

STATE TRANSPORT CO-ORDINATION

No. 42 of 1933.

Reprinted pursuant to the Amendments Incorporation Act, 1938, as amended by the Acts No. 47 of 1938* and No. 9 of 1940.†

AN ACT to provide for the Improvement and for the Co-ordination of means of and facilities for transport.

[Assented to 4th January, 1934.]

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the *State Transport Co-ordination Act, 1933-1940*, and, save as otherwise expressly provided, shall come into operation on the 1st day of July, 1934.

Short title.
No. 42 of
1933, s. 1.
No. 9 of
1940, s. 3.
Commence-
ment.

2. This Act shall be divided into Parts and Divisions, as follows:—

Parts and
Division.
No. 42 of
1933, s. 2.

PART I.—PRELIMINARY.

PART II.—

Division (1).—State Transport Board—Constitution—Officers.

Division (2).—Powers of State Transport Board.

* Assented to 31st January, 1939; † assented to 24th October, 1940.

PART III.—LICENSES :

Division (1).—General Provisions relating to Licensing of Public Vehicles.

Division (2).—Omnibuses.

Division (3).—Commercial Goods Vehicles.

Division (4).—Aircraft.

PART IV.—MISCELLANEOUS.

PART I.—PRELIMINARY.

3. In this Act, subject to the context, the following terms shall have the following respective meanings:—

“Board” means the Western Australian Transport Board appointed under this Act.

“Commercial goods vehicle” means any vehicle other than a vehicle propelled by animal or human power only, and operating or used or intended to be used, on roads or streets for the transport of goods.

A trailer or a semi-trailer shall be regarded as a vehicle separate from any vehicle by which it is drawn.

A trailer shall, for the purpose of this Act, be deemed to be driven by the person who drives the vehicle by which the trailer is drawn.

“Goods” includes livestock and goods, wares, merchandise, commodities, and movable chattels of every description.

“License” means a license issued under this Act and for the time being in force, and the verb “to license” has a corresponding meaning; the term also includes a permit.

“Local authority” means the council of any municipality or the road board of any road district.

“Officer” means any officer, clerk, servant, or other person in the employ of the Board, and includes a member of the Police Force, or any other person acting in pursuant of powers or duties conferred upon him by or under this Act, and also includes any person utilised by the Board pursuant to subsection (3) of section nine, or any other provision of this Act.

Interpretation.
No. 42 of
1933, s. 3 ;
No. 47 of
1938, s. 2.
Board.
Commercial
goods vehicle.

Goods.

License.

Local authority.

Officer.

- “Omnibus” means a motor vehicle used or intended to be used as a passenger vehicle to carry passengers at separate fares. Omnibus.
- “Operate,” as applied to vehicles, means to carry or offer to carry passengers or goods for hire or for any consideration, or in the course of or in connection with any trade or business whatever, save as provided by section thirty-four of this Act. Operate.
- “Owner” includes every person who is owner or part owner of a vehicle; where a vehicle is the subject of a hire-purchase agreement, the term means the person who is entitled to the use of the vehicle under the hire-purchase agreement. Owner.
Amended by
No. 47 of
1938, s. 2.
- “Permit” means a permit issued under this Act and for the time being in force. Permit.
- “Public vehicle” means any vehicle which must be licensed under this Act. Public
vehicle.
- “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. Road.
- “Commissioner of Railways” means the Commissioner of Railways appointed under the Government Railways Act, 1904-1926. Commissioner
of Railways.
- “Railway” means any railway belonging to His Majesty in Western Australia which has been or may be declared open for traffic by notice in the *Government Gazette*. Railway.
- “Tramway” means any tramway operated by the Government of Western Australia, or a trolley ’bus service. Tramway.
- “Vehicle” means a vehicle propelled by any means other than animal or human power. The term includes an aircraft, but does not include a vehicle used on a railway or tramway, whether used on a Government or privately owned railway or tramway, or a trolley ’bus operated by or on behalf of the Crown. Vehicle.

4. 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

Act to be read
subject to
Common-
wealth Con-
stitution.
No. 42 of
1933, s. 4.

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.

PART II.

Division (1).—State Transport Board—Constitution—Officers.

State Transport Board,
No. 42 of
1933, s. 5.
S.A. No. 1967,
s. 5; Tas. 21
Geo. V., No.
52, s. 57;
N.S.W. 32 of
1931, s. 4;
Qld. 23, Geo.
V., No. 24,
s. 5.

5. (1) For the purpose of providing for the improvement and for the co-ordination of transport in the State, the Governor shall appoint a Board, to be called "The Western Australian Transport Board" (hereinafter referred to as "the Board"). The Board shall be a body corporate, with perpetual succession and a common seal, and shall be capable of contracting, of suing and being sued, and of holding and disposing of real and personal property.

The Board shall consist of three members, one of whom shall be a Government official, one representing rural industries, and one city interests, but none of whom shall be financially interested in any form of transport service or contract.

(2) As soon as may be after the thirtieth day of June in each year, the Board shall cause to be prepared a report containing—

- (i) a statement relating to the proceedings and work of the Board during the financial year then last preceding;
- (ii) any comments which the Board think desirable to make relating to the administration or operation of Transport Regulations Acts.

Such annual report shall be laid before both Houses of Parliament in the month of October in each year.

ibid. S.A., 5
(2).

(3) The members of the Board shall be persons who in the Governor's opinion are capable of assessing the financial and economic effect on the State as a whole of any transport policy.

ibid. S.A., s.
5, ss. 4.

(4) The Governor shall appoint one member of the Board to be chairman.

ibid. S.A., s.
5, ss. 5.

(5) The members of the Board shall not be subject to the Public Service Act, 1904.

