

1966.]

*Road and Air Transport
Commission.*

[No. 53.]

ROAD AND AIR TRANSPORT COMMISSION.

No. 53 of 1966.

AN ACT to establish a Commission to control and license the transport of passengers and goods by Road and by Air and for incidental and other purposes.

[Assented to 5th December, 1966.]

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

PART I.—PRELIMINARY.

1. This Act may be cited as the *Road and Air Transport Commission Act, 1966.* Short title.

The sectional references in the marginal notes of this Act are a reference to sections of the State Transport Co-ordination Act, 1933.

Commence-
ment.

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

Parts and
Divisions.
S. 2.

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

PART I.—PRELIMINARY.—Ss. 1-6.

PART II.—ADMINISTRATION.—Ss. 7-18.

*Division 1.—Commissioner of Transport—
Constitution—Officers.—Ss. 7-15.*

*Division 2.—Powers of Commissioner of
Transport.—Ss. 16-18.*

PART III.—LICENCES.—Ss. 19-47.

*Division 1—General Provisions relating to
Licensing of Public Vehicles.—Ss. 19-23.*

Division 2—Omnibuses.—Ss. 24-32.

*Division 3—Commercial Goods Vehicles.—
Ss. 33-42.*

Division 4—Aircraft—Ss. 43-47.

PART IV.—MISCELLANEOUS.—Ss. 48-63.

Interpre-
tation.
S. 3.

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

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

“Commissioner” means the Commissioner of Transport constituted under this Act;

“Deputy Commissioner” means the person appointed under this Act to the office of Deputy Commissioner of Transport;

“goods” means chattels of every description;

“gross weight”, in relation to a commercial goods vehicle, means the sum, expressed in hundredweights, 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;

“local authority” means the council of a municipality constituted under the Local Government Act, 1960;

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

“omnibus” means a motor vehicle used or intended to be used as a passenger vehicle to carry passengers at separate fares and includes any such vehicle so used or intended to be used by or on behalf of the Crown or an agency of the Crown, other than the Metropolitan (Perth) Passenger Transport Trust, and whether in connection with a railway or not;

“operate”, as applied to a vehicle, means to carry, or offer to carry, passengers or goods for hire or for any consideration, or in the course of or in connection with any trade or business whatever;

“owner”, in relation to a vehicle, includes every person who—

(a) is the owner or a co-owner of the vehicle; or

(b) has the use of the vehicle under a hiring, lease or hire-purchase agreement,

but does not include an unpaid vendor of the vehicle under a hire-purchase agreement;

“permit” means a permit issued under this Act and for the time being in force;

“public vehicle” means any vehicle that is required to be licensed under this Act;

“road” includes any street or place open to or used by the public, and all bridges and culverts and other things appurtenant thereto and used in connection therewith;

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

“Schedule” means a schedule to this Act;

“section” means a section of this Act;

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

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

Act to be read
subject to
Common-
wealth
Constitution.
S. 4.

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

6. (1) All the right, title and interest of the Commissioner of Transport constituted under the State Transport Co-ordination Act, 1933, existing immediately prior to the coming into operation of this Act, in and to all property owned by that Commissioner shall, by force of this section, be transferred to and vested in the Commissioner, under this Act.

Transition.
S. 4A.

(2) Subject to this Act, all rights, obligations and liabilities of the Commissioner of Transport, under the State Transport Co-ordination Act, 1933, existing immediately prior to the commencement of this Act, shall, by force of this section, be vested in, or imposed on, the Commissioner, and a reference in a law of the State, contract, agreement or other instrument in force immediately prior to the coming into operation of this Act shall be read as a reference to the Commissioner, constituted under this Act.

(3) Any right of action or power of prosecution had by or against the Commissioner of Transport, under the State Transport Co-ordination Act, 1933, shall continue to be had by and may be enforced by or against the Commissioner.

PART II.—ADMINISTRATION.

Division 1.—Commissioner of Transport—Constitution— Officers.

7. (1) For the purposes of this Act there shall be a Commissioner of Transport who shall be appointed and hold office as provided in section nine.

Commis-
sioner of
Transport.
S. 4B.

(2) Subject to this Act and to the general control of the Minister, the Commissioner is responsible for the administration of this Act.

