



Western Australia

Transport Co-ordination Act 1966

Reprinted as at 19 May 2000

Western Australia

Transport Co-ordination Act 1966

CONTENTS

Part I — Preliminary

1.	Short title	2
2.	Commencement	2
3.	Objects of this Act	2
4.	Interpretation	3
5.	Act to be read subject to Commonwealth Constitution	6

Part II — Administration

Division 1 — The Minister

7.	Minister a body corporate	7
7A.	Minister may join any body formed for related activities	7
7B.	Transport Strategy Committees	8
7C.	Unlawful disclosure of information	9
7D.	Minister may provide facilities	10
8.	Director General of Transport	10
9.	Application of <i>Financial Administration and Audit Act 1985</i>	11
15.	Delegation	12
15A.	Power to borrow money	12

Division 2 — Powers of the Minister and Director General

15B.	Functions	13
15C.	Functions under other Acts	15
16.	Tenders, subsidies and licences	16
17.	Conditions of tender	17

Contents

18.	Delegation	18
	Division 3 — Construction or closure of railways	
18A.	Report on railways	19
	Division 4 — Arrangements for the provision of omnibus, ferry and rail services in the metropolitan area	
18B.	Interpretation	19
18C.	Function of Minister under this Division	20
18D.	Agreements relating to omnibus and ferry services in metropolitan area	20
18E.	Operation of metropolitan passenger rail services	21
18F.	Assignment of benefit of agreement	22

Part III — Licences

Division 1 — General provisions relating to licensing of public vehicles

19.	Application of Part	23
20.	Vehicles operating to be licensed	23
21.	Fees for licences	24
22.	Weighing of public vehicle or goods	26
23.	Transfer of licence	26

Division 2 — Omnibuses

24.	Licences for omnibuses	27
25.	Applications for licences	27
26.	Matters to be taken into consideration by Minister before grant or refusal of licence	28
27.	Power to grant, etc., applications	29
28.	Conditions of omnibus licences	30
29.	Power to Minister to attach conditions to licences	31
30.	Power to grant omnibus licences for period of 7 years	32
31.	Permits	32
32.	Omnibuses to be registered as motor vehicles	33
32A.	Number plates	33

Division 3 — Commercial goods vehicles

(1) Licensing

33.	Application of Part	34
34.	Certain licences to be granted	35

35.	Application for licence	36
36.	Matters to be taken into consideration by the Minister before grant or refusal of licence	37
37.	Power of Minister to grant or refuse application for licence	38
38.	Condition of commercial goods vehicle licence	38
39.	Power of Minister to attach conditions to licence	38
40.	Period of licence	39
41.	Permits	39
42.	Commercial goods vehicles to be registered as motor vehicles	40
	(2) Recommendations in respect of operation pursuant to subcontracts	
42A.	Interpretation	40
42B.	Inquiries and recommendations by the Director General	41
42C.	Certificate of authority to operate from south of the 26 th parallel to the north thereof	42
42D.	Further functions and powers of the Director General	43
42E.	Information	43
42F.	Secrecy	44
42G.	Offences as to information	44
42H.	Further effect of offences	45
	Division 4 — Aircraft	
43.	Licences for aircraft	45
43AA.	Authority for Australian Airlines to operate intrastate air services	46
43A.	Period of licence	46
43B.	Permits	46
44.	Applications for licences	47
45.	Matters to be taken into consideration by Minister	48
46.	Conditions of aircraft licences	49
47.	Power of Minister to attach conditions to licences	49
	Division 4A — Ferries	
47AA.	Licences for ferries	50
47AB.	Permits	50
47AC.	Applications for licences	51
47AD.	Matters to be taken into consideration by Minister	52
47AE.	Conditions on ferry licences	52

Contents

47AF.	Power of Minister to attach conditions to licences	53
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Division 5 — Ships

47A.	Interpretation	53
47B.	Authority for ships to engage in coasting trade	54
47C.	Granting of licences and permits in certain cases	56
47D.	Supervision	58
47E.	No limitation from proceedings	59
47F.	Construction of this Division	59

Part IIIB — Taxi-cars in country districts

47Z.	Interpretation	60
47ZA.	Application of Part	61
47ZD.	Taxi-cars to be licensed under this Part	61
47ZE.	Drivers	63
47ZF.	Regulations	63
47ZG.	Powers of a local government	68

Part IV — Miscellaneous

48.	Limitation of time for which drivers of certain motor vehicles may remain continuously on duty	69
49.	Powers of members of Police Force and persons authorised by Director General for purpose of ascertaining whether provisions of Act or regulations are being contravened	70
50.	Penalties for operating unlicensed public vehicles	73
51.	Proof on averment	74
53.	Failure to comply with licence	75
54.	Commercial goods vehicle not to be used for passengers	75
55.	Proof that passengers carried at separate fares	75
55A.	Vicarious liability	75
56.	Provisions for offences for which no penalty expressly provided	76
57.	Power to revoke or suspend licence or permit	76
58.	Recovery of penalties	77
59.	Saving of operation of <i>Road Traffic Act 1974</i>	78
60.	Regulations	78
61.	Protection of Minister, Director General and other persons	81
62.	Financial provision	81

62A.	Transport Trust Fund	84
62B.	Metropolitan Passenger Transport Fund	84
63.	Subsidies	85
64.	Review of Act	86

First Schedule

Notes

Defined Terms



Western Australia

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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 inserted by No. 54 of 1985 s.4.]

Part I — Preliminary

1. Short title

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

[Section 1 amended by No. 64 of 1970 s.1(3); No. 93 of 1979 s.1(3); No. 54 of 1985 s.5.]

2. Commencement

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

3. Objects of this Act

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 rationalisation 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.]

