

WESTERN AUSTRALIA.

# STATE TRANSPORT CO-ORDINATION.

## No. 42 of 1933.

(Affected by No. 6 of 1937, No. 34 of 1949 and 27 of 1961.)

[As amended by Acts:

- No. 47 of 1938, assented to 31st January, 1939;
- No. 9 of 1940, assented to 24th October, 1940;
- No. 4 of 1946, assented to 23rd October, 1946;
- No. 59 of 1948, assented to 21st January, 1949;
- No. 83 of 1953, assented to 18th January, 1954;
- No. 68 of 1954, assented to 30th December, 1954;
- No. 60 of 1956, assented to 27th December, 1956;
- No. 61 of 1957, assented to 6th December, 1957;
- No. 57 of 1959, assented to 25th November, 1959;
- No. 59 of 1961,<sup>1</sup> assented to 28th November, 1961;

and reprinted pursuant to the Amendments Incorporation Act, 1938.]

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

[Assented to 4th January, 1934.]

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

1. This Act may be cited as the *State Transport Co-ordination Act, 1933-1961*, and, save as otherwise expressly provided, shall come into operation on the 1st day of July, 1934.

Short title.  
Amended by  
No. 59 of 1961,  
s. 1.  
Commence-  
ment.

1A. This Act shall apply and have effect throughout the State.

Application  
of Act.  
S. 1A added  
by No. 4 of  
1946, s. 3.

(a) References in the marginal and foot notes to the 1943 reprint are references to the reprint of the State Transport Co-ordination Act, 1933-1940, contained in Vol. 2 of the Reprinted Acts of the Parliament of W.A. (1943);

(b) the numbering or lettering of Parts, sections, subsections, paragraphs, etc., as adopted in the 1943 reprint is retained.

<sup>1</sup> Came into operation on 19th February, 1962. See *Gazette* 16/2/62, p. 511.

Parts and  
Division.  
Amended by  
No. 68 of  
1954, s. 2;  
No. 59 of  
1961, s. 3.

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

**PART I.—PRELIMINARY.**

**PART II.—**

*Division (1)—Commissioner of Transport—  
Transport Advisory Board—Constitution—  
Officers.*

*Division (2)—Powers of Commissioner of  
Transport and Transport Advisory Board.*

**PART III.—LICENSES:**

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

*Division (2)—Omnibuses.*

*Division (3)—Commercial Goods Vehicles.*

*Division (4)—Aircraft.*

**PART IIIA.—OPERATION OF VEHICLES IN THE  
COURSE OF INTERSTATE TRADE, INTER-  
COURSE, OR COMMERCE.**

**PART IV.—MISCELLANEOUS.**

**PART I.—PRELIMINARY.**

Interpre-  
tation.  
Amended by  
No. 47 of  
1938, s. 2;  
No. 59 of  
1948, s. 3;  
No. 68 of  
1954, s. 3;  
No. 59 of  
1961, s. 4.

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

Board.

“Board” means the Transport Advisory Board constituted under section five of this Act;

Commercial  
goods  
vehicle.

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

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

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

“Commissioner” means the Commissioner of Transport constituted under this Act; sioner. Commis-

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

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

“Interstate vehicle” means a vehicle operated in the course of interstate trade, inter-course, or commerce; Interstate vehicle.

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

“Local authority” means the council of any municipality; Local authority.

“officer” means any 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 also includes any person utilised by the Commissioner pursuant to subsection (3) of section nine, or any other provision of this Act; Officer.

“Omnibus” means a motor vehicle used or intended to be used as a passenger vehicle to carry passengers at separate fares and Omnibus.

includes any such vehicle or a trolley-bus so used or intended to be used by or on behalf of the Crown and whether in connection with a railway or tramway or otherwise;

- Operate.** "Operate," as applied to vehicles, means to carry or offer to carry passengers or goods for hire or for any consideration, or in the course of or in connection with any trade or business whatever, save as provided by section thirty-four of this Act;
- Owner.** "Owner" includes every person who is owner or part owner of a vehicle; where a vehicle is the subject of a hire-purchase agreement, the term means the person who is entitled to the use of the vehicle under the hire-purchase agreement;
- Permit.** "Permit" means a permit issued under this Act and for the time being in force;
- Public vehicle.** "Public vehicle" means any vehicle which must be licensed under this Act;
- Road.** "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;
- Commissioner of Railways.** "Commissioner of Railways" means the Commissioner of Railways appointed under the Government Railways Act, 1904-1926;<sup>1</sup>
- Railway.** "Railway" means any railway belonging to His Majesty in Western Australia which has been or may be declared open for traffic by notice in the *Government Gazette*;
- Tramway.** "Tramway" means any tramway operated by the Government of Western Australia, or a trolley 'bus service;

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<sup>1</sup> Now Government Railways Act, 1904-1960.

“Vehicle” means a vehicle propelled by any means other than animal or human power. The term includes an aircraft, but does not include a vehicle used on a railway or tramway, whether used on a Government or privately owned railway or tramway.

Vehicle.

4. (1) 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.

Act to be read subject to Commonwealth Constitution. Amended by No. 68 of 1954, s. 4.

(2) Without prejudice to the generality of the provisions of subsection (1) of this section, Parts I., II., III., and IV. of this Act shall be construed in relation to interstate vehicles, as subject to Part IIIA of this Act.

4A. (1) All the right, title and interest of The Western Australian Transport Board established under this Act, existing immediately prior to the coming into operation of the State Transport Co-ordination Act Amendment Act, 1961, in and to all property owned by that Board shall, by force of this section, be transferred to and vested in the Commissioner and that Board shall be dissolved.

Saving. Added by No. 59 of 1961, s. 5.

(2) Subject to this Act, all rights, obligations and liabilities of The Western Australian Transport Board existing immediately prior to the commencement of the State Transport Co-ordination Act Amendment Act, 1961, 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 the State Transport Co-ordination Act Amendment Act, 1961, shall be read as a reference to the Commissioner.