(3) For the purposes of this Act the Commissioner of Transport—

- (a) is a body corporate;
- (b) shall have a seal; and

(c) is capable of acquiring, holding, giving security over and disposing of real and personal property and of suing and being sued in his corporate name.

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

Deputy
Commissioner.
S. 4C.

8. (1) The Commissioner shall be assisted by a Deputy Commissioner of Transport who shall be appointed and hold office as provided in section nine.

(2) The Deputy Commissioner shall give such advice and assistance to the Commissioner as the Commissioner requires and shall perform such duties as the Commissioner directs.

Appointment
of Com-
missioner
and Deputy
Commis-
sioner, term
and con-
ditions of
appointment.
S. 4D.

9. (1) The Commissioner and Deputy Commissioner—

- (a) shall be appointed by the Governor for such period, not exceeding seven years, as the Governor determines, but are eligible for re-appointment;
- (b) shall hold office for the term for which each is appointed subject to the provisions of this Act;
- (c) shall not be financially interested, other than in their respective capacities as Commissioner or Deputy Commissioner and for the purposes of this Act, in any form of transport service or contract relating to transport; and
- (d) shall be paid such salary and allowances as the Governor determines.

(2) The Governor may terminate the appointment of the Commissioner or Deputy Commissioner for inability, inefficiency or misbehaviour.

(3) Notwithstanding the foregoing provisions of this section, the persons who, on the coming into operation of this Act, hold office, respectively, as

Commissioner of Transport and as Deputy Commissioner of Transport, under the State Transport Co-ordination Act, 1933, are, by force of this subsection, appointed to the respective offices of Commissioner and Deputy Commissioner under this Act, and each shall hold office for the portion of the term for which he was so appointed under the State Transport Co-ordination Act, 1933, that is unexpired on the coming into operation of this Act.

10. If the Commissioner or Deputy Commissioner—

- (a) becomes permanently incapable of performing his duties;
- (b) engages, without the approval in writing of the Minister, in any paid employment outside the duties of his office;
- (c) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his salary for their benefit; or
- (d) resigns his office in writing under his hand addressed to the Governor, and the resignation has been accepted,

Vacation of office of Commissioner or Deputy Commissioner.
S. 4E.

the office of the Commissioner or the Deputy Commissioner, as the case requires, shall be vacated.

11. If the person appointed to the office of Commissioner or Deputy Commissioner is an officer within the meaning of the Public Service Act, 1904, the appointment shall be without prejudice to the provisions of that Act and all other Acts applying to that person as such an officer and does not prejudice his rights as such under any of those Acts.

Appointment of officer under Public Service Act, 1904, not to prejudice his rights under that Act, etc.
S. 4F.

12. In the case of illness, suspension or absence of the Commissioner, the Deputy Commissioner shall act as the deputy of the Commissioner during the illness, suspension or absence and he has, while so acting, all the powers and shall perform all the duties of the Commissioner.

Deputy Commissioner to act for Commissioner in certain cases.
S. 4G.

Leave of
absence.
S. 4H.

13. The Minister may grant leave of absence to the Commissioner and Deputy Commissioner upon such terms and conditions as to the payment of salary and otherwise as the Minister determines.

Annual
report.
S. 5 (2).

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

- (a) a statement relating to the proceedings and work of the Commissioner, during the financial year then last preceding; and
- (b) any comments that the Commissioner thinks desirable to make, relating to the administration or operation of this Act.

(2) The annual report of the Commissioner shall be laid before both Houses of Parliament not later than the fourteenth day of November in each year, if Parliament is then sitting, otherwise within the six sitting days of each House next following that month.

Secretary
and officers
of Com-
mission.
S. 9.

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

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

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

Division 2.—Powers and Duties of the Commissioner.

16. (1) The Commissioner, under the direction of the Minister, shall—

Powers and
authorities.
S. 10.

- (a) call tenders for the provision of road transport, with or without inviting premiums or offering subsidies, where, in the opinion of the Minister, the requirements of a district are not adequately served by any form of transport; and
- (b) administer and direct the payment of such subsidies with respect to the provision of transport as may be authorised pursuant to this Act.

(2) The Commissioner shall consider and determine all applications for licences in respect of public vehicles and may, without limiting any of the provisions of this Act,—

- (a) specify any particular conditions that the Commissioner may impose on the granting or holding of a licence; and
- (b) determine in respect of any particular licence or group of licences the conditions that shall be imposed on the granting and holding of the licence or licences.