4. Interpretation

(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;

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

“ferry” means a vessel, including a hovercraft, used or intended to be used to carry passengers for hire or reward and includes any such vessel so used or intended to be used by or on behalf of the Crown, or an agency of the Crown;

“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 authorised, 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;

“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

s. 4

to be used by or on behalf of the Crown, or an agency of the Crown, and whether in connection with a railway or not, but does not include a vehicle operating as a taxi using taxi plates issued under the *Taxi Act 1994* or licensed as a taxi-car under 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 to which that Act applies or who is the debtor under an agreement that pursuant to that Act is deemed to be a credit sale contract to which that Act applies;
- (ab) a person who is the purchaser or hirer of a vehicle under a contract that for the purposes of the *Consumer Credit (Western Australia) Code* is a credit contract, or is to be regarded as a credit contract, to which that Code applies;
- (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 water;

“vehicle” means a vehicle propelled by any means, other than animal or human power, and includes an aircraft and a vessel, 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

s. 5

- (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 4³ 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; No. 115 of 1987 s.4; No. 64 of 1994 s.4; No. 14 of 1996 s.4; No. 30 of 1996 s.13; No. 57 of 1997 s.122(1).]

5. Act to be read subject to Commonwealth Constitution

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. Repealed by No. 54 of 1985 s.8.]

Part II — Administration

Division 1 — The Minister

[Heading inserted by No. 54 of 1985 s.9.]

7. Minister a body corporate

- (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 inserted by No. 54 of 1985 s.10.]

7A. Minister may join any body formed for related activities

- (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 authorised 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.]

7B. Transport Strategy Committees

- (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 Board⁴.
- (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.]

7C. Unlawful disclosure of information

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.]

7D. Minister may provide facilities

- (1) The Minister may provide 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 or agreed under this Act or under any other Act in relation to the operation of vehicles.
- (2) The Minister may impose terms and conditions, including the payment of charges, for the use of any facilities provided under subsection (1).
- (3) The Minister may dispose of facilities that in his opinion are no longer necessary for the purpose referred to in subsection (1).
- (4) In this section —
“**facilities**” includes vehicles;
“**manage**”, in relation to facilities, includes —
 - (a) grant a lease of and let on hire; and
 - (b) enter into an agreement or arrangement for the management of facilities by some other person;“**provide**” includes acquire, establish, maintain, manage and alter.

[Section 7D inserted by No. 64 of 1994 s.5.]

8. Director General of Transport

- (1) There shall be appointed in the Department under and subject to Part 3 of the *Public Sector Management Act 1994* a Director General of Transport and such other officers as may be necessary for the purposes of carrying out the provisions of this Act or enabling the functions of the Director General under this or any other Act to be performed.
- (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 employing authority, within the meaning of the *Public Sector Management Act 1994*, of that officer, 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 or assisting in enabling the functions of the Director General under this or any other Act to be performed.

- (3) The Minister may engage persons, otherwise than under the *Public Sector Management Act 1994*, to provide such professional, technical or other assistance as the Minister considers necessary to enable the Minister to perform his functions under this Act, or to assist in enabling the functions of the Director General under this or any other Act to be performed.
- (3a) Nothing in subsection (3) affects the operation of the *Workplace Agreements Act 1993*.
- (3b) Subsection (3) does not affect the operation of section 100 of the *Public Sector Management Act 1994*.
- (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 inserted by No. 54 of 1985 s.12; amended by No. 32 of 1994 s.19; No. 57 of 1997 s.122(2); No. 32 of 1998 s.64(2).]

9. Application of *Financial Administration and Audit Act 1985*

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 s.4.]

[10-14. Repealed by No. 54 of 1985 s.13.]

15. Delegation

- (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 authorise 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 inserted by No. 54 of 1985 s.14.]

15A. Power to borrow money

- (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 functions under this Act or enabling the functions of the Director General under this or any other Act to be performed, including the provision of premises and other facilities.
- (2) The Minister is authorised 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 authorised 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 a purpose referred to in subsection (1).

[Section 15A inserted by No. 51 of 1975 s.3; amended by No. 54 of 1985 s.52; No. 32 of 1998 s.64(2).]

Division 2 — Powers of the Minister and Director General

[Heading inserted by No. 54 of 1985 s.15.]

15B. Functions

- (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

Transport Co-ordination Act 1966

Part II Administration

Division 2 Powers of the Minister and Director General

s. 15C

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 and the functions of the Minister under Division 4 of Part II;
- (j) advise the Minister on the administration of —
 - (i) the *Eastern Goldfields Transport Board Act 1984*; and
 - (ii) the *Taxi Act 1994*,
- (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; No. 64 of 1994 s.7; No. 83 of 1994 s.49.]

15C. Functions under other Acts

- (1) As well as the functions referred to in section 15B the Director General also has the functions conferred on the Director General under —
 - (a) the *Control of Vehicles (Off-road Areas) Act 1978*;
 - (b) the *Motor Vehicle Drivers Instructors Act 1963*;
 - (c) the *Motor Vehicle (Third Party Insurance) Act 1943*;
 - (ca) the *Perth Parking Management Act 1999*; and
 - (ca) the *Rail Safety Act 1998*; and
 - (d) the *Road Traffic Act 1974*.
- (2) The Minister, on the recommendation of the Director General, may enter into an agreement with the Commissioner of Police or any other person or body providing for such of the functions of the Director General under the Acts referred to in subsection (1) as are set out in the agreement to be performed for and on behalf of the Director General.
- (3) A function set out in an agreement under subsection (2) may be performed —
 - (a) in accordance with the agreement; and
 - (b) on and subject to such terms and conditions as are set out in the agreement.
- (4) Where the performance of a function set out in an agreement under subsection (2) is dependent upon the opinion, belief, or state of mind of the Director General it may, subject to the agreement, be performed upon the opinion, belief, or state of mind of the body or person with whom the agreement is made or another person provided for in the agreement.
- (5) For the purposes of this Act or any other written law, an act or thing done by, to, by reference to, or in relation to, a body or person in connection with the performance by that body or person of a function of the Director General under an agreement

under subsection (2) is as effectual as it would be if it were done by, to, by reference to, or in relation to, the Director General.