(6) Any two members of the Board shall constitute a quorum thereof, but if at any meeting where only two members are present those members cannot agree on any matter, the decision on that matter shall be postponed to a meeting where all members of the Board are present.

ibid. S.A., s. 5, ss. 6.

(7) The members of the Board shall hold office for three years, and may be re-appointed.

ibid. S.A., s. 6.

(8) The members of the Board shall receive such remuneration as is fixed by the Governor.

ibid. S.A., s. 7.

(9) A member of the Board shall be deemed to have vacated his office—

ibid. S.A. s. 8; and *cf.* N.S.W. No. 32 of 1931, s. 4, ss. 11.

- (a) if he becomes bankrupt, or institutes proceedings for the liquidation of his affairs by arrangement or composition with his creditors, or assigns any allowance payable to him under this Act for the benefit of his creditors;
- (b) if he absents himself from three consecutive meetings of the Board, except with the permission of the Minister (which permission is hereby authorised to be granted) or becomes incapable of performing his duties;
- (c) if he becomes in any way concerned or interested in any contract or agreement made by or on behalf of the Board, or in anywise participates or claims to be entitled to participate in the profits thereof, or in any benefit or emolument arising therefrom.

6. A member may be removed from his office by the Governor for misbehaviour or incompetence.

Governor may remove for misbehaviour or incompetence. No. 42 of 1933, s. 6.

7. If a vacancy occurs on the Board from any cause, the Governor shall fill the vacancy by appointing thereto a person qualified to hold the vacant seat, and the person appointed shall hold office until the end of the term for which his predecessor was appointed.

Vacancy on Board. No. 42 of 1933, s. 7. S.A., No. 1967, s. 8.

8. In the case of the illness, suspension, or absence of a member of the Board, the Governor may appoint a person qualified to act as his deputy during such illness, suspension, or absence, and until such appointment is terminated by notice in the *Government Gazette*, any

Filling temporary vacancies caused through illness, etc. No. 42 of 1933, s. 8.

person so appointed shall while so acting have all the powers and perform all the duties of the member of the Board.

Secretary and officers of Board.
No. 42 of 1933, s. 9.

9. (1) The Governor may appoint a secretary to the Board, and any other officers and servants of the Board necessary for the carrying out of the provisions of this Act.

S.A. No. 1967, s. 8.

(2) Any person so appointed may, if required by the terms of his appointment to give the whole of his time to the service of the Board, be appointed under and be subject to the Public Service Act, 1904.

(3) The Board may, with the consent of the Minister administering any department of the public service, or the Main Roads Act, 1930, make use of the services of any person employed in that department, or under the provisions of the said Act, for the purpose of carrying out the provisions of this Act.

Division (2).—Powers and Duties of the Board.

Powers and authorities.
No. 42 of 1933, s. 10.
cf. Q'land 23 Geo. V., No. 24, s. 7 (1).

10. Subject to this Act, the Board may of its own volition, or under the direction of the Minister, shall—

(a) make investigations and inquiries into transport matters. In making such investigations and inquiries the Board shall give consideration, among other factors, to all or any of the following factors, namely:—

(i) The question of transport generally in the light of service to the community;

(ii) The needs of the State for economic development;

(iii) The industrial conditions under which all forms of transport are conducted;

(iv) The impartial and equitable treatment of all conflicting interests;

(b) be empowered to demand and obtain information relating to matters connected with the internal transport of the State, including transport controlled by the Crown or any agency of the Crown.

cf. Q'land 23 Geo. V., No. 24, s. 7 (4); Tas. 21 Geo. V., No. 52, s. 58 (4); S.A. 22 Geo. V., 2020, s. 7.

The result of any investigation or inquiry made by the Board shall be reported to the Minister, and for the purpose of such investi-

gation or inquiry the Board shall have the powers, authority, and protection of a Royal Commission under the Royal Commissioners' Powers Act, 1928, and all the provisions of that Act shall, with the necessary modifications, apply to any investigation and inquiry of the Board;

- (c) consider and determine all applications for licenses in respect of public vehicles;
- (d) without limiting any of the provisions of this Act specifying any particular conditions which the Board may impose on the granting or holding of a license, determine in respect of any particular license or group of licenses, what conditions shall be imposed on the granting and holding of the license or licenses, or, before granting any new license, as hereinafter defined, call tenders and invite premiums in any case where, owing to the importance of the route or area in which the applicant proposes to operate, the Board considers that the interests of the public would be best served by calling tenders.

*cf. Tas. 21
Geo. V., No.
52, s. 58 (1).*

In this paragraph the term "new license" shall be construed as follows:—

(i) A license for a vehicle on a route not prescribed at the commencement of this Act under the Traffic Act, 1919-1932, or which is not substantially the same as any such route; or

(ii) Where an applicant already has at the commencement of this Act a public vehicle or vehicles lawfully operating on any prescribed route under the Traffic Act, 1919-1932, and requires a license for one additional vehicle for the same route the license for that additional vehicle shall not be considered a new license, but every additional vehicle license applied for beyond such one additional license shall be construed as a new license; or

(iii) A license for any route prescribed under the Traffic Act, 1919-1932, but which has fallen into desuetude at any time previous to the date of the application for the new license;

- (e) call tenders for road transport, and invite premiums in any case where the Board considers the requirements of a district are not adequately served by any form of transport.

Power as to
railways and
tramways.
No. 42 of
1933, s. 11.
cf. S.A. No.
1967, s. 10
(1).

11. (1) On the direction of the Minister, the Board shall, or of its own volition may, inquire and report whether the services of any railway or part of a railway or any tramway, or part of a tramway, are adequate for the requirements of the district or area which such railway or tramway serves.

