

TAXI ACT 1994

(No. 83 of 1994)

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SCHEDULE 1

AMENDMENTS TO CERTAIN OTHER ACTS

TAXI ACT 1994

No. 83 of 1994

AN ACT to provide for the effective administration of the Taxi Industry, to repeal the *Taxi-car Control Act 1985*, to amend certain other Acts and for related purposes.

[Assented to 20 December 1994.]

The Parliament of Western Australia enacts as follows:

PART 1 — PRELIMINARY**Short title**

1. This Act may be cited as the *Taxi Act 1994*.

Commencement

2. The provisions of this Act come into operation on such day as is, or days as are respectively, fixed by proclamation.

Interpretation

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

“approved” means approved by the Director General;

“authorized officer” means —

- (a) an officer designated or appointed under section 31; or
- (b) a member of the Police Force;

“Board” means the Taxi Industry Board established under section 8;

“commencement day” means the day on which this Act comes into operation;

“control area” means a part of the State which is prescribed as a control area;

“department” means the department of the Public Service of the State principally assisting the Minister with the administration of the *Transport Co-ordination Act 1966*;

“Director General” has the same meaning as it has in the *Transport Co-ordination Act 1966*;

“Minister” means the Minister referred to in section 7 of the *Transport Co-ordination Act 1966*;

“operate” means —

- (a) to own and drive;
- (b) to be a plate owner and drive; or
- (c) to cause, by leasing or otherwise, another person to drive,

a vehicle as a taxi;

“operator” means a person who operates a vehicle as a taxi;

“plate owner” means the owner of taxi plates;

“registration” means registration as the provider of a taxi dispatch service under section 28;

“repealed Act” means the *Taxi-car Control Act 1985*;

“taxi” means a vehicle which is used for the purpose of standing or plying for hire, or otherwise for the carrying of passengers for reward, but does not include an omnibus licensed under the *Transport Co-ordination Act 1966* or a vehicle of a class declared by the Director General under subsection (2) not to be a taxi;

“taxi dispatch service” means a service that provides —

- (a) radio base, computer or telephone services for taxis or makes arrangements for taxis to be provided with such services; and

- (b) controlling, co-ordinating, administrative and other services to the taxi industry,

for the purpose of arranging for a person who requests a taxi to be provided with one;

“Taxi Industry Development Fund” means the Taxi Industry Development Fund established under section 41;

“taxi plates” means a set of taxi number plates issued under section 18;

“use” as applied to taxi plates means to display, or to cause or permit another person to display, taxi plates on or in a vehicle.

(2) The Director General may, by notice published in the *Gazette* declare vehicles of a specified class not to be taxis and may, by subsequent notice so published, amend or revoke any such declaration.

(3) In this Act —

- (a) a reference to a partnership in relation to a tender for taxi plates or an application for registration is a reference to a tender or an application being made jointly by 2 or more persons;
- (b) the term **“corporation”** includes a company within the meaning of the *Companies (Co-operative) Act 1943*; and
- (c) a reference to a person that indicates that the person has a gender includes a reference to a corporation unless the context requires otherwise.

Operations within control area

4. The carrying of passengers —

- (a) into a control area from a place outside a control area;
or
- (b) from within a control area to a place outside the control area on the return journey by a direct route to the place from which passengers were brought into the control area,

shall not be taken as operating within the control area unless the carrying takes place in circumstances which are authorized in writing by the Director General.

PART 2 — ADMINISTRATION

Directions

5. (1) The Minister may give directions in writing to the Director General with respect to the performance of his or her functions, either generally or in relation to a particular matter, and the Director General shall give effect to any such direction.

(2) The text of any direction given under subsection (1) shall be included in the annual report submitted by the accountable officer of the department under section 62 of the *Financial Administration and Audit Act 1985*.

Delegatory power of Minister and Director General

6. (1) The Minister may, in writing and either generally or as otherwise provided by the instrument of delegation, delegate to the Director General, an officer of the department or any other person any of the powers or duties of the Minister under this Act, other than this power of delegation.

(2) The Director General may, in writing and either generally or as otherwise provided by the instrument of delegation, delegate to an officer of the department or any other person any of the powers or duties of the Director General under this Act, other than this power of delegation.

Director General to advise Minister

7. The Director General shall advise the Minister as to the most effective way of ensuring the provision of adequate and efficient taxi services to the public.

Taxi Industry Board

8. There is established by this section a Board, to be known as the Taxi Industry Board, which shall consist of 7 members, appointed by the Minister, who shall be persons with knowledge or experience in the taxi industry or as consumers of taxi services.

Tenure of office

9. A member of the Board —

- (a) holds office for such term not exceeding 2 years as is specified in the instrument appointing the member and is eligible for reappointment; and
- (b) may resign from office by notice in writing delivered to the Minister.

Chairperson

10. (1) The Minister shall appoint one of the members of the Board to be the chairperson.

(2) The Board shall appoint one member to be the deputy chairperson.

(3) The deputy chairperson is to perform the functions of the chairperson when the chairperson is unable to do so by reason of illness, absence or other cause, or when the office of chairperson is vacant.

