

Western Australia

Transport Co-ordination Act 1966

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Transport Co-ordination Act 1966

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Western Australia

Transport Co-ordination Act 1966

An Act to provide for the co-ordination, planning and advancement of all forms of transport in this State, to provide for the review, control and licensing of transport services and for incidental and other purposes.

[Long title inserted by No. 54 of 1985 s. 4; amended by No. 40 of 2000 s. 4; No. 31 of 2003 s. 191.]

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 chief executive officer of the Department;

“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;

“Ministerial Body” means the Transport Co-ordination Ministerial Body established by section 6;

“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

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reward, and includes any such vehicle so used or intended to be used by or on behalf of the Crown, or an agency of the Crown, 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;

“railway” means a railway within the meaning of the *Government Railways Act 1904*;

“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;

“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

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- (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); No. 7 of 2002 s. 37.]

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.

Part II — Administration

Division 1 — General administration

[Heading inserted by No. 7 of 2002 s. 38.]

6. Transport Co-ordination Ministerial Body

- (1) The Transport Co-ordination Ministerial Body is established.
- (2) The Ministerial Body is a body corporate with perpetual succession.
- (3) Proceedings may be taken by or against the Ministerial Body in its corporate name.
- (4) The Ministerial Body is to be governed by the Minister.
- (5) The Ministerial Body is an agent of the State and has the status, immunities, and privileges of the State.

[Section 6 inserted by No. 7 of 2002 s. 39.]

6A. Purpose and nature of Ministerial Body

- (1) The Ministerial Body is established to provide a body corporate through which the Minister can perform any of the Minister's functions under this Act that can more conveniently be performed by a body corporate than an individual.
- (2) Despite the employment under the *Public Sector Management Act 1994* of ministerial officers for the purpose of assisting the Minister to perform functions that the Minister performs through the Ministerial Body, the Ministerial Body and those officers are not an organisation for the purposes of that Act.

[Section 6A inserted by No. 7 of 2002 s. 39.]

7. Execution of documents by Ministerial Body

- (1) The Ministerial Body is to have a common seal.

- (2) A document is duly executed by the Ministerial Body if —
 - (a) the common seal of the Ministerial Body is affixed to it in accordance with subsections (3) and (4);
 - (b) it is signed on behalf of the Ministerial Body by the Minister; or
 - (c) it is signed on behalf of the Ministerial Body, as authorised under subsection (5), by the Director General or another person.
- (3) The common seal of the Ministerial Body is not to be affixed to a document except as authorised by the Ministerial Body.
- (4) The common seal of the Ministerial Body is to be affixed to a document in the presence of the Minister, and the Minister is to sign the document to attest that the common seal was so affixed.
- (5) The Ministerial Body may, by writing under its seal, authorise the Director General or another person to sign documents on behalf of the Ministerial Body, either generally or subject to any conditions or restrictions specified in the authorisation.
- (6) A document purporting to be executed in accordance with this section is to be presumed to be duly executed until the contrary is shown.
- (7) A document executed by the Director General or another person under this section without the common seal of the Ministerial Body is not to be regarded as a deed unless it is executed as a deed as authorised under subsection (5).
- (8) When a document is produced bearing a seal purporting to be the common seal of the Ministerial Body, it is to be presumed that the seal is the common seal of the Ministerial Body until the contrary is shown.
- (9) For the purposes of this Act, a facsimile of —
 - (a) the Ministerial Body's seal; or

- (b) the signature of the Minister or a person authorised under subsection (5) to execute deeds or other documents,

may be used, and a deed or other document purporting to be endorsed with such a facsimile is, until the contrary is shown, to be regarded as bearing the facsimile under this subsection.

[Section 7 inserted by No. 7 of 2002 s. 39.]

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 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; amended by No. 7 of 2002 s. 40.]

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 Minister for Public Sector Management ⁴.

- (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. Repealed by No. 7 of 2002 s. 41.]

8. Use of other resources

- (1) The Director General may, for the purposes of assisting in carrying out the provisions of this Act —
- (a) with the consent of a public authority, use the services of a person employed by the public authority; or
 - (b) with the consent of the officer's employing authority, use the services of an officer of the Public Service.

- (2) In subsection (1) —

“employing authority” has the same meaning as it has in the *Public Sector Management Act 1994*;

“public authority” means any State instrumentality or agency or any public statutory body, whether incorporated or not, established by or under a law of the State.

- (3) This section does not prevent the operation of section 66 or 100, or any other provision, of the *Public Sector Management Act 1994*.

[Section 8 inserted by No. 7 of 2002 s. 42.]

9. Application of *Financial Management Act 2006* and *Auditor General Act 2006*

The provisions of the *Financial Management Act 2006* and the *Auditor General Act 2006* 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; amended by No. 77 of 2006 s. 17.]