(2) If in the opinion of the Board the services of any railway or tramway as aforesaid are inadequate, and the requirements of the district are or can be better served by road and/or air transport, the Board may recommend the closure or partial suspension of service of the railway or tramway.

(3) Any such recommendation shall be put before Parliament for its sanction, or otherwise:

Provided that the Minister shall direct the Board to call tenders for road transport and/or air transport to serve the district or area served by the railway or tramway, and the result of such tenders shall be ascertained before the Bill for the closure is put before Parliament.

(4) In calling tenders, the Board shall frame such conditions as will insure that adequate provision is made for all the transport requirements of such district or area.

(5) No tender shall be accepted by the Minister until Parliament approves of the closure of the railway or tramway. On the acceptance of any tender by the Minister, the Board shall collect from the tenderer the sum or sums agreed upon, and such sum or sums shall be paid into the Treasury and used to liquidate the capital cost of the railway or tramway which has been closed. Any sum or sums received from any subsequent tenderer or tenderers shall be dealt with in like manner.

(6) The capital cost of any railway or tramway so closed, less the value of any material recovered, shall at once be deleted from the capital account of the Railway Department.

(7) It shall be the duty of any person or persons charged with the promotion or proposing to construct any new railway to confer on such proposal with the Board, which shall inquire into the same and report there-

on. The Board's report shall be laid before Parliament when the Bill to authorise the construction of the railway is introduced.

12. (1) Any tenders called either under section ten or section eleven of this Act may be so called subject to all or any of the following conditions as the Board may deem necessary or expedient to be imposed as conditions precedent to the acceptance of any tender, that is to say:—

Conditions of tender.
No. 42 of 1933, s. 11A, as inserted by No. 47 of 1938, s. 3, now renumbered s. 12.

If his tender be accepted, the tenderer shall and will—

- (a) provide a minimum service as specified by the Board;
- (b) provide such minimum service for a minimum period as specified by the Board;
- (c) execute jointly and severally, with sureties of a number and kind to be approved by the Board, a bond in favour of the Board, binding the tenderer and the sureties aforesaid to the Board in an amount to be specified by the Board for the due performance of any of the said conditions imposed by the Board as aforesaid.

(2) Where the Board has imposed any of the conditions aforesaid under the authority of subsection (1) of this section, the Board may, upon granting to the tenderer whose tender is accepted the license tendered for, impose, as conditions of such license, any of the conditions imposed as aforesaid in addition to any other conditions permitted by this Act to be imposed by the Board in relation to such license.

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

PART III.—LICENSES.

Division (1).—General Provisions relating to Licensing of Public Vehicles.

Licenses.

No. 42 of
1933, s. 12.

cf. S.A. 1967,

s. 13; Tas.

21 Geo. V.,

No. 52, s. 15

(3); Q'land

23 Geo. V.,

No. 24, s. 8.

13. Subject to this Act, the provisions of this Part of the Act shall apply to that part of the State south of the twenty-sixth parallel of south latitude and to the carriage of passengers and goods therein, notwithstanding that the contract of carriage is made outside such part or that portion of the carriage is or is to be performed outside such part.

No unlicensed
public vehicle
to be operated.

No. 42 of

1933, s. 13.

cf. N.S.W., 32

of 1931, s. 12.

14. Subject to the provisions of section thirty-four any person who after the date of the commencement of this Act operates a public vehicle in respect of which the required license under this Part has not been granted or is not in force, shall be guilty of an offence against this Act: Provided that this section shall not apply to any journey made for reward by any motor vehicle, which is not a commercial goods vehicle or omnibus, on any occasion on which the Board is satisfied that a special emergency justified the making of such journey.

Fees for
licenses.

No. 42 of

1933, s. 14.

cf. N.S.W., 32

of 1931, s. 18.

15. There shall be payable to the Board, in respect of every public vehicle license, the following fees:—

- (a) For an omnibus license under Division 2 of this Part or for an air-craft license under Division 4 of this Part, a fee determined by the Board, and to be assessed and payable in manner prescribed, based on the earnings of the vehicle: Provided such fee shall not be greater than six per cent. of the gross earnings of such vehicle as so assessed, and in assessing such gross earnings the amount of any subsidy paid for an aerial service shall not be taken into account.

The additional license fees prescribed under Part II. of the Third Schedule of the Traffic Act, 1919-1932, shall not be payable in respect of an omnibus which is licensed under this Act;

- (b) For a commercial goods vehicle, other than a commercial goods vehicle operating in the manner referred to in section thirty-four or other than a trailer or semi-trailer, a fee determined by the Board, but such fee shall not exceed the sum of seven shillings and sixpence per power load weight as ascertained in accordance with the provisions of Part I. of the Second Schedule to this Act, plus the respective percentage increases specified in the said Part I. of that schedule where the tyres fitted are not pneumatic tyres.

For a trailer or semi-trailer operating as a commercial goods vehicle other than a trailer or semi-trailer operating in the manner referred to in the said section thirty-four, the fee shall not exceed the fee prescribed in the second part of the Second Schedule.

16. Any person who knowingly sends or causes to be sent or conveyed, or agrees or offers to send or convey, any passengers or any goods by any vehicle which is required under the provisions of this Part to be licensed, and in respect of which the appropriate license is not in force, shall be guilty of an offence against this Act.

Passengers or goods not to be sent by unlicensed vehicle.
No. 42 of 1933, s. 15.
cf. N.S.W., No. 32 of 1931, s. 13.

17. If the owner or driver of any public vehicle licensed under this Act neglects or fails to comply with or observe any of the provisions of this Act, or of the regulations, or any of the terms and conditions attached to or implied in the license, he shall be liable to a penalty not exceeding fifty pounds.