Meetings

11. (1) Subject to this section, the Board is to determine the procedure for convening and conducting its meetings.

(2) At a meeting of the Board —

- (a) the chairperson, or in his or her absence the deputy chairperson, is to preside; and
- (b) in the absence of both of those members, a member elected by the members present is to preside.

(3) The Board must keep minutes of its meetings of a standard approved by the Minister and provide the Minister with a copy of the minutes of each meeting.

Remuneration and allowances

12. A member of the Board is entitled to such remuneration and allowances as are determined by the Minister from time to time on the recommendation of the Minister for Public Sector Management.

Funding of Board

13. The funds necessary for the performance of the functions of the Board shall be paid out of the Taxi Industry Development Fund.

Functions of Board

14. The functions of the Board are —

- (a) to keep the Minister informed as to the state of the taxi industry;
- (b) to develop policies and plans for the improvement of the taxi industry; and
- (c) when requested by the Minister, to advise the Minister in relation to applications for grants from the Taxi Industry Development Fund.

PART 3 — OPERATION OF TAXIS

Division 1 — Taxi plates

Taxi plates

15. (1) A vehicle may not be operated as a taxi within a control area unless that vehicle is operated —

- (a) using taxi plates; and
- (b) in accordance with this Act.

(2) Where a vehicle is operated as a taxi contrary to subsection (1) an offence is committed by —

- (a) the owner of the vehicle;
- (b) the driver of the vehicle;
- (c) the operator of the vehicle as a taxi; and
- (d) the provider of the taxi dispatch service involved, if any,

and where the vehicle is owned or operated by more than one person each of those persons commits an offence.

(3) A person who commits an offence against this section is liable to a penalty of \$5 000.

Taxi plates offered for sale by public tender

16. Taxi plates shall be offered for sale by public tender, with the invitation to tender specifying —

- (a) the criteria to be met by the successful tenderer;

- (b) the minimum tender, if any, which will be accepted; and
- (c) the conditions to be imposed on the operation of a taxi using the plates which are being offered for sale.

Form of tender

17. (1) A tender for taxi plates shall be in the approved form and shall —

- (a) where the tender is submitted by a partnership, disclose the name and address of each member of the partnership;
- (b) where the tender is submitted by a corporation, either solely or as a member of a partnership, disclose the name and address of the directors, the other persons concerned in the management of the corporation, and the shareholders of the corporation; and
- (c) disclose the identity of any other person who is to have a financial interest in the ownership of the taxi plates.

(2) The Director General may require the statements in a tender be verified by a statutory declaration.

(3) A person shall not furnish any false or misleading information in a tender for taxi plates.

Penalty: \$10 000.

(4) Taxi plates shall not be issued to a tenderer if that tenderer would thereby become the owner of more than 5 sets of taxi plates, either solely or in partnership with another person.

Issue of taxi plates

18. (1) If the Director General is satisfied in respect of a tender for taxi plates —

(a) that —

(i) the tenderer;

(ii) in the case of a joint tender, each of the tenderers; or

(iii) in the case of a tender by a corporation, either solely or as a member of a partnership, each of the directors and other persons concerned in the management of that corporation,

is of good repute and is, or would be if the tender were made by him or her, a fit person to be the owner of taxi plates;

(b) that all the criteria specified in the invitation to tender have been met; and

(c) that the issue of taxi plates to the tenderer will not occasion the number of taxis of any particular class operating in a control area, or part of a control area, to exceed the prescribed number,

the Director General may accept the tender and issue the tenderer with a set of taxi number plates, sufficient for one vehicle and of an approved type, which may be used subject to any conditions imposed under section 20 (1).

(2) Taxi plates shall not be issued without the approval of the Minister and payment in full, prior to issue, of —

(a) the amount tendered; and

(b) any charge prescribed to cover the cost of the plates.

(3) Taxi plates are not issued with reference to any particular vehicle.

Annual fees for taxi plates

19. (1) A prescribed annual fee for taxi plates is payable by plate owners at the time and in the manner prescribed.

(2) A plate owner who fails to make a payment in respect of an annual fee within 30 days of the due date for that payment, or such other date as the Director General may allow, forfeits to the Director General his or her right to those plates.

(3) The annual fee payable by a person deemed to be a plate owner by virtue of section 47 (2) (a) or (b) becomes due and payable on the appointed day.

(4) The Minister may, by order published in the *Gazette*, fix a day as the appointed day for the purpose of subsection (3).

Conditions

20. (1) The Director General may impose conditions on the operation of a taxi using specified taxi plates in relation to —

- (a) the area in which, and the hours during which the taxi may be operated and the hours during which the taxi must be operated;
- (b) fare schedules;
- (c) driver qualifications and standards;
- (d) vehicle standards and inspection requirements;
- (e) insurance requirements;
- (f) record keeping;

- (g) complaint resolution;
- (h) the transfer of the taxi plates,

and such other matters as may be prescribed by regulation.