17. (1) The Commissioner may, in calling tenders under section sixteen, call them subject to any one or more of the conditions, as he thinks fit, to be imposed as a condition or as conditions precedent, that the tenderer will, if his tender is accepted,—

Conditions
of tender.
S. 12.

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

(2) The imposition, by the Commissioner, of conditions on a licence pursuant to this section does not preclude his imposition of conditions on the licence pursuant to section sixteen.

(3) Where a tenderer who has been granted a licence subject to conditions, 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, then, without prejudice to the right or power of the Commissioner under this Act to cancel the licence granted to the tenderer, the Commissioner 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.

Delegation.
S. 10A.

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

(2) A delegation under this section is revocable at will by the Commissioner, but where the delegation was made at the request of the Minister the Commissioner shall not revoke the delegation unless the Minister so directs and a delegation does not prevent the exercise of any power or function by the Commissioner.

PART III.—LICENCES.

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

Application
of Part.
Ss. 14A and
15 (4).

19. (1) Notwithstanding the provisions of any other Act, but subject to subsection (2) of this section, this Part applies to all vehicles operated including vehicles operated by the Crown, or by an

agency of the Crown, in right of the State, other than such as are operated under the Metropolitan (Perth) Passenger Transport Trust Act, 1957.

(2) The Minister may, by notice published in the *Government Gazette*, exempt any vehicle or class of vehicles or any part of the State from the provisions of this Part, subject to any conditions that may be set out in the notice.

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

Vehicles
operating to
be licensed.
S. 14.

(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 Commissioner is satisfied that a special emergency justified the making of the journey.

(3) A vehicle that, on the date of the coming into operation of this Act is licensed pursuant to the State Transport Co-ordination Act, 1933, is deemed to be licensed pursuant to this Part, and the licence or permit is valid for the period that is unexpired on that date.

21. (1) The following fees are payable to the Commissioner, in respect of every public vehicle licence, namely,—

Fees for
licences.
Second
Schedule.
S. 15.

- (a) for an omnibus licence under Division 2 of this Part or for an aircraft licence under Division 4 of this Part, a fee determined by the Commissioner, and to be assessed and payable in manner prescribed, based on the earnings of the vehicle; but the fee shall not be greater than six per centum of the gross earnings of the vehicle as so assessed, and in assessing the gross earnings, the amount of any subsidy paid for an aerial service shall not be taken into account;

- (b) for a commercial goods vehicle, other than a trailer or semi-trailer, a fee, not exceeding a fee calculated at the rate of one dollar per hundredweight of the gross weight of the vehicle, determined by the Commissioner; and
 - (c) for a trailer or semi-trailer, a fee, not exceeding the appropriate fee provided by the Second Schedule, determined by the Commissioner.
- (2) The Commissioner may at any time vary the fee determined by him for any licence.
- (3) The Commissioner may 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 contemplated when the licence was issued.

Weighing of
public
vehicle or
goods.
S. 19.

22. (1) Subject to this Act and to any regulations made under subsection (2) of this section, the weight of a public vehicle or of goods carried or to be carried by a commercial goods vehicle shall, if the Commissioner so orders, be determined at a weighbridge, or by means of such other mechanical device as may be approved by the Commissioner, 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 Commissioner or to any officer of the Commissioner, 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.

Transfer of
licence.
S. 20.

23. (1) The Commissioner 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.

Division 2.—Omnibuses.

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

Licences for
omnibuses.
Ss. 21 and 22.

(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.

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

Applications
for licences.
S. 23.

- (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.

26. Before granting or refusing a licence for an omnibus, the Commissioner shall taken into consideration—

Matters to
be taken into
consideration
by Com-
missioner
before grant
or refusal
of licence.
S. 24.

- (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; and
- (d) the character, qualifications and financial stability of the applicant.

Power to
grant, etc.,
applications.
Ss. 25 and 31.

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

(2) The Commissioner 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.

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

- (a) any sign indicating and identifying the stopping place; and
- (b) shelters of a design and construction approved by the Minister;

but, before erecting, or causing the erection of any sign or shelter authorised by this subsection, the Commissioner shall confer with the local authority concerned and, if agreement cannot be reached on

the location, size and type of any sign or shelter the matter in dispute shall be determined by the Minister and the Minister for the time being administering the Local Government Act, 1960, or the Main Roads Act, 1930, as the case may require.

