto, he may (with or without variation) grant or may refuse a licence.

(4) Every licence granted shall, subject to the conditions of the licence, authorize the operation of the aircraft between the points or in any areas specified in the licence.

[Section 43 amended by No. 54 of 1985 s. 52.]

Period of licence

43A. A licence for an aircraft may be granted for a period of one year or for a particular purpose of specified duration.

[Section 43A inserted by No. 56 of 1981 s. 8.]

Permits

43B. (1) The Minister may grant to the owner of any aircraft licensed under this Division a permit authorizing the aircraft to operate, subject to such conditions as may be imposed by the Minister,—

- (a) on any deviation from the routes specified in the licence; or
- (b) temporarily, on any route or in any area not specified in the licence.

(2) Every application for a permit under subsection (1) shall be in writing in the form prescribed.

(3) Notwithstanding subsection (2), the Minister may grant a permit without prior lodgement of the written application where he is satisfied that sufficient information has been made available to him to enable him so to do.

(4) A permit granted pursuant to subsection (3)—

- (a) shall be deemed to take effect upon verbal notification to the applicant that the permit will issue; but

- (b) shall be deemed not to have taken effect if the written application relating thereto is not received by the Director General within 14 days of the Minister's decision or if the information contained in the written application differs in a material particular from the information made available to the Minister prior to his decision.

[Section 43B inserted by No. 56 of 1981 s. 8; amended by No. 54 of 1985 ss. 34 and 52.]

Applications for licences

44. (1) Every application for an aircraft licence shall be in writing, setting out—

- (a) the routes on which and the area in which it is intended that the aircraft is to operate;
- (b) a description of the aircraft in respect of which the application is made;
- (c) the maximum number of passengers to be carried at any one time, and the classes of goods to be carried, by the aircraft;
- (d) the service proposed to be provided;
- (e) the fares and freight rates proposed to be charged; and
- (f) such other particulars as may be prescribed.

(2) Where the application relates to a licence required for a particular purpose of limited duration, notwithstanding subsection (1) the Minister may grant the licence without prior lodgement of the written application where he is satisfied that sufficient information has been made available to him to enable him so to do.

(3) A licence granted pursuant to subsection (2)—

- (a) shall be deemed to take effect upon verbal notification to the applicant that a licence will issue; but
- (b) shall be deemed not to have taken effect if the written application relating thereto is not received by the Director General within 14 days of the Minister's decision or if the information contained in the written application differs in a material particular from the information made available to the Minister prior to his decision.

[Section 44 amended by No. 56 of 1981 s. 9; amended by No. 54 of 1985 ss. 35 and 52.]

Matters to be taken into consideration by Minister

45. (1) The Minister may, before granting or refusing a licence for an aircraft, take into account any one or more of the following matters—

- (a) the necessity for the service proposed to be provided and the convenience that would be afforded to the public by the provision of the proposed service;
- (b) the existing service for the conveyance of passengers or goods upon the routes, or within the area, proposed to be served, in relation to—
 - (i) its present adequacy and possibilities for improvement to meet all reasonable public demands; and
 - (ii) the effect upon the existing service of the service proposed to be provided;
- (c) the condition of the airports and landing grounds to be included in any proposed route or area;
- (d) the character, qualifications and financial stability of the applicant; and
- (e) the interests of persons requiring transport to be provided, and of the community generally,

but shall not be obliged, in relation to any particular licence application, to take into account all of these matters.

[(2) repealed]

(3) Notwithstanding anything in subsection (1) the Minister may at any stage for any reason defer an application or refrain from dealing with an application.

[Section 45 amended by No. 47 of 1980 s. 11; No. 8 of 1981 s. 6; No. 30 of 1985 s. 9; No. 54 of 1985 ss. 36 and 52.]

Conditions of aircraft licences

46. It is an implied condition of every licence for an aircraft granted by the Minister that—

- (a) the provisions of any law applicable to the aircraft and its operation be complied with;
- (b) the provisions and requirements of any industrial award or agreement applying to persons engaged in the operation or servicing of the aircraft be complied with; and
- (c) any direction of the Minister relating to the use of airports or landing grounds be complied with.

[Section 46 amended by No. 54 of 1985 s. 52.]

Power of Minister to attach conditions to licences

47. (1) The Minister may, in his discretion, attach to an aircraft licence all or any of the following conditions, namely, a condition that—

- (a) the aircraft be operated only upon specified routes or in a specified area;
- (b) specified timetables be observed;
- (c) specified fares and freight rates be charged; and
- (d) prescribed records and statistics be kept and be supplied to the Director General,

and may attach such other conditions as he thinks fit to impose, in the public interest.

(2) The Minister may add to, vary or cancel any of the conditions attached, pursuant to the provisions of subsection (1), to an aircraft licence.

[Section 47 amended by No. 79 of 1976 s. 3; No. 54 of 1985 ss. 37 and 52.]

Division 5—Ships

Interpretation

47A. (1) In this Division, unless the contrary intention appears—

- “master” in relation to a ship means the person having command or charge of the ship but does not include the pilot thereof;
- “port” includes place and harbour;
- “ship” means any vessel of a registered tonnage of not less than 80 tons that is used in sea navigation and includes barge, lighter or other floating vessel.

(2) A ship shall be deemed to be engaged in the coasting trade, within the meaning of this Division, if the ship takes on board cargo at any port in the State to be carried to, and delivered at, any other port in the State.

(3) For the purposes of this Division, each ship operated by or on behalf of the Western Australian Coastal Shipping Commission established under the *Western Australian Coastal Shipping Commission Act 1965*, shall while it is so operated, be deemed to be authorized under this Division to engage in the coasting trade and no licence or permit is required thereunder for such a ship while it is being so operated.

(4) The Minister may, by notice published in the *Government Gazette*, declare that the provisions of this Division shall not apply to—

- (a) any ship or class of ship; or
- (b) any cargo or class of cargo,

subject to any conditions that may be set out in the notice, and while a ship is being operated or a cargo is carried under the authority of a notice published under this subsection no licence or permit is required under this Division.

[Section 47A inserted by No. 64 of 1970 s. 6.]

Authority for ships to engage in coasting trade

47B. (1) Subject to this Division, a ship shall not engage in the coasting trade unless it is authorized to do so pursuant to a licence or permit granted under this Division.

(2) The master, owner, charterer or agent of a ship that—

- (a) engages in the coasting trade without the ship being so authorized; or
- (b) engages in the coasting trade contrary to the licence or permit authorizing it to engage in the coasting trade,

commits an offence against this Act.

Penalty: \$1 000.

(3) An application for a licence or permit for a ship to engage in the coasting trade may be made to the Director General in the prescribed form by the master, owner, charterer or agent of the ship.

(4) (a) The application shall specify—

- (i) the name, port of registry and official number of the ship;
- (ii) the name of its registered owner and master;
- (iii) the ports in the State between which it is desired to trade;
- (iv) whether the licence or permit to which the application relates is desired for the carriage of cargo only or both cargo and passengers and the kind and amount of cargo intended to be carried; and
- (v) such other particulars as may be prescribed.

(b) Where an application is for a permit, the application shall also specify the voyage for which the permit is desired.

(5) Where a licence has been granted under this Division in respect of a ship, the master, owner, charterer or agent thereof may, from time to time, make application to the Director General in the prescribed form for a renewal of the licence and the application shall be made not less than 30 days before the expiration of the period for which the licence was granted or renewed.

(6) A licence or a renewal of a licence may be granted by the Minister for such period not exceeding 3 years as is determined by the Minister but the Minister may in relation to a particular licence grant or renew the licence for a period in excess of 3 years as he specifies in the licence.

(7) A permit may be granted by the Minister in respect of a single voyage only and between such 2 or more ports in the State as are specified in the permit.

(8) There shall be paid, in the prescribed manner, to the Director General, in respect of every licence or permit under this Division, a fee determined by the Minister but not exceeding—

- (a) in the case of a licence, or the renewal of a licence, an amount of \$50 for each month or part thereof of the term of the licence or renewal; and
- (b) in the case of a permit, an amount calculated at the rate of 5 cents per tonne of cargo carried on the voyage to which the permit relates,

with a minimum fee of \$5 per permit.

[Section 47B inserted by No. 64 of 1970 s. 7; amended by No. 94 of 1972 s. 4 (as amended by No. 83 of 1973); No. 54 of 1985 ss. 38 and 52.]

Granting of licences and permits in certain cases

47C. (1) The Minister shall grant—

- (a) a licence or permit under this Division for a ship, if he is satisfied that—
 - (i) the cargo to be carried by the ship in the course of the coasting trade to which the licence or permit will relate, and which is specified in the application for the licence or permit, is cargo of such a kind that none of the ships that are deemed to be authorized to engage in the coasting trade under this Division is technically suited to carry; or
 - (ii) the Commission that controls the ships so authorized does not wish any of the ships to carry the cargo;or
 - (iii) the cargo to be carried by the ship in the course of the coasting trade to which the licence or permit will relate and which is specified in the application for the licence or permit is cargo of such a kind that requires for the purpose of its loading onto, carriage in, or unloading from, the ship, specialized equipment that is in operation in the State for the purpose on the commencement of this section.
- (b) a permit under this Division for a ship, if he is satisfied that—
 - (i) the cargo specified in the application for the permit is required for a purpose or operation that must be completed, continued or carried out without interruption;

- (ii) in order to prevent the interruption the cargo is required to be carried to a port so specified by a particular date or as near thereto as is practicable;
- (iii) the ship to which the application relates will be able to so carry the cargo; and
- (iv) none of the ships that are deemed to be authorized to engage in the coasting trade is available at the relevant time to so carry the cargo, or the Commission that controls the ships so authorized does not wish to arrange for the cargo to be so carried to that port.

(2) The Minister shall grant a licence or permit under this Division to engage in the coasting trade in any other case if, after considering the application and having regard to—

- (a) the extent to which the granting of the licence or permit is necessary or desirable in the public interest;
- (b) the needs of the port or ports specified in the application and the district in which they are situate in relation to the existing authorized coasting trade; and
- (c) the necessity, in the public interest, of protecting the public funds in operating ships deemed to be authorized to carry on the coasting trade, when the application is for a licence or permit to engage in the coasting trade in respect of a port or ports at which such ships call,

he is of opinion that it is necessary or desirable to grant the licence or permit.

[Section 47C inserted by No. 64 of 1970 s. 8; amended by No. 54 of 1985 s. 52.]

