

NORTHERN TERRITORY OF AUSTRALIA

COMMERCIAL PASSENGER (ROAD) TRANSPORT ACT

As in force at 1 July 1996

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NORTHERN TERRITORY OF AUSTRALIA

As in force at 1 July 1996

COMMERCIAL PASSENGER (ROAD) TRANSPORT ACT

An Act to regulate the carrying of passengers in motor vehicles for hire or reward, and for related purposes

Part 1 Preliminary

1 Short title

This Act may be cited as the *Commercial Passenger (Road) Transport Act*.

2 Commencement

The provisions of this Act shall come into operation on such date or dates as is or are fixed by the Administrator by notice in the *Gazette*.

3 Interpretation

(1) In this Act, unless the contrary intention appears:

accredited means accredited under Part 3 and registered pursuant to section 11 as an accredited operator.

approved means approved by the Director.

commercial passenger vehicle means a taxi, private hire car, motor omnibus, tourist vehicle or special passenger vehicle.

Director means the Director of Commercial Passenger (Road) Transport appointed under section 5(1).

inspector means a person appointed or declared as such under section 64, and includes the Director.

lender means a person who has entered into an agreement or arrangement under section 27 with the licensee of a taxi licence whereby the licence is used as security for a loan or liability.

licence means a licence granted or renewed under this Act.

motor omnibus means an approved motor vehicle fitted, equipped and constructed in accordance with the Australian Design Rules (within the meaning of the *Motor Vehicles Act*) to carry more than 8 passengers and used to carry passengers for hire or reward.

motor vehicle means any motor car, motor carriage, motor cycle, goods vehicle, motor omnibus, motor tractor, or other vehicle propelled upon a road wholly or partly by any volatile spirit or by steam, gas, oil, or electricity, or by any means other than human or animal power, and includes a trailer at any time attached to a motor vehicle but does not include any vehicle used on a railway or a powered cycle.

operate, in relation to a commercial passenger vehicle, means:

- (a) to drive or use; or
- (b) to cause or employ another person to drive or use,

that vehicle to carry passengers for hire or reward, otherwise than only in the capacity of an employee or a volunteer.

private hire car means an approved motor vehicle that:

- (a) is fitted, equipped or constructed to carry not more than 8 passengers and used, with the services of a driver, to carry passengers for hire or reward on pre-booked journeys at pre-arranged fares determined in accordance with a rate of hire calculated by reference to the period of time the vehicle is hired or by reference to the distance to be travelled in the vehicle;
- (b) is not fitted with a meter that either calculates or indicates the fare payable; and
- (c) does not stand or ply for hire on a road or, except where approved in writing by the Director, stand for hire on any lot off a road.

Registrar of Motor Vehicles means the Registrar of Motor Vehicles appointed under the *Motor Vehicles Act*.

road has the same meaning as in the *Local Government Act*, but construed as if a reference to a municipality were a reference to the Territory.

route service, in relation to the operation of a motor omnibus, means a motor omnibus service which is, or is advertised or held out to be, on a scheduled route basis having a regular time-table and having a fare structure related to the carriage of passengers

over sectors of the scheduled route.

special passenger vehicle means a motor vehicle (not being a motor vehicle operated as a taxi, private hire car, motor omnibus or tourist vehicle) used to carry passengers for hire or reward, being a motor vehicle declared by the Director, either generally as a class, or specifically, to be a special passenger vehicle for the purposes of this Act.

substitute taxi means an approved motor vehicle licensed by the Director under section 29 and fitted out as a taxi, being a motor vehicle that is operated as a substitute for a taxi during those periods when that taxi is being serviced, maintained or repaired or is for any other reason unavailable for use as a taxi.

supplementary taxi means a motor vehicle licensed by the Director under section 31 to be operated only in accordance with the conditions specified in the licence to supplement the service offered by taxis during periods of peak demand or as authorised by the Director.

taxi means an approved motor vehicle fitted with an approved meter which is equipped or constructed to carry not more than 8 passengers and is used for the purpose of:

- (a) standing or plying for hire; and
- (b) carrying passengers for hire or reward, including by responding to ad hoc hailings or by pre-booked journeys, for a fare (including a pre-arranged fare) determined in accordance with a rate of hire calculated primarily by reference to distance travelled that, unless exempted by the Director in respect of particular types of hire, is indicated by the meter.

this Act includes regulations made under this Act.

tour package means a holiday, sightseeing or recreational tour undertaken by a tourist pursuant to an agreement entered into with a travel agency or company or person offering such tours, being a tour which includes travel segments and accommodation, and, if part of the agreement, the transfer of the tourist between transport terminals and that accommodation.

tourist means a person travelling from one place to another principally for the purposes of recreation or pleasure.

tourist vehicle means an approved motor vehicle (not being a motor vehicle operated as a taxi, private hire car, motor omnibus or special passenger vehicle) used for the carriage of tourists for hire or reward:

- (a) pursuant to pre-arranged bookings, outside the environs of a municipality; or
- (b) within the environs of a municipality if that carriage is part of a tour package.

urban service area means a motor omnibus urban route service area declared by notice under section 47.

- (2) For the purposes of this Act, **to carry passengers for hire or reward** includes any case where the owner or driver of a motor vehicle used:
 - (a) offers the carriage as an inducement in respect of an agreement for the provision of other services or goods; or
 - (b) receives consideration for an arrangement whereby the carriage is affected or to which the carriage is related.
- (3) For the purposes of this Act and of any contract of insurance, a motor vehicle is deemed not to be used to carry passengers for hire or reward if the carriage is pursuant to a motor vehicle pooling arrangement, being an arrangement whereby the carriage:
 - (a) is incidental to the main purpose of the journey;
 - (b) is not the result of touting for passengers by the driver or any other person on any road or because of being, or being part of, any commercial operation; and
 - (c) is undertaken for a consideration limited to:
 - (i) an undertaking by or on behalf of the passenger to carry the driver or a member of the driver's family on a similar journey; or
 - (ii) the payment of an amount which does not contain any element of profit in respect of the operation of the motor vehicle or of a motor vehicle pool or any recompense for the time of the driver.
- (4) A reference in this Act to the holder of a licence includes a reference to a person permitted by the holder of the licence to operate a commercial passenger vehicle under the licence.

4 Act binds the Crown

This Act binds the Crown not only in right of the Territory but, to the extent that the legislative power of the Legislative Assembly so permits, in all its other capacities.

Part 2 Administration**5 Director of Commercial Passenger (Road) Transport**

- (1) The Minister may, by notice in writing, appoint a Chief Executive Officer or employee, as defined in the *Public Sector Employment and Management Act*, to be the Director of Commercial Passenger (Road) Transport.
- (2) Subject to this Act, the Director has power to do all things necessary or convenient to be done for or in connection with, or incidental to, the performance of the Director's functions under this Act.
- (3) In the exercise of the powers and the performance of the functions vested in the Director under this Act, the Director is subject to the directions of the Minister.

6 Delegation

- (1) The Director may, by notice in writing, delegate:
 - (a) to the Registrar of Motor Vehicles; or
 - (b) to a person,any of the powers and functions of the Director under this Act other than, subject to subsection (4), this power of delegation.
- (2) A power or function delegated under this section, when exercised or performed by the delegate, shall, for the purposes of this Act, be deemed to have been exercised or performed by the Director.
- (3) A delegation under this section does not prevent the exercise of a power or the performance of a function by the Director.
- (4) A delegation under subsection (1) to the Registrar of Motor Vehicles may, notwithstanding the exception in that subsection, include a power of delegation of the powers and functions by the Registrar, but the exercise of that power shall not include a power of further delegation.