10. Power to borrow

- (1) The Minister may borrow money upon the guarantee of the Treasurer of the State for the purposes of —
- (a) providing premises and other facilities under this Act;
 - (b) carrying out the Minister's functions under this Act; or
 - (c) enabling the Director General's functions under this Division to be performed.
- (2) The Minister may borrow money with the prior approval in writing of the Treasurer, but not otherwise, and any borrowing is to be upon terms and conditions that the Treasurer approves.
- (3) This section authorises the Treasurer, for and on behalf of the State, to give any approval or guarantee that this section requires and the guarantee may include the guarantee of interest.
- (4) Any money borrowed by the Minister under this section may be raised as one loan or as several loans and in any manner that the Treasurer may approve, but the amount of money borrowed in any one year cannot exceed, in the aggregate, an amount that the Treasurer approves.

- (5) Before a guarantee is given by the Treasurer under this section, the Minister must give to the Treasurer any security that the Treasurer requires and execute any instruments necessary for giving that security.
- (6) Money borrowed under this section can only be used for a purpose referred to in subsection (1).
- (7) The due payment of money payable by the Treasurer under a guarantee under this section is to be charged to and paid out of the Consolidated Account, and this subsection appropriates that Account accordingly.

[Section 10 inserted by No. 31 of 2003 s. 192; amended by No. 77 of 2006 s. 4 and 5(4).]

[11-14. 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.
 - (1a) Without limiting the things that may be delegated under subsection (1), they include things that are to be done in the course of governing the affairs of the Ministerial Body under section 6(4).
- (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; amended by No. 7 of 2002 s. 43.]

[15A. Repealed by No. 7 of 2002 s. 44.]

Division 2 — Particular functions

[Heading inserted by No. 7 of 2002 s. 45.]

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 to —
 - (a) maintain an overview of existing transport services in this State and recommend to the Minister measures for achieving co-ordination of transport services in this State;
 - (b) report to the Minister on transport policy or changes in transport policy and measures for achieving policy objectives;
 - (c) report to the Minister on trends and developments relating to transport within the State and elsewhere and on transport requirements within the State;
 - (d) provide assistance to the transport agencies when requested by the Minister or the agencies in the development and application of appropriate planning techniques and in the establishment and maintenance on a continuing basis of detailed plans for resource use, operations and, where appropriate, marketing;
 - (e) assist and advise the Minister in his examination of the plans referred to in paragraph (d);
 - (f) report to the Minister on sources and uses of funds for the advancement of transport in the State in order to meet both the Minister's 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 Minister's functions under this Act;
- (j) advise the Minister on the administration of the *Eastern Goldfields Transport Board Act 1984* and the *Public Transport Authority Act 2003*;
- (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; No. 24 of 2000 s. 43(1); No. 7 of 2002 s. 46; No. 31 of 2003 s. 193; No. 74 of 2003 s. 121(2).]

15C. Minister may provide facilities

- (1) The Minister may provide facilities that the Minister considers to be necessary for the purpose of facilitating the movement of vehicles, under this Act or any other Act, in any part of the State.
- (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 the Minister considers to be 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 15C inserted by No. 7 of 2002 s. 47.]

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.

[Section 16 inserted by No. 54 of 1985 s. 17; amended by No. 64 of 1994 s. 7; No. 56 of 1997 s. 60; No. 31 of 2003 s. 194.]

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 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); amended by No. 7 of 2002 s. 48.]

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 (s. 18B-18H) repealed by No. 31 of 2003 s. 195.]

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 s. 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 s. 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 s. 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 an 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 s. 26 and 52; No. 14 of 1996 s. 4; No. 24 of 2000 s. 43(2).]

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 s. 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 s. 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

[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 accused proposes to claim an exemption from the provisions of this Part under subsection (4) the accused shall, not later than 14 days before the date appointed for the hearing of the charge, 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; No. 84 of 2004 s. 80 and 82.]

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 s. 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;
- (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 s. 30 and 52; No. 74 of 2003 s. 121(4).]

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 s. 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

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

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*;

“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; No. 55 of 2004 s. 1230.]

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.

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- (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;

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- (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 application to the State Administrative Tribunal for a review of a decision of the Minister suspending, cancelling or refusing to renew a licence;
- (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 facilities; and providing for the suspension or cancellation of, or the refusal to renew, the registration of radio facilities by the Minister;

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- (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 s. 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; No. 55 of 2004 s. 1231.]

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

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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.]

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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 member, of the Police Force, to enter the premises, if necessary by force.

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- (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.

[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; No. 50 of 2003 s. 99(2).]

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 an individual: \$2 500.

Penalty for a body corporate: \$10 000.

- (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,

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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 accused 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 accused 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 accused 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; No. 40 of 2000 s. 10; No. 84 of 2004 s. 82.]