Penalty for failure to comply with Act, etc.
No. 42 of 1933, s. 16.
Traffic Act s. 47 (7).

18. No person driving or using any commercial goods vehicle which is required under the provisions of this Part to be licensed shall carry any person therein or thereupon, or permit any person to ride therein or thereupon, and the owner of any such vehicle so driven or used shall be guilty of an offence and liable to a penalty not exceeding twenty pounds, unless—

Commercial goods vehicle not to be used for passengers.
No. 42 of 1933, s. 17.

- (a) a license granted under this Act in respect of the vehicle expressly authorises the carriage of passengers therein; or

- (b) the person so carried is—
- (i) in the employ of the owner of the vehicle and is proceeding on his master's business; or
 - (ii) the owner or a member of the family of the owner of the vehicle;
 - (iii) carried in the case of special emergency;
 - (iv) a person who is carried without fee or reward of any kind;
- (c) the owner of the vehicle is the holder of a special permit granted by the Board, and the person so carried is carried in conformity with the permit.

Weighing of public vehicle or goods.
No. 42 of 1933, s. 18.

19. (1) Subject to this Act and to any regulations made under subsection (2) of this section, the weight of a public vehicle or of goods carried or to be carried by a commercial goods vehicle shall, if the Board so orders, be determined at a weighbridge, or on any other machine (such as a loadometer), as may be approved by the Board, and the certificates of the weighings shall be produced by the holder of the license for the vehicle to the Board or to any officer of the Board, 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 may be adopted for the purposes of this Act.

Transfer of license.
No. 42 of 1933, s. 19.
Traffic Act, 1919-32, s. 15

20. (1) The Board may grant a transfer of a license of a public vehicle, on payment of the prescribed fee by the person who has become the owner of the 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 license by the same person for the same public vehicle might be refused.

Division (2).—Omnibuses.

Omnibuses not to operate unless licensed.
No. 42 of 1933, s. 20.

21. No omnibus shall operate on any road unless it is licensed in accordance with this Part:

Provided that no license is required under this Part where—

- (a) on any special occasion persons co-operate to bear the expense of any journey undertaken for pleasure in a privately owned motor vehicle; and

- (b) such journey is made to a destination to which on the day the journey was undertaken there was no suitable train running or public vehicle operating.

22. Subject to this Part the Board may, on the application of the owner, grant a license in respect of an omnibus.

Licenses for omnibuses.
No. 42 of 1933, s. 21.

23. Every application for an omnibus license shall be in writing, and shall contain the following particulars:—

Applications for licenses.
No. 42 of 1933, s. 22.
cf. N.S.W., 32 of 1931, s. 14

- (a) the routes or area upon or 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 on such vehicle;
- (d) the service proposed to be provided;
- (e) the fares proposed to be charged; and
- (f) such other particulars as are prescribed.

24. Before granting or refusing to grant any such license the Board shall take into consideration—

Matters to be taken into consideration by Board before grant or refusal of license.
No. 42 of 1933, s. 23.
cf. N.S.W., 32 of 1931, s. 18.

- (a) the necessity for the service proposed to be provided and the convenience which would be afforded to the public by the provision of such service;
- (b) the existing transportation 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 such existing service of the service proposed to be provided;
- (c) the condition of the roads to be included in any proposed route or area; and
- (d) the character, qualifications, and financial stability of the applicant.

25. (1) Subject to the provisions of this Part, the Board may grant the application (with or without variation), or may refuse to grant the application.

Power to grant, etc., applications.
No. 42 of 1933, s. 24.

(2) (a) Any person who at the thirty-first day of December, one thousand nine hundred and thirty-three, is the holder of a license for a vehicle which was—

(i) licensed under section ten A of the Traffic Act, 1919-1932, and engaged in carrying goods on one specific route for a period of not less than twelve months prior to such date; or

(ii) licensed and operating as an omnibus on a route prescribed under that Act for a period of not less than twelve months prior to such date,

shall if he at any time within three years of the date of the commencement of this Act is refused a license or renewal of a license under this Act in respect of such vehicle for the route on which it was operating at the thirty-first day of December, one thousand nine hundred and thirty-three, be entitled to appeal to a stipendiary magistrate in respect of such refusal within the time and manner prescribed.

(b) The appellant shall on instituting his appeal pay the sum of ten pounds into court as security for the costs of the appeal.

(c) On the hearing of the appeal the magistrate may order that the license be granted in accordance with the application or subject to such conditions (being conditions which the Board itself might have imposed if it granted the application in the first instance) as the magistrate may think fit, or the magistrate may dismiss the appeal and in any case may make such order as to costs as the magistrate deems advisable.

(d) The decision of the magistrate shall be final.

The Board may prohibit, either absolutely or subject to prescribed conditions, the picking up and/or setting down of passengers by or from any omnibus at any place or places near any such portion of any route along which the omnibus is authorised to ply under the license where that route coincides with or runs along or beside the route of any tramway or railway, or at any place within one hundred and fifty yards from the point where the route intersects a tramway or railway, or ceases to coincide with or run along or beside the route of a tramway or railway.

26. (1) It shall be a condition of every license for an omnibus granted by the Board—

Conditions of omnibus licenses. No. 42 of 1933, s. 25.

- (a) that the vehicle is maintained in a fit and serviceable condition;
- (b) that the provisions of any Act or regulation which are applicable to the vehicle and its operation are complied with;
- (c) that the requirements of section fifty-two of the Traffic Act, 1919-1932, relating to insurance are complied with in relation to such vehicle; and
- (d) that, in relation to such vehicle, the provisions and the requirements of any relevant industrial award or agreement applying to any persons engaged in its operation are complied with.