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

(5) In this section, the term, "local authority" includes the Commissioner of Main Roads, where the section applies to any part of the Metropolitan Traffic Area, within the meaning of the Traffic Act, 1919.

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

Conditions
of omnibus
licences.
S. 26.

- (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) that 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 Commissioner regulating the use of places for the picking up and setting down of passengers be complied with.

Power to
Commis-
sioner to
attach
conditions
to licences.
S. 27.

29. (1) The Commissioner 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 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 Commissioner;

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

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

Power
to grant
omnibus
licences for
period of
seven years.
S. 29.

30. (1) A licence for an omnibus may be granted for a period of not more than seven years, but the provisions of this section do not affect the power of the Commissioner to grant a licence for a particular purpose of limited duration.

(2) A transfer of a licence for an omnibus shall not be granted, unless and until the Commissioner 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.

Permits.
S. 30.

31. The Commissioner, or a person authorised in that behalf by the Commissioner in writing (whether generally or in any particular case), 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 Commissioner,—

- (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.

32. A licence shall not be granted for an omnibus under this Part unless the vehicle is licensed as an omnibus in accordance with the Traffic Act, 1919.

Omnibuses
to be
registered
as motor
vehicles.
S. 32.

Division 3.—Commercial Goods Vehicles.

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

Application
of Part.
Ss. 34 and 35.

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

(3) For the purposes of paragraphs (a) and (b) of subsection (2) of this section, where goods are carried in stages, from one place to another, by different vehicles, the whole journey over which the goods are carried is deemed to be one journey and every vehicle taking part in the carriage of the goods is deemed to have made the whole journey.

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

First
Schedule.

- (a) more than three persons are co-owners of the vehicle and—
 - (i) the interest of any one of them in the vehicle is not that of a partner in partnership with the other

co-owners or, if that of a partner, is that only of a partner in a limited partnership (within the meaning of the Limited Partnership Act, 1909) with the other co-owners; or

- (ii) one of them is not an owner of the business in respect of which the vehicle is operated or is not a partner of, or, being a partner, is only a limited partner of, a firm owning that business;

or

- (b) two or more persons are co-owners of the vehicle and the vehicle is operated, or intended to be operated, or is available for operation, for the direct benefit of one of them, to the exclusion of the other or others of them.

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

Licences
to operate
commercial
goods
vehicles
within 35
miles of the
General
Post Office,
Perth.
S. 35A.

34. (1) Where an application is made for a licence to operate a commercial goods vehicle wholly within thirty-five miles of the General Post Office, Perth, the Commissioner shall, notwithstanding the discretion exercisable by him under section thirty-seven, grant the licence.

(2) The provisions of this Part, other than those of sections thirty-six, thirty-seven and thirty-nine, apply to a licence granted by the Commissioner under this section and to an application for such a licence.

Application
for licence.
S. 36.

35. 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.

36. Before granting or refusing a licence for a commercial goods vehicle, the Commissioner shall take into consideration—

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

S. 37.

- (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 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;
- (c) the condition of the roads to be included in any proposed route or area; and
- (d) the character, qualifications, and financial stability of the applicant.

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

Power of Commissioner to grant or refuse application for licence.
S. 38.

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

Conditions of commercial goods vehicle licence.
S. 39.

- (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 forty-eight, 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.

Power of
Commis-
sioner
to attach
conditions to
licence.
S. 40.

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

Period of
licence.
S. 42.

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

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

Permits.
S. 43.

41. The Commissioner, or a person authorised in that behalf by the Commissioner, in writing (whether generally or in any particular case), 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 Commissioner—

- (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.

42. A licence shall not be granted for any commercial goods vehicle under this Division unless the vehicle is licensed for its class, under the Traffic Act, 1919.

Commercial goods vehicles to be registered as motor vehicles.
S. 44.

Division 4.—Aircraft.

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

Licences for aircraft.
Ss. 45 and 46.

(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 Commissioner 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.

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

Applications for licences.
S. 47.

- (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.

Matters to
be taken into
consideration
by Com-
missioner
before grant
or refusal
of licence.
S. 47.

45. Before granting, or refusing, a licence for an aircraft, the Commissioner shall take into consideration—

- (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; and
- (d) the character, qualifications and financial stability of the applicant.

Conditions
of aircraft
licences.
S. 47.