- (6) This section does not limit the operation of section 5(2) of the *Control of Vehicles (Off-road Areas) Act 1978* or of section 29(12) of that Act or the regulations made under it.

[Section 15C inserted by No. 76 of 1996 s.47; amended by No. 32 of 1998 s.64(2); No. 16 of 1999 s.7(6)(b).]

16. Tenders, subsidies and licences

- (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; and
 - (b) shall administer and direct the payment of such subsidies with respect to the provision of transport as may be authorised 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 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.
- (5) Subsection (4) has effect subject to any agreement entered into by the Minister under section 18D.

[Section 16 inserted by No. 54 of 1985 s.17; amended by No. 64 of 1994 s.7; No. 56 of 1997 s.60.]

17. Conditions of tender

- (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.]

18. Delegation

- (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 instrument, delegate to any person any of the functions or powers of the Director General under this, or any other, Act, except this power of delegation.
- (2) A delegation under this section is revocable at will by the Director General, except that, to the extent that the delegation was at the request of the Minister, it is revocable only at the Minister's request.
- (3) A function performed or a power exercised by a delegate is to be treated as performed or exercised by the Director General.
- (4) A delegate performing a function or exercising a power is to be taken to do so in accordance with the terms of the delegation unless the contrary is shown.
- (5) Subject to this section, section 59 of the *Interpretation Act 1984* applies to and in relation to any delegation under this section.

[Section 18 inserted by No. 32 of 1998 s.64(2).]

Division 3 — Construction or closure of railways

[Heading inserted by No. 47 of 1980 s.8.]

18A. Report on railways

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 inserted by No. 54 of 1985 s.20.]

Division 4 — Arrangements for the provision of omnibus, ferry and rail services in the metropolitan area

[Heading inserted by No. 64 of 1994 s.8.]

18B. Interpretation

(1) In this Division —

“**metropolitan area**” means the area from time to time defined under subsection (3);

“**passenger services**” means —

(a) passenger services provided —

- (i) over a fixed area or on a fixed route;
- (ii) at fixed fares; and
- (iii) with fixed timetables;

and

(b) passenger services provided in circumstances prescribed by the regulations;

“**train**” means sets of rail cars for the carriage of passengers.

(2) References in this Division to passenger services by omnibus, ferry or train, or to any of those services, in the metropolitan area are to those services or that service by means of omnibuses,

Transport Co-ordination Act 1966

Part II Administration

Division 4 Arrangements for the provision of omnibus, ferry and rail services in the metropolitan area

s. 18C

ferries or trains travelling only between places in the metropolitan area.

- (3) The Governor may by order published in the *Gazette* define the boundaries of the metropolitan area for the purposes of this Division, and may in like manner alter those boundaries.
- (4) The order made under subsection (3), and any alteration to that order, is a regulation for the purposes of, and is subject to, section 42 of the *Interpretation Act 1984*.

[Section 18B inserted by No. 64 of 1994 s.8.]

18C. Function of Minister under this Division

- (1) It is a function of the Minister to facilitate and promote the provision of reliable, efficient and economic passenger services by omnibus, ferry and train in the metropolitan area, so far as in the Minister's opinion it is practicable to do so.
- (2) The Minister may do all things necessary or convenient to be done for or in connection with the performance of the function described in subsection (1).

[Section 18C inserted by No. 64 of 1994 s.8.]

18D. Agreements relating to omnibus and ferry services in metropolitan area

- (1) Where the Minister has conducted negotiations or received tenders under section 16 for the provision of particular passenger services by omnibus or ferry in the metropolitan area, or any part of that area, the Minister may enter into an agreement with a person as to —
 - (a) the terms and conditions on which the services are to be provided; and
 - (b) the matters set out in subsection (2).

- (2) In an agreement under subsection (1) the Minister may agree —
 - (a) to grant to the person a licence or licences containing particular conditions, restrictions, prohibitions and other provisions, including those of the kind described in section 17; and
 - (b) to exercise his powers under Part III in a manner that confers on the person the exclusive right to operate services specified in the agreement in the area so specified.
- (3) The Minister may renew an agreement entered into under this section, including an agreement by way of renewal under this subsection.
- (4) The Minister may give effect to an agreement entered into or renewed under this section.

[Section 18D inserted by No. 64 of 1994 s.8.]

18E. Operation of metropolitan passenger rail services

- (1) The Minister and the Government Railways Commission —
 - (a) may enter into, and vary, an agreement as to the manner in which the Commission is to carry on and maintain passenger services by train in the metropolitan area;
 - (b) shall give effect to any agreement from time to time in force under paragraph (a).
- (2) To the extent that any matter is not agreed under subsection (1), the Minister may direct the Government Railways Commission as to the manner in which the Commission is to carry on and maintain the services referred to in that subsection.
- (3) The Government Railways Commission shall give effect to any direction under subsection (2).

Transport Co-ordination Act 1966

Part II Administration

Division 4 Arrangements for the provision of omnibus, ferry and rail services
in the metropolitan area

s. 18F

- (4) In this section “**Government Railways Commission**” means
The Western Australian Government Railways Commission
constituted by section 8 of the *Government Railways Act 1904*.
[Section 18E inserted by No. 64 of 1994 s.8.]