(3) Any right of action or power of prosecution had by or against The Western Australian Transport Board shall continue to be had by and may be enforced by or against the Commissioner.

## PART II.

Heading substituted by  
No. 59 of 1961,  
s. 6.

### *Division (1)—Commissioner of Transport—Transport Advisory Board—Constitution—Officers.*

Commissioner  
of Transport.  
Added by  
No. 59 of 1961,  
s. 6.

**4B.** (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 four D of this Act.

(2) The Commissioner, subject to this Act and to the general control of the Minister,—

- (a) is responsible for the administration of this Act; and
- (b) shall, in relation to any matter referred to the Board for advice pursuant to this Act, administer the Act having regard to the advice given by the Board.

(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 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  
Commis-  
sioner.  
Added by  
No. 59 of 1961,  
s. 6.

**4C.** (1) The Commissioner shall be assisted by—

- (a) a Deputy Commissioner of Transport who shall be appointed and hold office as provided in section four D of this Act; and

- (b) a Board constituted under the provisions of section five of this Act.

(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.

**4D.** (1) The Commissioner and Deputy Commissioner—

Appointment of Commissioner and Deputy Commissioner, term and conditions of appointment. Added by No. 59 of 1961, s. 6.

- (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) 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.

**4E.** If the Commissioner or Deputy Commissioner—

Vacation of office of Commissioner or Deputy Commissioner. Added by No. 59 of 1961, s. 6.

- (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,

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

Appointment of officer under Public Service Act, 1904, not to prejudice his rights under that Act, etc.  
Added by No. 59 of 1961, s. 6.

**4F.** 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.

Deputy Commissioner to act for Commissioner in certain cases.  
Added by No. 59 of 1961, s. 6.

**4G.** 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.

Leave of absence.  
Added by No. 59 of 1961, s. 6.

**4H.** 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.

State Transport Advisory Board constituted.  
Amended by No. 59 of 1948, s. 4; No. 59 of 1961, s. 7.  
[S. A. No. 1967, s. 5; Tas. 21 Geo. V., No. 52, s. 57; N.S.W. 32 of 1931, s. 4; Qld. 23, Geo. V., No. 24, s. 5.]

**5.** (1) For the purposes of this Act the Governor shall appoint an advisory board by the name of the Transport Advisory Board having the powers and functions conferred on it by this Act and which shall consist of—

- (a) the person holding the office of Commissioner, who shall be the Chairman of the Board; or in his absence the person holding



the office of Deputy Commissioner, who shall be the Deputy Chairman of the Board; and

- (b) four other members, two of whom shall represent rural industries and two city interests, but none of whom shall be financially interested in the operation of any form of transport service or contract relating to transport.

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

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

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

(3) The members of the Board shall be persons who in the Governor's opinion are capable of assessing the financial and economic effect on the State as a whole of any transport policy. [S.A. No. 1967, s. 5 (2).]

(4) [*Repealed by No. 59 of 1961, s. 7.*]

(5) [*Repealed by No. 59 of 1961, s. 7.*]

(6) Four members of the Board, of whom the Chairman or the Deputy Chairman when acting as Chairman of the Board, shall be one, form a quorum at a meeting of the Board. [S.A. No. 1967, s. 5, ss. 6.]

(7) The members of the Board, other than the Chairman or the Deputy Chairman of the Board, shall hold office for three years, and may be re-appointed. [S.A. No. 1967, s. 6.]

[S.A. No. 1967,  
s. 7.]

(8) The members of the Board, other than the Chairman and the Deputy Chairman thereof, while acting as such are entitled to receive such fees and expenses as the Governor from time to time determines in respect of attendance at meetings of the Board or whilst engaged on any business of the Board.

[S.A. No. 1967,  
s. 8; and cf.  
N.S.W. No. 32  
of 1931, s. 4,  
ss. 11.]

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

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

(10) The Chairman or Deputy Chairman of the Board shall not be deemed—

- (a) to be concerned or interested in any contract or agreement specified in paragraph (c) of subsection (9) of this section; or
- (b) to participate or claim to be entitled to participate in the profit of any such contract or agreement,

by reason only of his becoming a party in his capacity as Commissioner or Deputy Commissioner to such a contract or agreement under and for the purposes of this Act.

(11) Unless the Minister directs otherwise, the Board shall meet only once in each month at such times and places as the Board determines.

(12) The Chairman shall preside at all meetings thereof at which he is present and in the absence of the Chairman the Deputy Chairman shall preside.

(13) Questions arising at a meeting of the Board shall be decided by a majority of the votes of the members thereof present and voting, each member, including the Chairman, but not including the Deputy Commissioner, unless he is presiding at the meeting, having one vote and where there is an equal division of votes on a motion the motion is lost.

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

Governor may remove for misbehaviour or incompetence.

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

Vacancy on Board. Amended by No. 59 of 1961, s. 8. [S.A. No. 1967, s. 8.]

(2) The exercise of the rights, powers, authorities or functions, or the performance of the duties or obligations, of the Board is not affected by reason only of there being a vacancy in the office of member.

Vacancy not to invalidate proceedings.

8. In the case of the illness, suspension, or absence of a member of the Board, the Governor may appoint a person qualified to act as his deputy during such illness, suspension, or absence, and until such appointment is terminated by notice in the *Government Gazette*, any person so appointed shall while so acting have all the powers and perform all the duties of the member of the Board.

Filling temporary vacancies caused through illness, etc.

Secretary  
and officers  
of Board.  
Amended by  
No. 59 of 1961,  
s. 9.

9. (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.

[S.A. No.  
1967, s. 9.]

(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 the said Act, for the purpose of carrying out the provisions of this Act.

(4) The person appointed secretary to the Commissioner shall also be and act as secretary to the Board.