Part 3 Accreditation

7 Purpose of Part

The purpose of this Part is to require the operator of a commercial passenger vehicle to be accredited, where accreditation indicates:

- (a) that the accredited person is (or, in the case of an accredited body corporate, the designated directors and managers of the body corporate are) considered to be of good repute and in all other respects fit and proper to be responsible for the operation of a commercial passenger vehicle; and
- (b) that the accredited person has demonstrated the capacity to meet the required standards of safety of passengers and the public to the degree and in the manner required in respect of the operations and in accordance with the conditions specified in the person's accreditation.

8 Operator to be accredited

- (1) Subject to this Act, a person who proposes to operate a commercial passenger vehicle, either alone or as part of or in connection with any other business, shall, before operating the commercial passenger vehicle, be accredited under this Part.

Penalty: \$10,000.

- (2) An application for accreditation shall be made on an approved form accompanied by the prescribed fee (if any).

9 Consideration of application

- (1) The Director shall consider an application made under section 8 and may, subject to this Act:
 - (a) refuse it;
 - (b) accept it; or
 - (c) allow the applicant to amend it, and accept it as amended.
- (2) For the purposes of subsection (1), the Director may require an applicant to provide such further information as the Director may require.

- (3) The Director shall not accredit, or renew the accreditation of, a person who:
- (a) is bankrupt, has applied to take the benefit of any law for the relief of bankrupt or insolvent debtors, has compounded with the person's creditors or made an assignment of the person's remuneration for the benefit of the person's creditors;
 - (b) has had an accreditation or licence or authority cancelled under this Act;
 - (c) was a director of a body corporate at the time when an offence was committed which led to an accreditation or licence or authority granted to that body corporate being cancelled under this Act; or
 - (d) has been found guilty of a prescribed offence against this Act or any other Act.
- (4) The Director shall not accredit, or renew the accreditation of, a body corporate:
- (a) unless the body corporate is, by its memorandum of association, authorised to carry on the business associated with the accreditation;
 - (b) unless each of the directors of the body corporate would, whether initially or during a period of accreditation, be entitled as an individual, to be accredited; or
 - (c) in respect of which a liquidator, receiver, receiver and manager or official manager has been appointed under the Corporations Law unless in the particular circumstances it would, in the opinion of the Director, be inequitable not to accredit or renew the accreditation.

10 Conditions of accreditation

- (1) An operator's accreditation shall be subject to such conditions, if any, as are prescribed and to such other conditions, if any, as the Director thinks fit and specifies in relation to the accreditation.
- (2) The Director may from time to time, by written notice to an accredited operator, amend or revoke the conditions of accreditation or add new conditions.
- (3) The conditions referred to in this section shall be substantially the same for all operations of a similar nature unless the Director is satisfied, on stated grounds in a particular case, that different conditions are reasonable.

11 Register of accredited persons, &c.

- (1) The Director shall set up and maintain, or cause to be set up and maintained, whether by electronic means or otherwise, a register of accredited operators.
- (2) The register shall have entered in it the name of each person who has been accepted as an accredited operator, any conditions to which the accreditation is subject, the nature of any licences or authorizations held under this Act and any conditions subject to which they are held.
- (3) Except as provided in subsection (2), all other information obtained by the Director for the purposes of this Part shall be kept confidential and not disclosed to any person other than for the proper administration of this Act.
- (4) A member of the public may, during periods determined by the Director and upon payment of the prescribed fee (if any), search, or take or be provided with extracts from, any entry in the register.
- (5) The Director shall issue each person entered in the register as an accredited operator with a certificate of accreditation which, without proof to the contrary, is evidence, for all purposes, that the person is accredited under this Part.
- (6) The Director may require the holder of a certificate of accreditation to return it and the Director shall issue a substitute certificate containing any new or amended conditions in its place.

12 Period of accreditation, renewal

- (1) An accreditation is effective, unless sooner cancelled or suspended under this Act, for 5 years from the day of its registration, but may be renewed by the Director upon application made in that behalf in the approved form accompanied by payment of the prescribed fee (if any).
- (2) Where an application for renewal is made but is not determined before the date on which the accreditation to which it relates expires, the accreditation shall remain effective until the application is determined.
- (3) Where an accreditation has expired and the person who was accredited is the holder of a taxi licence, the taxi licence shall:
 - (a) where an application for renewal of the accreditation is made within 28 days after its expiry, remain suspended until the application is determined; or

- (b) where no application for renewal is made within that period of 28 days, lapse with the expiry of that period.
- (4) In considering an application for renewal under subsection (1), the Director shall take into account the matters that would be taken into account if the application were for a new accreditation.

13 Effect of accreditation

An accredited operator may:

- (a) apply for a licence under this Act; and
- (b) operate a motor vehicle or carry out an action licensed under this Act in accordance with the conditions specified in relation to the accreditation or the licence.

14 Operator's accreditation not transferable

An operator's accreditation is not transferable.

15 Director may grant exemption

- (1) Notwithstanding section 8(1) but subject to the Regulations, the Director may in the special circumstances of the case, by notice in writing, exempt a person proposing to apply for a commercial passenger vehicle licence or other licence from the requirement of first being accredited under this Part.
- (2) The Director may, in a notice under subsection (1), impose such conditions on any exemption granted as the Director thinks fit.
- (3) The Director may, by notice in writing to the operator of a commercial passenger vehicle or other person exempted under subsection (1), lift the exemption granted and require the operator to be accredited on the expiry of a period of 3 months or such longer period as may be specified in the notice, commencing with the day the notice was given.
- (4) The Director shall cause a copy of any notice given under subsection (1) or (3) to be published in the *Gazette*.
- (5) The Director may, by notice in the *Gazette* and subject to such conditions as may be specified, exempt any class or classes of operators of commercial passenger vehicle operations using commercial passenger vehicles from the requirement of first being accredited under this Part.

- (6) The Director may, by notice in the *Gazette* and subject to such conditions as may be specified, lift any exemption granted under subsection (5) on the expiry of such period, being not less than 3 months from the date of the notice, as is specified.

Part 4 Taxi licences

Division 1 Taxi licences

16 Taxi areas and taxi numbers

The Minister may, by notice in the *Gazette*:

- (a) declare an area to be a taxi area for the purposes of this Act; and
- (b) in respect of a taxi area declared under paragraph (a), determine the number of taxi licences which may be granted by the Director or held for the taxi area.

17 Director may grant taxi licence

- (1) Subject to this Part, the Director may grant a taxi licence to an accredited operator.
- (2) The Director shall not grant a taxi licence in a taxi area if by doing so the number of licences for that area would exceed the number determined under section 16(b).

18 Taxi licence may be offered by tender

- (1) Where, pursuant to section 16(b), the Director proposes to grant a taxi licence, the Director shall, by notice in the *Gazette*, and in a newspaper published and circulating in the Territory, call for tenders for the purchase of the taxi licence.
- (2) The Director shall not issue a taxi licence pursuant to this section if, at the time of its grant, the proposed grantee is not accredited.

19 Taxi licence may be offered by auction

- (1) The Director may, instead of calling for tenders under section 18, offer a taxi licence for purchase at public auction after giving notice of the auction in the *Gazette* and in a newspaper published and circulating in the Territory.
- (2) The Director shall, subject to this Act, grant the taxi licence to the person making the highest bid for its purchase.

- (3) The Director shall not issue a taxi licence pursuant to this section if, at the time of its grant, the proposed grantee is not accredited.

20 Licensees to be resident in territory

- (1) The Director shall not issue a taxi licence pursuant to this Part unless, at the time of its grant, the Director is satisfied that the proposed grantee:
- (a) if an individual, is ordinarily resident in the Territory; or
 - (b) if a body corporate, has its principal place of business in the Territory.
- (2) The holder of a taxi licence shall, within the period of 6 months after ceasing to be ordinarily resident in the Territory or, as the case may be, ceasing to have its principal place of business in the Territory, complete the transfer of the licence under section 26 to another person.

