

# Passenger Transport Act 1990 No 39

[1990-39]



New South Wales

## Status Information

### Currency of version

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### Provisions in force

The provisions displayed in this version of the legislation have all commenced.

### Notes—

- **Does not include amendments by**  
*Passenger Transport Amendment (Transitways) Act 2001 No 55* (not commenced)

### Authorisation

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# Passenger Transport Act 1990 No 39



New South Wales

An Act to regulate public transport services; to repeal the *Transport Licensing Act 1931* and certain other enactments; and for other purposes.

## Part 1 Preliminary

### 1 Name of Act

This Act may be cited as the *Passenger Transport Act 1990*.

### 2 Commencement

This Act commences on a day or days to be appointed by proclamation.

### 3 Definitions

In this Act:

**accredited service operator**, in relation to a public passenger service, means a person accredited under Division 1 of Part 2 for a service of that kind (or for services that include such a service).

**authorised officer** means a person appointed by the Director-General to be an authorised officer for the purposes of this Act.

**bus** means a motor vehicle which seats more than 8 adult persons, and includes a vehicle of any class prescribed by the regulations for the purposes of this definition.

**charter service** means a public passenger service in which a bus or ferry or another vehicle prescribed by the regulations, and the services of a driver of the vehicle, are pre-booked for hire to take passengers for an agreed fee, but only if, according to the terms of the hire:

- (a) the hirer is entitled to determine the route for the journey and the time of travel, and
- (b) all passengers' journeys have a common origin or a common destination, or both, and
- (c) individual fares are not payable by the passengers (either to the operator of the service or to the driver of the vehicle), and



(d) service is not provided according to regular routes and timetables.

**Director-General** means the Director-General, Department of Transport.

**driver** means a person who drives any public passenger vehicle (or, where the vehicle is a vessel, means the master for the time being of the vessel).

**ferry** means a vessel which seats more than 8 adult persons, and includes a vessel of any class prescribed by the regulations for the purposes of this definition.

**holder**, in relation to a service contract, means the person who (apart from the Director-General) is a party to the contract.

**licence** means a licence (including a short-term licence) for a taxi-cab, or a licence for a private hire vehicle, in force under this Act.

**long-distance service** means a public passenger service conducted according to one or more regular routes, in which each passenger is carried for a distance of not less than 40 kilometres.

**passenger** does not include the driver of a public passenger vehicle (or, where the vehicle is a vessel, the master or crew of the vessel).

**private hire vehicle** means a motor vehicle (other than a bus or taxi-cab) which is used to provide a public passenger service (other than a regular passenger service, a long-distance service, a charter service or a tourist service).

**public passenger service** means the carriage of passengers for a fare or other consideration:

- (a) by motor vehicle (other than a light rail vehicle) along a road or road related area, or
- (b) by vessel within any New South Wales waterway.

**public passenger vehicle** means:

- (a) a bus used to provide a public passenger service, or
- (b) a ferry used to provide a regular passenger service, or
- (c) a taxi-cab or private hire vehicle, or
- (d) a vehicle declared by a regulation under section 6 to be a public passenger vehicle.

**regular passenger service** means a public passenger service conducted according to regular routes and timetables, but does not include a tourist service or a long-distance service.

**road** means a road within the meaning of the [Road Transport \(General\) Act 1999](#) (other

than a road that is the subject of a declaration made under section 9 (1) (b) of that Act relating to all of the provisions of that Act).

**road related area** means a road related area within the meaning of the *Road Transport (General) Act 1999* (other than a road related area that is the subject of a declaration made under section 9 (1) (b) of that Act relating to all of the provisions of that Act).

**service contract** means a contract entered into under Part 3.

**service levels** means:

- (a) the periods of time during which services are to be operated, and
- (b) the frequency and extent of operation of services during any specified period of time.

**taxi-cab** means a motor vehicle:

- (a) which is used to provide a public passenger service (other than a regular passenger service, a long-distance service, a charter service or a tourist service), and
- (b) which, for the purpose of procuring passengers, is made to ply or stand for hire in a road or road related area.