*Division (2)—Powers and Duties of the Board.<sup>1</sup>*

Powers and  
authorities.  
Amended by  
No. 59 of  
1948, s. 5;  
No. 57 of  
1959, s. 2.  
Repealed and  
re-enacted by  
No. 59 of  
1961, s. 10.  
[Cf. Q'land  
23 Geo. V.,  
No. 24, s.  
7 (1).]

10. (1) Subject to this Act, the Commissioner may of his own volition or under the direction of the Minister shall—

(a) make investigation and inquire into transport matters and in making those investigations and inquiries the Commissioner shall give consideration to all or any of the following factors—

- (i) the question of transport generally in the light of service to the community;
- (ii) the needs of the State for economic development;
- (iii) the industrial conditions under which all forms of transport are conducted;
- (iv) the impartial and equitable treatment of all conflicting interests;

<sup>1</sup> See also No. 34 of 1949.

- (b) demand and obtain information relating to matters connected with the internal transport of the State, including transport controlled by the Crown or any agency of the Crown;
  - (c) call tenders for road transport with or without inviting premiums in any case where the Commissioner, after receiving the advice of the Board, considers the requirements of a district are not adequately served by any form of transport;
  - (d) after receiving the advice of the Board thereon, advise the Minister on all or any of the following matters—
    - (i) the areas that because of the absence of a railway service or an adequate railway service require to be served by road transport;
    - (ii) the routes to be followed by such road transport and the classes of goods to be carried thereby; and
    - (iii) the extent to which it is expedient that subsidies be granted in aid of such road transport.
- (2) The Commissioner shall report in writing to the Minister the result of any investigation or inquiry made by him pursuant to paragraph (a) of subsection (1) of this section and for the purpose of such investigation or inquiry the Commissioner has the powers, authority and protection of a Royal Commissioner under the Royal Commissioners' Powers Act, 1902.
- (3) The provisions of the Royal Commissioners' Powers Act, 1902, with the necessary modifications, apply to any investigation and inquiry made by the Commissioner pursuant to subsection (1) of this section.

(4) The Commissioner shall consider and determine all applications for licenses 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 license;
- (b) determine in respect of any particular license or group of licenses the conditions that shall be imposed on the granting and holding of the license or licenses.

(5) The Board shall—

- (a) advise and assist the Commissioner in or in connection with the general administration of this Act;
- (b) advise the Commissioner on such matters as he may refer to the Board for advice; and
- (c) subject to the direction in writing of the Minister, determine the policy of the Commissioner in the administration of this Act in relation to any particular matter referred to it by the Minister.

(6) The Board shall in writing report to the Minister when and as often as it is of opinion that the Commissioner is not administering this Act in relation to any matter which has been referred to the Board for advice pursuant to paragraph (c) of subsection (5) of this section.

(7) For the purpose of enabling the Board to effectually carry out its duties under this Act, the Board may of its own volition or under the direction of the Minister shall—

- (a) make such enquiries as it thinks fit;
- (b) request the Commissioner to furnish the Board with such information as the Board considers necessary for that purpose.

(8) The Commissioner shall, subject to this Act, comply with any request made by the Board under subsection (7) of this section.

10A. (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 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.

Delegation.  
Added by  
No. 59 of 1961,  
s. 11.

(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.

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

Power as to  
railways and  
tramways.  
Amended by  
No. 59 of 1961,  
s. 12.  
[Cf. S.A. No.  
1967, s. 10  
(1).]

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

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

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

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

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

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

(7) It shall be the duty of any person or persons charged with the promotion or proposing to construct any new railway to confer on such proposal with the Commissioner, who shall inquire into the same and report thereon. The Commissioner's report shall be laid before Parliament when the Bill to authorise the construction of the railway is introduced.

(8) The Commissioner shall—

- (a) in exercising any of his powers or functions under this section confer with and obtain the advice of the Board;
- (b) for the purpose of assisting the Board in so advising the Commissioner, make full disclosure to the Board of the inquiries made by him under subsection (1) of this section and the result thereof; and



- (c) make such further inquiries under that subsection as the Board may direct.

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

Conditions of tender.  
No. 42 of 1933, s. 11A, as inserted by No. 47 of 1938, s. 3, renumbered s. 12 in 1943 reprint. Amended by No. 59 of 1961, s. 13.

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

- (a) provide a minimum service as specified by the Commissioner;
- (b) provide such 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 the sureties aforesaid to the Commissioner in an amount to be specified by the Commissioner for the due performance of any of the said conditions imposed by the Commissioner as aforesaid.

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

(3) Where a tenderer has been granted a license subject to conditions, including the execution of a bond imposed under the authority of this section, and thereafter he fails in any respect duly to

perform any one of the conditions aforesaid, then without prejudice to the right or power of the Commissioner under this Act to cancel the license granted to such tenderer, the Commissioner may take any proceedings at law or in equity in any court of competent jurisdiction to enforce payment under the bond held by the Commissioner under this section against all or any of the persons bound thereby.

### PART III.—LICENSES.

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

Licenses.

#### 13. [*Repealed by No. 4 of 1946, s. 4.*]

No un-licensed public vehicle to be operated.  
No. 42 of 1933, s. 13, renumbered s. 14 in 1943 reprint.  
Amended by No. 59 of 1961, s. 14.  
[Cf. N.S.W., 32 of 1931, s. 12.]

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

Exemption of vehicle from licensing.  
S. 14A added by No. 4 of 1946, s. 5.  
Amended by No. 59 of 1961, s. 14.

14A. With the approval of the Minister, the Commissioner may, by notice in the *Government Gazette*,<sup>1</sup> exempt any vehicle or class of vehicles from the licensing provisions of this Act, subject to such conditions as may be prescribed in such notice.

Fees for licenses.  
No. 42 of 1933, s. 14, renumbered s. 15 in 1943 reprint.  
Amended by No. 59 of 1948, s. 6; No. 59 of 1961, s. 14.  
[Cf. N.S.W., 32 of 1931, s. 18.]

