

NORTHERN TERRITORY OF AUSTRALIA
COMMERCIAL PASSENGER (ROAD) TRANSPORT AMENDMENT ACT 1998

No. 83 of 1998

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NORTHERN TERRITORY OF AUSTRALIA

No. 83 of 1998

AN ACT

to amend the *Commercial Passenger (Road)
Transport Act*

[Assented to 7 December 1998]

BE it enacted by the Legislative Assembly of the Northern Territory of Australia, with the assent as provided by the *Northern Territory (Self-Government) Act 1978* of the Commonwealth, as follows:

1. SHORT TITLE

This Act may be cited as the *Commercial Passenger (Road) Transport Amendment Act 1998*.

2. COMMENCEMENT

This Act comes into operation on 1 January 1999.

3. PRINCIPAL ACT

The *Commercial Passenger (Road) Transport Act* is in this Act referred to as the Principal Act.

4. INTERPRETION

Section 3 of Principal Act is amended —

- (a) by omitting from the definition of "commercial passenger vehicle" in subsection (1) "car," and substituting "car, minibus,";

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- (b) by omitting from subsection (1) the definition of "lender";
- (c) by inserting after the definition of "licence" in subsection (1) the following: .

"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*);";

- (d) by omitting from the definition of "motor omnibus" in subsection (1) "Act)" and substituting "Act), or other standards as the Director determines,";
- (e) by omitting from the definition of "special passenger vehicle" in subsection (1) "car," and substituting "car, minibus,";
- (f) by omitting from the definition of "substitute taxi" in subsection (1) "section 29" and substituting "Division 2 of Part 4";
- (g) by omitting from the definition of "supplementary taxi" in subsection (1) "section 31" and substituting "Division 3 of Part 4";
- (h) by omitting from the definition of "taxi" in subsection (1) "8" and substituting "11";
- (j) by omitting from the definition of "tourist vehicle" in subsection (1) "car," and substituting "car, minibus,";

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- (k) by omitting from paragraph (a) of the definition of "tourist vehicle" in subsection (1) "or";
- (m) by omitting "package;" from paragraph (b) of the definition of "tourist vehicle" in subsection (1) and substituting "package; or";
- (n) by adding at the end of the definition of "tourist vehicle" in subsection (1) the following:
 - "(c) on a tour of an approved type within the environs of a municipality;" and
- (p) by omitting from subsection (2) "owner" and substituting "operator".

5. CONSIDERATION OF APPLICATION

Section 9 of the Principal Act is amended —

- (a) by omitting from subsection (3)(c) "director" and substituting "director or manager";
- (b) by omitting from subsection (4)(a) "is, by its memorandum of association, authorised" and substituting "is authorised by its objects, purposes or rules";
- (c) by omitting from subsection (4)(b) "of the directors of the body corporate" and substituting "director and manager (including a person conducting the business associated with the accreditation on behalf of the body corporate)"; and
- (d) by adding at the end the following:

"(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."

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6. REGISTER OF ACCREDITED PERSONS, &c.

Section 11 of the Principal Act is amended by omitting from subsection (6) all the words after "return it" and substituting "to the Director for a replacement certificate to be issued specifying new or amended conditions."

7. PERIOD OF ACCREDITATION, RENEWAL

Section 12 of the Principal Act is amended by omitting subsection (3).

8. REPEAL AND SUBSTITUTION

Parts 4 and 5 of the Principal Act are repealed and the following substituted:

"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.

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"(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

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- (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.

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"(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.

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"(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 the 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

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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 an 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.

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"(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."

9. NEW SECTION

The Principal Act is amended by inserting after section 40 the following:

"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*."

10. CONDITIONS OF MOTOR OMNIBUS LICENCE

Section 41 of the Principal Act is amended by omitting from subsection (3) all the words after "return it" and substituting "to the Director for a replacement certificate to be issued specifying new or amended conditions."

