

# NORTHERN TERRITORY OF AUSTRALIA

## COMMERCIAL PASSENGER (ROAD) TRANSPORT ACT

As in force at 10 November 1999

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# NORTHERN TERRITORY OF AUSTRALIA

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As in force at 10 November 1999

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## 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, minibus, 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.

**licence** means a licence granted or renewed under this Act.

**minibus** means an approved motor vehicle that:

- (a) is fitted, equipped or constructed to carry more than 8 passengers but not more than 15 passengers;
- (b) is used to carry passengers for hire or reward for a fare determined in accordance with a rate of hire calculated by reference to the period of time the vehicle is hired or to the distance to be travelled;
- (c) is not fitted with a meter that either calculates or indicates the fare payable; and
- (d) is licensed to stand and ply for hire only at a minibus rank or at an approved place.

**minibus rank** means an area identified by signs as a minibus rank, where minibuses may stand or ply for hire, set aside for that purpose by a competent authority (as defined in the *Traffic 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*), or other standards as the Director determines, 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, minibus, 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 Division 2 of Part 4 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 Division 3 of Part 4 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 11 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, minibus, 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;
- (b) within the environs of a municipality if that carriage is part of a tour package; or
- (c) on a tour of an approved type within the environs of a municipality.

**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 operator 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 or manager 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 authorised by its constitution, objects, purposes or rules to carry on the business associated with the accreditation;
  - (b) unless each director and manager (including a person conducting the business associated with the accreditation on behalf 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.

- (5) Despite subsection (4)(b), the Director may accredit or renew the accreditation of a body corporate if:
  - (a) it is impracticable for the Director to determine whether each director and manager of the body corporate would be entitled to be accredited as an individual; and
  - (a) the Director is satisfied that one or some of the directors or managers would be entitled to be accredited as an individual.

## **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 to the Director for a replacement certificate to be issued specifying new or amended conditions.

## **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.
- (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           Taxis**

### **Division 1       Taxi licence**

#### **16           Taxi areas**

The Minister may, by notice in the *Gazette*, declare an area to be a taxi area for the purposes of this Act.

#### **17           Taxi licence**

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

Penalty:       \$10, 000.

- (2) An application for a taxi licence is to be made on an approved form accompanied by the prescribed fee.

#### **18           Consideration of application**

- (1) The Director must consider an application made under section 17(2) 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 further information.
- (3) The Director must not issue a taxi licence to a person who is not accredited at the time the licence is granted.

**19           Registration number to be endorsed on licence**

A taxi licence is to have endorsed on it the registration number of the taxi as contained on the number plates issued under the *Motor Vehicles Act*.

**20           Conditions of taxi licence**

- (1) A taxi licence is subject to the conditions that 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 of a taxi licence are to 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 to the Director for a replacement licence to be issued specifying new or amended conditions.
- (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 the taxi endorsed on the licence is used as a taxi and is maintained to the approved standard.

**21           Taxi to operate in taxi area**

- (1) The Director must specify in a taxi licence the taxi area within which the holder of the licence may operate the taxi endorsed on the licence.
- (2) A person must not operate a taxi within a taxi area that is not specified in the taxi licence.

- (3) Despite subsection (2), a person may operate a taxi within a taxi area that is not specified in the taxi licence if the passengers are driven:
- (a) into the taxi area from a place outside the taxi area; or
  - (b) from within the taxi area to a place outside the taxi area on the return journey by a direct route to the place from which the passengers were driven into the taxi area.

## **22           Effect of taxi licence**

A taxi licence authorises the holder to operate the taxi endorsed on the licence in accordance with the conditions specified in the licence and the holder's accreditation.

## **23           Term of taxi licence, renewal**

- (1) A taxi licence remains in force, unless sooner surrendered, cancelled or suspended under this Act, for 12 months from the day it is granted or for a shorter period (of not less than 6 months) that the Director approves, but may be renewed by the Director on application made on an approved form accompanied by the prescribed fee.
- (2) In considering an application for renewal, the Director must take into account the matters that would be taken into account if the application were for a new taxi licence.