51. Proof on averment

In any prosecution for an offence under this Act, an averment in the charge 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; amended by No. 84 of 2004 s. 80.]

[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.

s. 56

- (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 \$2 000 and, in the case of a continuing offence, to a further penalty not exceeding \$400 for each day on which the offence is continued after conviction.

[Section 56 amended by No. 30 of 1985 s. 14; No. 40 of 2000 s. 11.]

[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 application may be made to the State Administrative Tribunal for a review of the decision of the Minister in revoking or suspending a licence.
- (4) A person applying under subsection (3) for a review shall lodge in the State Administrative Tribunal an amount of \$20, by way of security for the costs of his application; and the application shall not be heard until such time as that amount is so lodged.

[(5), (6) repealed]

- (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 s. 45 and 52; No. 56 of 1997 s. 60; No. 55 of 2004 s. 1232.]

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 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 s. 46 and 52; No. 57 of 1997 s. 122(4).]

s. 58A

58A. Infringement notices

- (1) A reference in subsection (2), (3), (5) or (7) to an “**authorised person**” is a reference to a person appointed under subsection (10) to be an authorised person for the purposes of the subsection in which the term is used.
- (2) Subject to section 58B, an authorised person who has reason to believe that a person has committed a prescribed offence against this Act or the regulations may, within 28 days after the alleged offence is believed to have been committed, give an infringement notice to the alleged offender.
- (3) An infringement notice is to be in the prescribed form and is to —
 - (a) contain a description of the alleged offence;
 - (b) advise that if the alleged offender does not wish to be prosecuted for the alleged offence in a court, the amount of money specified in the notice as being the modified penalty for the offence may be paid to an authorised person within a period of 28 days after the giving of the notice; and
 - (c) inform the alleged offender as to who are authorised persons for the purposes of receiving payment of modified penalties.
- (4) In an infringement notice the amount specified as being the modified penalty for the offence referred to in the notice is to be the amount that was the modified penalty prescribed by regulation at the time the alleged offence is believed to have been committed.
- (5) An authorised person may, in a particular case, extend the period of 28 days within which the modified penalty may be paid and the extension may be allowed whether or not the period of 28 days has elapsed.
- (6) Where the modified penalty specified in an infringement notice has been paid within 28 days or such further time as is allowed

and the notice has not been withdrawn, the bringing of proceedings and the imposition of penalties are prevented to the same extent as they would be if the alleged offender had been convicted by a court of, and punished for, the alleged offence.

- (7) An authorised person may, whether or not the modified penalty has been paid, withdraw an infringement notice by sending to the alleged offender a notice in the prescribed form stating that the infringement notice has been withdrawn.
- (8) If an infringement notice is withdrawn after the modified penalty has been paid, the amount is to be refunded.
- (9) Payment of a modified penalty is not to be regarded as an admission for the purposes of any proceedings, whether civil or criminal.
- (10) The Director General may, in writing appoint persons or classes of persons to be authorised persons for the purposes of subsection (2), (3), (5) or (7) but a person who is authorised to give infringement notices under subsection (2) is not eligible to be an authorised person for the purposes of any of the other subsections.
- (11) The Director General shall issue to each person who is authorised to give infringement notices under this section a certificate stating that the person is so authorised, and the authorised person is to produce the certificate whenever required to do so by a person to whom he or she has given or is about to give an infringement notice.

[Section 58A inserted by No. 40 of 2000 s. 12; amended by No. 84 of 2004 s. 80.]

58B. Owner onus in relation to motor vehicles

- (1) If an allegation is made of a prescribed offence against this Act or the regulations where an element of that offence is the parking, standing or leaving of a motor vehicle, and the identity of the driver or person in charge of the motor vehicle at the time

s. 58B

of the commission of that offence cannot be immediately established, an infringement notice in respect of that allegation may be served under section 58A(2) on the owner of the motor vehicle —

- (a) at the owner's last known place of residence or business;
or
 - (b) by leaving the infringement notice in or on, or attaching it to, the motor vehicle.
- (2) When an infringement notice is served on the owner of a motor vehicle in the circumstances referred to in subsection (1), then, unless within the period stated in the infringement notice or that period as extended —
- (a) the modified penalty is paid; or
 - (b) the owner —
 - (i) identifies to an authorised person the person who was the driver or person in charge of the motor vehicle at the relevant time; or
 - (ii) satisfies an authorised person that, at the relevant time, the motor vehicle had been stolen or unlawfully taken or was being unlawfully used,

the owner is deemed to be the driver or person in charge of the motor vehicle at the time of the commission of the alleged offence.