**tourist service** means a public passenger service provided by a bus or ferry or another vehicle prescribed by the regulations, being:

- (a) a pre-booked service designed for the carriage of tourists to destinations listed on a publicly available tour itinerary, or
- (b) a service designed for the carriage of tourists where all passengers' journeys have a common origin or a common destination, or both.

**vehicle** includes a vessel.

#### 4 Objects

The objects of this Act are:

- (a) to require the accreditation or authorisation, by the Director-General, of the operators of and drivers involved in public passenger services, and
- (b) to dispense with the licensing of ferries and buses used to provide a public passenger service, providing instead for:
  - (i) ferry and bus services to be operated under fixed-term contracts entered into between the Director-General and operators, and
  - (ii) deregulation of long-distance and tourist services, and
  - (iii) regulation of government and non-government buses and ferries on a more equal

basis, and

- (c) to encourage the provision of school bus services on a more commercial basis, without disregarding the reasonable expectations of traditional service operators, and
- (d) (Repealed)
- (e) to encourage public passenger services that meet the reasonable expectations of the community for safe, reliable and efficient passenger transport services, and
- (f) to encourage co-ordination of public transport services.

## **5 Crown bound by Act**

- (1) This Act binds the Crown not only in right of New South Wales but also, in so far as the legislative power of Parliament permits, in all its other capacities.
- (2) In particular, this Act, in so far as it applies to public passenger services, applies to any such services carried on by the State Transit Authority and the State Rail Authority.

## **6 Other public passenger vehicles**

- (1) The regulations may declare that any specified class of vehicles, being vehicles used for the carriage of passengers for hire or for any consideration or in the course of any trade or business, are to be taken to be public passenger vehicles for the purposes of this Act.
- (2) The regulations may apply all or any of the provisions of this Act (with or without modification) to any such class of vehicles.

# **Part 2 Credentials of operators and drivers (other than taxi-cabs and private hire vehicles)**

## **Division 1 Accreditation of operators**

### **7 Accreditation**

- (1) A person who:
  - (a) carries on a public passenger service by means of a bus or other motor vehicle, or
  - (b) carries on a regular passenger service by means of a ferry,being in either case a service operating within, or partly within, New South Wales is guilty of an offence unless the person is an accredited service operator for that service.

Maximum penalty: 1,000 penalty units.

- (2) The purpose of accreditation under this Division is to attest:
- (a) that the accredited person is (or, in the case of an accredited corporation, the designated directors and managers of the corporation are) considered to be of good repute and in all other respects fit and proper to be responsible for the operation of a public passenger service, and
  - (b) that the accredited person has demonstrated the capacity to meet the government's standards of:
    - (i) financial viability, and
    - (ii) safety of passengers and the public, and
    - (iii) vehicle maintenance,to the degree and in the manner required in respect of services of the kind specified in the accreditation.
- (3) Standards for the purposes of subsection (2) (b):
- (a) may be prescribed by the regulations, or
  - (b) to the extent that they are not so prescribed, may be determined and published by the Director-General and made available to interested persons.
- (4) Any person wishing to obtain from the Director-General a copy of a standard published under subsection (3) (b) must pay the fee (if any) prescribed by the regulations.
- (5) Standards published under subsection (3) (b) may be re-determined by the Director-General from time to time, and are to be re-published and made available as occasion requires.

## **8 Procedure**

- (1) Having regard to the purpose of accreditation, the Director-General may accredit persons applying for accreditation.
- (2) For the purposes of this section:
- (a) a corporation may nominate, and the Director-General may accept the nomination of, any number of its directors and managers, and
  - (b) further nominations may be made and accepted from time to time, and
  - (c) a person so nominated becomes a designated director or manager, as referred to in section 7 (2) (a), only when the Director-General certifies acceptance of the nomination.
- (3) Procedures for the purposes of this section may be settled by the Director-General,

subject to any provision in that behalf made by the regulations.