18F. Assignment of benefit of agreement

- (1) The benefit of an agreement under section 18D may not be
assigned without the consent of the Minister.
- (2) When the benefit of an agreement is assigned, the assignee is
bound, by force of this subsection, to perform the obligations
which the assignor was bound under the agreement to perform.
- (3) Any purported assignment in contravention of this section is
void.

[Section 18F inserted by No. 64 of 1994 s.8.]

Part III — Licences

Division 1 — General provisions relating to licensing of public vehicles

19. Application of Part

- (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).
- (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 inserted by No. 93 of 1979 s.5; amended by No. 30 of 1985 s.6; No. 64 of 1994 s.9.]

[19A. Repealed by No. 54 of 1985 s.21.]

20. Vehicles operating to be licensed

- (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.]

21. Fees for licences

- (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 the prescribed percentage 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 the prescribed amount 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;
 - (b) for a commercial goods vehicle licence under Division 3 a fee determined by the Minister, but not exceeding the prescribed amount for each licence for each 50 kilograms or part thereof of the gross weight of the

vehicle, which prescribed amount may be different for different routes or areas of operation or for different classes of goods or mass of goods or for any combination of those factors;

(c) for an aircraft licence under Division 4, a fee determined by the Minister and —

(i) based on, but not exceeding the prescribed percentage of, the gross earnings of the vehicle assessed in such manner as may be prescribed; or

(ii) based on, but not exceeding the prescribed amount 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; and

(d) for a ferry licence under Division 4A, a fee determined by the Minister based on, but not exceeding the prescribed amount per annum for each unit of, the maximum number of passengers that the vehicle is licensed to carry at any one time with a maximum fee of \$600 per annum.

- (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; No. 115 of 1987 s.5; No. 13 of 1989 s.4.]

22. Weighing of public vehicle or goods

- (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.]

23. Transfer of licence

- (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

24. Licences for omnibuses

- (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.]

25. Applications for licences

- (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.
- (1a) An application shall be accompanied by the fee referred to in section 32A(2).
- (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; No. 13 of 1989 s.5.]

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

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.]

27. Power to grant, etc., applications

- (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 authorised by this subsection, the Minister shall cause the Director General to confer with the local government 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 1995* or the Minister administering the *Main Roads Act 1930*, as the case may require.
- (4) A local government 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 government 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 government**” 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; No. 14 of 1996 s.4.]

28. Conditions of omnibus licences

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.]

29. Power to Minister to attach conditions to licences

- (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.]

30. Power to grant omnibus licences for period of 7 years

- (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.]

31. Permits

- (1) The Minister may grant to the owner of an omnibus licensed under this Part, a permit authorising 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.]

32. Omnibuses to be registered as motor vehicles

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.]

32A. Number plates

- (1) The Minister may issue number plates, of such type and in such form as he may determine, for every omnibus licensed under this Division.
- (2) The Minister may from time to time fix the fee payable, not exceeding the prescribed amount, for the issue of number plates for omnibuses.
- (3) A person shall not operate an omnibus licensed under this Division unless number plates issued under this section are affixed to the omnibus in the prescribed manner.

Penalty: \$200.

[Section 32A inserted by No. 13 of 1989 s.6.]

Division 3 — Commercial goods vehicles

(1) Licensing

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

33. Application of Part

- (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.]

34. Certain licences to be granted

- (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 inserted by No. 93 of 1979 s.10; amended by No. 54 of 1985 s.52.]

35. Application for licence

- (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.]

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

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 decentralisation; and
- (c) may take into consideration such other factors as he thinks fit.

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

37. Power of Minister to grant or refuse application for licence

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.]

38. Condition of commercial goods vehicle licence

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 authorised by, the licence.

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

39. Power of Minister to attach conditions to licence

- (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.]

40. Period of licence

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.]

41. Permits

- (1) The Minister, may grant to the owner of any commercial goods vehicle licensed under this Division a permit authorising 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.]

42. Commercial goods vehicles to be registered as motor vehicles

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 inserted by No. 53 of 1977 s.4.]

42A. Interpretation

In this subdivision, unless the contrary intention appears —

“authorised person” means a person who is authorised 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 inserted by No. 53 of 1977 s.4; amended by No. 54 of 1985 s.52.]

42B. Inquiries and recommendations by the Director General

- (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 inserted by No. 53 of 1977 s.4; amended by No. 54 of 1985 s.52.]

42C. Certificate of authority to operate from south of the 26th parallel to the north thereof

- (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 inserted by No. 53 of 1977 s.4; amended by No. 54 of 1985 s.52.]

42D. Further functions and powers of the Director General

- (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 inserted by No. 53 of 1977 s.4; amended by No. 54 of 1985 ss.32 and 52.]

42E. Information

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 authorised 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) organisations 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 inserted by No. 53 of 1977 s.4; amended by No. 54 of 1985 ss.33 and 52.]

42F. Secrecy

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 inserted by No. 53 of 1977 s.4.]

42G. Offences as to information

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 inserted by No. 53 of 1977 s.4.]

42H. Further effect of offences

- (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 inserted by No. 53 of 1977 s.4; amended by No. 54 of 1985 s.52.]

Division 4 — Aircraft

43. Licences for aircraft

- (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, authorise 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.]

43AA. Authority for Australian Airlines to operate intrastate air services

Section 19A of the *Australian National Airlines Act 1945* of the Commonwealth is adopted for the purposes of this Act.

[Section 43AA inserted by No. 95 of 1987 s.3.]

43A. Period of licence

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.]

43B. Permits

- (1) The Minister may grant to the owner of any aircraft licensed under this Division a permit authorising 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.]

44. Applications for licences

- (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.]

45. Matters to be taken into consideration by Minister

- (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.]