- (3) In this section —

“authorised person” means an authorised person appointed under section 58A(10) for purposes other than to serve infringement notices under section 58A(2);

“motor vehicle” has the meaning given by the *Road Traffic Act 1974*;

“owner” in relation to a vehicle means the person who is the holder of the requisite vehicle licence under the *Road Traffic Act 1974* in respect of that vehicle, or, if the vehicle is not

licensed under that Act, the person who owns the vehicle or is entitled to its possession.

[Section 58B inserted by No. 40 of 2000 s. 12.]

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 Ministerial Body'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;

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- (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;
- (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 other than applications to the State Administrative Tribunal for a review;
- (o) the fee payable for any special permit under this Act or any Certificate of Authority under section 42C;
- (oa) the prescription of offences for which an infringement notice may be given under section 58A;

- (ob) the prescription of a modified penalty not exceeding \$500 for an offence prescribed under paragraph (oa);
 - (p) providing for distinguishing words, letters, numbers, colours, or marks, being or not being placed on public vehicles; and
 - (q) the provision and maintenance of the road transport of goods in areas not served by railways, and, in particular, in relation to any such transport —
 - (i) the areas to be served, and the routes to be followed;
 - (ii) the classes of goods to be carried; and
 - (iii) the rates to be paid in respect of, and the manner of payment of, any subsidy granted for its provision and maintenance, pursuant to this Act.
- (3) Any regulations made under this Act —
- (a) may be of general or specially limited application, according to time, place, or circumstances; and
 - (b) may prescribe penalties of not exceeding \$2 000 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; No. 40 of 2000 s. 13; No. 7 of 2002 s. 50; No. 31 of 2003 s. 196; No. 55 of 2004 s. 1233.]

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61. Protection of Minister, Director General and other persons

No matter or thing done by the Minister, by the Ministerial Body, by the Director General or by any person acting with the authority of any of them, in good faith for the purpose of carrying out this Act, shall subject the Crown, the Minister, the Ministerial Body, the Director General or any person acting with the authority of the Minister or the Ministerial Body 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; No. 7 of 2002 s. 51.]

[62, 62A. Repealed by No. 7 of 2002 s. 52.]

[62B. Repealed by No. 31 of 2003 s. 197.]

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.

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 the person in whose name the vehicle is licensed 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 bulk grain handling facility that is in the direction of the proposed destination of that produce and that is available for its receipt.

For the purposes of this item the term “**farm**” includes a sheep station or a cattle station.

2. The carriage of produce and goods between the station property of any person engaged in the pastoral industry between such property and the railway station or town nearest to the property.
3. The carriage of livestock, poultry, fruit, vegetables, dairy produce or other perishable commodities or grain or seed for sale or, in the case of livestock, for sale or agistment, irrespective of quantity or value, from the place where they are produced to any other place, in a

vehicle owned by the producer thereof and, on the return journey, the carriage of requisites for the domestic use of the producer or for use by him in the production of the commodities herein named.

4. The carriage of bees, bee hives, honey, bees wax and beekeepers' requisites and appliances, in the course of the production of honey, in a vehicle owned by the producer thereof.
5. The carriage of grain in a vehicle owned by the producer thereof to a flour mill for the purpose of being gristed, milled, or treated, and the carriage from the mill of flour, meal, bran, pollard, or offal received in exchange for the grain, for use on the farm where the grain was produced.
6. The carriage of ore from mines and mining requisites within any one prescribed mining district.
7. By the Crown or any local 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.
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 s. 51 and 52; No. 14 of 1996 s. 4; No. 39 of 2000 s. 66; No. 29 of 2002 s. 25.]

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

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

Notes

- ¹ This is a compilation of the *Transport Co-ordination Act 1966* and includes the amendments made by the other written laws referred to in the following table^{6, 14}. The table also contains information about any reprint.