(2) A person who is —

- (a) a plate owner, shall comply with, or ensure compliance with, conditions imposed under subsection (1);
- (b) where the plate owner is not the operator, the operator, shall comply with, or ensure compliance with, conditions imposed under subsection (1) (a), (c), (d), (e), (f) or (h); or
- (c) where a taxi is operated using a taxi dispatch service, the provider of that taxi dispatch service, shall comply with, or ensure compliance with, conditions imposed under subsection (1) (a), (b), (c) or (d).

Penalty: \$5 000.

(3) On or after the appointed day conditions may be imposed under subsection (1) on the operation of a taxi using taxi plates owned by a person who is deemed to be a plate owner by virtue of section 47 (2) (a) or (b).

(4) Where a plate owner is aggrieved by the imposition of a condition pursuant to subsection (3) that plate owner may, within 14 days of being notified of the imposition of that condition, appeal to a Local Court against the Director General's decision to impose such a condition.

(5) A Local Court hearing an appeal under this section may confirm the Director General's decision or quash that decision and substitute its own decision and may make such other order, including an order as to costs, as it thinks fit.

(6) The Minister may, by order published in the *Gazette*, fix a day as the appointed day for the purpose of subsection (3).

Use of taxi plates

21. (1) A plate owner shall ensure that taxi plates owned by him or her are used in the manner directed by the Director General and not otherwise.

Penalty: \$1 000.

(2) A person shall not use taxi plates on a vehicle, or cause taxi plates to be used on a vehicle, other than a vehicle which is being operated as a taxi in accordance with this Act.

Penalty: \$5 000.

Variation of conditions

22. (1) If the Director General considers that any of the conditions imposed under section 20 (1) should be varied, revoked or added to, he or she shall serve notice on the plate owner specifying the variation, revocation or addition and the variation, revocation or addition shall take effect 30 days after service of the notice.

(2) Where a plate owner is aggrieved by a decision of the Director General under subsection (1) that person may, within 14 days of being served with the relevant notice, appeal to a Local Court against the Director General's decision.

(3) A Local Court hearing an appeal under this section may confirm the Director General's decision or quash that decision and substitute its own decision and may make such other order, including an order as to costs, as it thinks fit.

Divesting and forfeiture of taxi plates

23. (1) Where the Director General believes that a plate owner may no longer be fit to be an owner of taxi plates he or she may serve notice on that person stating the reason he or she holds that belief and requiring that person to satisfy him or her within 30 days that that person is so fit.

(2) Where a plate owner fails to satisfy the Director General in accordance with subsection (1) the Director General may serve notice on that person requiring him or her to divest himself or herself of any interest in the ownership of taxi plates within the next succeeding 45 days.

(3) Where a person fails to divest himself or herself of his or her interest in the ownership of taxi plates within the time specified under subsection (2), then unless that person has appealed under subsection (4), his or her interest in the ownership of the plates is forfeited to the Director General and if he or she was the sole plate owner the plates may then be offered for sale in accordance with section 16.

(4) Where the Director General requires a person to divest himself or herself of an interest in the ownership of taxi plates that person may, within 14 days of service of the notice under subsection (2), appeal to a Local Court against the Director General's decision that he or she is no longer fit to be an owner of taxi plates.

(5) A Local Court hearing an appeal under this section may confirm the Director General's decision or quash that decision and substitute its own decision and may make such other order, including an order as to costs, as it thinks fit.

Transfer of taxi plates

24. (1) Subject to this section, with the approval of the Director General the ownership, or an interest in the ownership,

of taxi plates, may be transferred on such terms, including price, as are agreed between the transferor and the transferee.

(2) An application for approval of a transfer of the ownership, or an interest in the ownership, of taxi plates, including a transfer resulting from a requirement to divest under section 23 (2), or an order under section 23 (5), shall be —

- (a) made by the proposed transferee in the approved form; and
- (b) accompanied by the prescribed fee, if any.

(3) A transfer of the ownership, or an interest in the ownership, of taxi plates, shall not be approved if the proposed transferee would thereby become the owner of more than 5 sets of taxi plates, either solely or in partnership with another person.

(4) Upon being satisfied, in respect of the proposed transferee, as would be required by section 18 (1) (a) in the case of a tender for taxi plates, the Director General may approve the transfer of the ownership, or an interest in the ownership, of the taxi plates.

Return of taxi plates

25. (1) A plate owner shall return taxi plates or cause them to be returned, to the Director General, within 14 days of —

- (a) a failure to pay an annual fee as required by section 19; or
- (b) the forfeiture of those plates under section 23.

Penalty: \$5 000.

(2) Where a person fails to return taxi plates in accordance with subsection (1) an authorized officer may require that person to deliver the plates to him or her for return to the Director

General and where a person fails to do so, or where the person cannot be found, an authorized officer may seize the plates and return them to the Director General.

***Division 2 — Registration of providers of
taxi dispatch services***

Taxi dispatch service

26. A person shall not —

- (a) provide or advertise that he or she provides, or is willing to provide, a taxi dispatch service; or
- (b) co-operate, in any manner which is not approved by the Director General with another person to provide a taxi dispatch service,

within a control area unless that person is registered as the provider of a taxi dispatch service.