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

- (a) For an omnibus license under Division 2 of this Part or for an air-craft license under Division 4 of this Part, a fee determined by the Commissioner, and to be assessed and payable in manner prescribed, based on the

<sup>1</sup> See *Government Gazettes* 9/3/62, p.p 640-42; 6/7/62, p. 1739; 19/10/62, p. 3474.

earnings of the vehicle: Provided such fee shall not be greater than six per cent. of the gross earnings of such vehicle as so assessed, and in assessing such gross earnings the amount of any subsidy paid for an aerial service shall not be taken into account.

The additional license fees prescribed under Part II. of the Third Schedule of the Traffic Act, 1919-1932,<sup>1</sup> shall not be payable in respect of an omnibus which is licensed under this Act;

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

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

(2) The Commissioner may at any time vary the fee determined by him for any license.

(3) The Commissioner may refund the whole or any part of any license 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 license was issued.

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<sup>1</sup> Now Traffic Act, 1919-1961.

Fees for licenses for omnibuses and commercial goods vehicles operated by or for Crown.

[Cf. Act No. 23 of 1904, s. 79 and Act No. 58 of 1912, s. 20, Act No. 14 of 1932, s. 19, and s. 34 post.]

(4) Subject to the provisions of this Act and notwithstanding the provisions of the Government Railways Act, 1904-1947, section seventy-nine,<sup>1</sup> the Government Tramways Act, 1912-1933,<sup>2</sup> section twenty and the Government Ferries Act, 1932,<sup>3</sup> section nineteen, there shall be payable to the Commissioner in respect of every omnibus and commercial goods vehicle operating or used or intended to be used pursuant to any of the provisions of those Acts, the fees referred to in the last preceding subsection.

Passengers or goods not to be sent by unlicensed vehicle.

No. 42 of 1933, s. 15, renumbered as s. 16 in 1943 reprint.  
[Cf. N.S.W., No. 32 of 1931, s. 13.]

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

Penalty for failure to comply with Act, etc.

No. 42 of 1933, s. 16, renumbered as s. 17 in 1943 reprint.  
Traffic Act, s. 46 (3).

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

Commercial goods vehicle not to be used for passengers.

No. 42 of 1933, s. 17, renumbered as s. 18 in 1943 reprint.  
Amended by No. 59 of 1961, s. 14.

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

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

<sup>1</sup> Renumbered as s. 88: See reprint of Government Railways Act, 1904-1953 (as approved for reprint 26/10/1953): Now Government Railways Act, 1904-1960.

<sup>2</sup> Repealed by Act 52 of 1948, s. 3.

(b) the person so carried is—

- (i) in the employ of the owner of the vehicle and is proceeding on his master's business; or
- (ii) the owner or a member of the family of the owner of the vehicle;
- (iii) carried in the case of special emergency;
- (iv) a person who is carried without fee or reward of any kind;

(c) the owner of the vehicle is the holder of a special permit granted by the Commissioner, and the person so carried is carried in conformity with the permit.

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

Weighing of public vehicle or goods.  
No. 42 of 1933, s. 18, renumbered as s. 19 in 1943 reprint. Amended by No. 59 of 1961, s. 14.

(2) The regulations may provide that the method of ascertainment of the weight of the vehicle or of any goods carried by the vehicle for the purposes of any other Act may be adopted for the purposes of this Act.

20. (1) The Commissioner may grant a transfer of a license of a public vehicle, on payment of the prescribed fee by the person who has become the owner of the vehicle, and that person shall thereupon become the licensee.

Transfer of license.  
No. 42 of 1933, s. 19, renumbered as s. 20 in 1943 reprint. Amended by No. 59 of 1961, s. 14. Traffic Act, 1919-1932, s. 15.

(2) An application for transfer may be refused for any reason for which an application for a license by the same person for the same public vehicle might be refused.

## Division (2)—Omnibuses.

Omnibuses  
not to  
operate  
unless  
licensed.  
No. 42 of  
1933, s. 20,  
renumbered  
as s. 21 in  
1943 reprint.

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

Provided that no license is required under this Part where—

- (a) on any special occasion persons co-operate to bear the expense of any journey undertaken for pleasure in a privately owned motor vehicle; and
- (b) such journey is made to a destination to which on the day the journey was undertaken there was no suitable train running or public vehicle operating.

Licenses for  
omnibuses.  
No. 42 of  
1933, s. 21,  
renumbered  
as s. 22 in  
1943 reprint.  
Amended by  
No. 59 of  
1961, s. 14.

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

Applications  
for licenses.  
No. 42 of  
1933, s. 22,  
renumbered  
as s. 23 in  
1943 reprint.  
[Cf. N.S.W.,  
32 of 1931,  
s. 14.]

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

- (a) the routes or area upon or in which it is intended that the omnibus is to operate;
- (b) a description of the vehicle in respect of which the application is made;
- (c) the maximum number of passengers to be carried at any one time on such vehicle;
- (d) the service proposed to be provided;
- (e) the fares proposed to be charged; and
- (f) such other particulars as are prescribed.

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

- (a) the necessity for the service proposed to be provided and the convenience which would be afforded to the public by the provision of such service;
- (b) the existing transportation service for the conveyance of passengers upon the routes or within the area proposed to be served in relation to—
  - (i) its present adequacy and possibilities for improvement to meet all reasonable public demands; and
  - (ii) the effect upon such existing service of the service proposed to be provided;
- (c) the condition of the roads to be included in any proposed route or area; and
- (d) the character, qualifications, and financial stability of the applicant.

Matters to be taken into consideration by Commissioner before grant or refusal of license. No. 42 of 1933, s. 23, renumbered as s. 24 in 1943 reprint. Amended by No. 59 of 1961, s. 14. [Cf. N.S.W., 32 of 1931, s. 18.]