## **24           Surrender of taxi licence**

- (1) The holder of a taxi licence may surrender the licence to the Director before the licence expires.
- (2) A person who surrenders a taxi licence is entitled to a refund of a proportionate amount of the fee that the person paid when applying for the grant or renewal of the licence, whichever is applicable, in respect of each complete calendar month in the unexpired term of the licence.

## **25           Director may grant exemption**

- (1) The Director may exempt a class of operators of taxis, or an operation using taxis, from the requirement to hold a taxi licence.
- (2) An exemption is to be in writing and may specify:
- (a) the motor vehicle to which the exemption relates;
  - (b) the period for which the exemption is granted; and



- (c) any other condition the Director thinks fit.
- (3) The Director may require payment of the prescribed fee (if any) before granting an exemption.
- (4) A person is not guilty of an offence under section 79A(1) in respect of anything done in accordance with an exemption.

## **26           Determination of fares and charges**

- (1) The Minister may, by notice in the *Gazette*, determine the maximum fares and charges that may be charged for the hire or use of a taxi.
- (2) A person who charges a fare or charge that is higher than the maximum determined under subsection (1) is guilty of an offence.

Penalty:       \$1,000.

## **Division 2           Substitute taxi licence**

### **27           Substitute taxi licence**

- (1) An accredited operator may apply to the Director for a substitute taxi licence.
- (2) An application under subsection (1) is to be on an approved form accompanied by the prescribed fee (if any).
- (3) The Director may require an applicant for a substitute taxi licence to provide further particulars.

### **28           Conditions of substitute taxi licence**

- (1) A substitute taxi licence is subject to the conditions that 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 is not to be used as a taxi unless it has affixed to it the identification plate or plates approved by the Director for the purposes of this Act.

## **Division 3           Supplementary taxi licence**

### **29           Supplementary taxi licence**

- (1) An accredited operator may apply to the Director for a supplementary taxi licence.

- (2) An application under subsection (1) is to be on an approved form accompanied by the prescribed fee (if any).
- (3) The Director may require an applicant for a supplementary taxi licence to provide further particulars.
- (4) A supplementary taxi licence is subject to the conditions that the Director thinks fit and specifies in the licence, including the term of the licence.

## **Part 5                      Private hire cars**

### **30                      Private hire car entitlement and licence**

- (1) Subject to this Act, a person who proposes to operate a private hire car must, before commencing the operation, hold:
  - (a) an entitlement to hold a private hire car licence; and
  - (b) a private hire car licence.

Penalty:        \$10, 000.

- (2) An application for an entitlement to hold a private hire car licence and a private hire car licence is to be made on an approved form accompanied by the prescribed fee.

### **31                      Consideration of application**

- (1) The Director must consider an application made under section 30(2) 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 further information.
- (3) The Director must not grant an entitlement to hold a private hire car licence or a private hire car licence if the applicant was not accredited at the time of the application.

### **32                      Registration number to be endorsed on licence**

A private hire car licence is to have endorsed on it the registration number of the private hire car as contained on the number plates issued under the *Motor Vehicles Act*.

**33 Conditions of private hire car licence**

- (1) A private hire car licence is subject to the conditions that the Director thinks fit and specifies in the licence.
- (2) The Director may, from time to time, by written notice to a private hire car licence holder, amend or revoke the conditions of the licence or add new conditions.
- (3) The conditions of a private hire car licence are to 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 private hire car licence to return it to the Director for a replacement licence to be issued specifying new or amended conditions.

**34 Effect of private hire car licence**

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

**35 Term of private hire car licence, renewal**

- (1) A private hire car licence remains in force, unless sooner cancelled or suspended under this Act, for 12 months from the day it is granted but may be renewed by the Director on application made on an approved form accompanied by the prescribed fee:
- (2) In considering an application for renewal, the Director must take into account the matters that would be taken into account if the application were for a new private hire car licence.

**36 Transfer of entitlement and private hire car licence**

- (1) The holder of an entitlement to hold a private hire car licence and a private hire car licence may apply, on an approved form accompanied by the prescribed fee (if any) to transfer the entitlement and licence to an accredited operator.
- (2) In considering an application for transfer, the Director must take into account, in relation to the transferee, the matters that would be taken into account if the application were for a new entitlement and licence.