21 Minister's consent required in certain cases

Except with the consent of the Minister, the Director shall not grant a taxi licence to a person who, within the preceding period of 12 months, has transferred a taxi licence or an interest in a taxi licence to another person.

22 Registration number to be endorsed on licence

The Director shall, on granting a taxi licence, endorse on the licence the registration number, as contained on the number plates issued under the *Motor Vehicles Act*, of the taxi in respect of which the licence is granted.

23 Conditions of taxi licence

- (1) A taxi licence shall be subject to such conditions, if any, as the Director thinks fit and specifies in the licence.
- (2) The Director may from time to time, by written notice to a taxi licence holder, amend or revoke the conditions of the licence or add new conditions.
- (3) The conditions referred to in this section shall be substantially the same for all taxi licences unless the Director is satisfied, on stated grounds in a particular case, that different conditions are reasonable.

- (4) The Director may require the holder of a taxi licence to return it and the Director shall issue a substitute licence containing any new conditions in its place.
- (5) The Director may require the holder of a taxi licence to join a communications network approved under section 71.
- (6) It is a condition of a taxi licence that a taxi endorsed on the licence is used as such and is maintained to the approved standard.

24 Taxi to operate in taxi areas

- (1) Where the Director grants or transfers a taxi licence, the Director shall specify, in the licence, the taxi area within which a taxi endorsed on the licence may be used for the carriage of passengers for hire or reward.
- (2) A person shall not, in a taxi, carry passengers for hire or reward in a taxi area not specified in the taxi licence of the taxi.
- (3) For the purposes of this Act, the carrying of a passenger:
 - (a) into a taxi area from a place outside the taxi area; or
 - (b) from within a taxi area to a place outside the taxi area on the return journey by a direct route to the place from which the passenger was brought into the taxi area,

is not carrying passengers for hire or reward within the taxi area.

25 Term of licence

A taxi licence, unless sooner cancelled or suspended under this Act, remains in force for such period as the holder of the licence is an accredited operator.

26 Transfer of taxi licences

- (1) The Director may, in accordance with this Act, on application by:
 - (a) subject to subsections (4), (6) and (9), a person who holds a licence which the person has held for not less than 12 months; or
 - (b) subject to subsections (5) and (6) and the Regulations, a lender on the sale of the taxi licence used as security for a loan or liability,

and on payment of the prescribed fee (if any) by that person to the Director, transfer the taxi licence.

- (2) An application for the transfer of a taxi licence shall be in accordance with a form approved by the Director and shall be lodged with the Director not less than 21 days before the proposed date of the transfer.
- (3) An application for the transfer of a taxi licence shall be made jointly with the proposed transferee and shall be accompanied by the licence in any case where the application is by a person referred to in subsection (1)(a).
- (4) Where a taxi licence is used pursuant to section 27 as security for a loan or liability and particulars of the security are, in accordance with the Regulations, endorsed on the licence, an application under subsection (1)(a) shall not be made except with the consent in writing of the lender.
- (5) An application under subsection (1)(b) shall not be made except where particulars of the loan or liability for which the taxi licence was used as security are, in accordance with the Regulations, endorsed on the licence.
- (6) Notwithstanding subsection (1), the Director may transfer a taxi licence of a person who is not otherwise eligible to transfer the licence if:
 - (a) the licensee is deceased; or
 - (b) the Minister is satisfied that exceptional circumstances warrant the transfer.
- (7) Except with the consent of the Minister, the Director shall not transfer a taxi licence to a person who has, within the preceding 12 months, transferred a taxi licence or an interest in a taxi licence to another person.
- (8) Notwithstanding subsection (6) or the consent of the Minister under subsection (7), the Director shall not transfer a taxi licence to a person if that person is not accredited.
- (9) Notwithstanding subsection (1)(a), where the holder of a taxi licence has:
 - (a) died;
 - (b) become insane; or
 - (c) become bankrupt,

an application for the transfer of the licence may be made by:

- (d) the person's legal personal representative;
 - (e) a person administering the person's property; or
 - (f) the person in whom the person's property is vested,
- respectively.

(10) An application for the transfer of a taxi licence shall be accompanied by a statutory declaration by the transferee declaring:

- (a) whether the transferor is transferring with the licence the taxi in respect of which the licence was granted;
- (b) the amount to be paid by the transferee for the transfer of the licence; and
- (c) such other matters as the Director considers relevant.

(11) The fee for the transfer of a taxi licence is 5% of the amount paid by the transferee for the transfer.

(12) On the transfer of a taxi licence under this section:

- (a) the Director shall amend the taxi licence and direct the Registrar of Motor Vehicles to amend the certificate of registration issued under the *Motor Vehicles Act* in respect of the motor vehicle for which the transferor was granted the licence and the certificate of registration issued under the *Motor Vehicles Act* in respect of the motor vehicle for which the licence is transferred; and
- (b) if the motor vehicle for which the transferor was granted the licence is not transferred with the licence, the transferor shall give to the transferee the number plates issued under the *Motor Vehicles Act* for the motor vehicle for which the transferor was granted the licence and the transferee shall affix them to the motor vehicle in respect of which the licence is transferred.

(13) Where, for any reason:

- (a) an application by a lender under subsection (1)(b) is not accompanied by the taxi licence, the Director shall be deemed to have complied with subsection (12)(a) if the Director issues a new taxi licence to the transferee in substitution for that transferred; or

- (b) a transferor fails to comply with subsection (12)(b), the Director may direct the Registrar of Motor Vehicles to issue to the transferee new number plates and, where the Registrar does so, the Director shall amend the licence accordingly.

27 Taxi licence as security for loan

- (1) Subject to this Act and the Regulations, a taxi licence may be used as security for a loan or liability.
- (2) Subject to subsection (3), a taxi licence shall not be used as security for more than one loan or liability at any one time.
- (3) Nothing in subsection (2) prevents a lender under an agreement or arrangement where a taxi licence has been used as security for a loan or liability under this Act making additional advances of money or credit to that originally advanced under the agreement or arrangement.
- (4) The Director may, for the purpose of protecting the interest of a lender or licensee under an agreement or arrangement entered into under this section, notify the lender or licensee of such matters relating to or affecting the taxi licence or the agreement or arrangement as is thought fit.
- (5) Where the Director, under subsection (4), notifies a lender or licensee such notification may be given by posting or delivering it to the lender or licensee at the address of the lender or licensee as provided in accordance with the Regulations.

28 Determination of fares and charges

- (1) The Minister may, by notice in the *Gazette*, determine:
- (a) the maximum fares and charges that may be charged for the hire or use of a taxi; and
- (b) the publication of those fares.
- (2) A person who:
- (a) charges a fare or charges for the hire or use of a taxi greater than that determined by the Minister under subsection (1)(a); or
- (b) contravenes or fails to comply with a determination of the Minister under subsection (1)(b),

is guilty of an offence.

Penalty: \$1,000.

- (3) In this section, **taxi** includes a substitute taxi and a supplementary taxi.

Division 2 Substitute taxi licences

29 Substitute taxi licence

- (1) An accredited operator may apply to the Director for the grant of a substitute taxi licence.
- (2) An application under subsection (1) shall be on an approved form and shall be accompanied by the prescribed fee (if any).
- (3) The Director may require an applicant to provide further particulars.
- (4) A substitute taxi licence is not transferrable.

30 Conditions of substitute taxi licence

- (1) A substitute taxi licence may be granted subject to such conditions, if any, as the Director thinks fit and specifies in the licence.
- (2) It is a condition of every substitute taxi licence that, except as otherwise authorised by the Director, the motor vehicle in respect of which the licence was granted shall not be used as a taxi unless it has affixed to it the number plates of the taxi for which it is being used in substitution.