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11. EFFECT OF MOTOR OMNIBUS LICENCE

Section 42 of the Principal Act is amended by omitting all the words after "holder's" and substituting "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."

12. REPEAL AND SUBSTITUTION

Section 44 of the Principal Act is repealed and the following substituted:

"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."

13. CONDITIONS OF MOTOR OMNIBUS LICENCE OR URBAN SERVICE AREA LICENCE

Section 50 of the Principal Act is amended by omitting from subsection (3) all the words after "return it" and substituting "to the Director for a replacement licence to be issued specifying new or amended conditions."

14. NEW SECTION

The Principal Act is amended by inserting after section 53 the following:

"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*."

15. CONDITIONS OF TOURIST VEHICLE LICENCE

Section 54 of the Principal Act is amended by omitting from subsection (4) all the words after "return it" and substituting "to the Director for a replacement licence to be issued specifying new or amended conditions."

16. REPEAL AND SUBSTITUTION

Section 57 of the Principal Act is repealed and the following substituted:

"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.

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"(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."

17. NEW SECTION

The Principal Act is amended by inserting after section 59 the following:

"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*."

18. CONDITIONS OF SPECIAL PASSENGER VEHICLE LICENCE

Section 60 of the Principal Act is amended by omitting from subsection (4) all the words after "return it" and substituting "to the Director for a replacement licence to be issued specifying new or amended conditions."

19. REPEAL AND SUBSTITUTION

Section 63 of the Principal Act is repealed and the following substituted:

"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.

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"(4) A person is not guilty of an offence under section 79A(1) in respect of anything done in accordance with an exemption."

20. NEW SECTION

The Principal Act is amended by inserting after section 74 the following:

"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."

21. NEW SECTION

The Principal Act is amended by inserting after section 79A the following:

"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,

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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."

22. NEW SECTION

The Principal Act is amended by inserting after section 85 the following:

"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."

23. SAVINGS AND TRANSITIONAL

The Schedule has effect.

SCHEDULE

Section 23

SAVINGS AND TRANSITIONAL PROVISIONS

1. Definitions

In this Schedule, unless the contrary intention appears —

"amended Principal Act" means the Principal Act as amended by this Act;

"annual licence" means —

- (a) in relation to a minibus — a licence issued under clause 8; or
- (b) in relation to a private hire car — a licence issued under clause 7,

which is to be treated as having come into force on 1 January 1999 and which remains in force to and including 31 December 1999 unless sooner surrendered, cancelled or suspended under the amended Principal Act;

"cancelled licence" means —

- (a) in relation to a private hire car — a licence that is to be treated as cancelled under clause 7(1); or
- (b) in relation to a taxi — a licence that is cancelled under clause 3;

"commencement date" means 1 January 1999;

"compensation" means compensation to be paid by the Territory in respect of the cancellation of a taxi licence under clause 3;

"interest" means a legal or equitable interest;

"lender" means a person who has entered into a loan agreement with a licensee of a taxi;

"licensee of a motor omnibus" means a person holding a motor omnibus licence in force immediately before the commencement date and includes a person referred to in section 3(4) of the amended Principal Act who is permitted by the licensee to operate a motor omnibus under the licence;

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"licensee of a private hire car" means a person holding a private hire car licence in force immediately before the commencement date and includes a person referred to in section 3(4) of the amended Principal Act who is permitted by the licensee to operate the private hire car under the licence;

"licensee of a taxi" means a person holding a taxi licence in force immediately before the commencement date and includes a person referred to in section 3(4) of the amended Principal Act who is permitted by the licensee to operate a taxi under the licence;

"loan agreement" means an agreement or arrangement between a lender and a licensee of a taxi entered into under section 27 of the repealed Part 4 and in force immediately before the commencement date;

"repealed Part 4" means Part 4 of the Principal Act as in force immediately before the commencement date;

"repealed Part 5" means Part 5 of the Principal Act as in force immediately before the commencement date.