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

Power to grant, etc., applications. No. 42 of 1933, s. 24, renumbered as s. 25 in 1943 reprint amended by No. 83 of 1953, s. 2. No. 60 of 1956, s. 2. No. 59 of 1961, s. 14.

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

- (i) licensed under section ten A of the Traffic Act, 1919-1932,<sup>1</sup> and engaged in carrying goods on one specific route for a period of not less than twelve months prior to such date; or
- (ii) licensed and operating as an omnibus on a route prescribed under that Act for a period of not less than twelve months prior to such date,

<sup>1</sup> New Traffic Act, 1919-1961.

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

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

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

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

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

Traffic Act,  
1919-1932,  
s. 42, 1 (a).

(4) The Commissioner may, in respect of any route for which he has granted a license for an omnibus—

(a) appoint stopping places at which passengers may be picked up or set down; and



- (b) direct that passengers shall not be picked up or set down at other than a stopping place, or stopping places so appointed, on the route or a section of the route.

(5) Notwithstanding the provisions of any other Act, the Commissioner may erect or cause to be erected at any stopping place so appointed—

- (a) any sign indicating and identifying the stopping place; and
- (b) shelters of a design and construction which the Minister approves and is hereby authorised to approve.

Provided that before erecting or causing to be erected any sign or shelter as authorised by this subsection the Commissioner will confer with the local authority concerned. If agreement cannot be reached on the location, size and type of any shelter the matter in dispute shall be determined by arbitration under and in accordance with the Arbitration Act, 1895, unless the parties agree on some other method of determination.

26. It shall be a condition of every license for an omnibus granted by the Commissioner—

- (a) that the vehicle is maintained in a fit and serviceable condition;
- (b) that the provisions of any Act or regulation which are applicable to the vehicle and its operation are complied with;
- (c) that the requirements of section fifty-two<sup>1</sup> of the Traffic Act, 1919-1932,<sup>2</sup> relating to insurance are complied with in relation to such vehicle;
- (d) that, in relation to such vehicle, the provisions and the requirements of any relevant industrial award or agreement applying to any persons engaged in its operation are complied with; and

Conditions of omnibus licenses.  
No. 42 of 1933, s. 25, renumbered as s. 26 in 1943 reprint, amended by No. 83 of 1953, s. 3; No. 59 of 1961, s. 14.

<sup>1</sup> Renumbered as s. 57 in reprint of Traffic Act, 1919-1935, contained in the Sessional Volume of Statutes for the year 1935. The section was repealed by No. 32 of 1943, s. 29 (c).

<sup>2</sup> Now Traffic Act, 1919-1961.

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

Power to  
Commis-  
sioner to  
attach  
conditions  
to licenses.

No. 42 of  
1933, s. 26,  
renumbered  
as s. 27 in  
1943 reprint;  
amended by  
No. 59 of  
1948, s. 7;  
No. 59 of  
1961, s. 14.

27. (1) The Commissioner may in his discretion attach to any omnibus license all or any of the following conditions, that is to say:—

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

(2) The Commissioner may add to, vary, or cancel any of the conditions attached, pursuant to the provisions of the last preceding subsection, to any omnibus license.

Power of  
Board on  
application  
of owner  
to cancel or  
vary certain  
conditions  
attached to  
licenses.

No. 42 of  
1933, s. 27,  
renumbered  
s. 28 in  
1943 reprint.

Power to  
grant  
omnibus  
licenses for  
period of  
seven years.

S. 29 repealed  
and new  
section  
substituted  
by No. 59 of  
1948, s. 9.  
Amended by  
No. 59 of  
1961, s. 14.

28. [*Repealed by No. 59 of 1948, s. 8.*]

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

(2) No transfer of a license for an omnibus shall 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 license remaining unexpired.

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

Permits.  
No. 42 of  
1933, s. 29,  
renumbered  
as s. 30 in  
1943 reprint.  
Amended by  
No. 59 of  
1961, s. 14.

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

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

Local  
authorities  
to appoint  
stands for  
omnibuses.  
No. 42 of  
1933, s. 30,  
renumbered  
as s. 31 in  
1943 reprint.  
Amended by  
No. 60 of  
1956, s. 3.  
No. 61 of  
1957, s. 2;  
No. 59 of  
1961, s. 15.  
[Cf. No. 60  
of 1919,  
as amended,  
s. 14.]

(2) In this section, "local authority" means in respect of that part of the State which is at any material time defined as the metropolitan area under the Traffic Act, 1919—the Commissioner of Main Roads; and means in respect of any municipal district not in that area—the council of the district.

(3) Any stand so appointed shall be deemed for the purposes of the regulations made under the Traffic Act, 1919, to be a special parking stand.

[Cf. reg. 360,  
Gazette  
No. 59  
15/12/34.]

32. Subject to the provisions of paragraph (a) of section fifteen, a license shall not be granted for any omnibus under this Part unless such vehicle is licensed as an omnibus in accordance with the Traffic Act, 1919-1932.<sup>1</sup>

Omnibuses  
to be  
registered  
as motor  
vehicles.  
No. 42 of  
1933, s. 31,  
renumbered  
as s. 32 in  
1943 reprint.

<sup>1</sup> Now Traffic Act, 1919-1961.

*Division (3)—Commercial Goods Vehicles.*

Commercial goods vehicle not to operate unless licensed. No. 42 of 1933, s. 32, renumbered as s. 33 in 1943 reprint.

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

Application of Part.

No. 42 of 1933, s. 33; amended by No. 47 of 1938, s. 4; renumbered as s. 34 in 1943 reprint, amended by No. 59 of 1948, s. 10; No. 59 of 1961, s. 16.

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

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

First Schedule.