Division 3 Supplementary taxis

31 Supplementary taxis

- (1) The Director may, from time to time, determine whether or not there is a need for supplementary taxis and, if so, the number of supplementary taxi licences which may be granted by the Director and the term (not exceeding 5 years) for which such licences may be granted.
- (2) Where the Director determines to grant a supplementary taxi licence, the Director shall, by notice in the *Gazette*, and in a newspaper published and circulating in the Territory, call for tenders for its purchase.
- (3) A supplementary taxi licence shall be granted for the term determined under subsection (1), but is not renewable.

- (4) The Director shall not issue a supplementary taxi licence if, at the time of its grant, the proposed grantee is not accredited.
- (5) In considering any tender under this section, the Director may give preference to an accredited operator who is also approved under section 71 to use a communication network in relation to taxis, whether the operator is a co-operative, a company or otherwise.
- (6) Where the holder of a supplementary taxi licence has:
- (a) died;
 - (b) become insane; or
 - (c) become bankrupt,
- an application for the transfer of the licence for its unexpired term may be made to the Director by:
- (d) the person's legal representative;
 - (e) a person administering the person's property; or
 - (f) the person in whom the person's property is vested,
- respectively.
- (7) Section 26, with the necessary changes, applies to an application under subsection (6) as if it were an application for the transfer of a taxi licence.
- (8) Except as provided in subsection (6), a supplementary taxi licence is not transferable.

Part 5 Private hire cars

32 Private hire car licences

- (1) Subject to this Act, a person who proposes to operate a private hire car shall, before commencing the operation, hold a private hire car licence.
- Penalty: \$10,000.
- (2) An application for a private hire car licence shall be made on an approved form accompanied by the prescribed fee (if any).

33 Consideration of application

- (1) The Director shall consider an application made under section 32 and may, subject to this Act:
 - (a) refuse it;
 - (b) grant it; or
 - (c) allow the applicant to amend it, and grant it as amended.
- (2) For the purposes of subsection (1), the Director may require an applicant to provide such further information as the Director may require.
- (3) The Director shall not issue a private hire car licence pursuant to this section if, at the time of its grant, the proposed grantee is not accredited.

34 Conditions of private hire car licence

- (1) A private hire car licence shall be subject to such conditions, if any, as the Director thinks fit and specifies in the licence.
- (2) The Director may from time to time, by written notice to a licence holder, amend or revoke the conditions of the licence or add new conditions.
- (3) The conditions referred to in this section shall be substantially the same for all private hire car licences unless the Director is satisfied, on stated grounds in a particular case, that different conditions are reasonable.
- (4) The Director may require the holder of a licence to return it and the Director shall issue a substitute licence containing any new or amended conditions in its place.

35 Effect of private hire car licence

A private hire car licence authorises the holder to operate a private hire car in accordance with the conditions specified in the licence and the holder's operator's accreditation.

36 Term of private hire car licence

A private hire car licence, unless sooner cancelled or suspended under this Act, remains in force for such period as the holder of a licence is accredited.

37 Director may grant exemption

- (1) Notwithstanding section 32(1) but subject to the Regulations, the Director may, by notice in writing, exempt a person proposing to operate a private hire car from the requirement of first holding a private hire car licence.
- (2) The Director may, in a notice under subsection (1), impose such conditions on any exemption granted as the Director thinks fit.
- (3) The Director may, by notice in writing to the operator of a private hire car exempted under subsection (1), lift the exemption granted and require the operator to hold a private hire car licence upon the expiry of a period of 3 months or such longer period as may be specified in the notice commencing with the day the notice was given.
- (4) The Director shall cause a copy of any notice given under subsection (1) or (3) to be published in the *Gazette*.
- (5) The Director may, by notice in the *Gazette*:
 - (a) subject to such conditions as may be specified, exempt any class or classes of operators of private hire cars or operations using private hire cars from the requirement that the operator hold a private hire car licence in respect of each private hire car used; and
 - (b) lift any exemption granted under paragraph (a) upon the expiry of such period, being not less than 3 months from the date of the notice, as is specified.

38 Private hire car licence may be transferred

The Director may, upon payment of the prescribed fee (if any), authorise the transfer of a private hire car licence from its holder to an accredited operator.

Part 6 Motor omnibuses**39 Motor omnibus licence**

- (1) Subject to this Act, a person who proposes to operate a motor omnibus shall, before commencing the operation, hold a motor omnibus licence.

Penalty: \$10,000.

- (2) An application for a motor omnibus licence shall be made on an approved form accompanied by the prescribed fee (if any).

40 Consideration of application

- (1) The Director shall consider an application made under section 39 and may, subject to this Act:
- (a) refuse it;
 - (b) grant it; or
 - (c) allow the applicant to amend it, and grant it as amended.
- (2) For the purposes of subsection (1) the Director may require an applicant to provide such further information as the Director may require.
- (3) The Director shall not issue a motor omnibus licence pursuant to this section if, at the time of its grant, the proposed grantee is not accredited.

41 Conditions of motor omnibus licence

- (1) A motor omnibus licence shall be subject to such conditions, if any, as the Director thinks fit and specifies in the licence.
- (2) The Director may from time to time, by written notice to a licence holder, amend or revoke the conditions of the licence or add new conditions.
- (3) The Director may require the holder of a licence to return it and the Director shall issue a substitute licence containing any new or amended conditions in its place.

42 Effect of motor omnibus licence

A motor omnibus licence authorises the holder, subject to the conditions specified in the licence and in relation to the holder's accreditation, to operate:

- (a) a motor omnibus anywhere in the Territory (but not as a route service); and
- (b) a motor omnibus route service anywhere in the Territory except:
 - (i) on or in relation to a route declared under section 46 to be a pioneer route; or
 - (ii) subject to section 47(2), in an urban service area.

43 Term of motor omnibus licence, renewal

- (1) A motor omnibus licence remains in force, unless sooner cancelled or suspended under this Act, for a period of 3 years from the day of its grant, but may be renewed by the Director upon application made in that behalf in the approved form accompanied by payment of the prescribed fee (if any).
- (2) In considering an application for renewal under subsection (1), the Director shall take into account the matters that would be taken into account if the application were for a new motor omnibus licence.

44 Director may grant exemption

- (1) The Director may, by notice in the *Gazette* and subject to such conditions as may be specified, exempt any class or classes of operators of motor omnibuses or operations using motor omnibuses from the requirement that the operator hold a motor omnibus licence in respect of each motor omnibus used.
- (2) The Director may, by notice in the *Gazette* and subject to such conditions as may be specified, lift any exemption granted under subsection (1) upon the expiry of such period, being not less than 3 months from the date of the notice, as is specified.

45 Director may amend route, &c.

- (1) Where, in relation to a motor omnibus operation advertised or held out to provide a regular passenger service, the Director considers that a route, timetable or practice of the operation may adversely affect the safety of a person or the safety of a vehicle, the Director may, by notice in writing, order the operator of the service to amend the route, timetable or practice in accordance with any requirements specified in the notice.
- (2) An operator to which subsection (1) applies shall comply with and not contravene an order of the Director under that subsection.

Penalty: \$5,000.

46 Pioneer routes

- (1) Where the Director is satisfied that, without protection under this section:
 - (a) a motor omnibus route service (being a route service that has been in operation for less than 12 months) is unlikely to be continued; or

- (b) a proposed motor omnibus route service for an unserved route is unlikely to be proceeded with,

the Director may, by notice in the *Gazette*, declare the route to be a pioneer route.

- (2) A declaration under subsection (1) gives the operator or proposed operator of the route service on the pioneer route exclusive rights of route service operation on that route in the same manner and to the same extent as exist or are proposed at the date the declaration is made, subject to such conditions as are specified in the notice, for a period of 12 months commencing with the day of publication of the notice.
- (3) If, on application made in that behalf before the expiry of the 12 month period specified in subsection (2), the Director, after a review of the operations of the operator of the route service on a pioneer route, is satisfied that protection is still needed to maintain the route service, the Director may extend, by notice in the *Gazette*, the protection under subsection (2) for one further consecutive period not exceeding 12 months.

