

TRANSPORT (AMENDMENT) ACT 1986 No. 139

NEW SOUTH WALES



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TRANSPORT (AMENDMENT) ACT 1986 No. 139

NEW SOUTH WALES



Act No. 139, 1986

An Act to amend the Transport Act 1930 for the purpose of making further provision with respect to the operation of licensed motor omnibus services and the operation of taxi-cabs, and for otherpurposes. [Assented to, 17 December 1986]

Transport (Amendment) 1986

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:

Short title

1. This Act may be cited as the "Transport (Amendment) Act 1986".

Commencement

2. (1) Sections 1 and 2 shall commence on the date of assent to this Act.

(2) Except as provided by subsection (1), this Act shall commence on such day or days as may be appointed by the Governor and notified by proclamation published in the Gazette.

Principal Act

3. The Transport Act 1930 is referred to in this Act as the Principal Act.

Amendment of Act No. 18, 1930

4. The Principal Act is amended in the manner set forth in Schedules 1 and 2.

Saving

5. Where regulations made under section 264 (1) (abi) of the Principal Act (as in force immediately before the commencement of Schedule 2 (3) to this Act) relate to the dress to be worn by drivers of taxi-cabs, those regulations shall continue in force as if they had been made under section 264 (2A) (d) of the Principal Act (as in force after that commencement).

SCHEDULE 1

(Sec. 4)

AMENDMENTS TO PART XIII OF THE PRINCIPAL ACT

(1) Sections 134A, 134B—

After section 134, insert:

Right of holder of service license to enter into certain contracts or arrangements with respect to the operation of a motor omnibus service

134A. (1) The holder of a service license may enter into a contract or an arrangement with the holder of a license in force under the State Transport (Co-ordination) Act 1931 in respect of a taxi-cab for the carrying on of the motor omnibus service to which the service license relates by the use of the taxi-cab.

(2) The terms of a contract or an arrangement entered into under subsection (1) may be varied by the parties to the contract or arrangement.

(3) A contract or an arrangement entered into under subsection (1), or a variation of the terms of such a contract or an arrangement in accordance with subsection (2), does not have effect unless and until it is approved by the Commissioner.

(4) The Commissioner must not approve a contract or an arrangement entered into under subsection (1) if the prescribed circumstances do not exist and may refuse to approve such a contract or an arrangement if it does not—

- (a) specify the days on which, and the times at which, the motor omnibus service is scheduled to be carried on by use of the taxi-cab;
- (b) prescribe the means by which the taxi-cab is, when being used to carry on that service, required to be identified as the vehicle carrying on that service;
- (c) specify the stops at which passengers may board or alight from the taxi-cab when being so used;
- (d) prescribe, as the fares that the driver of the taxi-cab is permitted to charge passengers, the same fares as those that the holder of the service license is permitted to charge when carrying on the service by means of an omnibus; or

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(e) provide, with respect to the carrying on of the service by the use of the taxi-cab, for such other matters (if any) as are prescribed.

(5) The Commissioner may impose conditions on the parties to a contract or an arrangement entered into under subsection (1), or a variation of the terms of such a contract or arrangement in accordance with subsection (2), as a condition precedent to the giving of an approval under this section to the contract, arrangement or variation.

(6) The Commissioner may impose additional conditions on the parties to the contract or an arrangement approved under this section and may, at the request of the parties to the contract or arrangement or on the initiative of the Commissioner, vary or revoke a condition imposed under subsection (5) or this subsection.

(7) The variation of a condition, or the imposition of an additional condition, under subsection (6) does not take effect until notified in writing to the parties to the contract or arrangement concerned.

(8) The Commissioner may revoke an approval given under this section in respect of a contract or an arrangement entered into under subsection (1) if—

(a) the prescribed circumstances referred to in subsection (4) have ceased to exist;

(b) the Commissioner is not satisfied that—

(i) the terms of the contract or arrangement are being observed; or

(ii) any conditions imposed under subsection (5) or (6) on the parties to the contract or arrangement are being complied with; or

(c) any variation of the terms of the contract or arrangement has been implemented before the variation has been approved by the Commissioner.

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(9) The Commissioner must not take action under subsection (8) in respect of a matter referred to in paragraph (b) or (c) of that subsection without providing the parties to the contract or arrangement concerned with an opportunity to be heard.

(10) While a licensed taxi-cab is being used to carry on a motor omnibus service in accordance with a contract or an arrangement entered into under, and for the time being approved by the Commissioner in accordance with, this section, the driver of the taxi-cab is not required to hold a motor omnibus driver's license.