2. Application of *Interpretation Act*

This Schedule does not prejudice the operation of section 12 of the *Interpretation Act* in relation to the repeals effected by this Act so far as that section is consistent with this Schedule.

3. Cancellation of Taxi Licences

A taxi licence in force immediately before the commencement date is cancelled on —

- (a) the date, after 28 February 1999 and before 1 August 1999, nominated by the licensee of the taxi; or
- (b) 31 July 1999 — if a date is not nominated under paragraph (a).

4. Claims for Compensation

(1) Subject to this clause and clauses 5 and 6, a licensee of a taxi is entitled to receive compensation not later than 31 July 1999.

(2) A licensee of a taxi who wishes to receive compensation must lodge a claim for compensation with the Minister not later than 28 days before the date nominated by the licensee under clause 3(a) as the date the licence is cancelled.

(3) A claim for compensation is to be in the form of a statutory declaration stating the following particulars, as applicable:

- (a) the amount of compensation claimed;
- (b) the details of all loan agreements under which the cancelled licence is being used as security for a loan or liability, including the name and address of each lender and the total amount of money owed by the licensee under each loan agreement on the date of signing the statutory declaration;
- (c) the names and addresses of all other persons who, to the licensee's knowledge, claim or may claim to have an interest in the cancelled licence and the nature of that interest, if known;
- (d) any other particulars required by the Minister.

(4) A licensee of a taxi must also lodge a statement, on an approved form and signed by the licensee, acknowledging the requirement for the licensee to sign a deed of indemnity in accordance with clause 6(5).

(5) A lender or other person claiming an interest in a taxi licence may lodge a notice of that claim, on an approved form, with the Minister on or before 28 February 1999.

(6) The Minister may, by written notice, require a licensee of a taxi, a lender or other person claiming an interest in a cancelled licence –

- (a) to provide further information relevant to the claim for compensation; or
- (b) to deliver to the Minister an instrument or other thing specified in the notice,

within the time specified in the notice.

(7) The Minister may extend the time limited by subclause (2) or (5) or specified in a notice referred to in subclause (6).

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- (8) If —
 - (a) a licensee of a taxi does not lodge a claim for compensation; or
 - (b) a lender or other person claiming an interest in a cancelled licence does not lodge a notice of the claim,

under this clause before 1 March 2001, that person's claim for compensation is statute barred.

5. Determination of Claims for Compensation

- (1) The Minister must consider —
 - (a) the particulars stated in the claim for compensation lodged under clause 4(2);
 - (b) the statement lodged under clause 4(4);
 - (c) all notices of claims lodged under clause 4(5); and
 - (d) all information provided or instruments or things delivered under clause 4(6).
- (2) Subject to clause 6(1), the Minister must determine —
 - (a) whether compensation is payable and, if so, the amount of compensation to be paid, having regard to the matters set out in the Regulations;
 - (b) whether a lender is entitled to receive payment and, if so, the amount the lender is entitled to and the manner of payment required under clause 6(3);
 - (c) whether any other person claiming an interest in the cancelled licence is entitled to receive a share of the compensation and, if so, the proportion of compensation the person is entitled to; and
 - (d) whether payment of an amount of compensation may be made by way of a remission of fees.

6. Payment of Compensation

- (1) If —
 - (a) the Minister has determined the amount of compensation to be paid; and

- (b) there is a dispute in respect of the compensation between persons claiming an interest in the cancelled licence,

the Minister must not pay compensation to any person until —

- (c) settlement is reached between all the persons who have an interest in the cancelled licence and those persons have signed a deed of settlement in respect of the amount of compensation as determined by the Minister; or
- (d) the dispute is determined by an order of a court of competent jurisdiction.

(2) If on 31 July 1999 —

- (a) a dispute referred to in subclause (1) has not settled or been determined; or
- (b) there is a dispute in respect of a claim for compensation between the Territory and a person claiming an interest in the cancelled licence,

the Minister must pay the amount of compensation determined under clause 5(2)(a) into a trust account established for the purposes of this subclause, to be held on trust until the dispute is settled or is determined by a court of competent jurisdiction.