47 Urban service areas

- (1) The Director may, by notice in the *Gazette*, declare an area specified in the notice, being an area wholly or partly urban, to be a motor omnibus urban route service area (in this Act referred to as an urban service area).
- (2) The Director may, in a notice under sub-section (1), declare that a route or service specified in the notice is excluded from the urban service area.
- (3) A person shall not operate a motor omnibus route service in an urban service area without first holding an urban service area licence issued under section 48.

48 Application for urban service area licence

- (1) A person may apply to the Director for an urban service area licence in respect of a route service in an urban service area.
- (2) An application under subsection (1) shall contain such information as the Director may require and shall be accompanied by the prescribed fee (if any).
- (3) The Director may, on receiving an application under subsection (1), and subject to this section, grant or refuse the application.

- (4) The Director shall not grant an application under subsection (3) for a pioneer route declared within an urban service area.
- (5) In considering an application under this section for an urban service area licence in respect of a route (not being a pioneer route) where another urban service area licence is in force, the Director shall, before granting the application, take into account the possible effects the additional service could have on the existing operation.

49 Director may prohibit or restrict other services in urban service area, recovery of loss

- (1) Where a person commences a motor omnibus service (not being a route service) wholly or partly on a route in an urban service area for which an urban service area licence is in force, the Director may, if satisfied that the service affects or is likely to affect the licensed route service, direct the person, by notice in writing, to cease or restrict the service within such time and on such conditions as may be specified in the notice.

Penalty: \$5,000.

- (2) A person found guilty of an offence under subsection (1) of failing to comply with a direction of the Director shall, whether a conviction is entered or penalty imposed in respect of the offence or not, be liable to pay to the operator of the route service affected any financial loss on the service caused or likely to have been caused by the failure to comply, which loss shall be assessed by the court before which the defendant appears and recovered in a like manner to a monetary penalty.

50 Conditions of motor omnibus licence or urban service area licence

- (1) A licence under this Part shall be subject to such conditions, if any, as the Director thinks fit and specifies in the licence.
- (2) The Director may from time to time, by written notice to a licence holder, amend or revoke the conditions of the licence or add new conditions.
- (3) The Director may require the holder of a licence to return it and the Director shall issue a substitute licence containing any new or amended conditions in its place.
- (4) Without limiting the generality of subsection (1), the Director may impose conditions relating to:
 - (a) the safety of vehicles operating under the licence;

- (b) notification, display and publication of fares; and
- (c) relief requirements, in the event of disruption of services.

51 Director may delegate management of motor omnibus urban route service area

- (1) The Director may, subject to such terms and conditions as may be agreed, delegate to a person all or any of the powers and functions of the Director in relation to motor omnibuses or motor omnibus services in an urban service area.
- (2) A delegation under subsection (1) may be revoked by the Director by agreement, or after the expiration of a period of no less than 12 months commencing with the day on which notice in writing of the proposed revocation is given to the delegate.

Part 7 Tourist vehicles

52 Tourist vehicle licence

- (1) Subject to this Act, a person who proposes to operate a motor vehicle as a tourist vehicle shall, before commencing the operation, hold a tourist vehicle licence.

Penalty: \$10,000.

- (2) An application for a tourist vehicle licence shall be made on an approved form accompanied by the prescribed fee (if any).

53 Consideration of application

- (1) The Director shall consider an application made under section 52 and may, subject to this Act:
 - (a) refuse it;
 - (b) grant it; or
 - (c) allow the applicant to amend it, and grant it as amended.
- (2) For the purposes of subsection (1), the Director may require an applicant to provide such further information as the Director may require.
- (3) The Director shall not issue a tourist vehicle licence pursuant to this section if, at the time of its grant, the proposed grantee is not accredited.

54 Conditions of tourist vehicle licence

- (1) A tourist vehicle licence shall be subject to such conditions, if any, as the Director thinks fit and specifies in the licence.
- (2) The Director may from time to time, by written notice to a licence holder, amend or revoke the conditions of the licence or add new conditions.
- (3) The conditions referred to in this section shall be substantially the same for all tourist vehicle licences unless the Director is satisfied, on stated grounds in a particular case, that different conditions are reasonable.
- (4) The Director may require the holder of a licence to return it and the Director shall issue a substitute licence containing any new or amended conditions in its place.

55 Effect of tourist vehicle licence

A tourist vehicle licence authorises the holder to operate a tourist vehicle in accordance with the conditions specified in the licence and in relation to the holder's accreditation.

56 Term of tourist vehicle licence, renewal

- (1) A tourist vehicle licence remains in force, unless sooner cancelled or suspended under this Act, for 3 years from the day of its grant, but may be renewed by the Director on application made in the approved form accompanied by payment of the prescribed fee (if any).
- (2) In considering an application for renewal under subsection (1), the Director shall take into account the matters that would be taken into account if the application were for a new tourist vehicle licence.

57 Director may grant exemption

- (1) The Director may, by notice in the *Gazette* and subject to such conditions as may be specified, exempt any class or classes of operators of tourist vehicles or operations using tourist vehicles from the requirement that the operator hold a tourist vehicle licence in respect of each tourist vehicle used.
- (2) The Director may, by notice in the *Gazette* and subject to such conditions as may be specified, lift any exemption granted under subsection (1) upon the expiry of such period, being not less than 3 months from the date of the notice, as is specified.

Part 8 Special passenger vehicles**58 Special passenger vehicle licences**

- (1) Subject to this Act, a person who proposes to operate a special passenger vehicle shall, before commencing the operation, hold a special passenger vehicle licence.

Penalty: \$10,000.

- (2) An application for a special passenger vehicle licence shall be made on an approved form accompanied by the prescribed fee (if any).

59 Consideration of application

- (1) The Director shall consider an application made under section 58 and may, subject to this Act:

- (a) refuse it;
- (b) grant it; or
- (c) allow the applicant to amend it, and grant it as amended.

- (2) For the purposes of subsection (1), the Director may require an applicant to provide such further information as the Director may require.

- (3) The Director shall not issue a special passenger vehicle licence pursuant to this section if, at the time of its grant, the proposed grantee is not accredited.

60 Conditions of special passenger vehicle licence

- (1) A special passenger vehicle licence shall be subject to such conditions, if any, as the Director thinks fit and specifies in the licence.

- (2) The Director may from time to time, by written notice to a licence holder, amend or revoke the conditions of the licence or add new conditions.

- (3) The conditions referred to in this section shall be substantially the same for all special passenger vehicle licences unless the Director is satisfied, on stated grounds in a particular case, that different conditions are reasonable.

- (4) The Director may require the holder of a licence to return it and the Director shall issue a substitute licence containing any new or amended conditions in its place.

61 Effect of special passenger vehicle licence

A special passenger vehicle licence authorises the holder to operate a special passenger vehicle in accordance with the conditions specified in the licence and in relation to the holder's accreditation.

62 Term of special passenger vehicle licence, renewal

- (1) A special passenger vehicle licence remains in force, unless sooner cancelled or suspended under this Act, for 12 months from the day of its grant, but may be renewed by the Director on application made in the approved form accompanied by payment of the prescribed fee (if any).
- (2) In considering an application for renewal under subsection (1), the Director shall take into account the matters that would be taken into account if the application were for a new special passenger vehicle licence.

63 Director may grant exemption

- (1) The Director may, by notice in the *Gazette* and subject to such conditions as may be specified, exempt any class or classes of operators of special passenger vehicles or operations using special passenger vehicles from the requirement that the operator hold a special passenger vehicle licence in respect of each special passenger vehicle used.
- (2) The Director may, by notice in the *Gazette* and subject to such conditions as may be specified, lift any exemption granted under subsection (1) upon the expiry of such period, being not less than 3 months from the date of the notice, as is specified.