## **9 Style of accreditation**

- (1) Particulars of accreditation are to be given in writing by the Director-General to the accredited person.
- (2) An accreditation may be given so as to be general or limited, that is to say:
  - (a) appropriate for all public passenger services to which this Part applies, or
  - (b) appropriate only for the service or services designated in the accreditation, or for a service or services having the scope or characteristics so designated.

## **9A Issue and renewal of accreditation**

- (1) An accreditation, unless sooner suspended or cancelled, remains in force for a period determined by the Director-General and specified in the particulars of accreditation, but is renewable from time to time on payment of the fee prescribed by the regulations.
- (2) Procedures for renewal may be settled by the Director-General, subject to any provision in that behalf made by the regulations.

## **9B Conditions of accreditation**

- (1) An accreditation is subject to:
  - (a) the conditions prescribed by the regulations, and
  - (b) such additional conditions as the Director-General, having regard to the purpose of accreditation, may from time to time impose on the accreditation.
- (2) Conditions in force under subsection (1) (b) may be varied (whether by amendment, addition, revocation or suspension of one or more conditions) by the Director-General from time to time by notice served on the accredited person.
- (3) An accredited service operator who contravenes or fails to comply with a condition of the operator's accreditation is guilty of an offence.  
Maximum penalty: 500 penalty units.
- (4) A variation of conditions imposed on an accreditation by the Director-General under subsection (1) (b) is, for the purposes of Division 3 of Part 5 (Reviews by Administrative Decisions Tribunal), a variation of the accreditation.

## **10 Variation, suspension or cancellation of accreditation**

- (1) Having regard to the purpose of accreditation, the Director-General may at any time vary, suspend or cancel any person's accreditation.

- (2) The accreditation of a corporation is automatically cancelled when there is no designated director or manager for the purposes of section 7 (2) (a).

## **Division 2 Drivers' authorities**

### **11 Authorities**

- (1) A person who drives a public passenger vehicle is guilty of an offence unless the person is the holder of an appropriate authority under this Division.

Maximum penalty: 100 penalty units.

- (2) The purpose of an authority under this Division is to attest:
  - (a) that the authorised person is considered to be of good repute and in all other respects a fit and proper person to be the driver of a public passenger vehicle, and
  - (b) that the authorised person is considered to have sufficient responsibility and aptitude to drive the vehicle or vehicles to which the authority relates:
    - (i) in accordance with the conditions under which a public passenger service is operated, and
    - (ii) in accordance with law and custom.
- (3) The regulations may create categories or grades of authority.

### **11A Issue and renewal of authority**

- (1) An authority, unless sooner suspended or cancelled, remains in force for a period determined by the Director-General and specified in the authority, but is renewable from time to time on payment of the fee prescribed by the regulations.
- (2) Procedures for renewal may be settled by the Director-General, subject to any provision in that behalf made by the regulations.

### **11B Conditions of authority**

- (1) An authority is subject to:
  - (a) the conditions prescribed by the regulations, and
  - (b) such additional conditions as the Director-General, having regard to the purpose of an authority, may from time to time impose on the authority.
- (2) Conditions in force under subsection (1) (b) may be varied (whether by amendment, addition, revocation or suspension of one or more conditions) by the Director-General from time to time by notice served on the holder of the authority.
- (3) The holder of an authority who contravenes or fails to comply with a condition of the

authority is guilty of an offence.

Maximum penalty: 100 penalty units.

- (4) A variation of conditions imposed on an authority by the Director-General under subsection (1) (b) is, for the purposes of Division 3 of Part 5 (Appeals), a variation of the authority.

## **12 Criteria and procedure**

- (1) Having regard to the purpose of an authority, the Director-General may grant authorities to persons applying for them.
- (2) Applicants must meet any criteria set forth in the regulations and must satisfy the Director-General as to any matter the Director-General considers relevant.
- (3) Procedures for the purposes of this section may be settled by the Director-General, subject to any provision in that behalf made by the regulations.