(3) Subject to this clause and any authorisation by the lender to the contrary, if the Minister has notice of a loan agreement before compensation is paid to the licensee who is a party to that loan agreement, the Minister must —

- (a) before paying compensation to the licensee or any other person claiming an interest in the cancelled licence —
 - (i) if the amount of compensation is more than the amount of money then owing under the loan agreement — pay to the lender out of the compensation all the money owing, including the costs and expenses incidental to the discharge of the loan or liability; or
 - (ii) if the amount of compensation is less than the amount of money then owing under the loan agreement — pay all the compensation to the lender; and

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(b) if payment is made to the lender under paragraph (a)(i) —

- (i) pay the residue of the compensation to the licensee; or
- (ii) if another person has claimed an interest in the cancelled licence and the Minister has determined that the person is entitled to a share of the compensation — pay the residue of the compensation to the licensee and that person in the proportions determined by the Minister under clause 5(2)(c).

(4) If compensation is paid to a lender under subclause (3)(a)(ii), the Minister is not required to pay the lender an amount that exceeds the compensation paid.

(5) Before the Minister pays compensation to a licensee of a taxi, the licensee must indemnify the Territory against liabilities incurred by the licensee —

- (a) in the case of a loan agreement referred to in subclause (3)(a)(ii) — in respect of the outstanding amount of the loan after the Minister has paid the lender; and
- (b) in the case of any other agreement that may be in existence at the time compensation is paid, and of which the Minister has no notice, under which the licensee is using the cancelled licence as security for a loan or liability — in respect of all repayments and expenses associated with that agreement.

(6) If a taxi licence is cancelled on 31 July 1999 by force of clause 3(b), the Minister must pay into a trust account established for the purpose of this subclause an amount that is equal to the amount of compensation that would have been determined under clause 5(2)(a) in respect of the licence had a claim for compensation been made under clause 4.

(7) The amount is to be held on trust until a claim for compensation in respect of the licence is determined or any claim is statute barred by clause 4(8).

7. Canceled Private Hire Car Licence and Annual Private Hire Car Licence

(1) A private hire car licence in force immediately before the commencement date is to be treated as having been cancelled on the commencement date.

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- (2) A licensee of a private hire car –
 - (a) may apply in accordance with this clause for an annual licence in respect of the private hire endorsed on the cancelled licence; and
 - (b) despite subclause (1), may continue to operate the private hire car referred to in paragraph (a), in accordance with the conditions of the cancelled licence, on and from the commencement date until issued with an annual licence.
- (3) The amended Principal Act, the Commercial Passenger (Miscellaneous) Regulations and the Private Hire Car Regulations apply to and in relation to a private hire car, a licensee of a private hire car or a cancelled licence during the period of operation under subclause (2)(b).
- (4) Subject to subclause (5), a licensee of a private hire car who intends to apply for an annual licence must –
 - (a) not later than 8 January 1999 – notify the Director, on an approved form, of the licensee's intention; and
 - (b) not later than 28 February 1999 – apply to the Director for an annual licence.
- (5) A licensee of a private hire car who applies on or before 8 January 1999 for an annual licence need not notify the Director under subclause (4)(a).
- (6) An application for an annual licence is to be made on an approved form accompanied by the prescribed fee.
- (7) The Director may extend a time limited by subclause (4).
- (8) If a licensee of a private hire car applies for an annual licence –
 - (a) the licensee is to be treated as a person who holds an entitlement to hold a private hire car licence under Part 5 of the amended Principal Act; and
 - (b) despite the repeal of the repealed Part 5 effected by section 8 –
 - (i) the prescribed fee paid by the licensee for the cancelled licence under section 32(2) of the repealed Part 5; or

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- (ii) the money the licensee paid as the transferee of the cancelled licence as authorised under section 38 of the repealed Part 5,

is to be treated as the prescribed fee payable under section 30 of the amended Principal Act for an entitlement to hold a private hire car licence.