46. Conditions of aircraft licences

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.]

47. Power of Minister to attach conditions to licences

- (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 4A — Ferries

[Heading inserted by No. 115 of 1987 s.6.]

47AA. Licences for ferries

- (1) Subject to this Division, the Minister may, on the application of the owner, grant a licence in respect of a ferry.
- (2) A licence for a ferry may be granted for a period of one year or for a particular purpose of specified duration.

[Section 47AA inserted by No. 115 of 1987 s.6.]

47AB. Permits

- (1) The Minister may grant to the owner of any ferry licensed under this Division a permit authorising the ferry 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 47AB inserted by No. 115 of 1987 s.6.]

47AC. Applications for licences

- (1) Every application for a ferry licence shall be in writing, setting out —
- (a) the routes on which and the area in which it is intended that the ferry is to operate;
 - (b) a description of the ferry 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, if any, to be carried, by the ferry;
 - (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 47AC inserted by No. 115 of 1987 s.6.]

47AD. Matters to be taken into consideration by Minister

- (1) The Minister may, before granting or refusing a licence for a ferry, take into account the interests of persons requiring transport to be provided, and of the community generally.
- (2) 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 47AD inserted by No. 115 of 1987 s.6.]

47AE. Conditions on ferry licences

It is an implied condition of every licence for a ferry granted by the Minister that the provisions of any law applicable to the ferry and its operation be complied with.

[Section 47AE inserted by No. 115 of 1987 s.6.]

47AF. Power of Minister to attach conditions to licences

- (1) The Minister may, in his discretion, attach to a ferry licence all or any of the following conditions, namely, a condition that —
- (a) the ferry be operated only upon specified routes or in a specified area;
 - (b) specified timetables be observed;
 - (c) specified fares be charged;
 - (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 subsection (1), to a ferry licence.

[Section 47AF inserted by No. 115 of 1987 s.6.]

Division 5 — Ships

47A. Interpretation

- (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 authorised 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.]

47B. Authority for ships to engage in coasting trade

- (1) Subject to this Division, a ship shall not engage in the coasting trade unless it is authorised 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 authorised; or
 - (b) engages in the coasting trade contrary to the licence or permit authorising 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) In respect of every licence or permit under this Division there shall be paid to the Director General in the prescribed manner a fee determined by the Minister based on but not exceeding —
- (a) for a licence or the renewal of a licence, the prescribed amount for each month or part thereof of the term of the licence or renewal; and
 - (b) for a permit, the prescribed amount for each 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 s.3); No. 54 of 1985 ss.38 and 52; No. 13 of 1989 s.7.]

47C. Granting of licences and permits in certain cases

- (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 authorised to engage in the coasting trade under this Division is technically suited to carry; or
 - (ii) the Commission that controls the ships so authorised 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, specialised 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 authorised 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 authorised 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 authorised coasting trade; and

- (c) the necessity, in the public interest, of protecting the public funds in operating ships deemed to be authorised 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.]

47D. Supervision

- (1) For the purpose of ascertaining whether the provisions of this Division or any regulation relating thereto are being contravened, any person authorised for the purpose by the Director General by instrument in writing and whether so authorised 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 authorised 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 authorised 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.]

47E. No limitation from proceedings

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

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

47F. Construction of this Division

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 IIIA (section 47Y) repealed by No. 54 of 1985 s.41; (sections 47G-47X) repealed by No. 56 of 1997 s.58.]

Part IIIB — Taxi-cars in country districts

[Heading inserted by No. 70 of 1981 s.3.]

47Z. Interpretation

- (1) In this Part unless the contrary intention appears —
- “control area”** means a control area under the *Taxi Act 1994*;
 - “district”** means an area that has been declared to be a district under the *Local Government Act 1995*;
 - “Local Court”** means a Local Court established under the *Local Courts Act 1904*;
 - “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 inserted by No. 70 of 1981 s.3; amended by No. 30 of 1985 s.10; No. 83 of 1994 s.49; No. 14 of 1996 s.4.]

47ZA. Application of Part

This Part applies only outside a control area.

[Section 47ZA inserted by No. 70 of 1981 s.3.]

[47ZB, 47ZC. Repealed by No. 54 of 1985 s.42.]

47ZD. Taxi-cars to be licensed under this Part

- (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.

s. 47ZE

- (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 Director General 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 inserted by No. 70 of 1981 s.3; amended by No. 106 of 1981 s.26; No. 54 of 1985 s.52; No. 76 of 1996 s.49.]

47ZE. Drivers

A person shall not drive a taxi-car within a district unless he or she is licensed to drive a taxi-car under the *Road Traffic Act 1974*.

Penalty: \$1 000.

[Section 47ZE inserted by No. 83 of 1994 s.49.]

47ZF. Regulations

- (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;

s. 47ZF

- (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 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;
 - [(ii) and (iii) deleted]*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 authorised and the method of calculation of such separate fares;
- [(n) deleted]*
- (o) providing for registers of taxi-cars 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 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 authorised 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

s. 47ZF

- 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 government 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 inserted by No. 70 of 1981 s.3; amended by No. 106 of 1981 s.27; No. 54 of 1985 ss.43 and 52; No. 115 of 1987 s.7; No. 83 of 1994 s.49; No. 14 of 1996 s.4; No. 76 of 1996 s.50.]

s. 47ZG

47ZG. Powers of a local government

- (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 government or local governments of the district or districts in which the vehicle is to be operated as a taxi-car.
- (3) The local government of a district to which this section applies may, with the approval of the Governor, make local 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 local law made or preserved pursuant to this section, the regulations shall prevail and the local 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 they were local laws made under subsection (3).
- (6) The Minister may, at the request of a local government, 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 local laws made by the local government of 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 inserted by No. 70 of 1981 s.3; amended by No. 54 of 1985 s.52; No. 14 of 1996 s.4.]