Penalty: \$5 000.

Application for registration

27. An application for registration as the provider of a taxi dispatch service shall be in the approved form and shall —

- (a) be made by the person intending to provide the taxi dispatch service;
- (b) where the application is made by a partnership, disclose the name and address of each member of the partnership;
- (c) where the application is made by a corporation, either solely or as a member of a partnership, disclose the

name and address of the directors, the other persons concerned in the management of the corporation, and the shareholders of the corporation; and

- (d) disclose the identity of any other person who is to have a financial interest in the taxi dispatch service.

Registration

28. (1) If the Director General is satisfied —

(a) that —

- (i) the applicant;
- (ii) in the case of a joint application, each of the applicants; or
- (iii) in the case of an application by a corporation, either solely or as a member of a partnership, each of the directors and other persons concerned in the management of that corporation,

is of good repute and is, or would be if the application were made by him or her, a fit person to be the provider of a taxi dispatch service; and

- (b) that the applicant is capable of providing an efficient and reliable taxi dispatch service and complying with section 29,

the Director General may register that person as the provider of a taxi dispatch service, subject to any conditions imposed under section 29 (1).

(2) No fee is payable for registration.

Conditions

29. (1) The Director General may impose conditions on the provider of a taxi dispatch service in relation to —

- (a) fare schedules;
- (b) customer service standards;
- (c) administration and infrastructure standards;
- (d) record keeping;
- (e) complaint resolution,

and such other matters as may be prescribed by regulation.

(2) The provider of a taxi dispatch service shall comply with the conditions imposed under subsection (1).

Penalty: \$5 000.

Cancellation of registration

30. (1) Where the Director General believes that the provider of a taxi dispatch service —

- (a) is no longer fit to be registered as such;
- (b) is no longer capable of providing an efficient and reliable taxi dispatch service;
- (c) has failed in his or her obligations under section 29 (2) to such an extent that the continued registration of that provider is not in the public interest; or
- (d) obtained registration by fraud or misrepresentation,

the Director General may serve notice on that provider stating the reason he or she holds that belief and requiring that provider to satisfy him or her within 30 days that the registration of that provider should not be cancelled.

(2) Where the provider of a taxi dispatch service fails to satisfy the Director General in accordance with subsection (1), the Director General may serve notice on that provider advising him or her —

(a) of the provisions of subsection (3); and

(b) that unless an appeal is lodged under that subsection the registration of that provider will be cancelled 14 days after service of the notice.

(3) The provider of a taxi dispatch service may, within 14 days after service of a notice under subsection (2), appeal to a Local Court against the Director General's decision to cancel his or her registration and where he or she does so that registration is suspended from 7 days after the notice is served until the appeal is determined.

(4) A Local Court hearing an appeal under this section may confirm the Director General's decision or quash that decision and substitute its own decision and may make such other order, including an order as to costs, as it thinks fit.

(5) Where the provider of a taxi dispatch service does not appeal under subsection (3) the registration of that provider is cancelled 7 days after service of the notice under subsection (2).

PART 4 — GENERAL

Authorized officers

31. The Director General may designate any officer of the department as an authorized officer, and may otherwise appoint as many authorized officers as he or she considers necessary for the purposes of this Act.

Powers of authorized officers

32. (1) For the purpose of exercising his or her powers under this section an authorized officer may enter a taxi.

(2) Where an authorized officer has reason to believe that a vehicle is being operated as a taxi he or she may —

- (a) stop the vehicle;
- (b) direct the driver to produce for his or her inspection the appropriate driver's licence issued under the *Road Traffic Act 1974*;
- (c) direct any person to alight from, or not to enter, the vehicle;
- (d) require information or documentation as to the use of the vehicle from the driver or any hirer or passenger, and require any such person to state his or her name and address; and
- (e) inspect the vehicle.

(3) An authorized officer may require a plate owner, an operator or the provider of a taxi dispatch service to produce any records, books or documents relating to —

- (a) the operation of a vehicle as a taxi;

- (b) any bonds referred to in section 36; or
- (c) the taxi dispatch service,

and may take copies of, or extracts from, anything so produced.

(4) Where an authorized officer is of the opinion that a taxi is being operated in a physical or mechanical condition or a state of repair or cleanliness which is not in accordance with conditions imposed under section 20 (1), he or she may, by notice in writing —

- (a) direct the plate owner concerned, the operator or the person providing the taxi dispatch service involved to remedy such defects as are specified in the notice and to take the taxi, or cause the taxi to be taken, within such time as is specified in the notice, to a nominated place for inspection; and
- (b) prohibit the continued operation of the taxi until it has been inspected and found to be in a satisfactory condition.

(5) A person shall not operate a taxi the operation of which has been prohibited under subsection (4).

Penalty: \$1 000.

(6) A plate owner, an operator or a person providing a taxi dispatch service shall not fail —

- (a) to comply with a notice given; or
- (b) to rectify any defect that is found during an inspection directed,

under subsection (4) (a).