Supervision

47D. (1) For the purpose of ascertaining whether the provisions of this Division or any regulation relating thereto are being contravened, any person authorized for the purpose by the Director General by instrument in writing and whether so authorized generally or in any particular case, may go on board any ship and may request the person in charge or apparently in charge of the ship—

- (a) to produce for inspection any licence or permit, if any, granted under this Division in respect of the ship, the manifest of the ship and any other document that the person so authorized requires to inspect for the purpose;
- (b) to permit an inspection of the ship and the cargo loaded or being loaded into the ship;
and
- (c) to state his name and address.

- (2) A person who goes on board a ship pursuant to this section—
- (a) may be accompanied and assisted by an interpreter where the records of the ship are kept in a language other than English; and
 - (b) may cause any licence, permit, manifest of the ship or other document inspected by him pursuant to this section, to be copied.
- (3) A person who—
- (a) fails to produce the licence, permit, manifest of a ship or other document or does not allow any of them to be copied;
 - (b) refuses to permit an inspection of a ship or its cargo;
 - (c) refuses to state his name and address;
 - (d) refuses to allow any person to go on board a ship who is authorized to do so under this Act,

after being requested so to do pursuant to this section, commits an offence against this Act.

Penalty: \$300.

[Section 47D inserted by No. 64 of 1970 s. 9; amended by No. 54 of 1985 s. 52.]

No limitation from proceedings

47E. A prosecution for an offence against this Act may be brought at any time.

[Section 47E inserted by No. 64 of 1970 s. 10.]

Construction of this Division

47F. This Division shall be read and construed as being in addition to and not in derogation of or in substitution for any of the provisions of the *Western Australian Marine Act 1982*.

[Section 47F inserted by No. 64 of 1970 s. 11.]

PART IIIA⁴—BUSINESS FRANCHISE (PETROLEUM PRODUCTS) LICENSING

[Part IIIA inserted by No. 9 of 1979 s. 11.]

Interpretation

47G. (1) In this Part unless the contrary intention appears—

“diesel fuel” means a petroleum or shale product used or capable of use in propelling a diesel engined road vehicle;

“licence” means a licence granted under this Part;

“licensee” means the holder of a licence;

“motor spirit” means petrol or other petroleum or shale spirit having a flashpoint of less than 23° Celsius when tested in an Abel Pinsky closed test apparatus but does not include—

- (a) aviation gasoline;
- (b) solvents;
- (c) special boiling point spirits;
- (d) liquefied petroleum gas; or
- (e) any substance prescribed under subsection (5);

“petroleum products” means motor spirit or diesel fuel;

“relevant month”, in relation to a licence in respect of a particular named month specified in the 1st column of the Third Schedule, means the month specified in the 2nd column of that Schedule opposite that particular month;

“road vehicle” means a vehicle designed solely or principally for transporting persons, goods or animals by road;

“subsection” means subsection of the section in which the term is used;

“wholesaling petroleum products” means—

- (a) selling motor spirit where that motor spirit has not previously been sold in the State;
- (b) selling diesel fuel for use only in propelling diesel engined road vehicles where that diesel fuel has not previously been sold in the State for use only in propelling such vehicles; or
- (c) in the case of a person who is required to hold a licence under section 47K, using motor spirit or diesel fuel for his own purposes in the course of his business,

and “wholesaled” in relation to motor spirit and diesel fuel has a correlative meaning.

(2) For the purposes of the interpretations of “wholesaling petroleum products” and “wholesaled” in subsection (1)—

- (a) the supply of petroleum products from a refinery for the purposes of resale shall not be regarded as constituting a sale of those petroleum products; and
- (b) the delivery of petroleum products into the State from elsewhere shall not be regarded as constituting a sale of those products in the State.

(3) A reference in this Part to the carrying on of the business of wholesaling petroleum products includes a reference to the carrying on of that business as part of or in conjunction with any other business.

(4) A reference in this Part to a person who carries on the business of wholesaling petroleum products does not extend to a person who carries on such a business as an agent or employee of another person who carries on such a business.

(5) The Governor may by regulation prescribe any substance as not being a motor spirit for the purposes of this Part.

[Section 47G see note under Part heading. S. 47G amended by No. 47 of 1980 s. 12; No. 56 of 1981 s. 10; No. 2 of 1986 s. 4.]

Functions of Director General

47H. (1) The Director General shall have such powers and functions as are conferred on him by this Part.

(2) The Director General may by instrument in writing under his hand delegate to the Deputy Director General or to any other officer assisting the Director General in the administration of this Part all or any of his powers or functions under this Part, except this power of delegation.

(3) A delegation under subsection (2) may be revoked at any time by the Director General.

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

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

(6) Notwithstanding the provisions of subsection (2) or any delegation made under this section, the Director General may continue to exercise or perform all or any of the powers or functions conferred or imposed on him by this Part.

(7) Any act or thing done or suffered by a delegate of the Director General while acting in the exercise of a delegation under this section, shall have the same force and effect as if the act or thing done had been done or suffered by the Director General.

(8) Where the exercise or performance by the Director General of any power or function under this Part or the operation of any provision of this Part is dependent upon the opinion, belief or state of mind of the Director General in relation to any matter, that power or function may be exercised or performed by a delegate of the Director General acting as such in relation to that matter, or that provision may operate, as the case may be, upon the opinion, belief or state of mind of that delegate acting as such.

(9) The provisions of this section shall be read and construed as being in addition to and not in derogation of or in substitution for those of section 18.

[Section 47H see note under Part heading. S. 47H amended by No. 54 of 1985 ss. 39 and 52; No. 2 of 1986 s. 5.]

Investigations

47I. (1) The Director General or any officer authorized by him in that behalf may at any reasonable time—

- (a) enter and remain in any premises at which, or at which he reasonably suspects, the business of selling petroleum products is carried on or which is, or which he reasonably suspects, is being used for the storage or custody of any accounts, records, books or documents relating to the sale or purchase of petroleum products;
- (b) take copies of, or extracts or notes from, any such accounts, records, books or documents;
and
- (c) request any person found in or upon any premises used for the sale or purchase of petroleum products or on which petroleum products are stored for sale—
 - (i) to produce any accounts, records, books or documents which relate to, or which the Director General or an officer reasonably suspects relate to, the sale or purchase of petroleum products and which at the time of the request are in the possession or under the control of that person;
and
 - (ii) to answer any question with respect to any such accounts, records, books or documents or the sale or purchase of any petroleum products.

(2) A person shall not—

- (a) prevent or attempt to prevent the Director General or an officer from exercising any power conferred on him by subsection (1);
- (b) hinder or obstruct the Director General or an officer in the exercise of any such power;
- (c) fail to comply with a request of the Director General or an officer under subsection (1) (c); or
- (d) furnish to the Director General or an officer information which is false or misleading in a material particular.

Penalty: \$200.

(3) A person is not guilty of an offence under subsection (2) (c) by reason of his failure to answer any question if he proves to the satisfaction of the court that he did not know, and could not with reasonable diligence have ascertained, the answer to the question.

(4) A person is not excused from answering any question if required to do so under subsection (1) (c) on the ground that the answer might tend to criminate him or make him liable to a penalty but the information furnished by him shall not be admissible against him in any proceedings, civil or criminal, except in proceedings for an offence under subsection (2).

[Section 47I see note under Part heading. S. 47I amended by No. 54 of 1985 s. 52.]

Secrecy provisions

47J. (1) The Director General may communicate—

- (a) to any officer administering any law of the Commonwealth relating to taxation or to any person authorized by any such officer;
- or
- (b) to any officer of any State or Territory of the Commonwealth administering any law of that State or Territory relating to the licensing of persons to carry on the business of selling any petroleum products or to any person authorized by any such officer,

any information respecting the affairs of any person disclosed or obtained under the provisions of this Part.

(2) The Director General or any other person who is or has been employed in the administration of this Part shall not either while he is or after he ceases to be so employed—

- (a) either directly or indirectly, except in the performance of any function or duty in relation to this Part or in accordance with subsection (1), make a record of or divulge or communicate to any person any information acquired by him respecting the affairs of any other person in the course of that employment;
- (b) be required to produce in court any document in his custody in the course of his employment or to divulge or communicate to any court any matter or thing coming under his notice in the course of his employment except where it is necessary to do so for the purpose of carrying into effect the provisions of this Part.

Penalty: \$1 000.

[Section 47J see note under Part heading. S. 47J amended by No. 54 of 1985 s. 52.]

Petroleum product wholesalers to be licensed

47K. A person shall not on or after 1 July 1979 carry on the business of wholesaling petroleum products unless he is the holder of a licence.

Penalty: \$1 000.

[*Section 47K see note under Part heading.*]

Applications for licences

47L⁴. (1) Subject to this Part any person may apply to the Minister for a licence.

(2) An application for a licence shall be made in the form approved by the Minister.

(3) Applications for licences shall be determined by the Minister but he shall not grant a licence to the applicant until the fee payable in respect of the licence has been paid.

[*Section 47L see note under Part heading. S. 47L amended by No. 54 of 1985 s. 52; No. 2 of 1986 s. 6.*]

Licence deemed to be granted in certain circumstances

47LA. Where a licensee (including a licensee holding a licence deemed by paragraph (d) to have been granted)—

- (a) has complied with any requirement of the Director General under section 47S; and
- (b) has paid the fee that would be payable under section 47N (2a), if he applied for a further licence that, from the expiration of the licence pursuant to which he is a licensee, would confer the same authority as the expired licence,

that licensee shall—

- (c) if he has not applied for such a further licence, be deemed to have duly so applied; and
- (d) be deemed to be the holder of such a further licence granted with effect from the expiration of the licence already held by the licensee unless, before that expiration, the Minister informs the licensee that the Minister refuses to grant the further licence for which the licensee has, or is by paragraph (c) deemed to have, applied.

[*Section 47LA inserted by No. 2 of 1986 s. 7.*]

Duration of licence

47M. A licence shall be in force on and from the day specified in the licence as the date from which the licence commences until, unless it sooner ceases to have effect—

- (a) 30 June next following, in the case of a licence which has effect before 1 July 1986;
and
- (b) in any other case, the last day of the month in which it commenced.

[Section 47M see note under Part heading. S. 47M amended by No. 2 of 1986 s. 8.]

Fees

47N. (1) The fee payable for a licence that will have effect for any period ending on or before 30 June 1980 shall be \$500 together with—

- (a) an amount of nine tenths of a cent for every litre of motor spirit wholesaled by the applicant in the period commencing on 1 April 1978 and ending on 31 March 1979; and
- (b) an amount of 3 cents for every litre of diesel fuel wholesaled by the applicant in the period commencing on 1 April 1978 and ending on 31 March 1979 and used in propelling diesel engined road vehicles on roads.