Compilation table

Short title	Number and year	Assent	Commencement
<i>Road and Air Transport Commission Act 1966</i> ⁷	53 of 1966	5 Dec 1966	19 Jun 1967 (see s. 2 and <i>Gazette</i> 9 Jun 1967 p. 1547)
<i>Road and Air Transport Commission Act Amendment Act 1968</i>	6 of 1968	26 Sep 1968	26 Sep 1968
<i>Road and Air Transport Commission Act Amendment Act 1970</i>	64 of 1970	17 Nov 1970	8 Aug 1971 (see s. 2 and <i>Gazette</i> 16 Jul 1971 p. 2558)
<i>Transport Commission Act Amendment Act 1972</i>	58 of 1972	31 Oct 1972	31 Oct 1972
<i>Metric Conversion Act 1972</i>	94 of 1972 (as amended by No. 19 and 83 of 1973)	4 Dec 1972	Relevant amendments (see Third Sch. ⁸) took effect on 7 Mar 1974 (see s. 4(2) and <i>Gazette</i> 7 Mar 1974 p. 762)
Reprint of the <i>Transport Commission Act 1966</i> approved 20 Feb 1973 (includes amendments listed above except those in the <i>Metric Conversion Act 1972</i>)			
<i>Transport Commission Act Amendment Act 1975</i>	51 of 1975	18 Sep 1975	18 Sep 1975
<i>Transport Commission Act Amendment Act 1976</i>	24 of 1976	9 Jun 1976	1 Feb 1977 (see s. 2 and <i>Gazette</i> 24 Dec 1976 p. 5028)
<i>Transport Commission Act Amendment Act (No. 2) 1976</i>	79 of 1976	18 Oct 1976	Act other than s. 5 and 6: 18 Oct 1976 (see. s. 2(1)); s. 5 and 6: 1 Feb 1977 (see s. 2(2) and <i>Gazette</i> 24 Dec 1976 p. 5028)
Reprint of the <i>Transport Commission Act 1966</i> approved 21 Jun 1977 (includes amendments listed above)			
<i>Transport Commission Act Amendment Act 1977</i>	53 of 1977	23 Nov 1977	23 Nov 1977

Transport Co-ordination Act 1966

Short title	Number and year	Assent	Commencement
<i>Acts Amendment and Repeal (Road Maintenance) Act 1979 Pt. III</i>	9 of 1979	18 May 1979	18 May 1979 (see s. 2(1))
<i>Transport Commission Act Amendment Act (No. 2) 1979</i>	93 of 1979	17 Dec 1979	8 Feb 1980 (see s. 2 and <i>Gazette</i> 8 Feb 1980 p. 383)
<i>Transport Amendment Act 1980</i>	47 of 1980	19 Nov 1980	19 Nov 1980
<i>Acts Amendment (Motor Vehicle Pools) Act 1980 Pt. I</i>	48 of 1980	19 Nov 1980	19 Nov 1980
<i>Transport Amendment Act 1981</i>	8 of 1981	22 May 1981	Act other than s. 3: 8 Jun 1981 (see s. 2 and <i>Gazette</i> 5 Jun 1981 p. 1729); s. 3: 1 Oct 1981 (see s. 2 and <i>Gazette</i> 7 Aug 1981 p. 3203)
<i>Transport Amendment Act (No. 2) 1981</i>	56 of 1981	13 Oct 1981	Act other than s. 10 and 11: 13 Oct 1981 (see s. 2(1)); s. 10 and 11: 31 Dec 1981 (see s. 2(2) and <i>Gazette</i> 31 Dec 1981 p. 5363)
<i>Transport Amendment Act (No. 3) 1981</i>	70 of 1981	30 Oct 1981	1 Aug 1982 (see s. 2 and <i>Gazette</i> 23 Jul 1982 p. 2842)
<i>Acts Amendment (Traffic Board) Act 1981 Pt. V</i>	106 of 1981	4 Dec 1981	2 Feb 1982 (see s. 2 and <i>Gazette</i> 2 Feb 1982 p. 393)
<i>Acts Amendment (Motor Vehicle Fees) Act 1982 Pt. IV</i>	25 of 1982	27 May 1982	1 Jul 1982 (see s. 2)
Reprint of the <i>Transport Act 1966</i> approved 19 Jul 1983 (includes amendments listed above)			
<i>Acts Amendment and Repeal (Credit) Act 1984 Pt. IX</i>	102 of 1984	19 Dec 1984	31 Mar 1985 (see s. 2 and <i>Gazette</i> 8 Mar 1985 p. 867)
<i>Transport Amendment Act 1985</i>	30 of 1985	24 Apr 1985	7 Jun 1985 (see s. 2 and <i>Gazette</i> 7 Jun 1985 p. 1932)
<i>Acts Amendment and Repeal (Transport Co-ordination) Act 1985 Pt. II</i>	54 of 1985	28 Oct 1985	1 Jan 1986 (see s. 2 and <i>Gazette</i> 20 Dec 1985 p. 4822)