Penalty: \$1 000.

(7) Where an authorized officer has reason to believe that a person is operating a vehicle as a taxi other than in accordance with this Act or the regulations or any conditions imposed under section 20 (1), he or she may require that person to answer any questions or provide any information, and to produce any records, books, documents or vehicles.

(8) A person shall not —

- (a) disobey or fail to comply with a lawful direction or requirement of; or
- (b) furnish false information, or use improper or abusive language to, or wilfully hinder or obstruct, mislead, intimidate or threaten,

an authorized officer exercising the powers conferred by this Act.

Penalty: \$1 000.

Averments

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

- (a) a person is or was the owner of a specified vehicle;
- (b) a person is, or was, a plate owner;
- (c) a person is, or was, registered as the provider of a taxi dispatch service; or
- (d) a particular condition was imposed under section 20 (1) or 29 (1),

shall, in the absence of proof to the contrary, be taken as proved.

Affidavit evidence

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

- (a) copies of affidavits of evidence in support of the matters alleged in the complaint; and
- (b) a notice in the prescribed form advising the defendant that he or she may, by election in writing in the prescribed form (copies of which form shall be attached to the notice) delivered by post or otherwise to the complainant and to the court of petty sessions at the place so appointed not later than 21 days before the time so appointed, elect to appear or not to appear on the hearing of the complaint but that if he or she does not so appear the court of petty sessions may proceed —
 - (i) to hear and determine the complaint in his or her absence;
 - (ii) to permit those affidavits to be tendered in evidence; and
 - (iii) to determine the complaint on such particulars in the affidavits in support of the matters alleged in the complaint as would, under the laws of evidence apart from this section, be admissible if given orally before the court, and not on any other particulars.

(2) In this section and section 35 the procedure set out in subsection (1) (b) is referred to as the alternative procedure.

(3) Where a defendant is duly served with a summons accompanied by copies of affidavits and a notice and copies of a

form of election as mentioned in subsection (1) and does not appear on the hearing of the complaint, whether or not he or she has under that subsection elected to do so, the court may use the alternative procedure.

(4) For the purposes of this section an affidavit of evidence in support of the matters alleged in a complaint may be taken by, or made and sworn before, any magistrate or justice or any clerk of petty sessions appointed under section 25A of the *Justices Act 1902* or commissioner appointed under section 175 (1) of the *Supreme Court Act 1935*.

Proof of prior convictions when complaint proceeds on affidavit evidence

35. (1) Where a defendant is duly served with a summons accompanied by copies of affidavits and a notice and copies of a form of election as mentioned in section 34 (1) and it is alleged that he or she has been previously convicted of an offence, the summons may also be accompanied by a copy of a separate document in the prescribed form, signed by the complainant and setting out particulars of the alleged prior convictions.

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

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

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

(3) Where a defendant is duly served with a summons accompanied by copies of affidavits and a notice and copies of a form of election as mentioned in section 34 (1) and by a copy of a separate document as mentioned in subsections (1) and (2) and does not appear on the hearing of the complaint to which the summons refers and the court of petty sessions uses the alternative procedure, the court may receive that separate document as evidence that the defendant was convicted of the offences alleged in that separate document and of the particulars relating to the convictions set out in it, but the fact that a copy of the separate document was served on the defendant shall not be communicated to the court or any member of the court unless and until the defendant has been convicted of the offence alleged in that complaint, if the disclosure of the prior convictions alleged in the separate document is not admissible under the laws of evidence apart from this section.

(4) Where a defendant is duly served with a summons accompanied by copies of affidavits and a notice and copies of a form of election as mentioned in section 34 (1) and by a copy of a separate document as mentioned in subsections (1) and (2) and he or she appears on the hearing of the complaint to which the summons refers —

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

(5) Without in any way limiting the generality of the provisions of the law with respect to the re-hearing of complaints

it is hereby declared that, where evidence of prior convictions is tendered under this section, the court may set aside on such terms as to costs or otherwise as the court thinks just any conviction or order if it has reasonable grounds to believe that the document tendered in evidence was not in fact brought to the notice of the defendant or that the defendant was not in fact convicted of the offences as alleged in the document.

Bonds held by operators

36. (1) In this section, unless the contrary intention appears —

“bond” means an amount of money paid or payable by a driver to an operator as security for payment of any amount which is, or may become payable by the driver to the operator;

“operator” means a person who operates a vehicle as a taxi by causing, by leasing or otherwise, another person to drive that vehicle.

(2) Where an operator requires a driver to pay a bond that operator shall, on receipt of the bond —

(a) give to the driver —

(i) a receipt specifying the name of the driver, the amount received and the date on which it was received; and

(ii) a statement specifying the purposes for which the bond may be applied; and

(b) deposit the bond to the credit of a trust account, whether a general account or an account maintained for that particular driver, and there retain it until it is dealt with in accordance with this section.