Part 9 Inspectors and inspections

64 Appointment of inspectors

- (1) The Director may, by notice in writing, appoint a person to be an inspector for the purposes of this Act.
- (2) A member of the Police Force is an inspector.

- (3) An inspector under this section shall have and may exercise such powers and perform such functions as the Director determines either generally for a class or classes of inspectors or specifically in a particular case.
- (4) The Director shall issue to each inspector appointed under subsection (1) an identity card containing a passport-type photograph and the signature of the inspector verified by the signature of the Director.

65 Inspection of premises

- (1) An inspector may enter, at all reasonable times, premises used by the holder of an operator's accreditation or licence as the place from which the business authorised by the accreditation or licence is conducted or where any records relating to the business are kept, and:
 - (a) inspect the premises and any motor vehicle found there;
 - (b) require any person there to answer questions (but not if the answer might tend to incriminate the person) or produce records under the person's control concerning any business apparently carried on there;
 - (c) make copies of or take extracts from records so produced;
 - (d) make such examination and inquiry as the inspector considers necessary to ascertain whether the provisions of this Act or the Regulations are being or have been complied with; and
 - (e) take such photographs as the inspector considers necessary in connection with the administration of this Act.
- (2) An inspector is not entitled to enter:
 - (a) any premises other than at the times specified in subsection (1); or
 - (b) a room used solely for residential purposes,

except with the consent of the occupier or where accompanied by a member of the Police Force acting under the authority of a search warrant.
- (3) An inspector shall not prevent or hinder the occupier of any premises, or the occupier's delegate, from accompanying the inspector when exercising a function under this Act on those premises.

66 Inspection of motor vehicles

Where an inspector has reason to believe that a motor vehicle is being used to carry passengers for hire or reward, the inspector may:

- (a) stop the vehicle;
- (b) direct the driver to produce for inspection any licence or other document granted under this Act;
- (c) direct any person to alight from, or not to enter, the vehicle;
- (d) require information as to the use of the vehicle from the operator or any hirer or passenger, and require any such person to furnish particulars of the person's name and address;
- (e) require any person there to answer questions (but not if the answer might tend to incriminate the person); and
- (f) inspect the vehicle.

67 Inspector to produce identity card

An inspector, on first entering premises under section 65 or on stopping or first entering a motor vehicle under section 66 shall, if requested to do so, produce the inspector's identity card or, where the inspector is a member of the Police Force but is not in uniform, evidence of membership of the Police Force to the occupier of the premises or, as the case may be, driver of the motor vehicle.

68 Inspector may require defects to be remedied or dangerous practices to cease

- (1) Where, after inspecting any premises or motor vehicle, an inspector considers that any matter or thing or practice connected with the business carried out by the holder of an operator's accreditation or licence is defective or unnecessarily dangerous so that, in the opinion of the inspector, it is likely to endanger public safety or the safety of any person or to endanger any property, the inspector (or any other inspector) may require the person carrying out that practice or the agent of that person to remedy the defect or cease the practice within such time as is specified in writing, but where, in the opinion of the inspector, the defect or practice is likely to be of immediate danger, the inspector may require the person responsible to remedy the defect or cease the practice forthwith.

- (2) The Director may exercise the powers conferred by subsection (1) whether an inspection of any premises or motor vehicle has been made or not.
- (3) Where an inspector has required any person to remedy any defect or to cease any practice within a time specified in writing and that person has failed to comply with that requirement, then, if the inspector is satisfied that steps have been taken to comply but that person has been prevented by reasonable cause from completing the necessary action within the time specified, the inspector may extend the time specified for such further period as the inspector thinks fit.

69 Offences relating to inspectors

A person who:

- (a) contravenes or fails to comply with a direction or requirement of an inspector; or
- (b) furnishes false information or wilfully hinders or obstructs, misleads, intimidates or threatens an inspector exercising the powers of an inspector,

is guilty of an offence.

Penalty: \$10,000.

Part 10 General

70 Driver to be licensed under *Motor Vehicles Act*

A person shall not drive a motor vehicle while it is being used to carry passengers for hire or reward unless the person:

- (a) is licensed under the *Motor Vehicles Act* to drive the motor vehicle; or
- (b) is a person to whom section 32 of the *Traffic Act* applies.

Penalty: \$2,000.

71 Communication networks

- (1) Subject to the Regulations, a person shall not use or permit the use of a communication network for the purposes of communicating with or controlling or co-ordinating commercial passenger vehicles used to carry passengers for hire or reward without first obtaining the written approval for that use from the Director.

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- (2) A person may apply in writing to the Director for an approval under subsection (1).
 - (3) An application under subsection (2) shall contain such particulars as are required by the Director and shall be accompanied by the prescribed fee (if any).
 - (4) The Director shall consider an application under subsection (2) and may:
 - (a) refuse it;
 - (b) grant it; or
 - (c) allow the applicant to amend it, and grant it as amended.
 - (5) For the purposes of subsection (4), the Director may require an applicant to provide such further particulars as the Director may require.
 - (6) An approval under subsection (1):
 - (a) is subject to such conditions, if any, as the Director thinks fit; and
 - (b) shall remain in force until revoked by the Director.
 - (7) The Director may, from time to time, require a person to whom an approval under subsection (1) is given to provide the Director with such information as the Director may require as to the communications network provided under the approval and the terms and conditions under which the network is available to the operators of commercial passenger vehicles.
 - (8) It is a condition of every approval given under this section that, if requested by the Director in relation to a specified holder of a licence, the operator of the communication network requested will allow that holder to participate in the use of the network on the same terms and conditions as other users notwithstanding any rule of the operator of the network which would otherwise preclude the holder from participating.
 - (9) A person who:
 - (a) except as provided by the Regulations, uses a communications network for the purpose of communicating with or controlling or co-ordinating a motor vehicle used to carry passengers for hire or reward which is not approved under this section;

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- (b) uses a communications network for the purposes of communicating with or controlling or co-ordinating a motor vehicle used to carry passengers for hire or reward other than in accordance with the conditions of an approval granted under this section in respect of that network;
 - (c) fails to provide information when required to do so under this section, or provides false or misleading information;
 - (d) interferes with the transmission or reception of communications from a communications network approved under this section; or
 - (e) fails to allow the holder of a commercial passenger vehicle licence to participate in the use of a network after a request of the Director under subsection (8),

is guilty of an offence.

Penalty: \$5,000.

72 Codes of conduct

- (1) The Director may approve codes of conduct to apply to and in relation to the driver, owner or operator of a commercial passenger vehicle, to a passenger on such a vehicle or the operator of a communications network.
- (2) Where a code of conduct is approved under subsection (1), a driver, owner or operator of a commercial passenger vehicle or an operator of a communications network who contravenes or fails to comply with the code when carrying passengers in the vehicle is guilty of an offence.

Penalty: \$2,000.

73 Conditions relating to carriage of passengers

- (1) The Director may approve, generally in relation to all operators of a commercial passenger vehicle, or a class of operators or operations, or specifically in relation to an operator or an operation, conditions under which the operator will accept a passenger in the commercial passenger vehicle to which the conditions relate.
- (2) Without limiting the generality of subsection (1), conditions may be imposed which relate to:
 - (a) the cleanliness;
 - (b) the dress;

- (c) the sobriety; or
- (d) the general behaviour,
of a passenger; or
- (e) passengers suffering from an infectious disease.

74 Director may require display of identification

- (1) The Director may:
- (a) by notice in writing, direct a driver of a motor vehicle licensed to carry passengers for hire or reward; or
 - (b) by notice in the *Gazette*, direct all drivers of a class of motor vehicles, or of a class of motor vehicles in a specified area, licensed to carry passengers for hire or reward,

to display in the motor vehicle or a motor vehicle of the class specified an approved identification card in an approved manner.
- (2) A driver of a motor vehicle licensed to carry passengers for hire or reward who contravenes or fails to comply with a direction under subsection (1) is guilty of an offence.