27. The Board may in its discretion attach to any omnibus license all or any of the following conditions, that is to say:—

Power to Board to attach conditions to licenses. No. 42 of 1933, s. 26.

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

28. The Board may, upon the application of the owner of any omnibus licensed under this Part cancel or vary any condition attached to the license which is not by this Act expressly stipulated to be a condition of the license.

Power of Board on application of owner to cancel or vary certain conditions attached to licenses. No. 42 of 1933, s. 27.

29. A license for an omnibus shall expire on the 30th day of June of each year: Provided that any such license may be granted temporarily for any particular purpose of limited duration.

Period of license. No. 42 of 1933, s. 28.

30. The Board, or any person authorised in that behalf by the Board in writing (whether generally or in any particular case), may grant to the owner of any

Permits. No. 42 of 1933, s. 29.

omnibus licensed under this Part, a permit authorising such vehicle to operate subject to such conditions as may be imposed by the Board—

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

Local authorities to appoint stands for omnibuses.
No. 42 of 1933, s. 30.

31. A local authority shall, if so required by the Board, appoint within its district such stands for omnibuses as may mutually be agreed upon between the local authority and the Board. In the event of failure to reach an agreement, the matters in dispute shall be referred to arbitration in accordance with the provisions of the Arbitration Act, 1895.

Omnibuses to be registered as motor vehicles.
No. 42 of 1933, s. 31.

32. Subject to the provisions of paragraph (a) of section fifteen, a license shall not be granted for any omnibus under this Part unless such vehicle is licensed as an omnibus in accordance with the Traffic Act, 1919-1932.

Division (3).—Commercial Goods Vehicles.

Commercial goods vehicle not to operate unless licensed.
No. 42 of 1933, s. 32.

33. Subject to the exceptions stated in the next section a commercial goods vehicle shall not operate on any road unless such vehicle is licensed in accordance with this Part.

Application of Part.
No. 42 of 1933, s. 33;
No. 47 of 1938, s. 4.

34. (1) No license shall be necessary under the preceding section in respect of any commercial goods vehicle or trailer or semi-trailer which—

- (a) operates solely in the area within a radius of fifteen miles from the General Post Office in Forrest Place, Perth; or
- (b) operates solely within a radius of fifteen miles from the place of business of the owner; or
- (c) is used solely for any of the purposes mentioned in the First Schedule of this Act.

Traffic Act, 1919-1932, 5th Schedule, townsites.
First Schedule.

Inserted by No. 47 of 1938, s. 4.

(2) Notwithstanding anything to the contrary contained elsewhere in this section, a license shall be necessary under this Act in respect of a vehicle mentioned in this section not operating in the manner specified in

paragraphs (a) or (b) of subsection (1) of this section to which but for this subsection the provisions of this section as to exemption would apply, if in relation to such vehicle the following circumstances exist, that is to say:—

- (a) there are more persons than three holding separate share interests in the vehicle; and
- (b) such share interest is not held as a partner in a partnership, or is held as a partner in a limited partnership within the meaning of the Limited Partnership Act, 1909; and
- (c) any one of the persons holding a share interest in the vehicle is not himself the owner of any business in or for which such vehicle operates, or is not a partner or is only a limited partner in any firm which is the owner of any business in or for which such vehicle operates; or
- (d) the vehicle is operated or intended to be operated or available for operation by or for any one of such persons having a share interest therein as aforesaid, for the direct benefit of such one person as an individual, when being so operated, and not for the direct benefit of all the other persons holding share interests in such vehicle.

(3) The burden of proving that in respect of any vehicle mentioned in this section, subsection (2) of this section does not apply, and that a license in respect of such vehicle is not necessary shall lie upon the person claiming the exemption under this section.

Inserted by
No. 47 of
1938, s. 4.

35. Subject to this Part the Board may, on the application of the owner, grant a license in respect of a commercial goods vehicle.

License for
commercial
goods vehicles.
No. 42 of
1933, s. 34.

36. Every application for a commercial goods vehicle license shall be in writing, and shall contain the following particulars—

Application
for license.
No. 42 of
1933, s. 35.

- (a) the route or area upon or 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 are prescribed.

Matters to be taken into consideration by the Board before grant or refusal of license.
No. 42 of 1933, s. 36.

- 37.** Before granting or refusing to grant any such license the Board shall take into consideration—
- (a) the necessity for the service proposed to be provided and the convenience which would be afforded to the public by the provision of such service;
 - (b) the existing transportation 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;
 - (ii) the effect upon such existing service of the service proposed to be provided;
 - (c) the condition of the roads to be included in any proposed route or area; and
 - (d) the character, qualifications, and financial stability of the applicant.

Power of Board to grant or refuse application for license.
No. 42 of 1933, s. 37.

38. Subject to the provisions of this Part the Board may grant the application (with or without variation), or may refuse to grant the application.

There shall be an appeal to a stipendiary magistrate against the decision of the Board in refusing to grant the application.

In relation to any such appeal the provisions of subsection (2) of section twenty-five shall apply with the necessary modifications.

Conditions of commercial goods vehicle license.
No. 42 of 1933, s. 38.

- 39.** It shall be a condition of every license for a commercial goods vehicle granted by the Board—
- (a) that the vehicle is maintained in a fit and serviceable condition;
 - (b) that the provisions of any Act or regulation which are applicable to the vehicle and its operation are complied with;
 - (c) that in relation to such vehicle the provisions of this Part relating to the limitation of hours of driving are observed, and that the pro-

visions and the requirements of any relevant industrial award or agreement applying to any persons engaged in its operation are complied with.