(3) A bond is not available for the satisfaction of any debt due to, or any claim or demand made by, a person other than the operator or the driver on whose behalf it is held and shall not be attached or taken in execution at the instance of any other person.

(4) An operator may apply a bond, or part of a bond, for the purposes specified in the statement referred to in subsection (2) (a) (ii) and not for any other purpose.

(5) Within 14 days of the application of a bond or any part of it for any purpose the operator shall provide the driver with a statement in writing setting out the amount of money applied and the purpose for which it was applied.

Penalty: \$1 000.

(6) A bank with which an operator maintains a trust account is not obliged to inquire into the application of moneys deposited to the credit of that account and is in no way liable in respect of any misapplication of those moneys and, except as regards the operation of the account, a bank has no right of recourse against money standing to the credit of an account that is designated as, or is evident as being, a trust account.

(7) Every operator shall maintain books of account of all bonds received, deposited in a trust account and dispersed or otherwise dealt with by that operator, in such a manner as to disclose the true position as regards those bonds and to enable the books to be readily and conveniently audited.

Penalty: \$1 000.

(8) Within 14 days of a driver ceasing to be contracted, engaged or employed to drive a taxi operated by an operator to whom the driver paid a bond, that operator shall return the bond, or so much of the bond as has not been applied in accordance with this section, to the driver, together with interest at the prescribed rate.

Penalty: \$5 000.

Appeals against certain decisions

37. (1) Where the Director General refuses to —

- (a) issue taxi plates under section 18;
- (b) approve the transfer of taxi plates or an interest in taxi plates under section 24; or
- (c) register a person as a provider of a taxi dispatch service under section 28,

on the ground that he or she is not satisfied, as required by those sections, that —

- (d) a tenderer;
- (e) a proposed transferee; or
- (f) an applicant for registration,

is fit to be the owner of taxi plates or the provider of a taxi dispatch service, he or she shall give the person notice in writing stating why he or she is not so satisfied.

(2) A person aggrieved by a decision of the Director General referred to in subsection (1) may, within 14 days of service of the notice under that subsection, appeal to a Local Court against that decision.

(3) A Local Court hearing an appeal under this section may confirm the Director General's decision or quash that decision and substitute its own decision and may make such other order, including an order as to costs, as it thinks fit.

Procedure on appeals

38. (1) An appeal to a Local Court under section 20 (4), 22 (2), 23 (4), 30 (3) or 37 (2) shall be made, and the proceedings

conducted, in such manner as is prescribed by the rules of court or directed by the court.

(2) Unless the court otherwise orders an appeal shall be in the nature of a re-hearing.

Infringement notices

39. (1) An authorized person who has reason to believe that a person has committed a prescribed offence against this Act may, within 21 days after the alleged offence is believed to have been committed, give an infringement notice to the alleged offender.

(2) An infringement notice shall be in the prescribed form and shall in every case —

- (a) contain a description of the alleged offence; and
- (b) advise that if the alleged offender does not wish to have a complaint of the alleged offence heard and determined by a court, the amount of money specified in the notice as being the modified penalty for the offence may be paid to the Director General within a period of 28 days after the giving of the notice.

(3) In an infringement notice the amount specified as being the modified penalty for the offence referred to in the notice shall be the amount that was the prescribed modified penalty at the time the alleged offence is believed to have been committed.

(4) The Director General 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.

(5) 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.

(6) The Director General 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.

(7) Where an infringement notice is withdrawn after the modified penalty has been paid, the amount shall be refunded.

(8) An amount paid as a modified penalty shall, subject to subsection (7), be dealt with as if it were a penalty imposed summarily under the *Justices Act 1902*.

(9) Payment of a modified penalty shall not be regarded as an admission for the purposes of any proceedings, whether civil or criminal.

(10) The Director General shall issue to each authorized officer a certificate stating that he or she is authorized to issue infringement notices under this section and the authorized officer shall 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.

Regulations

40. The Governor may make regulations prescribing all matters that are required or permitted by this Act to be prescribed, or are necessary or convenient to be prescribed for giving effect to the purposes of this Act and in particular —

- (a) prescribing parts of the State as control areas for the purposes of this Act;
- (b) prescribing classes of taxis by reference to restrictions on the manner in which or the purposes for which taxis of those classes may be operated;

- (c) prescribing the number of any particular class of taxi plates which may be issued per 1 000 head of population in a control area or part of a control area;
- (d) prescribing offences and modified penalties for the purposes of section 39;
- (e) prescribing forms for the purposes of this Act;
- (f) relating to, and prescribing fees for the re-issue of, taxi plates which have been lost, damaged or stolen;
- (g) prescribing matters with respect to which conditions may be imposed under section 20 (1) or 29 (1);
- (h) regulating the conduct and behaviour of taxi drivers in relation to the provision of taxi services;
- (i) regulating the conduct and behaviour of passengers in taxis;
- (j) prohibiting taxi drivers from refusing to accept any approved voucher or credit arrangement as payment or part-payment of a fare;
- (k) regulating the circumstances under which a driver may refuse to accept a passenger or may terminate a hiring;
- (l) with respect to the calculation and payment of fares and charges and the operation of fare schedules;
- (m) with respect to the equipment, including meters, required to be carried on or installed in a taxi and with respect to the examination or testing of such equipment;
- (n) prescribing notices, information and other material which must, and such material which must not, be carried or displayed in taxis.