Penalty: \$2,000.

75 Cancellation or suspension of accreditation or licence

- (1) Where the Director is satisfied that:
- (a) an accredited operator has contravened or failed to comply with a condition of his or her accreditation; or
 - (b) a commercial passenger vehicle is being or has been operated in contravention of or otherwise than in accordance with a licence,
- the Director may:
- (c) cancel the accreditation and/or licence; or
 - (d) suspend the accreditation and/or licence for such period, being not longer than 4 weeks, as the Director thinks fit.
- (2) Where the Director is satisfied that an accredited person or the holder of a licence is not a fit and proper person to be accredited or hold a licence, the Director may:
- (a) cancel the accreditation or licence; or

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- (b) suspend the accreditation or licence for such period as the Director thinks fit.
 - (3) For the purposes of subsection (2), an accredited person or the holder of a licence is not a fit and proper person to be accredited or to hold the licence in any case where, if the person were to apply for accreditation or the licence at the time the Director was considering the matter, the application would be refused.
 - (4) The Director may cancel a licence where, in accordance with this Act, the application for the grant, renewal or transfer of the licence is accompanied by a means of payment (other than money) as payment of the prescribed fee for the application and the means of payment is dishonoured when duly presented for payment.
 - (5) The Director shall cancel a taxi licence where:
 - (a) a taxi has not been endorsed on the licence and operated as such for any continuous period of more than 3 months; or
 - (b) the holder, being an individual, has not been ordinarily resident in the Territory for more than 6 months or, being a body corporate, has ceased for more than 6 months to have its principal place of business in the Territory.

Part 11 Appeals

76 Review of decisions of delegate

- (1) Where a decision is made under this Act by a person acting under the delegated authority of the Director, other than a delegate under section 51, the applicant for accreditation or a licence or the accredited person or licence holder, as the case may be, shall be entitled to have the decision reviewed by the Director or by a person designated by the Director who was not involved in the making of the original decision.
- (2) An application for a review pursuant to subsection (1) shall be made by the applicant or the accredited person or licensee, as the case may be, to the Director within 28 days after the day on which notice of the original decision relating to the application or the accreditation or licence was served on the applicant.

77 Appeal against decision of Director

- (1) A person aggrieved by a decision of the Director:
 - (a) refusing an application for accreditation or licence or the renewal of accreditation or a licence or, where allowed, the transfer of a licence, or imposing or varying a condition of accreditation or a licence;
 - (b) cancelling or suspending any accreditation or licence; or
 - (c) refusing an application for approval under section 71 or revoking such an approval, or imposing a condition on such an approval,may appeal to the Local Court against the decision.
- (2) Notwithstanding subsection (1), no appeal shall lie against a decision of the Director to suspend an accreditation or licence under section 75(1)(b).
- (3) If a person is entitled to have a decision of a delegate reviewed by the Director or a designated person under section 76, then, before making an application under subsection (1), that person shall first exhaust the remedy under section 76.
- (4) An appeal shall be made within 28 days after the day on which notice of the decision of the Director was served on the applicant, but the Local Court may, if it is satisfied that it is just and reasonable in the circumstances to do so, extend the time in which the application to appeal may be made.
- (5) The Director shall, if required by any person affected by a decision referred to in subsection (1), state in writing the reasons for the decision.
- (6) If the reasons of the Director are not given in writing at the time of making a decision and the person in relation to whom it was made then requested the Director to state the reasons in writing, the time for appealing shall run from the time of service upon that person of the written statement of those reasons.
- (7) The Local Court may:
 - (a) confirm the decision appealed against;
 - (b) substitute, or make in addition, any decision that should, in the opinion of the Local Court, have been made in the first instance; or

- (c) make any further or other order as to costs or any other matter that the case requires.
- (8) The procedure in respect of an appeal under this section shall be made in accordance with the rules of the Local Court.

78 Rights of accredited person or licensee pending disposal of appeal in certain cases

Where a decision of the Director is to cancel or suspend any accreditation or licence or refuse an application for the renewal of any accreditation or, where appropriate, licence, that decision shall be of no effect until:

- (a) where an appeal against that decision has been made within the period specified in section 77(4), the appeal is determined; or
- (b) where no appeal has been made against the decision before the expiry of the specified period, that period expires.

79 Local Court may refer appeals back to Director

- (1) Notwithstanding section 77, the Local Court may, in any case, instead of determining an appeal under that section, direct the Director to reconsider, either generally or in respect of specified matters, the whole or any specified part of the matter to which the appeal relates.
- (2) In giving a direction under subsection (1) the Local Court shall:
 - (a) advise the Director of its reasons for doing so; and
 - (b) give to the Director such directions as it thinks fit as to the reconsideration or otherwise of the whole or any part of the matter that is referred back for reconsideration.
- (3) The Director shall, in reconsidering a matter referred back to it under this section, have regard to the Local Court's reasons for giving a direction under subsection (1) and to the actual directions under subsection (2).

Part 12 Miscellaneous

79A General offence

- (1) A person shall not:
 - (a) operate; or

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- (b) cause or employ another person to drive or operate, a motor vehicle for the purpose of the carriage of passengers for hire or reward, unless the first-mentioned person:
- (c) is accredited under Part 3;
- (d) holds a licence under this Act; and
- (e) operates, or causes or employs the other person to drive or operate, the motor vehicle for that purpose under and in accordance with the licence.

Penalty: \$10,000.

- (2) It is a defence to a prosecution for an offence against subsection (1) if the defendant proves that he or she had no interest in the operation of the motor vehicle other than as its driver.

80 General penalties

A person who contravenes or fails to comply with a provision of this Act in respect of which no penalty, other than that provided by this section, is liable on being found guilty to a penalty not exceeding \$10,000.

81 Infringement offences and notices

- (1) An inspector may serve an infringement notice on a person if it appears to the inspector that the person has committed an offence against this Act or the Regulations, being an offence prescribed as an infringement offence.
- (2) An infringement notice is a notice to the effect that, if the person served does not wish to have the matter determined by a court, the person may, within the time and to the person specified in the notice, pay the prescribed penalty for the offence.
- (3) If the prescribed penalty for an alleged offence is paid under this section, no person is liable to any further proceedings for the alleged offence.
- (4) Payment under this section is not to be regarded as an admission of liability for the purposes of, nor in any way to affect or prejudice, any civil claim, action or proceeding arising out of the same occurrence.
- (5) The penalty prescribed for an infringement offence shall not exceed the maximum penalty that could be imposed for the offence by a court.

- (6) The provisions of Division 2A of Part IV of the *Justices Act* apply to infringement notices under this section as if they were infringement notices prescribed pursuant to that Act.

82 Regulatory offences

- (1) An offence against this Act is a regulatory offence.
- (2) It is a defence to a prosecution for an offence referred to in subsection (1) if the defendant proves on the balance of probabilities that:
- (a) any contravention or failure to comply constituting the offence occurred in an emergency and was necessary to preserve life or prevent injury or to protect property;
 - (b) the defendant did not intend to commit the offence, and that:
 - (i) in any case where it is alleged that anything required to be done was not done, the defendant took all reasonable steps to ensure that it was done; or
 - (ii) in any case where it is alleged that anything prohibited was done, that the defendant took all reasonable steps to ensure that it was not done; and
 - (c) any contravention or failure to comply constituting the offence was authorised by being:
 - (i) in the exercise of a right granted or recognised by law;
 - (ii) in execution of the law or in obedience to, or in conformity with, the law;
 - (iii) in obedience to the order of a competent authority whom the defendant is bound by law to obey unless the order is manifestly unlawful (the determination of which is a matter of law); or
 - (iv) pursuant to an authority, permission, or licence lawfully granted.