## **13 Style of authority**

- (1) An authority is to be given in writing by the Director-General to the person authorised.
- (2) The authority must specify the kind or kinds of vehicles for which it is appropriate.

## **14 Variation, suspension or cancellation of authority**

Having regard to the purpose of an authority, the Director-General may at any time vary, suspend or cancel any person's authority.

## **Division 3 Fees**

### **15 Fees**

An applicant for an accreditation or authority under this Part must pay any fee fixed by the regulations for consideration of the application.

## **Division 4 Application of Part**

### **15A Application of Part**

- (1) The other Divisions of this Part do not apply to or in relation to taxi-cabs and private hire vehicles.
- (2) Accordingly, in this Part, references to public passenger vehicles do not include references to taxi-cabs or private hire vehicles, and references to public passenger services do not include references to public passenger services carried on by means of one or more taxi-cabs or one or more private hire vehicles.

## **Part 3 Regular passenger services**

### **16 Service contracts**

- (1) The terms and conditions on which any regular passenger service is to be carried on within, or partly within, New South Wales are to be set forth in a contract entered into between an accredited operator and the Director-General (on behalf of the Crown).
- (2) The Director-General may invite contracts by tender or in such other manner as the Director-General thinks fit.
- (3) A person who carries on a regular passenger service otherwise than under the authority of a service contract is guilty of an offence.

Maximum penalty: 1,000 penalty units.

- (4) This section has effect subject to this Act and the regulations.

### **17 Nature of contracts**

- (1) A service contract must make provision with respect to:
  - (a) the period for which it operates, and
  - (b) the manner in which it may be terminated, and
  - (c) standards of safety for passengers and the public, and of vehicle maintenance, and
  - (d) any other matters required by this Act or the regulations to be specified in it.
- (2) A service contract may make provision for or with respect to:
  - (a) monetary or other penalties for breaches of the contract and the recovery of any such monetary penalties, and
  - (b) bonds for the performance of any or any specified obligations under the contract, and
  - (c) such other matters as the parties think fit to include in the circumstances of the case.
- (3) The contract may provide for the periodic review, in a manner and at such periods as the contract may specify, of any matter for the time being determined by or under it.
- (4) It is the duty of the Director-General to ensure that any regular passenger service contract drawn up under this Part is not inconsistent with:
  - (a) standards for the time being in force under section 7, and



- (b) the terms and conditions of any operator's accreditation and any driver's authority under Part 2 pertaining to the same service to which the contract relates.

In the event of any inconsistency, however, between any such standards, terms and conditions and the provisions of the contract, the provisions of the contract prevail to the extent of the inconsistency.

## **18 Commercial and non-commercial contracts**

- (1) For the purpose of determining the manner in which a contract holder is to be remunerated for the performance of services under the contract, a service contract may be classified as a "commercial" or a "non-commercial" contract.
- (2) Under a commercial contract, the holder's remuneration is to be derived from revenue generated by passengers' fares.
- (3) Under a non-commercial contract, the holder's remuneration is to be a contract price, or remuneration fixed at an agreed rate, payable by the Crown to the holder in the manner provided by the contract.
- (4) A commercial contract is to be entered into for a term of 5 years.
- (5) A non-commercial contract may be entered into for any term (subject, in the case of school bus services, to the regulations).
- (6) Nothing in this section precludes the holder of a non-commercial contract from charging and collecting fares from passengers in accordance with the contract.

## **19 Fares**

- (1) A commercial contract must fix a scale of maximum fares.
- (2) The scale must be fixed at not less than the average level of fares for the time being prevailing in the industry for comparable services, and due allowance must be made for inflationary movements in the costs of providing the service.
- (3) Maximum fares should be specified in terms of the distance for which a passenger, on payment of a fare, is entitled to be carried. For that purpose the contract may resort to terms of average or minimum distances, but it is not sufficient to describe distance in terms only of the intervals between stopping-places along a route.
- (4) Under a non-commercial contract, provision may be made for adjustments in respect of any shortfall or surplus resulting from the difference between the agreed contract price and any revenue generated by fares.