(2) The fee payable for a licence that will have effect for any period after 30 June 1980 and before 1 July 1986 shall be \$500 together with—

- (a) an amount as prescribed for the purposes of this paragraph in relation to that period for every litre of motor spirit wholesaled by the applicant in the year ending on 31 March last preceding the date on and from which the licence will be in force;
and
- (b) an amount as prescribed for the purposes of this paragraph in relation to that period for every litre of diesel fuel wholesaled by the applicant in the year ending on 31 March last preceding the date on and from which the licence will be in force and used in propelling diesel engined road vehicles on roads.

(2a) The fee payable for a licence that will have effect for any period after 30 June 1986 shall be \$50 together with—

- (a) an amount as prescribed for the purposes of this paragraph for every litre of motor spirit wholesaled by the applicant in the relevant month; and
- (b) an amount as prescribed for the purposes of this paragraph for every litre of diesel fuel wholesaled by the applicant in the relevant month and used in propelling diesel engined road vehicles on roads.

(3) Where an application is made—

- (a) for a licence that will have effect for a period ending on or before 30 June 1980 and the applicant did not carry on the business of wholesaling petroleum products during the whole of the period between 1 April 1978 and 31 March 1979; or
- (b) for a licence that will have effect for a period after 30 June 1980 and before 1 July 1986 and the applicant did not carry on the business of wholesaling petroleum products during the whole of the period of 12 months ending on 31 March last preceding the date on and from which that licence will be in force,

the fee payable by the applicant in respect of the licence shall be such amount as is assessed by the Minister as being just and reasonable in the circumstances of the case having regard to the petroleum products that would have been handled by the applicant had he been carrying on the business in respect of which the application for the licence was made during the whole of the relevant period, the relevant principles of determining fees under subsection (1) or (2) (whichever is applicable) and, where the application is made in respect of a licensing period that is less than one year, the period that the licence will be in force.

(3a) Where an application is made for a licence that will have effect for any period after 30 June 1986 and the applicant did not carry on the business of wholesaling petroleum products during the whole of the relevant month, the fee payable in respect of the licence shall be such amount as is assessed by the Minister as being just and reasonable in the circumstances of the case, having regard to the petroleum products that would have been handled by the applicant had he been carrying on the business in respect of which the application for the licence was made during the whole of that relevant month, the relevant principles of assessing fees under subsection (2a) and, where the application is made in respect of a licensing period that is less than one month, the period that the licence will be in force.

(4) Any petroleum products wholesaled for delivery and use outside the State shall be disregarded in determining the fees payable under this section.

(5) Where the Minister is satisfied that to require the payment in full of a fee assessed by the Minister in accordance with this section in respect of a licence would be unreasonable or inequitable having regard to the inability of the applicant for, or holder of, the licence to adjust his business operations so as to take account of his obligation to pay licence fees under this Part, the Minister may reduce the fee.

(6) A reduction shall not be granted under subsection (5) after 30 June 1980.

[Section 47N see note under Part heading. S. 47N amended by No. 54 of 1985 s. 52; No. 2 of 1986 s. 9.]

[470⁵. Section 470 repealed by No. 2 of 1986 s. 10.]

Adjustment of fee

47P. (1) Where, in the opinion of the Minister, the fee assessed in respect of any licence was assessed incorrectly, the Minister may at any time reassess the fee in accordance with the principles of assessing fees under section 47N.

(2) Where on a reassessment of a fee under subsection (1) the fee is reduced, the amount overpaid shall be refunded by the Minister in accordance with the provisions of subsections (3) and (4).

(3) Where—

- (a) during the whole of the period during which the licence in respect of which the licence fee was reassessed (whether or not the licence has ceased to be in force) has been or was in force, it was held by one person, the amount to be refunded shall be refunded to that person; or
- (b) during the period during which the licence in respect of which the licence fee was reassessed (whether or not the licence has ceased to be in force) has been or was in force, it was held by 2 or more persons, the amount to be refunded shall be refunded to those persons in proportion to the periods, in days, for which they held the licence.

[(4) repealed]

(5) Where on a reassessment of a fee under subsection (1) the fee is increased, the additional amount payable by virtue of the reassessment shall be due and payable in accordance with the provisions of subsections (6) and (7).

(6) For the purposes of subsection (5) where—

- (a) during the whole of the period during which the licence in respect of which the licence fee was reassessed (whether or not the licence has ceased to be in force) has been or was in force, it was held by one person, the additional amount shall be due and payable within 14 days after notice of the reassessment is served on that person; or
- (b) during the period during which the licence in respect of which the licence fee was reassessed (whether or not the licence has ceased to be in force) has been or was in force, it was held by 2 or more persons, the additional amount shall be due and payable, within 14 days after notice of the reassessment is served on them, by those persons in proportion to the periods, in days, for which they held the licence,

unless, in respect of that additional amount or any part of that additional amount so due and payable by that person or any of those persons, approval has been given under subsection (7) for the payment of that amount or part by instalments.

(7) A person by whom any additional amount or part is payable under subsection (6) may, within 14 days after the service on him of notice of the reassessment by virtue of which the additional amount or part became so payable by him, apply to the Director General for approval to pay that amount or part by instalments, and if the Director General approves of the amount or part being so paid, it shall be due and payable by that person by such instalments payable at such times as are specified in the instrument of the Minister's approval.

(8) For the purposes of making the apportionment referred to in paragraph (b) of subsection (3) or (6), where the licence has not ceased to be in force the period, in days, for which the licensee who was the holder of the licence at the time of the reassessment has held the licence together with the unexpired period, in days, of the licence shall be deemed to be the period for which that licensee held the licence.

(9) Any amount which is due and payable by any person under subsection (6) or (7) and which is unpaid may be recovered by the Minister, as a debt, in any court of competent jurisdiction.

[Section 47P see note under Part heading. S. 47P amended by No. 54 of 1985 ss. 40 and 52; No. 2 of 1986 s. 11.]

Transfers

47Q. (1) A licensee and any person to whom the licensee proposes to transfer his licence, may by application in the form approved by the Minister accompanied by the prescribed fee request the Minister to transfer the licence as on and from such day as is specified in the application.

(2) On receipt of the application and the prescribed fee and upon production of the licence the Minister shall endorse the transfer on the licence and the licence shall thereupon be deemed to be transferred.

[Section 47Q see note under Part heading. S. 47Q amended by No. 54 of 1985 s. 52.]

Accounts to be kept by licensees

47R. (1) A person who carries on the business of wholesaling petroleum products shall keep such accounts, records, books and documents as may be prescribed containing such particulars as may be prescribed and shall preserve each of those accounts, records, books and documents for a period of 5 years after the last entry was made in it.

Penalty: \$1 000.

(2) This section shall not apply so as to require the preservation of any books, accounts or documents—

- (a) in respect of which the Director General has certified that preservation is not required; or
- (b) of a company which has gone into liquidation and which has been finally dissolved.

[*Section 47R see note under Part heading. S. 47R amended by No. 54 of 1985 s. 52.*]

Power to Director General to require information

47S. (1) The Director General may, by notice in writing, require any person—

- (a) to furnish him with such information as he requires; or
- (b) to attend and give evidence before him or before any officer of the public service employed in the administration or execution of this Part and authorized by him in that behalf,

for the purpose of inquiring into or ascertaining his or any other person's liability or entitlement under any of the provisions of this Part, and may require him to produce all books, documents and other papers whatsoever in his custody or under his control relating thereto.

(2) The Director General may require the information or evidence to be given on oath, and either orally or in writing, or to be given by statutory declaration and for that purpose he or the officer so authorized by him may administer an oath.

(3) The regulations may prescribe scales of expenses to be allowed to persons required under this section to attend.

(4) Any person who fails or neglects duly to furnish any information or to comply with any requirement of the Director General under this section shall be guilty of an offence.

Penalty: \$500.

[*Section 47S see note under Part heading. S. 47S amended by No. 54 of 1985 s. 52.*]

Objections

47T. (1) A person who is dissatisfied with the assessment of any fee by the Minister may within 30 days after being informed of the assessment or within such further time as the Minister may allow send by post to or lodge with the Minister an objection in writing stating fully and in detail the grounds upon which he relies.

(2) The Minister shall consider the objection and either disallow it or allow it either wholly or in part and shall serve the objector by post or otherwise with written notice of his decision.

(3) A licence shall not be issued under this Part without the payment of the appropriate fees notwithstanding the making of any objection.

[Section 47T see note under Part heading. S. 47T amended by No. 54 of 1985 s. 52; No. 2 of 1986 s. 12.]

Appeals

47U. (1) A person who is dissatisfied with a decision of the Minister on an objection made by him under section 47T, may within 30 days after service on him of notice of that decision or within such further time as the Minister or Court may allow, in writing request the Minister to treat his objection as an appeal and to forward it to the Supreme Court, and the Minister shall, within 30 days of the receipt by him of the request, forward it accordingly.

(2) The Supreme Court shall hear and determine an appeal forwarded to it under subsection (1), and for the purposes of this section—

- (a) the jurisdiction of the Supreme Court may be exercised by a Judge sitting in chambers; and
- (b) Rules of Court may be made for regulating the procedure and practice to be followed on an appeal forwarded to the Supreme Court under subsection (1).

(3) The appellant shall be limited, on the hearing of the appeal, to the grounds stated in his objection.

(4) If the appellant's liability or assessment has been reduced on objection, the reduced liability or assessment shall be the liability or assessment appealed against.

[Section 47U see note under Part heading. S. 47U amended by No. 54 of 1985 s. 52.]

Offences

47V. (1) Any person who makes or delivers an application or other document which is false in any particular or makes a false answer whether orally or in writing to any question duly put to him by the Director General, or any officer duly authorized by the Director General, acting pursuant to the provisions of this Part shall be guilty of an offence.

Penalty: \$500.

(2) A person who in furnishing any information, giving any notification or keeping any record required to be kept by or under this Part makes or causes to be made any statement or representation that is false or misleading in a material respect is guilty of an offence.

Penalty: \$500.

(3) Where a licensee is convicted of an offence against this section his licence shall cease to have effect.

[Section 47V see note under Part heading. S. 47V amended by No. 54 of 1985 s. 52.]

Payment to Main Roads Trust Fund

47W. All moneys received by the Director General by way of licence fees under this Part shall be dealt with by him in accordance with section 62A (1) (a).

[Section 47W see note under Part heading. S. 47W amended by No. 25 of 1982 s. 16; No. 54 of 1985 s. 52; No. 46 of 1986 s. 4.]

Regulations for the purposes of this Part

47X. The Governor may make regulations for or with respect to—

- (a) the records to be kept by licensees;
- (b) the periods within which applications for licences are to be made;
- (c) the issue of duplicate licences;
- (d) fixing and imposing penalties of not more than \$100 for any breach of the regulations; and
- (e) any other matter which is authorized or required to be prescribed or is necessary or convenient to be prescribed for carrying out the provisions of this Part.