Taxi Industry Development Fund

41. (1) There shall be an account known as the Taxi Industry Development Fund which shall form part of the Trust Fund referred to in section 9 of the *Financial Administration and Audit Act 1985* and which shall be administered by the Director General.

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

- (a) all moneys standing to the credit of the Taxi Control Fund under the repealed Act immediately before the commencement day;
- (b) all moneys payable to the Minister under section 47 (2) (e);
- (c) all moneys received from the sale of taxi plates under this Act;
- (d) the moneys (if any) appropriated by Parliament to the Fund;
- (e) any borrowings under section 44; and
- (f) any other moneys lawfully received by, made available to, or payable to, the Fund.

(3) Section 14 of the *Financial Administration and Audit Act 1985* does not apply to the Taxi Industry Development Fund.

(4) With the approval, and at the direction of the Minister, grants may be made from the Taxi Industry Development Fund for the purpose of funding, or partly funding, promotional, research and development projects intended and designed to benefit the taxi industry.

(5) There shall be paid from the moneys from time to time standing to the credit of the Taxi Industry Development Fund —

- (a) the remuneration and allowances payable to members of the Board;
- (b) the funds referred to in section 13;
- (c) grants made under subsection (4);
- (d) the amounts payable for any taxi plates surrendered to the Minister under section 43; and
- (e) repayments of, and interest payable on, any moneys borrowed under section 44.

Financial provision

42. Subject to section 41, all moneys received by the Minister, the Director General or the department by way of fees and charges payable under this Act shall be placed to the credit of the Transport Co-ordination Fund established under section 62 of the *Transport Co-ordination Act 1966*.

Surrender of certain taxi plates

43. (1) A person who is deemed to be a plate owner by virtue of section 47 (2) (a) may, if invited to do so by the Minister, surrender his or her taxi plates to the Minister and where he or she does so, the Minister shall pay to that person an amount that the Minister determines to be reasonable having regard to the premium paid by that person under the repealed Act and the market value of those taxi plates.

(2) Payments under subsection (1) shall be made out of the Taxi Industry Development Fund.

Minister may borrow

44. (1) Where the funds standing to the credit of the Taxi Industry Development Fund are insufficient for the purpose of section 43, the Minister may, for the purpose of that section —

- (a) borrow from the Treasurer such amounts as the Treasurer may advance, on such conditions as to repayment and payment of interest as the Treasurer may impose, and the Treasurer is hereby authorized to make such advances; or
- (b) with the prior written approval of the Treasurer and upon such terms and conditions as may be specified in that approval, borrow moneys from persons other than the Treasurer.

(2) Repayments of, and the interest payable on, any moneys borrowed under this section shall be paid from the Taxi Industry Development Fund.

Review of Act

45. (1) The Minister shall carry out a review of the operations of this Act as soon as practicable after every fifth anniversary of the commencement of this Act and in the course of such review the Minister shall consider and have regard to —

- (a) the attainment of the objects of this Act;
- (b) the administration of this Act;
- (c) the effectiveness of the operation of the department in relation to this Act;
- (d) the effectiveness of the operation of, and the need for the continuation of, the Board; and

- (e) such other matters as appear to him or her to be relevant.

(2) The Minister shall prepare a report based on his or her review of this Act and shall, as soon as practicable after its preparation, cause the report to be laid before each House of Parliament.

PART 5 — REPEAL AND TRANSITIONAL PROVISIONS**Repeal**

46. The *Taxi-car Control Act 1985* is repealed.

Transitional

47. (1) In this section, unless the contrary intention appears **“former Board”** means the Taxi Control Board preserved and continued by section 6 of the repealed Act.

(2) On the commencement day, by virtue of this section —

- (a) the holder of a taxi-car licence, including a private taxi-car licence, issued under the repealed Act is deemed to be a plate owner under this Act;
- (b) on payment of a premium of \$10 000 the holder of a temporary taxi-car licence issued under the repealed Act is deemed to be a plate owner under this Act;
- (c) number plates issued under section 37 of the repealed Act are deemed to be taxi plates under this Act;
- (d) until conditions are imposed pursuant to section 20 (3), any restrictions or conditions to which a licence issued under the repealed Act was subject shall be deemed to be conditions imposed under section 20 (1);
- (e) any moneys payable to the former Board as, or on account of, a premium under section 32 or an increase in premium under section 33 (4), of the repealed Act, and any fees or charges or other moneys payable to the former Board under the repealed Act and outstanding on the commencement day become payable to the Minister at the time, and in the

manner, in which those moneys would have been payable to the former Board under the repealed Act;