**37 Director may grant exemption**

- (1) The Director may exempt a person proposing to operate a private hire car from the requirement to hold and entitlement to hold a private hire car licence and a private hire car licence.
- (2) The Director may exempt a class of operators of private hire cars, or an operation using private hire cars, from the requirement to hold a private hire car licence.
- (3) An exemption is to be in writing and may specify:
  - (a) the motor vehicle to which the exemption relates;
  - (b) the period for which the exemption is granted; and
  - (c) any other condition the Director thinks fit.
- (4) The Director may require payment of the prescribed fee (if any) before granting an exemption.
- (5) A person is not guilty of an offence under section 79A(1) in respect of anything done in accordance with an exemption.

**Part 5A Minibuses****38 Minibus areas**

The Minister may, by notice in the *Gazette*, declare an area to be a minibus area for the purposes of this Act.

**38A Minibus licence**

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

Penalty: \$10,000.

- (2) An application for a minibus licence is to be made on an approved form accompanied by the prescribed fee.

**38B Consideration of application**

- (1) The Director must consider an application made under section 38A 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 further information.
- (3) The Director must not issue a minibus licence to a person who is not accredited at the time the licence is granted.

**38C Registration number to be endorsed on licence**

A minibus licence is to have endorsed on it the registration number as contained on the number plates issued under the *Motor Vehicles Act*.

**38D Conditions of minibus licence**

- (1) A minibus licence is subject to the conditions that the Director thinks fit and specifies in the licence.
- (2) The Director may, from time to time, by written notice to a minibus licence holder, amend or revoke the conditions of the licence or add new conditions.
- (3) The conditions of a minibus licence are to be substantially the same for all minibus 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 minibus licence to return it to the Director for a replacement licence to be issued specifying new or amended conditions.
- (5) The Director may require the holder of a minibus licence to join a communications network approved under section 71.
- (6) It is a condition of a minibus licence that the minibus endorsed on the licence is used as a minibus and is maintained to the approved standard.

**38E Minibus to operate in minibus area**

- (1) The Director must specify in a minibus licence the minibus area within which the holder of the licence may operate the minibus endorsed on the licence.
- (2) A person must not operate a minibus within a minibus area that is not specified in the minibus licence.

- (3) Despite subsection (2), a person may operate a minibus within a minibus area that is not specified in the minibus licence if the passengers are driven:
- (a) into the minibus area from a place outside the minibus area; or
  - (b) from within the minibus area to a place outside the minibus area on the return journey by a direct route to the place from which the passengers were driven into the minibus area.

### **38F Effect of minibus licence**

A minibus licence authorises the holder, subject to the conditions specified in the licence and the holder's accreditation, to operate a minibus:

- (a) subject to paragraph (b) and section 38E(3), within the minibus area specified in the licence and in any other place in the Territory that is outside other minibus areas; and
- (b) anywhere in the Territory for pre-booked charters or tours.

### **38G Term of minibus licence, renewal**

- (1) A minibus licence remains in force, unless sooner surrendered, cancelled or suspended under this Act, for 12 months from the day it is granted or for a shorter period (of not less than 6 months) that the Director approves, but may be renewed by the Director on application made on an approved form accompanied by the prescribed fee.
- (2) In considering an application for renewal, the Director must take into account the matters that would be taken into account if the application were for a new minibus licence.

### **38H Surrender of minibus licence**

- (1) The holder of a minibus licence may surrender the licence to the Director before the licence expires.
- (2) A person who surrenders a minibus licence is entitled to a refund of a proportionate amount of the fee that the person paid when applying for the grant or renewal of the licence, whichever is applicable, in respect of each complete calendar month in the unexpired term of the licence.