Short title	Number and year	Assent	Commencement
<i>Transport Co-ordination Amendment Act 1986</i>	2 of 1986	26 Jun 1986	26 Jun 1986 (see s. 2)
<i>Acts Amendment (Financial Administration and Audit) Act 1986 s. 4</i>	4 of 1986	27 Jun 1986	1 Jul 1986 (see s. 2)
<i>Transport Co-ordination Amendment Act (No. 2) 1986</i>	46 of 1986	1 Aug 1986	1 Jul 1986 (see s. 2)
Reprint of the <i>Transport Co-ordination Act 1966</i> as at 6 Mar 1987 (includes amendments listed above) (corrigenda in <i>Gazette</i> 8 May 1987 p. 2065)			
<i>Transport Co-ordination Amendment Act (No. 2) 1987</i>	95 of 1987	16 Dec 1987	16 Dec 1987 (see s. 2)
<i>Transport Co-ordination Amendment Act 1987</i>	115 of 1987	31 Dec 1987	1 May 1988 (see s. 2 and <i>Gazette</i> 29 Apr 1988 p. 1292)
<i>Transport Co-ordination Amendment Act 1989</i>	13 of 1989	2 Nov 1989	29 Jun 1990 (see s. 2 and <i>Gazette</i> 15 Jun 1990 p. 2707)
<i>Transport Co-ordination Amendment Act 1990</i>	34 of 1990	9 Oct 1990	9 Oct 1990 (see s. 2)
<i>Financial Administration Legislation Amendment Act 1993 s. 7</i>	6 of 1993	27 Aug 1993	27 Aug 1993 (see s. 2(2))
<i>Acts Amendment (Department of Transport) Act 1993 Pt. 14</i>	47 of 1993	20 Dec 1993	1 Jan 1994 (see s. 2 and <i>Gazette</i> 31 Dec 1993 p. 6861)
<i>Acts Amendment (Public Sector Management) Act 1994 s. 19</i>	32 of 1994	29 Jun 1994	1 Oct 1994 (see s. 2 and <i>Gazette</i> 30 Sep 1994 p. 4948)
<i>Acts Amendment (Perth Passenger Transport) Act 1994 Pt. 2</i>	64 of 1994	1 Dec 1994	1 Jan 1995 (see s. 2 and <i>Gazette</i> 30 Dec 1994 p. 7211)
<i>Taxi Act 1994 s. 49</i>	83 of 1994	20 Dec 1994	10 Jan 1995 (see s. 2 and <i>Gazette</i> 10 Jan 1995 p. 73)
<i>Local Government (Consequential Amendments) Act 1996 s. 4</i>	14 of 1996	28 Jun 1996	1 Jul 1996 (see s. 2)

Transport Co-ordination Act 1966

Short title	Number and year	Assent	Commencement
<i>Consumer Credit (Western Australia) Act 1996</i> s. 13	30 of 1996	10 Sep 1996	1 Nov 1996 (see s. 2)
<i>Financial Legislation Amendment Act 1996</i> s. 64	49 of 1996	25 Oct 1996	25 Oct 1996 (see s. 2(1))
<i>Road Traffic Amendment Act 1996</i> Pt. 3 Div. 9	76 of 1996	14 Nov 1996	1 Feb 1997 (see s. 2 and <i>Gazette</i> 31 Jan 1997 p. 613)
Reprint of the Transport Co-ordination Act 1966 as at 9 Sep 1997 (includes amendments listed above)			
<i>Acts Amendment (Franchise Fees) Act 1997</i> Pt. 8	56 of 1997	12 Dec 1997	31 Jan 1998 (see s. 2 and <i>Gazette</i> 30 Jan 1998 p. 577)
<i>Statutes (Repeals and Minor Amendments) Act 1997</i> s. 122	57 of 1997	15 Dec 1997	15 Dec 1997 (see s. 2(1))
<i>Rail Safety Act 1998</i> s. 64(2)	32 of 1998	6 Jul 1998	3 Feb 1999 (see s. 2 and <i>Gazette</i> 2 Feb 1999 p. 351)
<i>Acts Amendment (Criminal Procedure) Act 1999</i> s. 10	10 of 1999	5 May 1999	1 Oct 1999 (see s. 2 and <i>Gazette</i> 17 Sep 1999 p. 4557)
<i>Perth Parking Management (Consequential Provisions) Act 1999</i> s. 7(6)	16 of 1999	19 May 1999	7 Aug 1999 (see s. 2 and <i>Gazette</i> 6 Aug 1999 p. 3727)
<i>Acts Amendment (Police Immunity) Act 1999</i> s. 10	42 of 1999	25 Nov 1999	25 Nov 1999 (see s. 2)
Reprint of the Transport Co-ordination Act 1966 as at 19 May 2000 (includes amendments listed above)			
<i>Statutes (Repeals and Minor Amendments) Act 2000</i> s. 43	24 of 2000	4 Jul 2000	4 Jul 2000 (see s. 2)
<i>Road Traffic Amendment Act 2000</i> s. 66	39 of 2000	10 Oct 2000	22 Mar 2006 (see s. 2 and <i>Gazette</i> 21 Mar 2006 p. 1078)
<i>Transport Co-ordination Amendment Act 2000</i> ⁹	40 of 2000	2 Nov 2000	2 Nov 2000 (see s. 2)