Taxi-cab not to be regarded as such while being used to operate a motor omnibus service

134B. While a taxi-cab which is licensed as such under the State Transport (Co-ordination) Act 1931 is being used to carry on a motor omnibus service in accordance with the terms of a contract or an arrangement approved by the Commissioner under section 134A, that taxi-cab shall, for the purposes only of a prescribed provision of this Act or the State Transport (Co-ordination) Act 1931, or of the regulations in force under either of those Acts, be regarded as if it were not a taxi-cab so licensed.

(2) Section 135 (Motor omnibus services to be licensed)—

Section 135 (1A)—

After section 135 (1), insert:

(1A) Where a contract or an arrangement entered into under section 134A is for the time being approved by the Commissioner in accordance with that section—

(a) the motor omnibus service license to which the contract or arrangement relates shall be deemed to authorise, on the days and at the times specified in the contract or arrangement, the carrying on of that service by the use of the taxi-cab specified in the contract or arrangement;

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SCHEDULE 1—*continued*AMENDMENTS TO PART XIII OF THE PRINCIPAL ACT—*continued*

- (b) the terms of the contract or arrangement, and any conditions imposed on the parties to the contract or arrangement in accordance with section 134A (5) or (6), shall be deemed to be terms and conditions of the license; and
- (c) if the terms of the contract or arrangement, or the conditions so imposed, are inconsistent with the terms and conditions of the license, the license shall be deemed to be modified accordingly.

(3) Section 136 (Motor omnibus service)—

Section 136 (1)—

Omit “upon a motor omnibus”, insert instead “on a motor omnibus or, where a contract or an arrangement entered into under section 134A with respect to the carrying on of that service by the use of a specified taxi-cab is for the time being approved by the Commissioner under that section, conveys passengers in the taxi-cab”.

(4) Section 144 (Registration of motor omnibuses)—

After “this Act”, insert “or is a taxi-cab that is the subject of a contract or an arrangement entered into under, and for the time being approved by the Commissioner in accordance with, section 134A”.

(5) Section 145 (Registration certificate)—

Section 145 (6)—

After section 145 (5), insert:

(6) Subsection (5) applies, with the prescribed modifications, to and in respect of a taxi-cab that is being used to carry on a motor omnibus service in accordance with a contract or an arrangement entered into under, and for the time being approved by the Commissioner in accordance with, section 134A in the same way as it applies to and in respect of a motor omnibus.

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SCHEDULE 2

(Sec. 4)

MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT

(1) Section 171C (**Insurance of taxi-cabs and private hire cars against damage to property**)—

Section 171C (3)—

After section 171C (2), insert:

(3) The fact that a taxi-cab is being used to operate a motor omnibus service in accordance with a contract or an arrangement entered into under section 134A does not invalidate or otherwise affect a policy of insurance effected under section 154, as applied by subsection (1), in respect of the taxi-cab and its owner.

(2) Section 202 (**Fund to be established**)—

Section 202 (2) (e1)—

After section 202 (2) (e), insert:

(e1) an amount or amounts, not exceeding the total amount derived from license fees paid for licenses granted under the State Transport (Co-ordination) Act 1931, towards expenses incurred or which are to be incurred in connection with projects designated by the Commissioner as being designed to improve public vehicle services in New South Wales:

(3) Section 264 (**Regulations with respect to certain matters to be made on recommendation of a Trust**)—

(a) Section 264 (1) (abi)—

Omit “the drivers of taxi-cabs and”.

(b) Section 264 (1) (abi)—

Omit “other”.

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SCHEDULE 2—*continued*

MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—
continued

(c) Section 264 (2A)—

After section 264 (2), insert:

(2A) Without limiting subsection (1), regulations under that subsection may be made for or with respect to—

- (a) the operation of taxi-cabs licensed under the State Transport (Co-ordination) Act 1931, including the terms and conditions under and subject to which they may be hired;
- (b) the conduct of drivers of taxi-cabs so licensed towards their passengers and other members of the public;
- (c) the duties of drivers of taxi-cabs so licensed;
- (d) the dress to be worn by drivers of taxi-cabs so licensed; and
- (e) the conduct of passengers of taxi-cabs so licensed, including provisions requiring passengers who damage or soil taxi-cabs to pay to the drivers of those taxi-cabs on demand a cleaning fee of a prescribed amount.