[Section 47X see note under Part heading.]

[**47Y.** Section 47Y repealed by No. 54 of 1985 s. 41.]

PART IIIB—TAXI-CARS IN COUNTRY DISTRICTS

[Part IIIB inserted by No. 70 of 1981 s. 3.]

Interpretation

47Z. (1) In this Part unless the contrary intention appears—

- “control area” means a part of the State to which the *Taxi-cars (Co-ordination and Control) Act 1963*² from time to time applies;
- “district” means the district of a municipality;
- “Local Court” means a Local Court established under the *Local Courts Act 1904*;
- “municipality” has the same meaning as that expression has in, and for the purposes of, the *Local Government Act 1960*;

“operate”, as applied to a taxi-car, means—

(a) to drive; or

(b) to permit, cause or employ another person to drive, that taxi-car; and cognate expressions shall be construed accordingly;

“owner”, as applied to a taxi-car, means a person being the sole, part or joint owner of the vehicle and includes a person having the use of the vehicle under an agreement for its hire, lease or loan under a hire purchase agreement and also includes a person repossessing or purporting to repossess, the vehicle under any such agreement;

“subsection” means a subsection of the section wherein the term is used;

“taxi-car” means a vehicle that is used for the purpose of standing or plying for hire or otherwise for the carrying of passengers for reward;

“taxi-stand” means a position or group of positions set apart by a competent authority, by means of a sign on or near a road, for the standing of disengaged taxi-cars.

(2) In this Part unless the contrary intention appears a reference to “this Part” includes a reference to the regulations made under this Part.

(3) For the purposes of this Part, the term “carrying of passengers for reward” includes any case where the owner or driver of the vehicle used—

(a) offers that carriage as an inducement in respect of an agreement for the provision of other services or goods; or

(b) receives any consideration in respect of an arrangement whereby that carriage is effected or to which that carriage is related.

(4) For the purposes of this Part, the carrying of passengers—

(a) into a district from a place outside that district; or

(b) from within a district to a place outside the district on the return journey by a direct route to the place from which the passengers were brought into the district,

shall not be taken as operating within the district.

(5) For the purposes of section 49 in relation to this Part, the term “owner” in that section shall have the meaning that it has for the purposes of this Part.

[Section 47Z see note under Part heading. S. 47Z amended by No. 30 of 1985 s. 10.]

Application of Part

47ZA. This Part applies only outside a control area.

[Section 47ZA see note under Part heading.]

[**47ZB., 47ZC.** Sections 47ZB, 47ZC repealed by No. 54 of 1985 s. 42.]

Taxi-cars to be licensed under this Part

47ZD. (1) No taxi-car shall be operated within a district unless the owner is the holder of a taxi-car licence under this Part issued in respect of that vehicle for that district.

(2) When first required to be licensed under subsection (1) a taxi-car is deemed, subject to the payment of any prescribed fees, to be so licensed, if it is immediately before the coming into operation of the *Transport Amendment Act (No. 3) 1981*¹ licensed as a taxi-car under the *Road Traffic Act 1974*; but, on the expiry of the licence under that Act, that licence, if renewed, shall be renewed under this Part, and, in either case, the licence shall be taken to be subject to such conditions as are prescribed or the Minister may impose.

(3) The Minister may attach such conditions as he thinks fit to any licence granted or renewed under this section.

(4) Where a vehicle is owned by more than one person as owner or hirer or otherwise, the person who is deemed to be the owner pursuant to a notice given to the Traffic Board for the purposes of the *Road Traffic Act 1974*, shall be deemed also to be the owner for the purposes of this section unless the Minister consents to another of such persons being deemed to be the owner for the purposes of this section.

(5) A person shall not, in any district or portion of a district, operate any taxi-car that is not licensed under this section for that district or portion of a district or in respect of which such a licence is not in force.

(6) Any person who contravenes, or who permits or suffers another person to contravene, this section commits an offence.

Penalty: For a first offence, \$80; for a second offence, \$200; and for a subsequent offence, \$400.

[Section 47ZD see note under Part heading. S. 47ZD amended by No. 106 of 1981 s. 26; No. 54 of 1985 s. 52.]

Drivers to be registered

47ZE. (1) A person shall not drive a taxi-car within a district unless he is registered as a taxi-car driver under this Part and complies with the conditions of registration.

Penalty: \$100.

(2) When first required to be registered under subsection (1) a person is deemed, subject to the payment of any prescribed fees, to be so registered, if he is immediately before the coming into operation of the *Transport Amendment Act (No. 3) 1981*¹ licensed to drive a taxi-car under the *Road Traffic Act 1974*; but, on the expiry of the licence under that Act, that licence, if renewed, shall be in the form of registration under this Part, and, in either case, the licence or registration, as the case requires, shall be taken to be subject to such conditions as are prescribed or as the Minister may impose.

(3) The Minister may attach such conditions as he thinks fit to any registration granted or renewed under this section.

[Section 47ZE see note under Part heading. S. 47ZE amended by No. 54 of 1985 s. 52.]

Regulations

47ZF. (1) Without limiting the generality of section 60 the Governor may make regulations—

- (a) with respect to the issue, renewal and transfer of, licences and the manner of applying therefor;
- (b) fixing the term of licences;
- (c) prescribing the conditions under which licences of any kind may be issued, renewed or transferred under this Part; prohibiting, controlling or regulating dealings of any kind whatsoever with licences; and prescribing the qualifications of licensees;
- (d) providing that the Minister may attach such conditions as he thinks fit to the transfer of any licence under this Part;
- (e) with respect to the types of vehicles that may be licensed as taxi-cars, the prerequisites for licensing and the construction of, minimum seating accommodation requirements, and equipment, including internal fittings and decorations, required or permitted to be carried on vehicles that may be licensed as taxi-cars;
- (f) with respect to the considerations to be taken into account by the Minister upon the issue, renewal or transfer of a licence under this Part;
- (g) with respect to the duties and obligations of holders of licences under this Part;
- (h) prescribing fees to be paid on the application for, issue, renewal or transfer of, or other dealing with, licences, or the examination or testing of any motor vehicle or any equipment carried on a motor vehicle, or for application for registration or renewal of registration as a taxi-car driver, or any other matter under this Part;

- (i) prescribing the characteristics of a private taxi-car; providing for the issue of licences for private taxi-cars and prescribing the conditions under which such licences may be issued and the qualifications of licensees of private taxi-cars;
- (j) providing the conditions upon which private taxi-cars may be operated;
- (k) providing for the cancellation or suspension of licences; and providing that the Minister may cancel or suspend any licence or may refuse to renew any licence under the circumstances prescribed by the regulations after such disciplinary procedures as are prescribed by the regulations;
- (l) providing for an appeal to a Local Court from a decision of the Minister—
 - (i) suspending, cancelling or refusing to renew a licence; or
 - (ii) suspending, cancelling or refusing to renew the registration of a taxi-car driver,and providing for the conduct of such appeals;
- (m) fixing fares and other charges to be taken or made for the hire of taxi-cars, including the occasions and conditions upon which the carriage of passengers at separate fares may be required or authorized and the method of calculation of such separate fares;
- (n) prescribing the qualifications required for registration as a taxi-car driver; prescribing the method of applying for registration or renewal of registration as a taxi-car driver and the information to be supplied on such an application; with respect to the considerations to be taken into account by the Minister in relation to such an application; and providing for the suspension or cancellation of registration or the refusal to renew registration as a taxi-car driver, by the Minister;
- (o) providing for registers of taxi-cars and taxi-car drivers to be kept and prescribing the particulars to be included in such registers;
- (p) regulating the nature of engagement of taxi-cars;
- (q) regulating the conduct, behaviour and dress of drivers of taxi-cars in relation to the provision of taxi-car services;
- (r) prescribing the records to be kept and documents to be carried by owners, operators and drivers of taxi-cars;
- (s) providing for the condition of taxi-cars, the fitness, cleanliness, roadworthiness and mechanical standard to be observed in relation to taxi-cars and the examination of taxi-cars by an officer or the Traffic Board constituted by the *Road Traffic Act 1974* to ascertain the fitness of the vehicle or to check the equipment fitted to the taxi-car; and prohibiting the operation of a taxi-car which is unroadworthy;

- (t) providing that no alterations or modifications to a vehicle licensed as a taxi-car shall be made without the approval of the Minister;
- (u) prescribing means of identifying licensed taxi-cars and holders of taxi-car drivers' licences and the issue, use and withdrawal of number plates;
- (v) providing for the substitution of a vehicle for a taxi-car which is under repair and the conditions of such substitution;
- (w) prescribing specifications for taxi-meters; providing for the use and operation of taxi-meters; providing for the testing by officers or persons authorized by the Director General of taxi-meters; providing that the operator of a taxi-car shall maintain a taxi-meter; and prescribing offences relating to tampering with taxi-meters;
- (x) providing for the registration of radio facilities with the Minister and providing for the imposition of conditions on such registration by the Minister; providing for the application for the registration or renewal of registration of radio facilities and the information to be supplied on such an application; fixing the term of registration of radio facilities; prescribing offences relating to radio facilities; and providing for the suspension or cancellation of, or the refusal to renew, the registration of radio facilities by the Minister;
- (y) providing for the registration and the cancellation of registration of taxi-meter mechanics and base radio operators with the Minister;
- (z) regulating the conduct of passengers in taxi-cars and for punishing persons evading or attempting to evade the payment of fares or charges therefor;
- (za) with respect to the establishment, in conjunction with the Main Roads Department or the appropriate local authority of stands for taxi-cars, providing for and controlling taxi-stands;
- (zb) providing for the delivering over and disposal of articles left in taxi-cars;
- (zc) with respect to—
 - (i) the powers of officers; and
 - (ii) the duties of members of the Police Force,
 in relation to taxi-cars, taxi-car drivers, operators, passengers and taxi-meters; requiring persons to comply with directions given by officers or members of the Police Force;
- (zd) providing for disciplinary powers of the Director General over owners, operators and drivers of taxi-cars and owners and operators of radio facilities and the procedure relating to the exercise of such disciplinary powers;
- (ze) providing that a person who contravenes or fails to comply with any regulation commits an offence;

- (zf) providing that a person shall, if required by the Director General, attend at a place nominated by the Director General;
- (zg) providing for the procedure to be adopted on the recovery of penalties imposed under this Part or the regulations made under this Part;
- (zh) prescribing forms for use under this Part;
- (zi) prescribing a requirement for the furnishing of statutory declarations; and
- (zj) notwithstanding section 60 (3) (b), prescribing penalties not exceeding \$200 for the breach of any regulation.