(2) Notwithstanding anything to the contrary contained elsewhere in this section, a license shall be necessary under this Act in respect of a vehicle mentioned in this section not operating in the manner specified in paragraphs (a) or (b) of subsection (1) of this section to which but for this subsection the provisions of this section as to exemption would apply, if in relation to such vehicle the following circumstances exist, that is to say:—

- (a) there are more persons than three holding separate share interests in the vehicle; and
- (b) such share interest is not held as a partner in a partnership, or is held as a partner in a limited partnership within the meaning of the Limited Partnership Act, 1909; and
- (c) any one of the persons holding a share interest in the vehicle is not himself the owner of any business in or for which such vehicle operates, or is not a partner or is

only a limited partner in any firm which is the owner of any business in or for which such vehicle operates; or

- (d) the vehicle is operated or intended to be operated or available for operation by or for any one of such persons having a share interest therein as aforesaid, for the direct benefit of such one person as an individual, when being so operated, and not for the direct benefit of all the other persons holding share interests in such vehicle.

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

(4) For the purpose of paragraphs (a) and (b) of subsection one of this section, where goods are transhipped from one vehicle to another or are carried by a vehicle to a receiving depot and are carried from the place of transhipment or from that depot by another vehicle, the whole journey shall be regarded as one journey and each vehicle taking part in it shall be regarded as having undertaken the whole journey.

Staging prohibited.  
[N.S.W. Geo. V. No. 32 of 1931.  
Section 18 (3).]

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

License for commercial goods vehicles.  
No. 42 of 1933, s. 34, renumbered as s. 35 in 1943 reprint.  
Amended by No. 59 of 1961, s. 17.

35A. (1) Where an application is made for a license to operate a commercial goods vehicle wholly within thirty-five miles of the General Post Office in Forrest Place, Perth, the Commissioner shall, notwithstanding the discretion exercisable by the Commissioner under section thirty-five in respect of applications made otherwise than under this section, grant the license.

Licenses to operate commercial goods vehicles within 35 miles of the General Post Office, Perth.  
S. 35A added by No. 83 of 1953, s. 4.  
Amended by No. 59 of 1961, s. 17.

(2) The provisions of this Part with the exception of those mentioned in subsection (3) of this section apply in respect of licenses granted by the Commissioner under this section and in respect of applications for those licenses.

(3) The provisions of sections thirty-seven, thirty-eight and forty of this Act do not apply in respect of licenses granted by the Commissioner under this section.

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

- (a) the route or area upon or in which it is intended that the commercial goods vehicle is to operate;
- (b) a description of the vehicle in respect of which the application is made;
- (c) the classes of goods proposed to be carried; and
- (d) such other particulars as are prescribed.

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

- (a) the necessity for the service proposed to be provided and the convenience which would be afforded to the public by the provision of such service;
- (b) the existing transportation service for the carriage of goods upon the routes or within the area proposed to be served in relation to—
  - (i) its present adequacy and possibilities for improvement to meet all reasonable public demands;
  - (ii) the effect upon such existing service of the service proposed to be provided;

Application for license.  
No. 42 of 1933, s. 35, renumbered as s. 36 in 1943 reprint.

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

No. 42 of 1933, s. 36, renumbered as s. 37 in 1943 reprint. Amended by No. 59 of 1961, s. 17.

- (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.

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

Power of Commissioner to grant or refuse application for license.  
No. 42 of 1933, s. 37, renumbered as s. 38 in 1943 reprint.  
Amended by No. 59 of 1961, s. 17.

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

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

39. It shall be a condition of every license for a commercial goods vehicle granted by the Commissioner—

Conditions of commercial goods vehicle license.  
No. 42 of 1933, s. 38, renumbered as s. 39 in 1943 reprint.  
Amended by No. 59 of 1961, s. 17.

- (a) that the vehicle is maintained in a fit and serviceable condition;
- (b) that the provisions of any Act or regulation which are applicable to the vehicle and its operation are complied with;
- (c) that in relation to such vehicle the provisions of this Part relating to the limitation of hours of driving are observed, and that the provisions and the requirements of any relevant industrial award or agreement applying to any persons engaged in its operation are complied with.

40. (1) The Commissioner may in his discretion attach to any commercial goods vehicle license all or any of the following conditions, that is to say:—

Power of Commissioner to attach conditions to license.  
No. 42 of 1933, s. 39, renumbered as s. 40 in 1943 reprint; amended by No. 59 of 1948, s. 11; No. 59 of 1961, s. 17.

- (a) a condition that the vehicle shall operate only upon specified routes or in a specified area;

## PART IV.—MISCELLANEOUS.

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

No. 42 of  
1933, s. 47  
amended by  
No. 47 of  
1938, s. 5  
renumbered  
s. 48 in  
1943 reprint  
amended by  
No. 4 of  
1946, s. 7.

[Cf. Imp. 20  
and 21, Geo.  
V., No. 43,  
s. 19.]

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

- (a) for any continuous period of more than five and one-half hours; or
- (b) for continuous periods amounting in the aggregate to more than eleven hours in respect of any period of twenty-four hours, commencing at midnight; or
- (c) so that the driver has not at least ten consecutive hours for rest in any period of twenty-four hours calculated from the commencement of any period of driving:

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

(2) For the purposes of this section—

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

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



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

(4) The provisions of this section shall not apply to any vehicle operating in that part of the State situated north of the twenty-sixth parallel of south latitude.

Exemption north of twenty-sixth parallel of south latitude.

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

Powers of members of police force and persons authorised by Commissioner for purpose of ascertaining whether provisions of Act or regulations are being contravened.

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

No. 42 of 1933, s. 48, renumbered as s. 49 in 1943 reprint. Amended by No. 59 of 1961, s. 19.

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

Proof of person being unlicensed.

[*Cf. W. A. Traffic Act, 1919-1932, s. 61.*]

No. 42 of 1933, s. 49, renumbered as s. 50 in 1943 reprint.

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

Licenses or permits to be carried in vehicles in respect of which they are granted.