(9) The Director may specify in an annual licence the conditions that the Director thinks fit.

(10) The amended Principal Act, the Commercial Passenger (Miscellaneous) Regulations and the Private Hire Car Regulations, with the necessary changes, apply to an annual licence as if a reference in that Act or those Regulations to a private hire car licence were a reference to an annual licence.

8. Annual Minibus Licence

(1) If, on the commencement date, a licensee of a motor omnibus proposes to continue to operate a motor omnibus endorsed on the licence as if the licensee held a minibus licence under the amended Principal Act in respect of that motor omnibus, the licensee -

- (a) must apply in accordance with this clause for an annual licence for that motor omnibus; and
- (b) may operate a motor omnibus referred to in paragraph (a), in accordance with the conditions of the motor omnibus licence relating to that motor omnibus, on and from the commencement date until issued with an annual licence.

(2) Subject to subclause (3), a licensee of a motor omnibus who intends to apply for an annual licence must -

- (a) not later than 8 January 1999 - notify the Director, on an approved form, of the licensee's intention; and
- (b) not later than 28 February 1999 - apply to the Director for an annual licence for each motor omnibus the licensee proposes to continue to operate as a minibus.

(3) A licensee of a motor omnibus who applies on or before 8 January 1999 for an annual licence need not notify the Director under subclause (2)(a).

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(4) An application for an annual licence is to be made on an approved form and, subject to subclause (6), is to be accompanied by the prescribed fee.

(5) The Director may extend a time limited by subclause (2).

(6) If the Director considers it appropriate, the Director may approve a credit arrangement by which the licensee of a motor omnibus may use part of the money the licensee paid for a motor omnibus licence under the Principal Act as payment or part payment of the prescribed fee for an annual licence.

(7) On issuing an annual licence, the Director -

(a) may require the licensee to return the motor omnibus licence for cancellation or amendment; and

(b) must specify in the annual licence the minibus area within which the holder of the annual licence may operate the minibus, and may specify other conditions as the Director thinks fit.

(8) The amended Principal Act and the Commercial Passenger (Miscellaneous) Regulations, with the necessary changes, apply -

(a) to a motor omnibus, a licensee of a motor omnibus or a motor omnibus licence during the period of operation under subclause (1)(b); and

(b) to an annual licence as if a reference in that Act or those Regulations to a minibus licence were a reference to an annual licence.

9. Regulations

The Regulations may prescribe all matters under this Schedule in respect of -

(a) the cancellation of taxi or private hire car licences;

(b) the cancellation or amendment of motor omnibus licences;

(c) applications for and the issuing of annual licences for minibuses, private hire cars or taxis;

(d) claims for compensation; or

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(e) the payment of compensation, including the matters the Minister is to have regard to in determining —

(i) whether compensation is payable; or

(ii) an amount of compensation to be paid to a person.

10. Taxi Area

A taxi area declared under the repealed Part 4 is a taxi area for the purposes of the amended Principal Act.

11. Credit Arrangements

(1) A person may be granted a licence after the commencement date even if the application for the licence is not accompanied by the prescribed fee as required by the amended Principal Act if, before the commencement date, the person was permitted by a licensee to operate a commercial passenger vehicle under the licence.

(2) The person must pay the prescribed fee not later than 28 February 1999.

12. Licence Periods of 3 Months for First Year

(1) Despite anything to the contrary in section 23, 35 or 38G of the amended Principal Act, the Director may approve a period of not less than 3 months during which a licence referred to in those sections remains in force.

(2) If the Director approves a period under subclause (1), the fee that is to be paid for the licence or the renewal of the licence is to be determined by the Director on a pro rata basis of the fee that is otherwise prescribed for the grant or renewal of the licence.

(3) This clause ceases to apply 12 months after the date on which it comes into force.