46. It is an implied condition of every licence for an aircraft granted by the Commissioner 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 Commissioner relating to the use of airports or landing grounds be complied with.

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

Power of
Commis-
sioner
to attach
conditions
to licences.
S. 47.

- (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 Commissioner.

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

PART IV.—MISCELLANEOUS.

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

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

- (a) for an unbroken period exceeding five and one-half hours;
- (b) during any period of twenty-four hours commencing at midnight, for periods exceeding, in the aggregate, eleven hours; or
- (c) so that the driver has less than ten consecutive hours for rest, during the period of twenty-four hours calculated from the commencement of any period of driving, unless he has nine hours for rest during that period of twenty-four hours and twelve hours for rest during the next ensuing period of twenty-four 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.

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

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

- (a) 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 the vehicle;
- (b) to state his name and address;
- (c) to permit an inspection to be made of the vehicle and its load; or
- (d) to give information in respect to the load.

(2) A person who fails to produce any licence, permit or other document required to be produced pursuant to subsection (1) of this section, within twenty-four hours after being so required, or refuses to state his name and address, or states a false name or address, or refuses to permit an inspection to be made of the vehicle, or of its load, or refuses to give information in respect to the load carried, or gives false information, is, without affecting the consequence of any other offence that he may have committed, guilty of an offence.

50. (1) The driver and the owner of a public vehicle that is operated and that—

Penalties for
operating
unlicensed
public
vehicles.
S. 52.

(a) is not licensed as such under this Act; or

(b) being licensed, is carrying goods not authorised, or otherwise than authorised, by the licence;

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

Penalty: For a first offence, not more than one hundred dollars, for a second offence, not more than two hundred dollars and, for any subsequent offence, not more than four hundred dollars.

(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.

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

Proof of
person being
unlicensed.
S. 50.

52. A person who, knowingly, sends or causes to be sent or conveyed, or agrees or offers to send or convey, any passengers or any goods, by a public vehicle in respect of which the appropriate licence is not in force, commits an offence.

Passengers
or goods
not to be
sent by
unlicensed
vehicle.
S. 16.

Penalty: For a first offence, not more than one hundred dollars, for a second offence, not more two hundred dollars and, for any subsequent offence, not more than four hundred dollars.

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

Penalty for
failure to
comply with
Act, etc.
S. 23.

Commercial
goods
vehicle
not to be
used for
passengers.
S. 13.

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

- (a) the licence granted in respect of the vehicle expressly 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 Commissioner, and the person so carried is carried in conformity with the permit.

Proof that
passengers
carried at
separate
fares.
S. 53.

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

Provisions
for offences
for which
no penalty
expressly
provided.
S. 54.

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

Power to
revoke or
suspend
licence or
permit.
S. 55.

57. (1) A licence or permit may be revoked or suspended by the Commissioner, 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.

(2) The Commissioner 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 to the breach having been committed wilfully, or to the danger to the public involved in the breach, the Commissioner is satisfied that the licence should be revoked or suspended.

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

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

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

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

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

Recovery of
penalties.
S. 56.

(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 Commissioner, or of any other person, to take the proceedings; or
- (c) of the due appointment of the Commissioner.

(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.

Saving of
operation of
Traffic Act,
1919.
S. 57.

59. Save as otherwise expressly provided, nothing in this Act limits or affects the operation of the Traffic Act, 1919, but that Act shall be construed subject to the express provisions of this Act.

Regulations.
Ss. 58 and
58A.

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

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

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

- (j) applications for licences or permits under this Act and the revocation, suspension, or transfer of such licences or permits;
- (k) the form and conditions of and any particulars to be set out in licences or permits under this Act;
- (l) records to be kept in relation to public vehicles;
- (m) the furnishing by owners of public vehicles of statistical and other information;
- (n) the fees payable in respect of applications under this Act;
- (o) the fee payable for any special permit under this Act;
- (p) providing for distinguishing words, letters, numbers, colours, or marks, being or not being placed on public vehicles; 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 section—

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

(4) Notwithstanding the provisions of section thirty-six of the Interpretation Act, 1918, 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.

Protection of
Minister,
local
authorities,
and officers.
S. 59.

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

Financial
provision.
S. 60.

62. (1) The Transport Co-ordination Fund established by the State Transport Co-ordination Act, 1933, is continued under this Act, as if it were established by this Act, and shall be known as the Transport Commission Fund (in this section called "the Fund").