**38J Director may grant exemption**

- (1) The Director may exempt a class of operators of minibuses, or an operation using minibuses, from the requirement to hold a minibus licence.
- (2) An exemption is to be in writing and may specify:
  - (a) the motor vehicle to which the exemption relates;
  - (b) the period for which the exemption is granted; and
  - (c) any other condition the Director thinks fit.
- (3) The Director may require payment of the prescribed fee (if any) before granting an exemption.
- (4) A person is not guilty of an offence under section 79A(1) in respect of anything done in accordance with an exemption.

**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.

**40A Registration numbers to be endorsed on licence**

A motor omnibus licence is to have endorsed on it the registration number of each motor omnibus to which the licence relates as contained on the number plates issued under the *Motor Vehicles Act*.

**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 to the Director for a replacement certificate to be issued specifying new or amended conditions.

**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:

- (a) to operate a motor omnibus anywhere in the Territory for pre-booked charters and tours;
- (b) to operate 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.
- (c) to stand and ply for hire only as part of a motor omnibus route service;
- (d) to ply for hire at any place outside a taxi area or minibus area in accordance with the Regulations; and
- (e) to ply for hire in a prescribed taxi area in accordance with the Regulations.



**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 exempt a class of operators of motor omnibuses, or an operation using omnibuses, from the requirement to hold a motor omnibus licence.
- (2) An exemption is to be in writing and may specify:
  - (a) the motor vehicle to which the exemption relates;
  - (b) the period for which the exemption is granted; and
  - (c) any other condition the Director thinks fit.
- (3) The Director may require payment of the prescribed fee (if any) before granting an exemption.
- (4) A person is not guilty of an offence under section 79A(1) in respect of anything done in accordance with an exemption.

**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 to the Director for a replacement licence to be issued specifying new or amended conditions.
- (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.

### **53A Registration numbers to be endorsed on licence**

A tourist vehicle licence is to have endorsed on it the registration number of each tourist vehicle to which the licence relates as contained on the number plates issued under the *Motor Vehicles Act*.

### **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 to the Director for a replacement licence to be issued specifying new or amended conditions.

### **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 exempt a class of operators of tourist vehicles, or an operation using tourist vehicles, from the requirement to hold a tourist vehicle licence.
- (2) An exemption is to be in writing and may specify:
  - (a) the motor vehicle to which the exemption relates;
  - (b) the period for which the exemption is granted; and
  - (c) any other condition the Director thinks fit.
- (3) The Director may require payment of the prescribed fee (if any) before granting an exemption.
- (4) A person is not guilty of an offence under section 79A(1) in respect of anything done in accordance with an exemption.

**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.

**59A Registration numbers to be endorsed on licence**

A special passenger vehicle licence is to have endorsed on it the registration number of each special passenger vehicle to which the licence relates as contained on the number plates issued under the *Motor Vehicles Act*.

**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 to the Director for a replacement licence to be issued specifying new or amended conditions.

**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 exempt a class of operators of special passenger vehicles, or an operation using special passenger vehicles, from the requirement to hold a special passenger vehicle licence.
- (2) An exemption is to be in writing and may specify:
  - (a) the motor vehicle to which the exemption relates;
  - (b) the period for which the exemption is granted; and
  - (c) any other condition the Director thinks fit.
- (3) The Director may require payment of the prescribed fee (if any) before granting an exemption.
- (4) A person is not guilty of an offence under section 79A(1) in respect of anything done in accordance with an exemption.

**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.
- (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;
  - (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.

**74A Director may prohibit use of place to stand or ply for hire**

The Director may, by notice in the *Gazette*, declare that a class of commercial passenger vehicle is prohibited from using a specified place to stand or ply for hire, whether or not the use of the place for that purpose was previously authorised under this Act.

**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
  - (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

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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.

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- (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
  - (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.

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**79B Court order for payment of annual fee**

(1) If:

(a) a person operates, or causes or employs another person to drive or operate, a motor vehicle for the purpose of the carriage of passengers for hire or reward as if the person held a licence to operate the motor vehicle as a commercial passenger vehicle of a particular class; and

(b) a court finds the person guilty of an offence in that respect,

the court must order the person to pay to the Director an amount equal to the prescribed annual fee that the person would have been required to pay for a licence in respect of a commercial passenger vehicle of that class.