## **20 Service levels**

- (1) (Repealed)

- (2) A service contract must fix a scale of minimum service levels.
- (3) In fixing the scale for a service to be carried on under a commercial contract, regard should be had to:
  - (a) the needs of the community to be served by the service, and
  - (b) the average service levels for the time being prevailing in the industry with respect to communities which have similar population densities and which are in other respects comparable.
- (4) For the purposes of subsection (3) (b), average service levels may be analysed with respect to significant time categories such as peak work-based journey periods, shopping off-peak hours, Sundays and holidays, and so forth.

## **21 Exclusive rights**

- (1) A service contract must specify a region or route of operation.
- (2) A route may proceed across land or water or both, and a region may consist of a geographical or navigational area or both.
- (3) A commercial contract operating on a particular route is to confer on the holder the exclusive right to operate regular passenger services on that route.
- (4) The right conferred on a holder by subsection (3) precludes the Director-General from subsequently entering into a contract with any other person for the operation of a similar service along a route sufficiently proximate that it would result in substantial competition with the service carried on by that holder.
- (5) A commercial contract operating in a region may either:
  - (a) confer on the holder the exclusive right to operate regular passenger services in the region, or
  - (b) confer on the holder a right to operate such services in the region, being a right that is an exclusive right except with respect to a route or routes specified in the contract or in a variation made to the contract.

## **22 New services**

- (1) If, while a commercial contract is on foot with respect to a particular region or route:
  - (a) the Director-General determines that, in the public interest, additional services should be provided in that region or on, or in proximity to, that route, and
  - (b) the holder of the contract declines to vary the contract, or enter into a new contract, for the provision of those additional services,

the holder thereby waives the exclusive right to operate regular passenger services in that region or on that route, but only to the extent necessary to enable the operation of those additional services by someone else.

- (2) The Director-General may propose the terms and conditions of any variation of the holder's contract or of any new contract to be offered to the holder.
- (3) Subsection (1) does not apply if, considering the nature and extent of the proposed additional services, the terms and conditions proposed by the Director-General are unreasonable in light of the provisions of this Act and the regulations and the circumstances of the case.
- (4) For the purposes of subsection (3), the average level of fares prevailing in the industry for comparable services must be considered, together with any other matters relevant to the circumstances of the case.
- (5) In the event that additional services proposed by the Director-General affect the exclusive rights of two or more contract holders, it is the duty of all parties to endeavour to agree on a just compromise of their respective rights. Failing such an agreement, the exclusive rights of any one of them (called the **first holder**) are, to the extent necessary to enable the additional services to be performed by someone else, extinguished by this subsection when:
  - (a) a variation of contract is effected, or a new contract is entered into, with another holder so affected, if the proposed additional services are likely to reduce patronage of the services operated by that other holder to a greater extent than they would reduce those of the first holder, or
  - (b) a new contract is entered into jointly with two or more other holders, patronage of whose services is likely to be reduced to any such greater extent.
- (6) Section 28 applies to subsection (5) as though all the holders affected were bound by a common agreement.

### **23 Performance assessment and renewal of commercial contracts**

- (1) The performance of service operators under commercial contracts is to be assessed according to a performance assessment regime established by the Director-General that prescribes best-practice objectives and standards of service to be met by operators while their respective contracts remain in force.
- (2) Objectives and standards of service prescribed by the performance assessment regime are to be settled by the Director-General after consultation with the Public Transport Authority, the Public Transport Advisory Council and such persons, representative of commercial regular passenger service operators, as the Minister may direct.