No. 42 of 1933, s. 50, renumbered as s. 51 in 1943 reprint.

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

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

Penalties for operating unlicensed public vehicles.

No. 42 of 1933, s. 51, renumbered as s. 52 in 1943 reprint, repealed and re-enacted by No. 61 of 1957, s. 3.

52. (1) The driver and the owner of any public vehicle which operates on any road and

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

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

shall, subject to subsection (2) of this section, be severally guilty of an offence against this Act, and shall be liable for a first offence to a penalty of not more than forty pounds, and for a second offence, to a penalty of not more than one hundred pounds, and for any subsequent offence, to a penalty of not more than two hundred pounds.

(2) In any prosecution against the driver under this section it shall be a good defence if the driver satisfies the court that he believed, on reasonable grounds, that the public vehicle was operating in accordance with a license granted under this Act.

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

Proof that passengers carried at separate fares.  
No. 42 of 1933, s. 52, renumbered s. 53 in 1943 reprint.

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

Provisions for offences for which no penalty expressly provided.  
No. 42 of 1933, s. 53, renumbered s. 54 in 1943 reprint.

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

Power to revoke or suspend license or permit.  
No. 42 of 1933, s. 54, renumbered s. 55 in 1943 reprint.  
Amended by No. 59 of 1961, s. 19.  
[Traffic Act, 1919-1932, s. 14.]

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

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

56. (1) The 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.  
No. 42 of 1933, s. 55, renumbered s. 56 in 1943 reprint.  
Amended by No. 59 of 1961, s. 20.  
Proof of authority to prosecute.

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

(a) of the persons constituting the Board;

- (b) of any direction to take the proceedings;
- (c) of any authority of any officer of the Commissioner, or of any other person to take the proceedings;
- (d) of the presence of a quorum of the Board at the doing of any act; or
- (e) of the due appointment of the Commissioner.

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

Saving of operation of Traffic Act, 1919.  
No. 42 of 1933, s. 56, renumbered s. 57 in 1943 reprint.

57. Save as otherwise expressly provided, nothing in this Act shall be deemed to limit or affect the operation of the Traffic Act, 1919-1932,<sup>1</sup> but that Act shall be construed subject to the express provisions of this Act.

Regulations.  
No. 42 of 1933, s. 57, renumbered s. 58 in 1943 reprint.  
Amended by 60 of 1956, s. 4.  
No. 59 of 1961, s. 21.

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

- (a) the conduct of meetings of the Board;
- (b) the custody and method of affixing the Commissioner's common seal;
- (c) the form of the common seal;
- (d) the design and construction of omnibuses, so as to secure the safety, comfort, and convenience of passengers and the public;
- (e) the maximum fares to be paid by passengers on omnibuses;
- (f) the returns of earnings of omnibuses for the purpose of assessing license fees, such information to be treated as confidential; the method of assessment; the time and manner of payment; and providing for refund of excess payments of fees or recovery of fees short paid;

<sup>1</sup> Now Traffic Act, 1919-1961.

- (fa) 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 licenses or permits under this Act and the revocation, suspension, or transfer of such licenses or permits;
- (k) the form and conditions of and any particulars to be set out in licenses or permits under this Act;
- (l) records to be kept in relation to public vehicles;
- (m) the furnishing by owners of public vehicles of statistical and other information;
- (n) the fees payable in respect of applications under this Act;
- (o) the fee payable for any special permit under this Act;
- (p) providing for distinguishing words, letters, numbers, colours, or marks, being or not being placed on public vehicles;
- (q) generally, all such matters and things as are authorised or permitted to be prescribed, or are necessary or expedient to be prescribed for carrying this Act into effect.

(2) Any regulations made under this section—

- (a) may be of general or specially limited application, according to time, place, or circumstances;
- (b) may prescribe penalties of not more than twenty pounds for any breach thereof.

Governor  
may make  
certain  
regulations.  
Added by  
No. 57 of  
1959, s. 3.  
Amended by  
No. 59 of  
1961, s. 22.

**58A.** (1) The Governor may from time to time, after considering the advice and recommendations of the Commissioner to the Minister under paragraph (d) of subsection (1) of section ten of this Act, make such regulations as may be deemed necessary or desirable for the purpose of providing and maintaining road transport of goods in areas not served by a railway service or an adequate railway service, and in particular but without limiting the generality of the power conferred by this section regulations may be so made prescribing or relating to—

- (a) the areas to be served, and the routes to be followed, by that road transport;
- (b) the classes of goods to be carried by that road transport;
- (c) the rates to be paid in respect of any subsidies granted in aid of that road transport and the manner of such payment.

(2) Regulations made under this section are in addition to and not in derogation of any regulations made by the Commissioner under the power conferred on it by section fifty-eight of this Act, but where a regulation made under this section conflicts or is inconsistent with a regulation made under section fifty-eight of this Act, the regulation made under this section shall prevail.

(3) 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 section thirty-six of the Interpretation Act, 1918.

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

Protection of Minister, local authorities, and officers.  
No. 42 of 1933, s. 58, as amended by s. 33 of No. 22 of 1936; renumbered as s. 59 in 1943 reprint.  
Amended by No. 59 of 1961, s. 23.  
[Traffic Act, 1919-1932, s. 64.]

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

Financial provision.  
No. 42 of 1933, s. 59; amended by No. 47 of 1938, s. 6; No. 9 of 1940, s. 2; renumbered as s. 60 in 1943 reprint; and further amended by No. 4 of 1946, s. 8; No. 59 of 1948, s. 13. No. 60 of 1956, s. 5. No. 61 of 1957, s. 4. No. 59 of 1961, s. 24.