(2) Regulations may be made under this section—

- (a) so as to require a matter affected by them to be—
 - (i) in accordance with a specified standard or specified requirement; or
 - (ii) as approved by, or to the satisfaction of, a specified person or body or a specified class of person or body;
- (b) so as to confer on a specified person or body or a specified class of person or body a discretionary authority; and
- (c) so as to provide that, in specified cases or a specified class of case or specified classes of cases whether on specified conditions or unconditionally, persons or things of a class or classes of persons or things may be exempted from the provisions of the regulations, either wholly or to such extent as is specified.

(3) In subsection (2) “specified” means specified in the regulations.

[Section 47ZF see note under Part heading. S. 47ZF amended by No. 106 of 1981 s. 27; No. 54 of 1985 ss. 43 and 52.]

Powers of a local authority

47ZG. (1) This section applies to any district other than a district in respect of which the Minister has published a notice under subsection (6).

(2) Notwithstanding this Part, the Minister shall not issue a taxi-car licence in a district to which this section applies without having first obtained the approval of the local authority or local authorities in whose district or districts the vehicle is to be operated as a taxi-car.

(3) A local authority in a district to which this section applies may, with the approval of the Governor, make by-laws regulating the fares for, and the driving and operation of, taxi-cars in its district and imposing penalties not exceeding \$200 for any breach thereof.

(4) Where there is any inconsistency between the regulations and any by-law made or preserved pursuant to this section, the regulations shall prevail and the by-law shall, to the extent of the inconsistency, be of no effect.

(5) Any by-laws made or continued under section 111 of the *Road Traffic Act 1974* shall continue in force, but may be amended or repealed, as if made under subsection (3).

(6) The Minister may, at the request of a local authority, by notice published in the *Government Gazette*, declare that this section does not apply to a district specified in the notice, from a date specified in the notice or from the date of publication of the notice, and such a notice when so published is irrevocable.

(7) Where a notice is published pursuant to subsection (6) any by-laws made by the local authority for the district specified in the notice shall, by force of the notice, be deemed to be repealed on a date specified in the notice or on the date of publication of the notice.

[Section 47ZG see note under Part heading. S. 47ZG amended by No. 54 of 1985 s. 52.]

PART IV—MISCELLANEOUS

Limitation of time for which drivers of certain motor vehicles may remain continuously on duty

48. (1) A person shall not drive, or cause or permit any person employed by or under any contractual engagement with him, or subject to his orders, to drive a commercial goods vehicle that is required to be licensed pursuant to this Act—

- (a) for an unbroken period exceeding 5 and one-half hours;
- (b) during any period of 24 hours commencing at midnight, for periods exceeding, in the aggregate, 11 hours; or
- (c) so that the driver has less than 10 consecutive hours for rest, during the period of 24 hours calculated from the commencement of any period of driving, unless he has 9 hours for rest during that period of 24 hours and 12 hours for rest during the next ensuing period of 24 hours.

(2) For the purposes of this section—

- (a) any period that does not include one-half hour during which the driver is able to rest and take refreshment is deemed to be an unbroken period; and
- (b) any time spent by the driver on work in connection with a commercial goods vehicle or its load, in the course of a journey, in any capacity other than as a passenger, is deemed to be time spent in driving.

(3) Where an employee is obliged by his employer to drive a commercial goods vehicle so as to contravene any or all of the provisions of this section that contravention shall not be pleaded in bar to any claim for the recovery of any wages or other remuneration due by the employer to the employee.

[Section 48 amended by No. 30 of 1985 s. 11.]

Powers of members of Police Force and persons authorized by Director General for purpose of ascertaining whether provisions of Act or regulations are being contravened

49. (1) For the purpose of ascertaining whether the provisions of this Act or of any regulation made under this Act are being or have been contravened, a member of the Police Force or any person authorized in that behalf in writing by the Director General (whether generally or in any particular case) may—

- (a) require the owner and the driver of a vehicle, and any other person whom he has reasonable grounds to believe may have information as to the operation of any vehicle,—
 - (i) to produce for inspection any licence, permit, or other document that, by this Act or the regulations, is required to be obtained in respect of a vehicle or its operation or carried on a vehicle;
 - (ii) to state his name and place of abode;
 - (iii) to permit an inspection to be made of any vehicle or of any load; or
 - (iv) to give information in respect of any load, its despatch and receipt, including the identity of the person who hired the vehicle for the carriage of that load and the identity of the consignor and consignee of any of the goods which that load contains;
 - (b) at any time stop and detain any vehicle and inspect any goods which the load of that vehicle contains or any documents pertaining thereto;
 - (c) having lawfully entered upon any premises where he has reasonable cause to suspect that any vehicle, goods or documents concerned in any offence or suspected offence or attempt to commit an offence may be found, thereon search for and inspect any such vehicle, goods or documents;
 - (d) take copies of or extracts or notes from any accounts, records, books or other documents, so inspected; and
 - (e) be accompanied and assisted by an interpreter,
- and a person disclosing information pursuant to a requirement under this subsection or permitting inspection of, or the taking of copies, extracts, or notes of, any document under this subsection does not thereby commit a breach of any duty of secrecy however imposed.

(1a) If a justice is satisfied on oath by a person who is a member of the Police Force or is authorized in writing by the Director General to exercise the power conferred by subsection (1)(c) that—

- (a) there is reasonable cause to suspect that any vehicle, goods or documents concerned in any offence or suspected offence or attempt to commit an offence may be found on any premises; and
- (b) the issue of the warrant is reasonably required for the purpose referred to in subsection (1),

the justice may by warrant under his hand in the prescribed form authorize that person, together with any other person named in the warrant or any member, or as the case may be, other member, of the Police Force, to enter the premises, if necessary by force.

(2) A person who fails to produce any licence, permit or other document required to be produced pursuant to subsection (1), within 24 hours after being so required, or fails to stop a vehicle when required to do so pursuant to this section, or refuses to state his name and place of abode, or states a false name or place of abode, or refuses to permit an inspection to be made of the vehicle, or of its load, or refuses to give information as specified in paragraph (a)(iv) of that subsection, or gives false information, is, without affecting the consequence of any other offence that he may have committed, guilty of an offence.

Penalty: For a first offence, not more than \$200, for a second offence, not more than \$300, and for a third or subsequent offence, not more than \$500, but, in the case of a fourth or subsequent offence committed within a period of 3 years since the date of the last conviction under this subsection where it is shown that the accused has engaged in a course of conduct in contravention of this Act, not less than \$200.

(3) A person shall not—

- (a) hinder or obstruct any person in the execution of any power or duty conferred on him by this Act, or lawfully performing such power or duty;
- (b) assault, threaten or intimidate or use improper or abusive language to any person so acting.

Penalty: \$400, or imprisonment for a term not exceeding 6 months.

[Section 49 amended by No. 64 of 1970 s. 12; No. 51 of 1975 s. 6; No. 79 of 1976 s. 4; No. 47 of 1980 s. 13; No. 30 of 1985 s. 12; No. 54 of 1985 s. 52.]

Penalties for operating unlicensed public vehicles

50. (1) The driver and the owner of a public vehicle, and any person who consigns or sends or causes to be consigned, sent or conveyed, or offers or agrees to consign, send or convey, any goods or passenger by a public vehicle that is operated where—

- (a) the vehicle is not appropriately licensed as such under this Act;

- (b) the vehicle being licensed, is carrying goods not authorized, or otherwise than authorized, by the licence; or
- (c) an appropriate Certificate of Authority issued under section 42C is not in force,

are, subject to subsection (2), severally guilty of an offence.

Penalty: For a first offence, not more than \$200, for a second offence, not more than \$300, and for a third or subsequent offence, not more than \$500, but, in the case of a fourth or subsequent offence committed within a period of 3 years since the date of the last conviction under this section where it is shown that the accused has engaged in a course of conduct in contravention of this Act, not less than \$200.

(2) In any prosecution against a driver under this section it is a good defence if the driver shows that he believed, on reasonable grounds, that the public vehicle was operating in accordance with a licence granted under this Act.

(3) Where—

- (a) the driver or the owner of a public vehicle is convicted of an offence under this section relating to the operation of the public vehicle; and
- (b) there is before the court by or before which the person is convicted a certificate purporting to be signed by an officer authorized in that behalf by the Director General specifying the amount of the licence fee that the Minister would have determined to be payable in respect of an appropriate licence authorizing such operation had such a licence been applied for and issued,

the certificate is conclusive evidence of the matter certified therein without proof of the signature of the officer purporting to have signed it or proof that the purported signatory was authorized in that behalf by the Director General, and the Court shall, in addition to any other penalty inflicted for the offence, order the person convicted to pay to the Director General the amount specified in the certificate.

(4) Where in any proceedings under this section the Court records a finding to the effect that the defendant has satisfied the Court that he was not directly responsible for the commission of the offence, and whether or not any other person has been convicted in relation to the same matter, the defendant may recover in any Court of competent jurisdiction from any person directly responsible for the commission of the offence the amount of any pecuniary penalty imposed on his conviction and paid or payable by him, together with the costs, fees, charges and other expenses paid or payable by him in relation to his defence to those proceedings, and the Court may, if it thinks fit, suspend the operation of any order made under subsection (3) for any period not exceeding 3 months to enable the defendant so to effect recovery.

[Section 50 amended by No. 51 of 1975 s. 7; No. 93 of 1979 s. 13; No. 47 of 1980 s. 14; No. 54 of 1985 s. 44.]

Proof on averment

51. In any prosecution for an offence under this Act, an averment in the complaint that—

- (a) a person is, or was, the owner of a public vehicle; or
- (b) a public vehicle is or was unlicensed,

is deemed to be proved, in absence of proof to the contrary.

[Section 51 substituted by No. 30 of 1985 s. 13.]

[52. Section 52 repealed by No. 47 of 1980 s. 15.]

Failure to comply with licence

53. The owner or driver of a public vehicle licensed under this Act who neglects or fails to comply with, or observe, any of the terms and conditions attached to or implied in the licence commits an offence.

Commercial goods vehicle not to be used for passengers

54. A person driving or using a commercial goods vehicle that is required to be licensed under this Act shall not carry, or permit any person to ride, in or upon the vehicle, unless—

- (a) the licence granted in respect of the vehicle expressly authorizes the carriage of passengers;
- (b) the person so carried is—
 - (i) carried in the case of an emergency;
 - or
 - (ii) is carried without fee or reward of any kind;
- or
- (c) the owner of the vehicle is the holder of a special permit granted by the Minister, and the person so carried is carried in conformity with the permit.

[Section 54 amended by No. 54 of 1985 s. 52.]