40. The Board may in its discretion attach to any commercial goods vehicle license all or any of the following conditions, that is to say:—

Power of Board to attach conditions to license.
No. 42 of 1933, s. 39.

- (a) a condition that the vehicle shall operate only upon specified routes or in a specified area;
- (b) a condition that prescribed records shall be kept; and
- (c) such other conditions as the Board thinks proper to impose in the public interest.

41. The Board may, upon the application of the owner of any commercial goods vehicle licensed under this Part, cancel or vary any condition attached to the license which is not by this Act expressly stipulated to be a condition of the license.

Power of Board on application of owner to cancel or vary certain conditions attached to license.
No. 42 of 1933, s. 40.

42. A license for a commercial goods vehicle shall expire on the thirtieth day of June of each year: Provided that any such license may be granted temporarily for any particular purpose.

Period of license.
No. 42 of 1933, s. 41.

43. The Board, or any person authorised in that behalf by the Board, in writing (whether generally or in any particular case) may grant to the owner of any commercial goods vehicle licensed under this Part, a permit authorising such vehicle to operate subject to such conditions as may be imposed by the Board—

Permits.
No. 42 of 1933, s. 42.

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

44. A license shall not be granted for any commercial goods vehicle under this Part unless such vehicle is properly licensed under the Traffic Act, 1919-1932.

Commercial goods vehicles to be registered as motor vehicles.
No. 42 of 1933, s. 43.

Division (4).—Aircraft.

45. No aircraft shall operate so as to make any journey from any place within that part of the State south of the twenty-sixth parallel of south latitude to any point of destination within such part unless the aircraft is licensed in accordance with this Part:

Aircraft not to operate unless licensed.
No. 42 of 1933, s. 44.

Provided that a license shall not be required—

- (a) by reason only that the aircraft operates in continuous passenger flights which commence from and ultimately terminate on the same landing ground on which the flight commenced, without any intermediate landing; or
- (b) where the aircraft operates from one specified point to another specified point in cases of special emergency: Provided that the owner furnishes the Board, in the form prescribed, with full particulars relating to any such journey, within seven days after the completion of the journey.

Licenses for aircraft.
No. 42 of 1933, s. 45.

46. Subject to this Part the Board may, on the application of the owner of an aircraft, and provided that all laws or regulations of the Commonwealth relating to the aircraft and its operation have been and are at all time complied with, grant a license in respect of the aircraft, or may refuse to grant the same. The decision of the Board shall be final and without appeal.

Every license granted shall, subject to the conditions of the license, authorise the operation of the aircraft between any points which are otherwise prohibited under the preceding section.

Generally.
No. 42 of 1933, s. 46.

47. Subject to the necessary modifications, the provisions of sections twenty-two, twenty-three, twenty-five, twenty-six, twenty-seven, twenty-eight, and twenty-nine of this Act relating to motor omnibuses shall apply to aircraft.

PART IV.—MISCELLANEOUS.

48. (1) No person shall drive, or cause or permit any person employed by or under any contractual engagement with him, or subject to his orders, to drive any commercial goods vehicle which is required to be licensed pursuant to this Act—

- (a) for any continuous period of more than five and one-half hours; or
- (b) for continuous periods amounting in the aggregate to more than eleven hours in respect of any period of twenty-four hours, commencing at midnight; or

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

No. 42 of 1933, s. 47;
No. 47 of 1938, s. 5.
cf. Imp. 20 and 21, Geo. V., No. 43, s. 19.

- (c) so that the driver has not at least ten consecutive hours for rest in any period of twenty-four hours calculated from the commencement of any period of driving:

Provided that it shall be a sufficient compliance with the provisions of paragraph (c) of this subsection if the driver has at least nine consecutive hours for rest in any such period of twenty-four hours, if he has an interval of at least twelve consecutive hours for rest in the next following period of twenty-four hours.

(2) For the purposes of this section—

- (a) any two or more periods of time shall be deemed to be a continuous period, unless separated by an interval of not less than half an hour in which the driver is able to obtain rest and refreshment;
- (b) any time spent by the driver on other work in connection with a commercial goods vehicle or the load carried thereby while on a journey in any other capacity than as a passenger, shall be reckoned as time spent in driving.

(3) Any person who contravenes any of the provisions of this section shall be guilty of an offence against this Act.

Provided that such person shall not be liable to conviction under this section, if he prove to the court that the contravention was due to unavoidable delay in the completion of any journey arising out of circumstances which he could not reasonably have foreseen.

49. (1) For the purpose of ascertaining whether the provisions of this Act or any regulation are being contravened, any member of the Police Force, or any person authorised in that behalf by the Board, in writing (whether generally or in any particular case), may request the driver of any public vehicle—

Powers of members of police force and persons authorised by Board for purpose of ascertaining whether provisions of Act or regulations are being contravened. No. 42 of 1933, s 48.

- (a) to produce for inspection any license, permit, or other document which by this Act or the regulations is required to be obtained in respect of the vehicle, or to be carried on, or by the driver of, the public vehicle;
- (b) to state his name and address; and

- (c) to permit an inspection to be made of the public vehicle and of the load carried thereon;
- (d) to give information in respect to the load.

(2) If such person fails to produce any such document within twenty-four hours, or refuses to state his name and address, or states a false name or address, or refuses to permit an inspection to be made of the public vehicle, or of the load carried thereon, or refuses to give information in respect to the load carried, or gives false information, he shall be guilty of an offence against this Act.

Proof of person being unlicensed.
cf. W.A. Traffic Act, 1919-1932, §1.
 No. 42 of 1933, s. 49.