Short title	Number and year	Assent	Commencement
<i>State Superannuation (Transitional and Consequential Provisions) Act 2000</i> s. 69	43 of 2000	2 Nov 2000	17 Feb 2001 (see s. 2(1) and <i>Gazette</i> 16 Feb 2001 p. 903)
Reprint of the Transport Co-ordination Act 1966 as at 11 May 2001 (includes amendments listed above)			
<i>Machinery of Government (Planning and Infrastructure) Amendment Act 2002</i> Pt. 9 ¹⁰	7 of 2002	19 Jun 2002	1 Jul 2002 (see s. 2 and <i>Gazette</i> 28 Jun 2002 p. 3037)
<i>Bulk Handling Amendment Act 2002</i> s. 25	29 of 2002	25 Oct 2002	25 Oct 2002 (see s. 2)
<i>Public Transport Authority Act 2003</i> Pt. 8 Div. 5 ¹¹	31 of 2003	26 May 2003	1 Jul 2003 (see s. 2(1) and <i>Gazette</i> 27 Jun 2003 p. 2384)
<i>Sentencing Legislation Amendment and Repeal Act 2003</i> s. 99	50 of 2003	9 Jul 2003	15 May 2004 (see s. 2 and <i>Gazette</i> 14 May 2004 p. 1445)
<i>Statutes (Repeals and Minor Amendments) Act 2003</i> s. 121 ¹²	74 of 2003	15 Dec 2003	15 Dec 2003 (see s. 2)
<i>State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2004</i> Pt. 2 Div. 127 ¹³	55 of 2004	24 Nov 2004	1 Jan 2005 (see s. 2 and <i>Gazette</i> 31 Dec 2004 p. 7130)
<i>Criminal Procedure and Appeals (Consequential and Other Provisions) Act 2004</i> s. 80 and 82	84 of 2004	16 Dec 2004	2 May 2005 (see s. 2 and <i>Gazette</i> 31 Dec 2004 p. 7129 (correction in <i>Gazette</i> 7 Jan 2005 p. 53))
Reprint 8: The Transport Co-ordination Act 1966 as at 5 Aug 2005 (includes amendments listed above)			
<i>Financial Legislation Amendment and Repeal Act 2006</i> s. 4, 5(4) and 17	77 of 2006	21 Dec 2006	1 Feb 2007 (see s. 2(1) and <i>Gazette</i> 19 Jan 2007 p. 137)

² The *State Transport Co-ordination Act 1966* was repealed by the *State Transport Co-ordination Act 1981*, which was repealed by the *Acts Amendment and Repeal (Transport Co-ordination) Act 1985*.

³ The reference in the *Taxi Act 1994* s. 49(a) to an amendment of s. 2 of this Act should refer to an amendment of s. 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 the *Public Sector Management Act 1994* s. 112(2), a reference in a written law to the Public Service Board is, unless the contrary intention appears or it is otherwise provided under the *Acts Amendment (Public Sector Management) Act 1994*, to be construed as if it had been amended to be a reference to the Minister for Public Sector Management (as defined in the *Interpretation Act 1984*). This reference was amended under the *Reprints Act 1984* s. 7(5)(a).

⁵ Repealed by the *Interpretation Act 1984*.

⁶ The amendment in the *Labour Relations Reform Act 2002* s. 27 is not included because the section it sought to amend had been replaced before the amendment purported to come into operation.

⁷ Now called the *Transport Co-ordination Act 1966*; short title changed (see note under s. 1).

⁸ The Third Schedule was inserted by the *Metric Conversion Act Amendment Act (No. 2) 1973*.

⁹ The *Transport Co-ordination Amendment Act 2000* s. 14 reads as follows:

“

14. Validation

For the avoidance of doubt, any thing done by the Minister before the coming into operation of section 7 that the Minister would have been empowered to do if section 18C of the principal Act as amended by that section had then been in force is declared to be, and to have always been, valid.

”.

¹⁰ The *Machinery of Government (Planning and Infrastructure) Amendment Act 2002* Pt. 12 reads as follows:

“

Part 12 — Transitional matters

66. Transport Co-ordination Ministerial Body

- (1) In relation to the functions that the former body corporate had for the purposes of the *Transport Co-ordination Act 1966* before section 39 of this Act came into operation, the Transport Co-ordination Ministerial Body established by section 6 of that Act as inserted by section 39 of this Act is a continuation of, and the same legal person as, the former body corporate.
- (2) In this section —
“**former body corporate**” means the body corporate that was, before section 39 of this Act came into operation, constituted by the Minister under the *Transport Co-ordination Act 1966* section 7.