Proof that passengers carried at separate fares

55. Where, in any prosecution under this Act against the owner or driver of any vehicle alleged to have operated as an omnibus, the prosecution shows that passengers were carried upon the vehicle, that fact is *prima facie* evidence that the passengers were carried at separate fares.

Vicarious liability

55A. (1) Where an offence under this Act which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer, of the body corporate, or any person who was purporting to act in any such capacity, he as well as the body corporate shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(2) In the case of any prosecution in respect of an offence deemed to have been committed under the provisions of subsection (1) it shall be a defence for any person who would otherwise be liable to the penalties prescribed for that offence to prove that neither he nor any agent or servant of his did, or knew of the doing of, any act that constituted the offence or can reasonably be regarded as having been the cause or amongst the causes of it, or omitted to do, or knew of an omission to do, any act the omission whereof constituted the offence or the doing whereof can reasonably be regarded as a precaution that would have prevented it

[Section 55A inserted by No. 53 of 1977 s. 6.]

Provisions for offences for which no penalty expressly provided

56. Every person guilty of an offence against this Act or against any regulation for which a penalty is not expressly provided is liable to a penalty not exceeding \$200 and, in the case of a continuing offence, to a further penalty not exceeding \$40 for each day on which the offence is continued after conviction.

[Section 56 amended by No. 30 of 1985 s. 14.]

Affidavit evidence

56A. (1) Where a complaint is made of an offence under this Act other than an offence under Part IIIA and a summons appointing the time and place for the hearing and determination of the complaint is duly served on the defendant at least 28 days before that time, the summons may be accompanied by—

- (a) copies of affidavits of evidence in support of the matters alleged in the complaint; and
- (b) a notice in the prescribed form advising the defendant that he may, by election in writing in the prescribed form (copies of which form shall be attached to the notice) delivered by post or otherwise to the complainant and also to the clerk of petty sessions at the place so appointed not later than 21 days before

the time so appointed, elect to appear or not on the hearing of the complaint but that if he does not so appear the Court may proceed—

- (i) to hear and determine the complaint in his absence;
- (ii) to permit those affidavits to be tendered in evidence; and
- (iii) to determine the complaint on such particulars in the affidavits in support of the matters alleged in the complaint as would, under the laws of evidence apart from this section, be admissible if given orally before the Court, and not on any other particulars,

(which in this section and section 56B is referred to as the alternative procedure).

(2) Where the defendant is duly served with a summons accompanied by copies of affidavits and a notice and copies of a form of election as mentioned in subsection (1) and does not appear on the hearing of the complaint, whether or not he has, pursuant to that subsection, elected to do so, the Court may use the alternative procedure.

(3) Where the defendant is duly served with a summons accompanied by copies of affidavits and a notice and copies of a form of election as mentioned in subsection (1) and elects, pursuant to that subsection, not to appear on the hearing of the complaint, or makes no election at all pursuant to that subsection, but does appear at the time and place appointed in the summons, the Court shall, on the application of the complainant, adjourn the hearing of the complaint for at least such time as is shown to the satisfaction of the Court to be necessary to enable the complainant to proceed otherwise than by the alternative procedure.

(4) For the purposes of this section an affidavit of evidence in support of the matters alleged in a complaint may be taken by, and made and sworn before, any magistrate, justice, or clerk of petty sessions appointed under section 25A of the *Justices Act 1902*, or Commissioner for taking Affidavits appointed under section 175 of the *Supreme Court Act 1935*.

[Section 56A inserted by No. 24 of 1976 s. 3; amended by No. 79 of 1976 s. 5; No. 9 of 1979 s. 12.]

Proof of prior convictions when complaint proceeds on affidavit evidence

56B. (1) Where a defendant is duly served with a summons accompanied by copies of affidavits and a notice and copies of a form of election as mentioned in section 56A (1) and it is alleged that he has been previously convicted of an offence, the summons may also be accompanied by a copy of a separate document in the prescribed form signed by the complainant setting out particulars of the alleged prior convictions.

(2) The document setting out the alleged prior convictions shall be endorsed with a notice in the prescribed form advising the defendant that if—

- (a) he does not appear on the hearing of the complaint to which the summons refers; and
- (b) he is convicted of the offence alleged in that complaint,

that separate document shall be admissible evidence that he was convicted of the offences alleged in that separate document, and of the particulars relating to the convictions set out in it.

(3) Where a defendant is duly served with a summons accompanied by copies of affidavits and a notice and copies of a form of election as mentioned in section 56A (1) and by a copy of a separate document as mentioned in subsections (1) and (2) of this section and does not appear on the hearing of the complaint to which the summons refers and the Court uses the alternative procedure, the Court may receive that separate document as evidence that the defendant was convicted of the offences alleged in that separate document and of the particulars relating to the convictions set out in it, but the fact that a copy of the separate document was served on the defendant shall not be communicated to the Court or any member of the Court unless and until the defendant has been convicted of the offence alleged in that complaint, if the disclosure of the prior convictions alleged in the separate document is not admissible under the laws of evidence apart from this section.

(4) Where a defendant is duly served with a summons accompanied by copies of affidavits and a notice and copies of a form of election as mentioned in section 56A (1) and by a copy of a separate document as mentioned in subsections (1) and (2) of this section and he appears on the hearing of the complaint to which the summons refers—

- (a) the fact that a copy of the separate document was served on the defendant shall not be communicated to the Court or any member of the Court unless and until the defendant has been convicted of the offence alleged in that complaint, if the disclosure of the prior convictions alleged in the separate document is not admissible under the laws of evidence apart from this section; and
- (b) the separate document shall not be tendered in evidence without the consent of the defendant, if the separate document is not admissible under the laws of evidence apart from this section.

(5) Without in any way limiting the generality of the provisions of the law with respect to the re-hearing of complaints it is hereby declared that, where evidence of prior convictions is tendered pursuant to the provisions of this section, the Court may set aside on such terms as to costs or otherwise as the Court thinks just any conviction or order if it

has reasonable grounds to believe that the document tendered in evidence was not in fact brought to the notice of the defendant or that the defendant was not in fact convicted of the offences as alleged in the document.

[Section 56B inserted by No. 24 of 1976 s. 3; amended by No. 79 of 1976 s. 6.]

Power to revoke or suspend licence or permit

57. (1) A licence or permit may be revoked or suspended by the Minister, on the ground that the holder has not complied with any one or more of the conditions of, or relating to, the licence or permit or any restrictions or prohibitions that apply in relation thereto.

(2) The Minister shall not revoke or suspend a licence unless, owing to the frequency of the breach of the conditions of, or attached to, the licence or any restrictions or prohibitions that apply in relation thereto, or to the breach having been committed wilfully, or to the danger to the public involved in the breach, the Minister is satisfied that the licence should be revoked or suspended.

(3) An appeal lies to a stipendiary magistrate against the decision of the Minister in revoking or suspending a licence, and the provisions of this section apply to any such appeal.

(4) A person instituting an appeal pursuant to this section shall lodge in the Court in which the stipendiary magistrate is to sit and hear the appeal an amount of \$20, by way of security for the costs of his appeal; and the appeal shall not be heard until such time as that amount is so lodged.

(5) On hearing an appeal instituted under this section, the magistrate may order that the revocation or suspension be set aside, subject to such conditions as the magistrate thinks fit, or he may dismiss the appeal and, in any event, may make such order as to costs as he thinks fit.

(6) The decision of a stipendiary magistrate made under this section is final.

(7) In this section "licence" does not include a licence under Part IIIA or Part IIIB.

[Section 57 amended by No. 9 of 1979 s. 13; No. 70 of 1981 s. 4; No. 54 of 1985 ss. 45 and 52.]

Recovery of penalties

58. (1) The Director General may direct, either generally or in any particular case, proceedings to be taken for the recovery of penalties in respect of offences committed against the provisions of this Act or of any regulation.

(2) In any such proceedings no proof is, unless evidence is given to the contrary, required—

- (a) of a direction to take the proceedings;
- (b) of the authority of any officer of the Department, or of any other person, to take the proceedings; or
- (c) of the due appointment of the Director General or Deputy Director General.

(3) The provisions of this section do not affect the power of a member of the Police Force to take proceedings for the recovery of any penalties under this Act.

[*Section 58 amended by No. 54 of 1985 ss. 46 and 52.*]

Saving of operation of *Road Traffic Act 1974*

59. Save as otherwise expressly provided, nothing in this Act limits or affects the operation of the *Road Traffic Act 1974*, but that Act shall be construed subject to the express provisions of this Act.

[**59A.** *Section 59A repealed by No. 4 of 1986 Schedule 1.*]

Regulations

60. (1) The Governor may make regulations for any purpose for which regulations are contemplated or required by this Act and may make all such other regulations as may, in his opinion, be necessary or convenient for giving full effect to the provisions of, and for the due administration of, this Act.

(2) Without limiting the generality of subsection (1), the Governor may make regulations with respect to—

- (a) the custody and method of affixing the Minister's common seal;
- (b) the form of the common seal;
- (c) the design and construction of omnibuses, so as to secure the safety, comfort, and convenience of passengers and the public;
- (d) the maximum fares to be paid by passengers on omnibuses;
- (e) the returns of earnings of omnibuses for the purpose of assessing licence fees (such information being treated as confidential); the method of assessment; the time and manner of payment; and providing for refund of excess payments of fees or recovery of fees short paid;
- (f) stopping places and signs and shelters;
- (g) the fixing of the power load weight of a commercial goods vehicle required to be licensed under this Act, where the method is not expressly prescribed by this Act;
- (h) the maintenance and repair of public vehicles;

- (i) the publication of time tables, fares, and rates, whether by exhibition in or on public vehicles, or otherwise;
- (j) applications for licences or permits under this Act and the revocation, suspension, or transfer of such licences or permits;
- (k) the form and conditions of and any particulars to be set out in licences or permits under this Act;
- (l) records to be kept in relation to public vehicles;
- (m) the furnishing by owners of public vehicles of statistical and other information;
- (ma) the carrying on public vehicles, in respect of loads thereon, of such documents or classes of documents as are specified in the regulations;
- (n) the fees payable in respect of applications under this Act;
- (o) the fee payable for any special permit under this Act or any Certificate of Authority under section 42C;
- (p) providing for distinguishing words, letters, numbers, colours, or marks, being or not being placed on public vehicles; and
- (q) the provision and maintenance of the road transport of goods in areas not served by railways, and, in particular, in relation to any such transport—
 - (i) the areas to be served, and the routes to be followed;
 - (ii) the classes of goods to be carried; and
 - (iii) the rates to be paid in respect of, and the manner of payment of, any subsidy granted for its provision and maintenance, pursuant to this Act.