50. In any prosecution under this Act an averment in the complaint that any person is or was the owner of a public vehicle, or is or was unlicensed, or that any person is or was not the holder of any particular license in respect of any public vehicle shall be deemed to be proved in the absence of proof to the contrary.

Licenses or permits to be carried in vehicles in respect of which they are granted.
 No. 42 of 1933, s. 50.

51. (1) Every license or permit granted under this Act shall be carried in the public vehicle in respect of which it is granted.

(2) If such license or permit is not carried in such vehicle as aforesaid, the owner of the vehicle shall be guilty of an offence against this Act, unless he proves that he took all reasonable steps to insure that such license or permit was so carried.

Penalties for operating unlicensed public vehicles.
 No. 42 of 1933, s. 51.

52. The driver and the owner of any public vehicle which—

(a) operates on any road; and

(b) is not licensed as such under this Act—

shall be severally guilty of an offence against this Act, and shall be liable for a first offence to a penalty of not more than twenty pounds, and for a second offence, to a penalty of not more than fifty pounds, and for any subsequent offence, to a penalty of not more than one hundred pounds.

Provided that, in any prosecution against the driver under this section, it shall be a good defence if the driver satisfies the court that he believed on reasonable grounds that such public vehicle was licensed under this Act.

53. Where in any prosecution under this Act against the owner or driver of any vehicle alleged to have operated as an omnibus, the prosecution shall prove that any passengers were carried upon such vehicle; proof of such fact shall be *prima facie* evidence that the passengers were carried at separate fares.

Proof that passengers carried at separate fares. No. 42 of 1933, s. 52.

54. Every person guilty of an offence against this Act or any regulation shall for every such offence (for which a penalty is not expressly provided by this Act) be liable to a penalty of not more than twenty pounds, and, in the case of a continuing offence, to a further penalty of not more than five pounds for each day on which such offence is continued after a conviction or order by any court.

Provision for offences for which no penalty expressly provided. No. 42 of 1933, s. 53

55. A license or permit may be revoked or suspended by the Board on the ground that any of the conditions of or relating to the license or permit have not been complied with:

Power to revoke or suspend license or permit. No. 42 of 1933, s. 54. Traffic Act, 1919-1932, s. 14.

Provided that the Board shall not revoke or suspend a license unless, owing to the frequency of the breach of the conditions of or attached to the license, or to the breach having been committed wilfully, or to the danger to the public involved in the breach, the Board is satisfied that the license should be revoked or suspended:

Provided further, that there shall be an appeal to a stipendiary magistrate against the decision of the Board in revoking or suspending a license, and in relation to any such appeal the provisions of section twenty-five shall apply with the necessary modifications.

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

Recovery of penalties. No. 42 of 1933, s. 55.

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

Proof of authority to prosecute.

- (a) of the persons constituting the Board;
- (b) of any direction to take the proceedings;
- (c) of any authority of any officer of the Board, or of any other person to take the proceedings; or

State Transport Co-ordination.

(d) of the presence of a quorum of the Board at the giving of any such direction or authority, or the doing of any act.

(3) The provisions of this section shall not affect any power of any member of the Police Force to take proceedings for the recovery of any such penalties.

Saving of
operation of
Traffic Act,
1919-1932.
No. 42 of
1933, s. 56.

57. Save as otherwise expressly provided, nothing in this Act shall be deemed to limit or affect the operation of the Traffic Act, 1919-1932, but that Act shall be construed subject to the express provisions of this Act.

Regulations.
No. 42 of
1933, s. 57.

58. (1) The Board, with the approval of the Governor may make regulations with respect to—

- (a) the conduct of meetings of the Board;
- (b) the custody and method of affixing its common seal;
- (c) the form of the common seal;
- (d) the design and construction of omnibuses, so as to secure the safety, comfort, and convenience of passengers and the public;
- (e) the maximum fares to be paid by passengers on omnibuses;
- (f) the returns of earnings of omnibuses for the purpose of assessing license fees, such information to be 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;
- (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 licenses or permits under this Act and the revocation, suspension, or transfer of such licenses or permits;
- (k) the form and conditions of and any particulars to be set out in licenses 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;
 - (n) the fees payable in respect of applications under this Act;
 - (o) the fee payable for any special permit under this Act;
 - (p) providing for distinguishing words, letters, numbers, colours, or marks being or not being placed on public vehicles;
 - (q) generally, all such matters and things as are authorised or permitted to be prescribed, or are necessary or expedient to be prescribed for carrying this Act into effect.
- (2) Any regulations made under this section—
- (a) may be of general or specially limited application, according to time, place, or circumstances;
 - (b) may prescribe penalties of not more than twenty pounds for any breach thereof.

59. No matter or thing done by the Minister, or by the Board, or by any person acting with the authority of the Minister, or by any member of the Police Force, in good faith for the purpose of carrying out this Act, shall subject the Crown or the Minister, or the Board, or any person acting with the authority of the Minister or the Board, or member of the Police Force, to any liability in respect thereof.

Protection of Minister, local authorities, and officers.
No. 42 of 1933, s. 58.
Amended by s. 33 of No. 22 of 1926.
Traffic Act, 1919-1932, s. 64.

60. (1) There shall be kept in the Treasury a fund, to be called the "Transport Co-ordination Fund." There shall be placed to the credit of the said Fund—

Financial provision.
No. 42 of 1933, s. 59;
No. 47 of 1938, s. 6;
No. 9 of 1940, s. 2.

- (a) subject to the express provisions of subsection (5) of section eleven, all moneys received by the Board in respect of premiums and/or licenses granted under this Act and for fees payable under this Act;
- (b) any moneys appropriated by Parliament for the purpose of the administration of this Act;
- (c) any moneys recovered by the Board by the enforcement of bonds as provided for in section twelve of this Act.