83 Vehicle may be forfeited

- (1) In addition to the penalty prescribed for an offence against a provision of this Act, the court on finding a person guilty of an offence against that provision may, where the person has previously been found guilty of an offence against that provision, order that a vehicle used in the commission of the offence is forfeited to the Territory.

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- (2) A vehicle forfeited to the Territory under subsection (1) may be dealt with or disposed of as the Minister thinks fit.

84 Averments

An extract from, or copy of, an entry in a register or record purported to be certified by the Director shall, in all courts and upon all occasions, be sufficient evidence of:

- (a) all particulars contained in the entry without requiring the production of any books, registers, licences, authorisations or other documents upon which the entry was founded; and
- (b) the signature of the Director.

85 Arrangements with States

- (1) The Minister may make arrangements with a State or another Territory having provisions in its law relating to commercial passenger vehicles and to the transport of passengers by road, being provisions of a similar nature to any or all of those contained in this Act, for the reciprocal recognition, enforcement or granting of exemptions from all or any of the provisions of this Act or those similar provisions.
- (2) The Minister may include in any arrangements under subsection (1) such matters as the Minister thinks fit, notwithstanding anything to the contrary in this Act, and every such arrangement shall have effect according to its tenor.
- (3) Notice of every arrangement under subsection (1) shall be published in the *Gazette* within 60 days after the date of its being made.

86 Acquisition to be on just terms

Where the application of a provision of this Act would, but for this section, result in an acquisition of property otherwise than on just terms, the person from whom the property is acquired shall be entitled to receive just compensation for the acquisition, and a court of competent jurisdiction may determine the amount of the compensation or make such order as, in its opinion, is necessary to ensure that the acquisition is on just terms.

87 Regulations

The Administrator may make regulations, not inconsistent with this Act, prescribing all matters:

- (a) required or permitted by this Act to be prescribed; or

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- (b) necessary or convenient to be prescribed for carrying out or giving affect to this Act,

and, in particular:

- (c) prescribing the conditions to apply to and in relation to accreditation or to licences;
- (d) regulating all matters relating to the transport of passengers for hire or reward by commercial passenger vehicles and all matters relating to those vehicles and including accreditation and licensing;
- (e) prescribing fees, charges or levies for any matter or thing done or to be done for the purposes of this Act, or authorising the Director to fix any fees, charges or levies in respect of such matters as may be prescribed;
- (f) prescribing the qualifications required for persons working on or in relation to a commercial passenger vehicle;
- (g) regulating, restricting or prohibiting the form, construction and equipment of a commercial passenger vehicle;
- (h) providing for a taxi licence to be used as security for a loan or liability;
- (j) prescribing infringement offences and infringement fees;
- (k) relating to the behaviour, rights and obligations of passengers, drivers and operators of commercial passenger vehicles;
- (m) providing for the collection, holding and disposal of property left, lost or abandoned by persons using commercial passenger vehicles; or
- (n) prescribing offences in respect of contravention of or non-compliance with any regulations made under this Act or any notice, requirement or direction given pursuant to any such regulations, and prescribing penalties not exceeding \$10,000 in respect of any offence.

88. Savings and transitional

- (1) Any regulations made under the *Motor Vehicles Act* which relate to commercial passenger vehicles, the use of commercial passenger vehicles as security for loans, or to persons who operate or work on or in relation to commercial passenger vehicles, being regulations which, on the commencement of the *Motor Vehicles Amendment Act 1991*, could probably be no longer made under the *Motor*

Vehicles Act, shall:

- (a) continue to exist as regulations under this Act; and
 - (b) be capable of being amended or repealed by regulations made under this Act.
- (2) Where a reference in a regulation saved under subsection (1) is to a provision in the *Motor Vehicles Act* that has been repealed by the *Motor Vehicles Amendment Act 1991*, that reference shall be construed, where possible, as a reference to an appropriate or relevant provision in this Act.
 - (3) An action, prosecution or other proceeding begun under the *Motor Vehicles Act* as then in force before the commencement of this Act may be continued as if this Act had never commenced, and an action, prosecution or other proceeding in respect of a thing done or omitted to be done under the *Motor Vehicles Act* as then in force before the commencement of this Act may be brought, taken and prosecuted in the same manner as if this Act had never commenced.
 - (4) Where, immediately before the commencement of this Act, a person had under the *Motor Vehicles Act* as then in force a licence, certificate or other authority relating to the use, possession or operation of a commercial passenger vehicle, that person is, on the commencement of this Act, authorised to use, possess or operate the commercial passenger vehicle until such time as the licence, certificate or other authority would otherwise have expired under the *Motor Vehicles Act*.
 - (5) Where, immediately before the commencement of this Act, a person or body corporate had under the *Motor Vehicles Act* as then in force a public hire car licence, the person or body corporate may be granted a taxi licence on the expiration of the public hire car licence in accordance with subsection (4) notwithstanding that the person or body corporate is not eligible under section 20(1) to be granted the taxi licence, and section 20(2) does not apply to and in relation to such a person or body corporate to whom a taxi licence is granted until the person's or body corporate's accreditation is renewed under this Act.
 - (6) The Director may, if it is considered administratively expedient for the purposes of the transition of requirements relating to commercial passenger vehicles under the *Motor Vehicles Act* to the requirements under this Act, extend, on payment of an appropriate fee determined by the Director, the authorisation given under subsection (4) for one further period not exceeding 12 months and may also, notwithstanding anything to the contrary in this Act, take

such actions and impose such conditions (including the payment of appropriate fees) as is thought necessary for the purposes of the transitions.

ENDNOTES
1**KEY**

Key to abbreviations

amd = amended
app = appendix
bl = by-law
ch = Chapter
cl = clause
div = Division
exp = expires/expired
f = forms
Gaz = Gazette
hdg = heading
ins = inserted
lt = long title
nc = not commenced

od = order
om = omitted
pt = Part
r = regulation/rule
rem = remainder
renum = renumbered
rep = repealed
s = section
sch = Schedule
sdiv = Subdivision
SL = Subordinate Legislation
sub = substituted

2**LIST OF LEGISLATION*****Commercial Passenger (Road) Transport Act 1991 (Act No. 34, 1991)***

Assent date 27 June 1991
 Commenced 27 October 1992 (*Gaz G42*, 21 October 1992, p 2)

Commercial Passenger (Road) Transport Amendment Act 1992 (Act No. 29, 1992)

Assent date 9 June 1992
 Commenced 9 June 1992

Commercial Passenger (Road) Transport Amendment Act 1992 (Act No. 59, 1992)

Assent date 22 October 1992
 Commenced 22 October 1992

Public Sector Employment and Management (Consequential Amendments) Act 1993 (Act No. 28, 1993)

Assent date 30 June 1993
 Commenced 1 July 1993 (s 2, s 2 *Public Sector Employment and Management Act 1993* (Act No. 11, 1993) and *Gaz S53*, 29 June 1993)

Statute Law Revision Act 1994 (Act No. 50, 1994)

Assent date 20 September 1994
 Commenced 20 September 1994

Sentencing (Consequential Amendments) Act 1996 (Act No. 17, 1996)

Assent date 19 April 1996
 Commenced 1 July 1996 (s 2, s 2 *Sentencing Act 1995* (Act No. 39, 1995) and *Gaz S15*, 13 June 1996)

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LIST OF AMENDMENTS

s 3	amd No. 59, 1992, s 2; No. 50, 1994, s 4
s 5	amd No. 28, 1993, s 3
s 9	amd No. 29, 1992, s 3; No. 17, 1996, s 6
s 63	amd No. 50, 1994, s 4
s 75	amd No. 59, 1992, s 3
s 79A	ins No. 59, 1992, s 4
s 80	amd No. 17, 1996, s 6
s 83	amd No. 17, 1996, s 6
s 87	amd No. 29, 1992, s 4
s 89	rep No. 29, 1992, s 5