

Act No. 296

## TRANSPORT (AMENDMENT) BILL 1987

NEW SOUTH WALES



### EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

The following Bills are cognate with this Bill:

State Transport (Co-ordination) Amendment Bill 1987;

Transport (Division of Functions) Amendment Bill 1987.

The object of this Bill is to effect miscellaneous amendments to the Transport Act 1930, in so far as that Act regulates bus services within the Metropolitan, Newcastle and Wollongong Transport Districts established by that Act.

Clause 1 specifies the short title of the proposed Act.

Clause 2 gives effect to 2 Schedules of amendments to the Principal Act.

Schedule 1 (1) amends section 4 of the Principal Act in relation to the meaning of "public vehicle" for the purposes of the Act. The definition of that term, as substituted by Schedule 1 (1) (a)—

- (a) includes (in addition to vehicles already included in the definition) certain vehicles which, although not actually hired or chartered, are used to carry passengers in the course of trade or business; and
- (b) excludes vehicles of a class or description prescribed by the regulations.

In addition, proposed section 4 (3) is inserted to provide that a vehicle hired or otherwise used for a purpose such as the conveyance of goods does not become a public vehicle for the purposes of the Principal Act merely because it carries a passenger incidentally to the main purpose for which it is used.

Schedule 1 (2) omits section 12 (2) of the Principal Act as a consequence of the amendment made by Schedule 1 (4).

Schedule 1 (3) amends section 136 (4) of the Principal Act to make it clear that the holder of a provisional licence to operate a bus service does not have any right to the continuance of any benefit arising from that licence or any of its conditions.

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Schedule 1 (4) (a) amends section 137 of the Principal Act to provide that, of the matters to be taken into consideration by the Commissioner for Motor Transport in dealing with an application for a service licence, the public interest is to be paramount. The other matters to be considered are also specified in greater detail than they were previously (proposed section 137 (3)). In addition, section 137 (4) of the Principal Act is substituted so as to make clear—

- (a) the grounds on which an application for a service licence may be refused; and
- (b) that the Commissioner may, in a particular case, grant a provisional service licence to an applicant for a service licence.

Schedule 1 (4) (b) amends section 137 (5) of the Principal Act as a consequence of the substitution of section 137 (3).

Schedule 1 (4) (c) omits section 137 (6) of the Principal Act, the substance of which is now better stated in proposed section 137 (3) (g).

Schedule 1 (5) substitutes section 138 of the Principal Act and inserts a new section 138A. Under the substituted section 138—

- (a) the Commissioner—
  - (i) may, as part of the conditions of a service licence (and instead of or in addition to fixing fares in the usual way), allow the operator of a bus service to contract with a group of persons (e.g. the parents of school children) for regular conveyance; and
  - (ii) may, in the public interest, be a party to a contract of this sort with the operator of the service;
- (b) the Commissioner is required, in fixing fares (or approving any contractual arrangements) with respect to a service licence, to have regard to—
  - (i) the public interest;
  - (ii) the profitability of the operator's services as a whole (rather than the particular service concerned); and
  - (iii) the level of fares or rates prevailing in the industry; and
- (c) a licensee, as well as following the route described in the service licence, may make any departures or special journeys authorised by the Commissioner.

The new section 138A allows the Commissioner, in the public interest or at the request of the licensee, to vary the conditions of a current service licence.

Schedule 1 (6) amends section 142 of the Principal Act to enable a provisional service licence to be issued for any period up to 12 months, instead of the present maximum term of 6 months.

Schedule 1 (7) amends section 164 of the Principal Act in relation to the Commissioner's power to require information to be supplied by licensees or applicants for licences. The effect of the amendment is that, if the licensee or applicant operates or intends to operate several bus services, the information (particularly the financial information) required to be furnished to the Commissioner may be general (that is, relating to all the services) or particular (that is, relating to any one of them).

Schedule 1 (8) amends section 168 of the Principal Act to afford a right of appeal, to the Transport Appeal Court, to a licensee in the event that—

- (a) the conditions of a licence have been varied by the Commissioner; or
- (b) the Commissioner has refused to vary the conditions of a licence as requested by the licensee.

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Schedule 2 amends Part XIII of the Principal Act to delete references to the Transport Trusts, whose functions are now performed by the Commissioner, and (by Schedule 2 (9)) to repeal Division 5 of that Part, the provisions of which have ceased to have practical operation.

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