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

- (a) all moneys received by the Commissioner, including those received from the Crown, in respect of premiums paid, and of licences granted, and for fees payable, under this Act;
- (b) the moneys (if any) appropriated by Parliament for the administration of this Act; and
- (c) any moneys recovered by the Commissioner on the enforcement of bonds, including those executed by, or on behalf of, the Crown, as provided by section seventeen.

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

- (a) the cost of the administration of this Act and of the Road Maintenance (Contribution) Act, 1965;
- (b) contributions to the Superannuation Fund payable by the Commissioner under any agreement made between him and the Treasurer, pursuant to the provisions of section six of the Superannuation and Family Benefits Act, 1938; and
- (c) such amounts as are, in the opinion of the Commissioner, necessary or expedient, in the interests of public transport, to be granted in aid of any transport operated by the holder of a licence for a public vehicle or for, or towards, the provision of shelters or other amenities on, or adjacent to, an omnibus route.

(4) At the end of any financial year, any balance remaining in the Fund, after providing for the payments specified in subsection (3) of this section, shall be divided into three portions in the proportion that the licence fees derived respectively from licences issued for omnibuses, commercial goods vehicles and aircraft bear to the aggregate of all licence fees received during that year, and of those portions—

- (a) that which is proportionate to the fees for the issue of omnibus licences shall be applied towards the maintenance and improvement of the roads on which the omnibuses operate, and shall, subject to subsection (5) of this section, be divided equitably amongst the various statutory authorities concerned in the maintenance and improvement of those roads;
- (b) that which is proportionate to the fees for the issue of licences for commercial goods vehicles shall be applied towards the maintenance and improvement of the roads

on which the commercial goods vehicles operate, and shall, subject to subsection (5) of this section, be divided equitably amongst the various statutory authorities concerned in the maintenance and improvement of those roads; and

- (c) that which is proportionate to the fees for the issue of licences for aircraft shall be held in trust by the Commissioner and shall be applied, as and when the Commissioner thinks fit, towards the provision, maintenance or improvement of any aircraft landing ground or of any facilities thought necessary for the safe operation of any aircraft using or about to use any aircraft landing ground.

(5) Where the Commissioner expends from the balance any sums for the provision, maintenance or both of signs, shelters or both, which by this Act the Commissioner is authorised to do, on or adjacent to any road or street under the care, control or management of any of those statutory authorities, the amount payable to the statutory authority, as the result of a division mentioned in paragraph (a) or paragraph (b) of subsection (4) of this section, shall be reduced by the sum so expended by the Commissioner, and shall be brought into account in respect of the division.

Subsidies.

63. 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.

**Section
33 (4).**

FIRST SCHEDULE.

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.

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 wheat or oats for sale or, in the case of livestock, for sale or agistment, irrespective of quantity or value, from the place where they are produced to any other place, in a vehicle owned by the producer thereof and, on the return journey, the carriage of requisites for the domestic use of the producer or for use by him in the production of the commodities herein named.

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

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

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

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

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

(a) from residence to residence;

(b) from storage to residence;

(c) from residence to storage or sale;

(d) from a vendor to the residence of the purchaser.

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

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

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

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

13. The carriage of goods off any route or outside any area in respect of which the Commissioner has granted a licence pursuant to his acceptance of a tender called under the provisions of this Act and within a radius of thirty-five miles 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 twelve miles to or from the railway station or siding.

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

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.

1966.]

*Road and Air Transport
Commission.*

[No. 53.]

SECOND SCHEDULE.

Section 21.

Trailers and Semi-trailers.

	\$
Up to 1 ton 5 cwt. gross weight	24.00
Exceeding 1 ton 5 cwt. but not exceeding 2 tons	36.00
Exceeding 2 tons but not exceeding 3 tons	57.00
Exceeding 3 tons but not exceeding 4 tons	81.00
Exceeding 4 tons but not exceeding 5 tons	108.00
Exceeding 5 tons but not exceeding 6 tons	138.00
Exceeding 6 tons but not exceeding 7 tons	171.00
Exceeding 7 tons but not exceeding 8 tons	207.00
Exceeding 8 tons but not exceeding 9 tons	246.00
Exceeding 9 tons but not exceeding 10 tons	288.00
For every additional ton	24.00