(2) If:

(a) a person operates a commercial passenger vehicle in contravention of this Act as if it were of another class of commercial passenger vehicle; and

(b) a court finds the person guilty of an offence in that respect,

the court must order the person to pay to the Director an amount equal to the prescribed annual fee that the person would have been required to pay for a licence in respect of a commercial passenger vehicle of that other class.

(3) An order made under this section is in addition to the imposition of the penalty prescribed for the relevant offence.

**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.
- (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.

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- (3) Notice of every arrangement under subsection (1) shall be published in the *Gazette* within 60 days after the date of its being made.

#### **85A Refund, remission or credit arrangement**

- (1) The Director may refund, in full or part, money paid under this Act if:
- (a) a person has paid more than the fee or amount required;
  - (b) an application accompanied by a fee is refused; or
  - (c) the Director is satisfied that the circumstances require it.
- (2) If the Director considers it appropriate, the Director may remit, in full or part, a fee or charge that is otherwise payable under this Act.
- (3) If a person has paid more money than is required in respect of a matter under this Act, the Director may approve a credit arrangement by which the person may use the excess money as payment or part payment of another fee or charge that is payable, or is expected to become payable, by the person.
- (4) The Regulations may prescribe all matters in respect of refunds, remissions or credit arrangements under this Act.

#### **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
- (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;

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- (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.

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**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)

***Commercial Passenger (Road) Transport Amendment Act 1998 (Act No. 83, 1998)***

Assent date           7 December 1998  
 Commenced           1 January 1999 (s 2)



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**Statute Law Revision Act (No. 2) 1999 (Act No. 48, 1999)**

Assent date 10 November 1999  
Commenced 10 November 1999

**3 SAVINGS AND TRANSITIONAL PROVISIONS**

s 23 and sch *Commercial Passenger (Road) Transport Amendment Act 1998*  
(Act No. 83, 1998)

**4 LIST OF AMENDMENTS**

s 3 amd No. 59, 1992, s 2; No. 50, 1994, s 4; No. 83, 1998, s 4  
s 5 amd No. 28, 1993, s 3  
s 9 amd No. 29, 1992, s 3; No. 17, 1996, s 6; No. 83, 1998, s 5; No. 48, 1999, s 3  
s 11 amd No. 83, 1998, s 6  
s 12 amd No. 83, 1998, s 7  
pt 4 hdg sub No. 83, 1998, s 8  
pt 4  
div 1 hdg ins No. 83, 1998, s 8  
ss 16 – 25 sub No. 83, 1998, s 8  
pt 4  
div 2 hdg ins No. 83, 1998, s 8  
ss 27 – 28 sub No. 83, 1998, s 8  
pt 4  
div 3 hdg ins No. 83, 1998, s 8  
s 29 sub No. 83, 1998, s 8  
pt 5 hdg sub No. 83, 1998, s 8  
ss 30 – 37 sub No. 83, 1998, s 8  
pt 5A hdg ins No. 83, 1998, s 8  
s 38 sub No. 83, 1998, s 8  
ss 38A – 38J ins No. 83, 1998, s 8  
s 40A ins No. 83, 1998, s 9  
s 41 amd No. 83, 1998, s 10  
s 42 amd No. 83, 1998, s 11  
s 44 sub No. 83, 1998, s 12  
s 50 amd No. 83, 1998, s 13  
s 53A ins No. 83, 1998, s 14  
s 54 amd No. 83, 1998, s 15  
s 57 sub No. 83, 1998, s 16  
s 59A ins No. 83, 1998, s 17  
s 60 amd No. 83, 1998, s 18  
s 63 amd No. 50, 1994, s 4  
sub No. 83, 1998, s 19  
s 74A ins No. 83, 1998, s 20  
s 75 amd No. 59, 1992, s 3  
s 79A ins No. 59, 1992, s 4  
s 79B ins No. 83, 1998, s 21  
s 80 amd No. 17, 1996, s 6  
s 83 amd No. 17, 1996, s 6  
s 85A ins No. 83, 1998, s 22  
s 87 amd No. 29, 1992, s 4  
s 89 rep No. 29, 1992, s 5