Inserted by No. 47 of 1938, s. 6.

Amended by
No. 9 of
1940, s. 2.

(2) Out of the said fund there shall be paid the cost of administration of this Act and contributions to the Superannuation Fund payable by the Board under any agreement made between the Board and the Treasurer under the provisions of section six of the Superannuation and Family Benefits Act, 1938-1939, and at the end of the financial year any balance remaining in the fund shall be divided into two portions in the same proportion as the total license fees derived from licenses issued for omnibuses bears to the total license fees derived from licenses issued for commercial goods vehicles.

The portion which is derived from the fees for the issue of omnibus licenses shall be applied towards the maintenance and improvement of the roads on which the omnibuses operate, and shall be divided equitably amongst the various statutory authorities concerned in the maintenance and improvement of those roads.

The portion which is derived from the fees for the issue of licenses for commercial goods vehicles shall be applied in like manner towards the maintenance and improvement of the roads on which the commercial goods vehicles operate, and shall be divided equitably amongst the various statutory authorities concerned in the maintenance and improvement of those roads.

Exercise of
powers after
passing and
before coming
into operation
of Act.

No. 42 of
1933, s. 60.

61. Notwithstanding the provisions of the Interpretation Act, 1918, after the passing of this Act, and before the coming into operation thereof, the Board as constituted under Part II may be appointed, and applications for licenses under Part III may validly be made, and the power of the Board to consider such applications and to grant or to refuse to grant such licenses, may be validly exercised by the Board, but no license so granted shall come into operation until this Act comes into operation.

FIRST SCHEDULE.

No. 42 of
1933.
First Schedule
repealed and
new First
Schedule
substituted
by No. 47 of
1938.
Traffic Act,
s. 10A (a).

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 such farm or forest.

For the purpose of this item the term "farm" shall include 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 such property.

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

4. The carriage of grain in a vehicle owned by the producer of such grain to a flour mill for the purpose of being gristed, milled, or treated, and the carriage from such mill of flour, meal, bran, pollard, or offal received in exchange for such grain for use on the farm where the grain was produced. Traffic Act, s. 10A (b).

5. The carriage of ore from mines and mining requisites within any one prescribed mining district. Traffic Act, s. 10A (d).

6. By the Crown or any local authority for its own purposes. Traffic Act, s. 10A (f).

7. The carriage of samples of goods for exhibition to prospective purchasers and not for sale.

8. The carriage of livestock to or from agricultural shows or exhibitions. Traffic Act, s. 10A (g).

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

10. 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 of such employees to their places of residence on completion of the contract.

11. The carriage of goods off any route or outside any area in respect of which the Board has granted a license pursuant to its acceptance of a tender called for by it under the provisions of the Act and within a radius of thirty-five miles from any one country railway station or railway siding: Provided always, that such goods have been or are to be transported by railway for a distance of not less than twelve miles to or from such railway station or siding as the case may be.

12. Any special purpose for which, in the opinion of the Board, it is necessary, either generally or subject to conditions, to grant an exemption from the provisions of section thirty-three of this Act. Traffic Act, s. 10A (i) proviso.

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

SECOND SCHEDULE.

PART I.

Rules for ascertaining power load weight of commercial goods vehicles (not including trailers or semi-trailers) for the purposes of this Schedule. No. 42 of 1933. Second Schedule.

1. The power weight (P.W.) of a commercial goods vehicle, which is a motor vehicle, is ascertained by adding the weight thereof expressed in hundredweights (cwt.) (complete and ready for use, in-

cluding the tools, oil, spare parts, tyres, and other accessories usually carried) to the horsepower calculated on the Dendy Marshall formula.

2. The power load weight of a commercial goods vehicle, which is a motor vehicle, is ascertained by adding to the power weight of the vehicle the carrying capacity (expressed in hundredweights) as verified by statutory declaration when application is made for a license.

3. The horse-power (H.P.) of a commercial goods vehicle, which is a motor vehicle, is ascertained according to the Dendy Marshall formula by multiplying the square of the diameter of the cylinders (expressed in inches) by the number of cylinders and the length of stroke (expressed in inches) and dividing the result by 12.

4. The power load weight of any other commercial goods vehicle which moves under its own power shall be ascertained in the prescribed manner.

Provisions relating to increased fee where commercial goods vehicle fitted with other than pneumatic tyres.

Provided that all commercial goods vehicles—

- (a) fitted with solid rubber tyres may be charged an additional 40 per cent. on the fee so assessed;
- (b) fitted with cushion tyres, neither solid nor pneumatic, may be charged an additional 10 per cent. of the fee so assessed;
- (c) fitted with metal tyres, shall be charged an additional 80 per cent. of the fee so assessed.

PART II.

Trailers and Semi-trailers.

	£	s.	d.
Up to 1 ton 5 cwts. including the weight of the trailer or semi-trailer plus declared maximum load	12	0	0
Exceeding 1 ton 5 cwts. but not exceeding 2 tons	18	0	0
Exceeding 2 tons but not exceeding 3 tons	28	10	0
Exceeding 3 tons but not exceeding 4 tons	40	10	0
Exceeding 4 tons but not exceeding 5 tons	54	0	0
Exceeding 5 tons but not exceeding 6 tons	69	0	0
Exceeding 6 tons but not exceeding 7 tons	75	10	0
Exceeding 7 tons but not exceeding 8 tons	103	10	0
Exceeding 8 tons but not exceeding 9 tons	123	0	0
Exceeding 9 tons but not exceeding 10 tons	144	0	0
For every additional ton	12	0	0

The provisos to Part I. of the Schedule shall also apply to this part.