Part IV — Miscellaneous

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

- (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.]

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

- (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 authorised 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, any passenger or of any load;
 - (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; or
 - (v) to give information in respect of any passengers, the carriage of those passengers and the identity of the person who hired the vehicle for the carriage of those passengers;
 - (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;

- (ba) at any time stop and detain any vehicle and, for the purposes of determining the number or class of passengers being carried by the vehicle, inspect any passengers being so carried 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 authorised 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 authorise that person, together with any other person named in the warrant or any member, or as the case may be, other

s. 50

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, its passengers, or of its load, or refuses to give information as specified in paragraph (a)(iv) or (v) 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; No. 115 of 1987 s.8.]

50. Penalties for operating unlicensed public vehicles

- (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 authorised, or otherwise than authorised, 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 authorised 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 authorising 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 authorised 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.]

51. Proof on averment

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 inserted by No. 30 of 1985 s.13.]

[52. *Repealed by No. 47 of 1980 s.15.]*

53. Failure to comply with licence

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.

54. Commercial goods vehicle not to be used for passengers

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 authorises 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.]

55. Proof that passengers carried at separate fares

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.

55A. Vicarious liability

- (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.]

56. Provisions for offences for which no penalty expressly provided

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.]

[56A, 56B. Repealed by No. 10 of 1999 s.10.]

57. Power to revoke or suspend licence or permit

- (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 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; No. 56 of 1997 s.60.]

58. Recovery of penalties

- (1) The Director General may direct, either generally or in any particular case, proceedings to be taken for the recovery of

s. 59

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.
- (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 No. 57 of 1997 s.122(4).]

59. Saving of operation of *Road Traffic Act 1974*

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. Repealed by No. 4 of 1986 s.4.]

60. Regulations

- (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;
- (ea) number plates for omnibuses, including —
 - (i) requirements as to their fixing and display; and
 - (ii) the maximum fee for their issue under section 32A;
- (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;

s. 60

- (ma) the carrying on public vehicles, in respect of loads thereon, of such documents or classes of documents as are specified in the regulations;
 - (mb) the percentages and amounts required to be prescribed under section 21(1) and section 47B(8);
 - (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.
- (2a) Without limiting subsection (1), the Governor may make regulations with respect to services that are the subject of an agreement under section 18D, and in particular providing for what shall or shall not be done by persons —
- (a) using or intending to use vehicles engaged in the provision of those services;
 - (b) being in or near any place or thing used in the provision of those services;
 - (c) otherwise in connection with such vehicles, places or things or their use.

- (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 \$500 for any breach of them.
- (4) Notwithstanding the provisions of section 36 of the *Interpretation Act 1918*⁵, 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; No. 115 of 1987 s.9; No. 13 of 1989 s.8; No. 64 of 1994 s.10.]

61. Protection of Minister, Director General and other persons

No matter or thing done by the Minister, by the Director General or by any person acting with the authority of the Minister, 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 to any liability in respect of the matter or thing so done.

[Section 61 amended by No. 52 of 1985 s.52; No. 42 of 1999 s.10.]

62. Financial provision

- (1) There shall be established at the Treasury, forming part of the Trust Fund constituted under section 9 of the *Financial Administration and Audit Act 1985*, a fund to be known as the “Transport Co-ordination Fund” (in this section called “**the Fund**”).

s. 62

- (2) There shall be credited to 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;
 - (b) subject to section 62A(1)(a) and 62B(2)(a), the moneys (if any) appropriated by Parliament for the administration of this Act or any other Act the Department assists in the administration of;
 - (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.
- (2a) The reference in subsection (2)(b) to moneys appropriated by Parliament includes a reference to moneys paid or advanced under the authority of section 8A or 24 of the *Financial Administration and Audit Act 1985* or under the authority of a Treasurer's Advance Authorisation Act.
- (3) There shall be charged to the Fund —
- (a) such amounts as are, in the opinion of the Minister, necessary or expedient to be granted —
 - (i) in the interests of public transport in aid of any transport service or scheme, including amounts for the provision and maintenance of vehicles, facilities, signs, shelters and amenities relating to the service or scheme;
 - (ii) to defray any loss, operating cost or capital cost incurred by any person (including a State public authority) in the provision of a transport service;
 - (iii) to subsidise or pay the transport fares of any class of persons;
 - (iv) to promote any transport service;

- (b) the cost of administration of this Act or any other Act the Department assists in the administration of;
 - (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; and
 - (e) to the Main Roads Trust Fund kept under section 31 of the *Main Roads Act 1930*, such amounts as the Minister may from time to time approve.
- (4) Notwithstanding subsection (2) or (3), there shall not be paid —
- (a) into the Fund, any moneys that under subsection (2) of section 62B are to be credited to the Metropolitan Passenger Transport Fund under that section; or
 - (b) out of the Fund —
 - (i) any costs referred to in subsection (3)(a) of section 62B; or
 - (ii) any amounts for the purposes described in subsection (3)(b) of that section.

[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; No. 13 of 1989 s.9; No. 34 of 1990 s.4; No. 6 of 1993 s.7; No. 47 of 1993 s.31; No. 64 of 1994 s.11; No. 49 of 1996 s.64; No. 76 of 1996 s.51; No. 56 of 1997 s.60.]

s. 62A

62A. Transport Trust Fund

- (1) There shall be established a fund to be called the Transport Trust Fund —
- (a) to which shall be credited —
 - (i) moneys appropriated by Parliament for the purposes of the fund; and
 - (ii) any other moneys lawfully payable to the fund;and
 - (b) to which shall be charged 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; amended by No. 6 of 1993 s.7; No. 49 of 1996 s.64; No. 56 of 1997 s.59.]