(3) Any regulations made under this Act—

- (a) may be of general or specially limited application, according to time, place, or circumstances; and
- (b) may prescribe penalties of not exceeding \$50 for any breach of them.

(4) Notwithstanding the provisions of section 36 of the *Interpretation Act 1918*⁶, a regulation made under this section for the purpose of reducing or withdrawing any subsidy granted in aid of road transport under the provisions of this Act, shall not take effect or have any force of law until such time as the regulation is no longer subject to disallowance under the former section.

[Section 60 amended by No. 79 of 1976 s. 7; No. 53 of 1977 s. 7; No. 70 of 1981 s. 5; No. 54 of 1985 s. 48.]

Protection of Minister, Director General and other persons

61. No matter or thing done by the Minister, by the Director General or by any person acting with the authority of the Minister, or by any member of the Police Force, in good faith for the purpose of carrying out this Act, shall subject the Crown, the Minister, the Director General or

any person acting with the authority of the Minister or the Director General, or subject the member of the Police Force, to any liability in respect of the matter or thing so done.

[Section 61 amended by No. 52 of 1985 s. 52.]

Financial provision

62. (1) There shall be established at the Treasury a fund to be known as the "Transport Co-ordination Fund" (in this section called "the Fund").

(2) There shall be placed to the credit of the Fund—

- (a) all moneys received by the Minister or the Director General (including those received from the Crown) whether by way of *ex gratia* payments or in respect of premiums paid, licences granted, fees or charges payable under this Act other than moneys received in respect of licences under Part IIIA;
- (b) the moneys (if any) appropriated by Parliament for the administration of this Act;
- (c) any moneys recovered by the Minister on the enforcement of bonds, including those executed by, or on behalf of, the Crown, as provided by section 17.

(3) There shall be paid out of the Fund—

- (a) such amounts as are, in the opinion of the Minister, necessary or expedient, in the interests of public transport to be granted in aid of any transport service or scheme for which the Minister has a responsibility under this Act, including the provision and maintenance of subsidies, facilities, signs, shelters and amenities relating thereto;
- (b) the cost of administration of this Act;
- (c) contributions payable to the Superannuation Fund established under the *Superannuation and Family Benefits Act 1938* in respect of officers and employees in the Department;
- (d) such amount as is, in the opinion of the Treasurer of the State, necessary or expedient to establish and maintain a reserve of moneys to facilitate the carrying out of the purposes of this Act.

(4) At the end of any financial year, any balance remaining in the Fund, after providing for the payments specified in subsection (3), shall be paid to the Main Roads Trust Fund kept under section 31 of the *Main Roads Act 1930*.

[(5) repealed]

(6) If at any time during any financial year the Treasurer is of opinion, after consulting with the Minister, that the moneys standing to the credit of the Fund are not sufficient to meet the whole of the cost of the administration of Part IIIA, the Treasurer shall in writing, from time to

time, direct that such amount of the moneys standing to the credit of the Transport Trust Fund established under section 62A as is sufficient for the time being to make up the deficiency shall be paid into the Fund.

(7) Effect shall be given to any direction of the Treasurer given under subsection (6).

[Section 62 amended by No. 51 of 1975 s. 8; No. 9 of 1979 s. 14; No. 93 of 1979 s. 14; No. 47 of 1980 s. 16; No. 8 of 1981 s. 7; No. 25 of 1982 s. 17; No. 30 of 1985 s. 15; No. 54 of 1985 ss. 49 and 52; No. 46 of 1986 s. 5.]

Transport Trust Fund

62A. (1) There shall be established a fund to be called the Transport Trust Fund—

- (a) to which shall be paid the moneys received by the Director General by way of licence fees under Part IIIA;
and
- (b) from which shall be paid any amount directed to be paid under section 62 (6) to the Transport Co-ordination Fund, and such amounts as are from time to time directed by the Treasurer to be paid, on the recommendation of the Minister—
 - (i) to the Main Roads Trust Fund maintained under section 31 of the *Main Roads Act 1930*; or
 - (ii) in or towards defraying any loss, operating cost or capital cost incurred in the provision of public transport services by a State public authority; or
 - (iii) for any other purpose relating to transport in the State.

(2) The Transport Trust Fund is part of the Trust Fund provided for by section 9 of the *Financial Administration and Audit Act 1985*.

[Section 62A inserted by No. 46 of 1986 s. 6.]

Subsidies

63. Subject to the regulations, the Minister may, out of such moneys as may, from time to time, be appropriated by Parliament, authorize the payment of subsidies for the purposes of this Act.

Review of Act

64. (1) The Minister shall carry out a review of the operation of this Act as soon as is practicable after 1 January 1991 and every 5th anniversary of that date and in the course of such review the Minister shall consider and have regard to—

- (a) the attainment of the object of this Act;
- (b) the administration of this Act;

- (c) the effectiveness of the operations of the Minister as a body corporate under this Act, the Department, the Transport Strategy Committees and any other committee or body established or constituted under or for the purposes of this Act;
- (d) the need for the continuation of the Minister as a body corporate under this Act and any other committee or body established or constituted under or for the purposes of this Act;
- (e) such other matters as appear to the Minister to be relevant.

(2) The Minister shall prepare a report based on the review referred to in subsection (1) and shall, as soon as is practicable after its preparation, cause the report to be laid before each House of Parliament.

[Section 64 inserted by No. 54 of 1985 s. 50.]

FIRST SCHEDULE

(Section 33 (4))

For the purposes of this Schedule a vehicle shall not be regarded as being owned by the producer of the goods being carried unless—

- (a) where the vehicle is owned by a natural person, that person is the producer of the goods being carried on the vehicle or is operating the vehicle for, or on behalf of, another person who is the producer of the goods being carried under a *bona fide* agreement or arrangement that relates to the production of the goods and not only to the transport thereof;
- (b) where the vehicle is owned by more than 1 person, those persons are *bona fide* the producers of the goods being carried;
- (c) where the vehicle is owned by a body corporate, the membership of the body corporate consists of natural persons who are *bona fide* the producers of the goods being carried,

and that person or one of those persons or one of the members of the body corporate, as the case requires, is registered as the owner of the vehicle under the *Road Traffic Act 1974*.

1. The carriage of produce of farms or forests or farming requisites or requisities for the production of timber between any farm or forest and the railway station or town nearest to the farm or forest and if the produce of a farm is grain or seed the carriage of that produce from the farm to the nearest facility established by the body known as Co-operative Bulk Handling Limited that is in the direction of the proposed destination of that produce and that is available for its receipt.

For the purposes of this item the term "farm" includes a sheep station or a cattle station.

2. The carriage of produce and goods between the station property of any person engaged in the pastoral industry between such property and the railway station or town nearest to the property.

3. The carriage of livestock, poultry, fruit, vegetables, dairy produce or other perishable commodities or grain or seed for sale or, in the case of livestock, for sale or agistment, irrespective of quantity or value, from the place where they are produced to any other place, in a vehicle owned by the producer thereof and, on the return journey, the carriage of requisites for the domestic use of the producer or for use by him in the production of the commodities herein named.

4. The carriage of bees, bee hives, honey, bees wax and beekeepers' requisites and appliances, in the course of the production of honey, in a vehicle owned by the producer thereof.

5. The carriage of grain in a vehicle owned by the producer thereof to a flour mill for the purpose of being gristed, milled, or treated, and the carriage from the mill of flour, meal, bran, pollard, or offal received in exchange for the grain, for use on the farm where the grain was produced.

6. The carriage of ore from mines and mining requisites within any one prescribed mining district.

7. By the Crown or any local authority for its own purposes other than the carriage of goods for hire or reward.

8. The carriage of household furniture or personal effects of a householder or a member of his family, where the furniture or effects are being moved—

- (a) from residence to residence;
- (b) from storage to residence;
- (c) from residence to storage or sale;
- (d) from a vendor to the residence of the purchaser.

9. The carriage by commercial travellers, of samples of goods for exhibition to prospective purchasers and not for sale.

10. The carriage of livestock to or from agricultural shows or exhibitions.

11. The carriage of milk or cream to the nearest factory.

12. The carriage of shearing employees and their luggage to any place or places where they are to carry out any shearing contract and the return by the same vehicle to their place of residence on completion of the contract.

13. The carriage of goods off any route or outside any area in respect of which the Minister has granted a licence pursuant to his acceptance of a tender called under the provisions of this Act and within a radius of 60 kilometres from any one country railway station or railway siding, if the goods have been, or are to be, transported by railway for a distance of not less than 20 kilometres to or from the railway station or siding.

14. Any carriage for which, in the opinion of the Minister, it is necessary, either generally or subject to conditions, to grant an exemption from the provisions of section 20.

15. The carriage of such goods as may, from time to time, be prescribed by regulation, if the goods are of the same or a similar kind as or to those mentioned in any of the preceding items of this Schedule.

For the purposes of this Schedule a reference to a railway station or town nearest to a property is a reference to that station or town most accessible to the property or farm, as the case may be, and, notwithstanding the definition of "railway" in this Act, the term, "railway station," includes any railway station whatsoever.

[First Schedule amended by No. 94 of 1972 s. 4 (1); No. 30 of 1985 s. 16; No. 54 of 1985 ss. 51 and 52.]

SECOND SCHEDULE

Trailers and semi-trailers

	\$
Up to 1 250 kg gross weight.....	50.00
Exceeding 1 250 kg but not exceeding 2 000 kg.....	70.00
Exceeding 2 000 kg but not exceeding 3 000 kg.....	120.00
Exceeding 3 000 kg but not exceeding 4 000 kg.....	160.00
Exceeding 4 000 kg but not exceeding 5 000 kg.....	220.00
Exceeding 5 000 kg but not exceeding 6 000 kg.....	280.00
Exceeding 6 000 kg but not exceeding 7 000 kg.....	340.00
Exceeding 7 000 kg but not exceeding 8 000 kg.....	410.00
Exceeding 8 000 kg but not exceeding 9 000 kg.....	490.00
Exceeding 9 000 kg but not exceeding 10 000 kg.....	570.00
For every additional 1 000 kg.....	50.00

[*Second Schedule substituted by No. 51 of 1975 s. 9.*]

THIRD SCHEDULE

(Section 47G)

Relevant Months for Licences

July	May
August	June
September	July
October	August
November	September
December	October
January	November
February	December
March	January
April	February
May	March
June	April

[*Third Schedule added by No. 2 of 1986 s. 13.*]

NOTES

1. This reprint is a compilation as atof the *Transport Co-ordination Act 1966* and includes all amendments effected by the other Acts referred to in the following Table.