- (f) all assets of the former Board, except the Taxi Control Fund referred to in section 41 (2) (a), shall become assets of the Minister without the need for any conveyance, transfer, assignment or assurance, and —
 - (i) despite anything in the *Stamp Act 1921*, no duty is payable under that Act in respect of the passing of any of those assets; and
 - (ii) the Registrar of Titles, the Registrar of Deeds, the Minister administering the *Land Act 1933*, and any other person authorized by a written law to record and give effect to the registration of documents relating to transactions affecting any estate or interest in land or other property, are empowered to record and register in the appropriate manner such of those documents as are necessary to give effect to this section;
- (g) all rights and liabilities of the former Board, including contingent liabilities, become rights and liabilities of the Minister;
- (h) any agreement, instrument or policy of insurance to which the former Board is a party has effect as if the Minister was substituted for the former Board as a party to the agreement, instrument or policy;
- (i) all proceedings commenced before the commencement day by or against the former Board are to be taken to be proceedings pending by or against the Minister;
- (j) anything done or omitted to be done in relation to the assets, rights and liabilities referred to in paragraphs (f) and (g) before the commencement day by, to or in respect of the former Board (to the extent

that that thing has any force or effect) is to be taken to have been done or omitted to be done by, to or in respect of the Minister; and

- (k) the Minister becomes the owner of all registers, documents, books and other records (however compiled, recorded or stored) relating to the former Board and the exercise of its functions under the repealed Act, and of any tape, disc or other device or medium relating to such records.

(3) Any cancellation or suspension of a taxi-car licence ordered or made under the repealed Act shall continue and have effect for as long as it would have done under the repealed Act and for the purposes of dealing with that licence or registration the Minister has and may exercise the powers of the former Board under the repealed Act.

(4) Subject to subsection (5) the appointment of a person who, immediately before the commencement day, held office as a member of the former Board shall terminate on the commencement day.

(5) Despite section 46, the former Board as constituted immediately before the commencement day shall continue in existence for the purpose of preparing, as soon as practicable after the commencement day, a report on its operations in respect of the period commencing on 1 July 1994 and ending on the commencement day.

(6) A report prepared under subsection (5) shall comply, with any necessary modifications, with the provisions of the *Financial Administration and Audit Act 1985* regulating the financial administration, audit and reporting of statutory authorities and shall be deemed to be an annual report for the purposes of section 69 of that Act.

PART 6 — CONSEQUENTIAL AMENDMENTS**Road Traffic Act 1974 amended**

48. The *Road Traffic Act 1974** is amended in section 5, in the definition of “passenger vehicle” by deleting paragraph (a) and substituting the following —

“

- (a) a taxi within the meaning of the *Taxi Act 1994* and any vehicle that is licensed to stand or ply for the carriage of passengers for reward, including an omnibus; or

”.

[* Reprinted as at 4 April 1991.

For subsequent amendments see 1993 Index to Legislation of Western Australia, Table 1, pp. 182-3 and Act No. 13 of 1994.]

Transport Co-ordination Act 1966 amended

49. The *Transport Co-ordination Act 1966** is amended —

- (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

”;

- (b) in section 15B (2) (j) by deleting subparagraph (ii) and substituting the following subparagraph —

“ (ii) the *Taxi Act 1994*, ”;

- (c) in section 47Z (1) by deleting the definition of “control area” and substituting the following definition —

66

“control area” means a control area under the *Taxi Act 1994*;

”

- (d) by repealing section 47ZE and substituting the following section —

“

Drivers

47ZE. 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.

”

and

- (e) in section 47ZF —

- (i) in paragraph (h), by deleting “or for application for registration or renewal of registration as a taxi-car driver,”;
- (ii) in paragraph (l), by deleting subparagraphs (ii) and (iii);
- (iii) by deleting paragraph (n); and
- (iv) in paragraph (o), by deleting “and taxi-car drivers”.

[* Reprinted as at 6 March 1987.

For subsequent amendments see 1993 Index to Legislation of Western Australia, Table 1, pp. 214-5.]

Amendments to certain other Acts

50. The Acts referred to in the first column of Schedule 1 are amended as set out in the second column of that Schedule.

SCHEDULE 1

[Section 50]

AMENDMENTS TO CERTAIN OTHER ACTS

Short title of Act	Amendment
<i>Constitution Acts Amendment Act 1899</i>	In Part 3 of Schedule V delete “The Taxi Control Board constituted under the <i>Taxi-cars (Co-ordination and Control) Act 1963.</i> ” and substitute the following — “ The Taxi Industry Board established by the <i>Taxi Act 1994.</i> ”.
<i>Financial Administration and Audit Act 1985</i>	In Schedule 1, delete “Taxi Control Board”.
<i>Industrial Relations Act 1979</i>	In Schedule 2, delete “The Taxi Control Board constituted under the <i>Taxi-cars (Co-ordination and Control) Act 1963.</i> ”.
<i>Parliamentary Commissioner Act 1971</i>	In the Schedule delete “Taxi Control Board constituted under the <i>Taxi-cars (Co-ordination and Control) Act 1963</i> ” and substitute the following — “ The Taxi Industry Board established by the <i>Taxi Act 1994.</i> ”.