62B. Metropolitan Passenger Transport Fund

- (1) There shall be established an account at the Treasury, forming part of the Trust Fund constituted under section 9 of the *Financial Administration and Audit Act 1985*, called the Metropolitan Passenger Transport Fund.

- (2) There shall be credited to that fund —
- (a) moneys appropriated by Parliament for the purposes of that fund;
 - (b) moneys to be paid to that fund from the Transport Co-ordination Fund under section 62 or the Transport Trust Fund under section 62A;
 - (c) any moneys derived by the Minister from the performance of the Minister’s functions under section 18C; and
 - (d) any other moneys lawfully payable to that fund.
- (3) That fund shall be charged with —
- (a) the costs incurred by the Minister in performing the Minister’s functions under section 18C; and
 - (b) such amounts as are, in the opinion of the Minister, necessary or expedient to be granted to defray any loss, operating cost or capital cost incurred by any person (including a State public authority) in the provision of metropolitan transport services.
- (4) The Metropolitan Passenger Transport Fund is part of the Trust Fund constituted under section 9 of the *Financial Administration and Audit Act 1985*.
- (5) In this section “**metropolitan transport services**” means passenger services by omnibus, ferry or train in the metropolitan area within the meaning given by section 18B.

[Section 62B inserted by No. 64 of 1994 s.12; amended by No. 49 of 1996 s.64.]

63. Subsidies

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

s. 64

64. Review of Act

- (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 requisites 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

First Schedule

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 government 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.

First Schedule

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; No. 14 of 1996 s.4.]

[Second Schedule repealed by No. 13 of 1989 s.10.]

[Third Schedule repealed by No. 56 of 1997 s.60.]

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Notes

¹ This reprint is a compilation as at 19 May 2000 of the *Transport Co-ordination Act 1966* and includes the amendments effected by the other Acts referred to in the following Table.

Table of Acts

Short title	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 section 2 and <i>Gazette</i> 9 June 1967 p.1547)	Short title subsequently changed (see footnote under section 1)
<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	Proclaimed 8 August 1971 (see section 2 and <i>Gazette</i> 16 July 1971 p.2558)	
<i>Transport Commission Act Amendment Act 1972</i>	58 of 1972	31 October 1972	31 October 1972	
<i>Metric Conversion Act 1972</i> , section 4	94 of 1972 (As amended by No. 83 of 1973 section 3)	4 December 1972	The relevant amendments, as set out in the Third Schedule, took effect on assent.	

Short title	Number and year	Assent	Commencement	Miscellaneous
<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	Proclaimed 1 February 1977 (see section 2 and <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 section 2 and <i>Gazette</i> 24 December 1976 p.5028); balance: 18 October 1976	
<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 (see section 2(1))	
<i>Transport Commission Act Amendment Act (No. 2) 1979</i>	93 of 1979	17 December 1979	Proclaimed 8 February 1980 (see section 2 and <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	

Transport Co-ordination Act 1966

Short title	Number and year	Assent	Commencement	Miscellaneous
<i>Transport Amendment Act 1981</i>	8 of 1981	22 May 1981	Section 3: Proclaimed 1 October 1981 (see section 2 and <i>Gazette</i> 7 August 1981 p.3203); balance proclaimed 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 proclaimed 31 December 1981 (see section 2(2) and <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	Proclaimed 1 August 1982 (see section 2 and <i>Gazette</i> 23 July 1982 p.2842)	
<i>Acts Amendment (Traffic Board) Act 1981, Part V</i>	106 of 1981	4 December 1981	2 February 1982 (see section 2 and <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	Proclaimed 31 March 1985 (see section 2 and <i>Gazette</i> 8 March 1985 p.867)	
<i>Transport Amendment Act 1985</i>	30 of 1985	24 April 1985	Proclaimed 7 June 1985 (see section 2 and <i>Gazette</i> 7 June 1985 p.1932)	

Short title	Number and year	Assent	Commencement	Miscellaneous
<i>Acts Amendment and Repeal (Transport Co-ordination) Act 1985, Part II</i>	54 of 1985	28 October 1985	Proclaimed 1 January 1986 (see section 2 and <i>Gazette</i> 20 December 1985 p.4822)	Section 53: transitional
<i>Transport Co-ordination Amendment Act 1986</i>	2 of 1986	26 June 1986	26 June 1986 (see section 2)	Sections 10(2) and 14: transitional
<i>Acts Amendment (Financial Administration and Audit) Act 1986, section 4</i>	4 of 1986	27 June 1986	1 July 1986 (see section 2)	Section 5: Savings and transitional
<i>Transport Co-ordination Amendment Act (No. 2) 1986</i>	46 of 1986	1 August 1986	Deemed operative 1 July 1986 (see section 2)	
<i>Transport Co-ordination Amendment Act (No. 2) 1987</i>	95 of 1987	16 December 1987	16 December 1987 (see section 2)	
<i>Transport Co-ordination Amendment Act 1987</i>	115 of 1987	31 December 1987	Proclaimed 1 May 1988 (see section 2 and <i>Gazette</i> 29 April 1988 p.1292)	
<i>Transport Co-ordination Amendment Act 1989</i>	13 of 1989	2 November 1989	Proclaimed 29 June 1990 (see section 2 and <i>Gazette</i> 15 June 1990 p.2707)	
<i>Transport Co-ordination Amendment Act 1990</i>	34 of 1990	9 October 1990	9 October 1990 (see section 2)	Section 5: validation