- (3) The objectives and standards may apply differently to different services according to relevant population densities of communities served by them, or other factors, and may relate to (among other matters):
  - (a) service levels, and
  - (b) the costs to government (if any) of the service, and
  - (c) fares and ticketing, and
  - (d) any aspect of service quality.
- (4) The performance assessment regime may be varied from time to time by the Director-General. Subsections (2) and (3) apply to any variation of the objectives and standards prescribed by the regime.
- (5) Service operators are to be notified by the Director-General of:
  - (a) the objectives and standards of service applicable to contracts to which they are a party, and
  - (b) the manner in which assessments of operators' performance are to be undertaken,and of any variations made in either case.
- (6) The objectives and standards of service prescribed by the performance assessment regime that are applicable to assessment of the performance of a service operator during the term of a commercial contract are only those specified by the regime as at the commencement (or, as the case may be, the last renewal) of the contract.
- (7) A commercial contract is to be renewed by the Director-General for a further period of 5 years if the contracted operator, on the Director-General's assessment, has met the objectives and standards prescribed by the performance assessment regime that were applicable during the term of the contract, unless the region or route of operation of the contract is varied in accordance with section 24 or the operator declines to take up a renewal.
- (8) A contract is not to be renewed if the contracted operator, on the Director-General's assessment, has not met the prescribed objectives and standards, even if minimum service levels and all other requirements of the contract have been met.

## **24 Variation of region or route**

- (1) The region or route of operation of a service contract cannot be varied during the term of the contract except by consent of the parties.
- (2) The region or route of a commercial contract offered pursuant to section 23 as a renewal of a previous contract must be the same as the region or route defined in

respect of that previous contract except by consent of the parties or by a determination of the Director-General under this section.

- (3) A renewal of contract may be offered in respect of a varied region or route if the variation:
  - (a) is necessary to extend services in developing areas, or
  - (b) is necessary as a result of altered traffic conditions or for reasons of public safety,  
or
  - (c) is otherwise necessary for improvement of transport services in the public interest.

## **25 Assignment of benefit of service contracts**

- (1) The benefit of a service contract may not be assigned by its holder without the consent of the Director-General.
- (2) If the Director-General is satisfied:
  - (a) that the person nominated is an accredited service operator of an appropriate kind, and
  - (b) that adequate provision will be made by that person for the conduct of the service concerned,the Director-General may, by instrument in writing, consent to such an assignment.
- (3) When the benefit of a contract is assigned, the assignee is bound, by force of this subsection, to perform the obligations which the assignor was bound under the contract to perform.
- (4) Any purported assignment in contravention of this section is void.

## **26 Variation, suspension or cancellation of service contracts**

- (1) A service contract may, at any time during its currency, be varied, suspended or cancelled by the Director-General if:
  - (a) there has been a serious or persistent failure to observe the terms and conditions of the contract, or
  - (b) the holder is convicted of an offence against this Act or the regulations with respect to the furnishing of information concerning the service.
- (2) A service contract is automatically cancelled when the holder ceases to be an accredited service operator or ceases to be an accredited service operator of an appropriate kind.

- (3) Nothing in this Act prevents the Director-General from making such arrangements as the Director-General thinks fit for the provision, by an accredited service operator, of temporary services in place of any regular passenger services for the time being discontinued by a variation, suspension or cancellation under this section.

## **27 Fee for service contract**

- (1) In addition to any other fee payable under this Act, a contract fee is payable to the Director-General when a service contract for a regular passenger service is first awarded or is subsequently renewed.
- (2) The Director-General may determine the amount of the fee, subject to any maximum amount prescribed by the regulations.
- (3) The fee should reflect the administrative costs associated with negotiating, preparing and entering into the contract and the estimated costs associated with subsequent monitoring and assessment by the Director-General of the holder's performance.

## **28 Provisions of this Part form part of contract**

- (1) Every contract entered into for the purposes of this Part is to be taken to include all the provisions of this Part (section 16 excepted) that confer or impose any rights, powers or duties on the parties, and any contravention of such a provision may be remedied at law or in equity as though the provision were one to which the parties had by contract agreed.
- (2) In proceedings for any such remedy, every duty imposed on either party by any such provision is to be regarded as a duty performable for the benefit of the other party.
- (3) To the extent that an adequate alternative remedy is provided by this section, no other proceedings by way of judicial review of any decision or action of the Director-General may be taken by or on behalf of the holder of a service contract.