Table of Acts

Act	Number and Year	Assent	Commencement	Miscellaneous
<i>Road and Air Transport Commission Act 1966</i>	53 of 1966	5 December 1966	19 June 1967 (see <i>Gazette</i> 9 June 1967 p. 1547)	
<i>Road and Air Transport Commission Act Amendment Act 1968</i>	6 of 1968	26 September 1968	26 September 1968	
<i>Road and Air Transport Commission Act Amendment Act 1970</i>	64 of 1970	17 November 1970	8 August 1971 (see <i>Gazette</i> 16 July 1971)	
<i>Transport Commission Act Amendment Act 1972</i>	58 of 1972	31 October 1972	31 October 1972	
<i>Metric Conversion Act 1972</i>	94 of 1972	4 December 1972	The relevant amendments, as set out in the First Schedule took effect on 1 January 1974 (see s. 4 (2) and <i>Gazette</i> 7 December 1973 p. 4490)	The Schedule to No. 94 of 1972 was redesignated as the First Schedule by the Metric Conversion Act 1973 (No. 19 of 1973)
<i>Transport Commission Act Amendment Act 1975</i>	51 of 1975	18 September 1975	18 September 1975	
<i>Transport Commission Act Amendment Act 1976</i>	24 of 1976	9 June 1976	1 February 1977 (see <i>Gazette</i> 24 December 1976 p. 5028)	
<i>Transport Commission Act Amendment Act (No. 2) 1976</i>	79 of 1976	18 October 1976	Sections 5 and 6: 1 February 1977 (see <i>Gazette</i> 24 December 1976 p. 5028) Balance on assent	
<i>Transport Commission Act Amendment Act 1977</i>	53 of 1977	23 November 1977	23 November 1977	
<i>Acts Amendment and Repeal (Road Maintenance) Act 1979, Part III</i>	9 of 1979	18 May 1979	18 May 1979	
<i>Transport Commission Act Amendment Act (No. 2) 1979</i>	93 of 1979	17 December 1979	8 February 1980 (see <i>Gazette</i> 8 February 1980 p. 383)	
<i>Transport Amendment Act 1980</i>	47 of 1980	19 November 1980	19 November 1980	
<i>Acts Amendment (Motor Vehicle Pools) Act 1980, Part I</i>	48 of 1980	19 November 1980	19 November 1980	

Act	Number and Year	Assent	Commencement	Miscellaneous
<i>Transport Act Amendment Act 1981</i>	8 of 1981	22 May 1981	Section 3: 1 October 1981 (see <i>Gazette</i> 7 August 1981 p. 3203). balance: 8 June 1981 (see <i>Gazette</i> 5 June 1981 p. 1729)	
<i>Transport Amendment Act (No. 2) 1981</i>	56 of 1981	13 October 1981	Sections 10 and 11: 31 December 1981 (see <i>Gazette</i> 31 December 1981 p. 5363). balance: 13 October 1981	
<i>Transport Amendment Act (No. 3) 1981</i>	70 of 1981	30 October 1981	1 August 1982 (see <i>Gazette</i> 23 July 1982 p. 2843)	
<i>Acts Amendment (Traffic Board) Act 1981, Part V</i>	106 of 1981	4 December 1981	2 February 1982 (see <i>Gazette</i> 2 February 1982 p. 393)	
<i>Acts Amendment (Motor Vehicle Fees) Act 1982, Part IV</i>	25 of 1982	27 May 1982	1 July 1982 (see section 2)	
<i>Acts Amendment and Repeal (Credit) Act 1984, Part IX</i>	102 of 1984	19 December 1984	31 March 1985 (see <i>Gazette</i> 8 March 1985 p. 867)	
<i>Transport Amendment Act 1985</i>	30 of 1985	24 April 1985	7 June 1985 (see <i>Gazette</i> 7 June 1985 p. 1932)	
<i>Acts Amendment and Repeal (Transport Co-ordination) Act 1985, Part II</i>	54 of 1985	28 October 1985	1 January 1986 (see <i>Gazette</i> 20 December 1985 p. 4822)	Section 53 transitional
<i>Acts Amendment and Repeal (Financial Administration and Audit) Act 1985, Schedule 1</i>	98 of 1985	4 December 1985	1 July 1986 (see section 2)	Section 4 savings and transitional
<i>Transport Co-ordination Amendment Act 1986</i>	2 of 1986	26 June 1986	26 June 1986	Section 10(2) transitional
<i>Acts Amendment (Financial Administration and Audit) Act 1986, Schedule</i>	4 of 1986	27 June 1986	1 July 1986 (see section 2)	
<i>Transport Co-ordination Amendment Act (No. 2) 1986</i>	46 of 1986	1 August 1986	1 July 1986 (see section 2)	

². Now see *Taxi-Car Control Act 1985*.

³. Section 53 of Act No. 54 of 1985 reads as follows—

Transitional

“ 53. (1) In this Section—

“Commissioner” means the person holding the office of Commissioner of Transport referred to in section 7 (1) of the principal Act as in force before the commencement of section 10 of this Act immediately before such commencement;

Transport Co-ordination Act 1966

- “Commissioner of Transport” means the Commissioner of Transport constituted as a body corporate under section 7 (3) of the principal Act as in force before the commencement of section 10 of this Act;
- “Co-ordinator General” means the person holding the office of Co-ordinator General of Transport referred to in section 4 of the repealed Act immediately before the commencement of section 60 of this Act;
- “Deputy Director General of Transport” means the Deputy Director General of Transport referred to in section 8 of the principal Act as enacted by section 12 of this Act;
- “Director General of Transport” means the Director General of Transport referred to in section 8 of the principal Act as enacted by section 12 of this Act;
- “Minister” means the Minister constituted as a body corporate under section 7 of the principal Act as enacted by section 10 of this Act;
- “repealed Act” means the *State Transport Co-ordination Act 1981* repealed by section 60 of this Act.

(2) On the commencement of section 10—

- (a) the Commissioner of Transport ceases to be a body corporate under the principal Act;
- (b) all real and personal property and every right and interest therein that immediately before the commencement of this Act was vested in the Commissioner of Transport, shall, by force of this section and without any conveyance, transfer or assignment, be transferred to, and vested in and belong to the Minister for the purposes of this Act, subject to any debts, trusts and liabilities affecting them;
- (c) all rights accruing or accrued to the Commissioner of Transport in respect of any property vested in the Minister by virtue of this section—
- (i) are vested in the Minister; and
 - (ii) may be enforced against the Minister;
- (d) all contracts, agreements and undertakings made by the Commissioner of Transport and all securities lawfully given to or by the Commissioner of Transport and in force immediately before that commencement have effect as contracts, agreements and undertakings by and with the Minister and securities given to or by the Minister, and may be enforced by and against the Minister accordingly;
- (e) all debts due and moneys payable by the Commissioner of Transport and all claims, liquidated or unliquidated recoverable against the Commissioner of Transport shall be debts due and moneys payable by and claims recoverable against the Minister;
- (f) any legal or other proceedings that might but for this section have been continued or commenced by or against the Commissioner of Transport may be continued or commenced by or against the Minister under his corporate name for the purposes of this Act;
- (g) any licence or permit granted or issued under the principal Act before the commencement of section 10 of this Act and in force immediately before such commencement shall, subject to the principal Act as amended by this Act, continue in force as though granted or issued by the Minister under the principal Act as amended by this Act.

(3) Notwithstanding anything in the *Public Service Act 1978*, on the commencement of section 10 by force of this section and without further appointment or recommendation under that Act—

- (a) the Co-ordinator General is hereby appointed to the office of Director General of Transport; and
- (b) the Commissioner is hereby appointed to the office of Deputy Director General of Transport,

to hold such office under and subject to the *Public Service Act 1978* for the balance of the period of their appointments as Co-ordinator General and Commissioner and at a remuneration not lower than the remuneration they received as Co-ordinator General or Commissioner, respectively.

(4) Every person who immediately before the commencement of section 10 was—

- (a) a member of the staff appointed for the due administration of the repealed Act; or
- (b) the Deputy Commissioner of Transport or an officer of the Commissioner of Transport under the principal Act as in force before the commencement of this Act,

is, by force of this Act and without further appointment under the *Public Service Act 1978*, hereby appointed to be an officer of the Department at a remuneration not lower than the remuneration he received as a member of the staff under the repealed Act or as an officer of the Commissioner of Transport, as the case may be.

(5) Every person appointed under subsection (3) or (4) continues to retain his existing and accruing rights including his rights under the *Superannuation and Family Benefits Act 1938*, but is otherwise subject to the *Public Service Act 1978*.

(6) All moneys standing to the credit of the Transport Commission Fund referred to in section 62 of the principal Act as in force before the commencement of section 48 shall be paid into the Transport Co-ordination Fund referred to in section 62 of the principal Act as enacted by section 48 of this Act subject to any liability to which those moneys were liable before the commencement of that section. ”

4. Section 14 of Act No. 2 of 1986 reads as follows—

“

Licence fee for July 1986 may be paid by instalments

14. (1) Notwithstanding section 47L (3) of the principal Act, the fee payable for a licence under Part IIIA of the principal Act that will have effect for the month of July 1986, or any part thereof, may be paid by 12 equal instalments payable on the last day of each month, the first instalment being payable on 30 June 1986, or on the day immediately preceding the day on which the licence commences, and the final instalment being payable on 31 May 1987.

(2) If an instalment under subsection (1) in respect of a licence is not paid on or before the day upon which it is payable, or if any additional amount that is due and payable under section 47P of the principal Act is unpaid, the Minister may revoke the licence or a corresponding licence and thereupon the licence or the corresponding licence shall cease to be in force and the fee payable for the licence referred to in subsection (1), or so much thereof as remains unpaid, shall become due and payable immediately.

(3) Notwithstanding subsection (2) where an instalment under subsection (1) in respect of a licence is not paid within 14 days of the day upon which it is payable, the Minister may recover in any court of competent jurisdiction the whole of the fee payable for that licence or so much thereof as remains unpaid as a debt due to the Crown by the person who was the holder of the licence at the time when the licence first had effect.

(4) In subsection (2), "corresponding licence" means a licence under Part IIIA of the principal Act that has effect for a period after the month of July 1986 and that is held by the person who was the holder of, and confers on that holder substantially the same authority as, the licence referred to in subsection (1). "

^{5.} Section 10 (2) of Act No. 2 of 1986 reads as follows—

" (2) The repeal of section 470 of the principal Act by subsection (1) does not affect any determination by the Minister in force immediately before that repeal whereby a licence fee for the period ending on 30 June 1986 may be paid by instalments; and if an instalment is not paid in accordance with that determination the Minister may recover the balance due from the person in default, as a debt due to the Crown, in a court of competent jurisdiction. "

^{6.} Now see the *Interpretation Act 1984*.