67. Agreements under former *Transport Co-ordination Act 1966* section 15C

- (1) To the extent that, immediately before the commencement of this Act, an agreement under the former section 15C made provision about the performance of functions of the former Director General under a relevant Act, the agreement continues, when this Act comes into operation, as an agreement under the new provision of the relevant Act.
- (2) To the extent that the agreement continues under subsection (1), it applies as if —
 - (a) instead of being made by the Minister referred to in the former section 15C, the agreement had been made by the Director General referred to in the new provision of the relevant Act; and
 - (b) instead of providing for the performance of functions of the former Director General, the agreement made similar provision for the performance of the corresponding functions of the Director General referred to in the new provision of the relevant Act.
- (3) In this section —
“**former Director General**” means the Director General of Transport under the *Transport Co-ordination Act 1966* section 8 as in force before it was repealed by this Act;
“**former section 15C**” means the *Transport Co-ordination Act 1966* section 15C as in force before it was repealed by this Act;

“**new provision**” means —

- (a) the *Control of Vehicles (Off-road Areas) Act 1978* section 4B;
- (b) the *Motor Vehicle Drivers Instructors Act 1963* section 4A;
- (c) the *Motor Vehicle (Third Party Insurance) Act 1943* section 3QA; or
- (d) the *Road Traffic Act 1974* section 6B;

“**relevant Act**” means —

- (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*;
- or
- (d) the *Road Traffic Act 1974*.

68. Delegations under former *Transport Co-ordination Act 1966* section 18

- (1) To the extent that, immediately before the commencement of this Act, a delegation under the former section 18 applied to the performance of functions or powers of the former Director General under a relevant Act, the delegation continues, when this Act comes into operation, as a delegation under the new provision of the relevant Act.
- (2) To the extent that the delegation continues under subsection (1), it applies as if —
 - (a) instead of being made by the former Director General, the delegation had been made by the Director General referred to in the new provision of the relevant Act;
 - (b) instead of delegating the performance of functions of the former Director General, the performance of the corresponding functions of the Director General referred to in the new provision of the relevant Act were delegated; and
 - (c) any Ministerial approval that would have been required in order for the delegation to be made under the new provision of the relevant Act had been given.
- (3) In this section —

“**former Director General**” means the Director General of Transport under the *Transport Co-ordination Act 1966* section 8 as in force before it was repealed by this Act;

“**former section 18**” means the *Transport Co-ordination Act 1966* section 18 as in force before it was amended by this Act;

“new provision” means —

- (a) the *Control of Vehicles (Off-road Areas) Act 1978* section 4A;
- (b) the *Motor Vehicle Drivers Instructors Act 1963* section 4;
- (c) the *Motor Vehicle (Third Party Insurance) Act 1943* section 3QB;
- (d) the *Rail Safety Act 1998* section 57A;
- (e) the *Road Traffic Act 1974* section 6A; or
- (f) the *Transport Co-ordination Act 1966* section 18;

“relevant Act” means —

- (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*;
- (d) the *Rail Safety Act 1998*;
- (e) the *Road Traffic Act 1974*; or
- (f) the *Transport Co-ordination Act 1966*.

69. Regulations about transitional matters

- (1) If there is no sufficient provision in this Act for dealing with a transitional matter, regulations under an Act amended by this Act may include any provision that is required, or is necessary or convenient, for dealing with the transitional matter.
- (2) In subsection (1) —
“transitional matter” means a matter that needs to be dealt with for the purpose of effecting the transition from the provisions of the Acts amended by this Act as in force before this Act comes into operation to the provisions of those Acts as in force after this Act comes into operation.
- (3) Regulations including a provision described in subsection (1) may be expressed to have effect before the day on which they are published in the *Gazette*.
- (4) To the extent that a regulation including a provision described in subsection (1) may have effect before the day of its publication in the *Gazette*, it does not —
 - (a) affect in a manner prejudicial to any person (other than the State or an agency of the State), the rights of that person existing before the day of its publication; or
 - (b) impose liabilities on any person (other than the State or an agency of the State) in respect of anything done or omitted to be done before the day of its publication.

”.

- ¹¹ The *Public Transport Authority Act 2003* Pt. 7 Div. 1, 5, and 6 deal with transitional matters to do with the transfer to the Public Transport Authority of metropolitan passenger transport functions that the Transport Coordination Ministerial Body previously had under the *Transport Co-ordination Act 1966* Pt. II Div. 4.
- ¹² The amendment in the *Statutes (Repeals and Minor Amendments) Act 2003* s. 121(3) is not included because the section it sought to amend had been replaced by *Machinery of Government (Planning and Infrastructure) Amendment Act 2002* s. 47 before the amendment purported to come into operation.
- ¹³ The *State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2004* Pt. 5, the *State Administrative Tribunal Act 2004* s. 167 and 169, and the *State Administrative Tribunal Regulations 2004* r. 28 and 42 deal with certain transitional issues some of which may be relevant for this Act.
- ¹⁴ The *Courts Legislation Amendment and Repeal Act 2004* Sch. 2 cl. 50 was repealed by the *Criminal Law and Evidence Amendment Act 2008* s. 77(13).