Transport Co-ordination Act 1966

Short title	Number and year	Assent	Commencement	Miscellaneous
<i>Financial Administration Legislation Amendment Act 1993, Section 7</i>	6 of 1993	27 August 1993	27 August 1993 (see section 2(2))	
<i>Acts Amendment (Department of Transport) Act 1993, section 31</i>	47 of 1993	20 December 1993	Proclaimed 1 January 1994 (see section 2 and <i>Gazette</i> 31 December 1993 p.6861)	
<i>Acts Amendment (Public Sector Management) Act 1994, section 19</i>	32 of 1994	29 June 1994	1 October 1994 (see section 2 and <i>Gazette</i> 30 September 1994 p.4948)	
<i>Acts Amendment (Perth Passenger Transport) Act 1994, Part 2</i>	64 of 1994	1 December 1994	1 January 1995 (see section 2 and <i>Gazette</i> 30 December 1994 p.7211)	
<i>Taxi Act 1994, section 49</i>	83 of 1994	20 December 1994	10 January 1995 (see section 2 and <i>Gazette</i> 10 January 1995 p.73)	
<i>Local Government (Consequential Amendments) Act 1996, section 4</i>	14 of 1996	28 June 1996	1 July 1996 (see section 2)	
<i>Consumer Credit (Western Australia) Act 1996, section 13</i>	30 of 1996	10 September 1996	1 November 1996 (see section 2)	

Short title	Number and year	Assent	Commencement	Miscellaneous
<i>Financial Legislation Amendment Act 1996, section 64</i>	49 of 1996	25 October 1996	25 October 1996 (see section 2(1))	
<i>Road Traffic Amendment Act 1996, sections 47-51</i>	76 of 1996	14 November 1996	Proclaimed 1 February 1997 (see section 2 and <i>Gazette</i> 31 January 1997 p.613)	
<i>Acts Amendment (Franchise Fees) Act 1997, Part 8</i>	56 of 1997	12 December 1997	Proclaimed 31 January 1998 (see section 2 and <i>Gazette</i> 30 January 1998 p.577)	
<i>Statutes (Repeals and Minor Amendments) Act 1997, section 122</i>	57 of 1997	15 December 1997	15 December 1997 (see section 2)	
<i>Rail Safety Act 1998, section 64(2)</i>	32 of 1998	6 July 1998	Proclaimed 3 February 1999 (see section 2 and <i>Gazette</i> 2 February 1999 p.351)	
<i>Acts Amendment (Criminal Procedure) Act 1999, section 10</i>	10 of 1999	5 May 1999	Proclaimed 1 October 1999 (see section 2 and <i>Gazette</i> 17 September 1999 p.4557)	
<i>Perth Parking Management (Consequential Provisions) Act 1999, section 7(6)(b)</i>	16 of 1999	19 May 1999	Proclaimed 7 August 1999 (see section 2 and <i>Gazette</i> 6 August 1999 p.3727)	

Transport Co-ordination Act 1966

Short title	Number and year	Assent	Commencement	Miscellaneous
<i>Acts Amendment (Police Immunity) Act 1999</i> , section 10	42 of 1999	25 November 1999	25 November 1999 (see section 2)	

NB. This Act is affected by the *Rail Safety Act 1998* (No. 32 of 1998) section 5.

² The *State Transport Co-ordination Act 1966* was repealed by the *State Transport Co-ordination Act 1981* (No. 14 of 1981) which was repealed by the *Acts Amendment and Repeal (Transport Co-ordination) Act 1985* (No. 54 of 1985).

³ The reference in section 49 of the *Taxi Act 1994* to an amendment of section 2 of this Act should refer to an amendment of section 4 of this Act. Section 49(a) reads as follows —

“

- (a) in section 2, in the definition of “omnibus” by deleting “a vehicle licensed for use as a taxi-car under the *Taxi-cars (Co-ordination and Control) Act 1963*, or” and substituting the following —

“

a vehicle operating as a taxi using taxi plates issued under the *Taxi Act 1994* or licensed as a taxi-car under;

”

”

⁴ Under section 112(2) of the *Public Sector Management Act 1994* this is to be read as a reference to the Minister for Public Sector Management.

⁵ Repealed by the *Interpretation Act 1984* (No. 12 of 1984).

Defined Terms

*[This is a list of terms defined and the provisions where they are defined.
The list is not part of the law.]*

Defined Term	Provision(s)
appointed day	42C(6)
authorised person	42A
carrying of passengers for reward	47Z(3)
commercial goods vehicle.....	4(1)
control area	47Z(1)
Department.....	4(1)
Director General.....	4(1)
district	47Z(1)
facilities.....	7D(4)
farm.....	First Schedule
ferry.....	4(1)
goods.....	4(1)
Government Railways Commission.....	18E(4)
gross weight	4(1)
licence	4(1), 57(7)
Local Court	47Z(1)
local government.....	27(5)
manage	7D(4)
master.....	47A(1)
metropolitan area	18B(1)
metropolitan transport services	62B(5)
officer.....	4(1)
omnibus.....	4(1)
operate.....	4(1), 47Z(1)
owner	4(1), 47Z(1), 47Z(5)
passenger services.....	18B(1)
permit	4(1)
port.....	47A(1)
prime contractor	42A
provide	7D(4)
public authority	8(4)
public vehicle.....	4(1)
railway	4(1), 64(2)
railway station.....	First Schedule
road	4(1)
Schedule.....	4(1)
section	4(1)
service	42A
services.....	42A

Defined Terms

ship.....	47A(1)
specified	47ZF(3)
sub-contractor	42A
subsection.....	47Z(1)
taxi-car	47Z(1)
taxi-stand.....	47Z(1)
the body.....	7A(1)(b)
the Fund	62(1)
this Part	47Z(2)
to license	4(1)
train	18B(1)
transport service	4(1)
vehicle.....	4(1)