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

(2) Out of the said fund there shall be paid—

- (a) the cost of administration of this Act;
- (b) contributions to the Superannuation Fund payable by the Commissioner under any agreement made between the Commissioner and the Treasurer under the provisions of section six of the Superannuation and Family Benefits Act, 1938-1945;<sup>1</sup> and
- (c) such sums as in the opinion of the Commissioner are necessary or expedient in the interests of public transport to be granted

<sup>1</sup> Now Superannuation and Family Benefits Act, 1938-1962.

in aid of any transport carried on by the holder of a license for any public vehicle or for or towards the provision of shelters or other amenities on or adjacent to any omnibus route.

Apportion-  
ing of Fund.

(3) At the end of the financial year any balance remaining in the fund shall be divided into three portions in the same proportion as the license fees derived respectively from licenses issued for omnibuses, commercial goods vehicles, and aircraft bear to the total of all such license fees, and such portions shall be applied as follows:—

Authority  
to subsidise  
roads,  
landing  
grounds and  
facilities.  
[Cf. 12 of  
1937.]

- (a) The portion which is derived from the fees for the issue of omnibus licenses shall be applied towards the maintenance and improvement of the roads on which the omnibuses operate, and shall, subject to paragraph (d) of this subsection, be divided equitably amongst the various statutory authorities concerned in the maintenance and improvement of those roads.
- (b) The portion which is derived from the fees for the issue of licenses for commercial goods vehicles shall be applied in like manner towards the maintenance and improvement of the roads on which the commercial goods vehicles operate, and shall, subject to paragraph (d) of this subsection, be divided equitably amongst the various statutory authorities concerned in the maintenance and improvement of those roads.
- (c) The portion which is derived from the fees for the issue of licenses for aircraft shall be held in trust by the Commissioner and shall be applied, as and when the Commissioner shall deem fit, towards the provision, maintenance or improvement of any aircraft landing ground or of any facilities deemed necessary for the safe operation of any aircraft using or about to use any aircraft landing ground.



- (d) Where the Commissioner expends from the balance any sums for the provision or maintenance or both of signs or 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 this subsection, shall be reduced by the sum so expended by the Commissioner, and shall be brought into account in respect of the division.

(4) [*Repealed by No. 59 of 1961, s. 24.*]

(5) [*Repealed by No. 59 of 1961, s. 24.*]

(6) [*Repealed by No. 59 of 1961, s. 24.*]

61. [*Repealed by No. 59 of 1961, s. 25.*]

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

No. 42 of 1933, s. 60, renumbered as s. 61 in 1943 reprint.

62. (1) For the purposes of this section, "Government Department" includes a Minister of the Crown acting in his official capacity, any State Government Department, State trading concern, State instrumentality, State public utility and any other person or body, whether corporate or non-corporate, who or which, under the authority of an Act of Parliament administers or carries on for the benefit of the State any public social service or public utility.

Government Departments.  
Minister and Commissioner or Board to confer and co-operate with other departments.  
S. 62 added by No. 59 of 1948, s. 14.  
Amended by No. 59 of 1961, s. 26.  
[52 of 1945, s. 2: 60 of 1945, s. 59.]

(2) Where the exercise of any rights, powers or authorities, or the discharge of any duties by the Minister or the Commissioner or Board may affect the exercise of any rights, powers, or authorities, or the discharge of any duties by any other Government department, the Minister and the Commissioner or Board shall, so far as practicable, confer and co-operate with such department.

(3) Any question, difference or dispute arising, or about to arise, between the Minister or the Commissioner or Board and any other Government department with respect to the exercise of any rights, powers or authorities, or the discharge of any duties by any or all of them may be finally and conclusively determined by the Governor.

#### FIRST SCHEDULE.

No. 42 of 1933.  
First Schedule repealed and new First Schedule substituted by No. 47 of 1938, amended by No. 59 of 1948, s. 15.  
No. 59 of 1961, s. 27.

1. The carriage of produce of farms or forests or farming requisites or requisites for the production of timber between any farm or forest and the railway station or town nearest to such farm or forest.

For the purpose of this item the term "farm" shall include a sheep station or a cattle station.

2. The carriage of produce and goods between the station property of any person engaged in the pastoral industry between such property and the railway station or town nearest to such property.

3. The carriage of livestock, poultry, fruit, vegetables, dairy produce or other perishable commodities or wheat or oats 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 such producer or for use by him in the production of the commodities herein named.

Para. 3A added by No. 59 of 1948, s. 15 (b).

3A. 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.

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

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

Para. 6 amended by No. 59 of 1948, s. 15.

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

Para. 6A added by No. 59 of 1948, s. 15.

6A. The carriage of household furniture or personal effects of a householder or a member of his family when 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.

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

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

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

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

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

12. Any 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 thirty-three of this Act.

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

13. The carriage of any 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 the preceding paragraphs of this Schedule.

Para. 13  
added by  
No. 59 of  
1948, s. 15.

## SECOND SCHEDULE.

### Part I.

*Rules for ascertaining power load weight of commercial goods vehicles (not including trailers or semi-trailers) for the purposes of this Schedule.*

No. 42 of  
1933,  
Second  
Schedule.  
Amended by  
No. 61 of  
1957, s. 5.

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

(complete and ready for use, including the tools, oil, spare parts, tyres, and other accessories usually carried) to the horse power calculated on the R.A.C. formula.

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

3. The horse power (H.P.) of a commercial goods vehicle, which is a motor vehicle, is ascertained according to the R.A.C. formula by multiplying the square of the diameter of the cylinders (expressed in inches) by the number of cylinders and dividing the result by 2.5.

Clause 3  
repealed  
and new  
clause  
inserted by  
No. 61 of  
1957, s. 5.

The formula is as follows:—

$d$  = diameter of cylinder in inches.

$n$  = number of cylinders.

$$\text{H.P.} = \frac{d^2 \times n}{2.5}; \text{ or}$$

$$\text{H.P.} = \frac{d^2 \times n}{1613}$$

when  $d$  is taken in millimeters.

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

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

Provided that all commercial goods vehicles—

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

Part 11.

Trailers and Semi-trailers.

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

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