# **Part 4 Taxi-cabs**

## **Division 1 Preliminary**

### **29 Application of Part**

This Part applies to and in relation to taxi-cabs.

### **29A Definitions**

In this Part:

**accredited taxi-cab operator** means a person accredited under Division 3 for the purpose of carrying on a taxi-cab service.

**affiliation** means the affiliation of accredited taxi-cab operators with authorised taxi-cab

networks, as referred to in Division 6.

**applicable contract determination** means:

- (a) the *Taxi Industry (Contract Drivers) Contract Determination 1984*, as in force from time to time under the *Industrial Relations Act 1996*, or
- (b) if that determination ceases to have effect, the contract determination, as in force from time to time under that Act, applying for the purpose of determining the amount of chargeable fares payable by contract drivers of taxi-cabs.

**authorised taxi-cab driver** means a person authorised under Division 5 to drive a taxi-cab.

**authorised taxi-cab network** means a taxi-cab network carried on by an authorised taxi-cab network provider.

**authorised taxi-cab network provider** means a person authorised under Division 6 to operate a taxi-cab network.

**service standard** means a service standard determined under this Part for or with respect to taxi-cab operators or taxi-cab network providers.

**taxi-cab booking service** means the service of:

- (a) accepting bookings for taxi-cabs from members of the public, and
- (b) transmitting messages to taxi-cab drivers by telecommunication to appropriate receivers with which the taxi-cabs are fitted,

in order to facilitate the provision of taxi-cab services.

**taxi-cab network** means a facility provided for the delivery of taxi-cab services involving affiliated accredited taxi-cab operators, including a taxi-cab booking service.

**taxi-cab service** means a public passenger service carried on by means of one or more taxi-cabs.

## Division 2 Taxi-cab services

### 30 Taxi-cab service requirements

- (1) A person who carries on a taxi-cab service, being a service operating wholly or partly within New South Wales, by means of a taxi-cab is guilty of an offence if:
  - (a) the person is not accredited for the purposes of carrying on the service under Division 3, or
  - (b) the taxi-cab is not licensed under Division 4, or

- (c) the person is not affiliated with a taxi-cab network authorised under Division 6, unless exempted by the Director-General from the provisions of this paragraph.
- (2) A person who carries on a taxi-cab service, being a service operating wholly or partly within New South Wales, by means of a taxi-cab is guilty of an offence if:
  - (a) the service is carried on otherwise than in accordance with the terms and conditions of the person's accreditation under Division 3, or
  - (b) the service is carried on otherwise than in accordance with such of the terms and conditions of the taxi-cab's licence as are applicable to the person under Division 4.

Maximum penalty: 1,000 penalty units.

## **Division 3 Taxi-cab operators**

### **31 Accreditation**

- (1) The Director-General may accredit persons for the purpose of carrying on taxi-cab services, subject to and in accordance with this Division. A person accredited under this Division is referred to in this Part as an "accredited taxi-cab operator".
- (2) The purpose of accreditation under this Division is to attest:
  - (a) that the accredited person is (or, in the case of an accredited person that is a corporation, the designated directors and managers of the corporation are) considered to be of good repute and in all other respects fit and proper to be responsible for the operation of a taxi-cab service, and
  - (b) that the accredited person has demonstrated the capacity to meet and continue to meet the appropriate requirements with respect to:
    - (i) financial viability, and
    - (ii) safety of drivers, passengers and the public, and
    - (iii) vehicle maintenance,to the degree and in the manner required in respect of services of the kind specified in the accreditation.
- (3) The appropriate requirements are:
  - (a) such requirements as may be prescribed by the regulations, and
  - (b) the standards determined under section 31E.



### **31A Application for accreditation**

- (1) A person may apply to the Director-General for accreditation under this Division.
- (2) An applicant is required to pay any fee fixed by the regulations for consideration of the application.
- (3) An application made by a corporation is not to be considered by the Director-General unless the corporation nominates designated directors or managers (as referred to in section 35).
- (4) For the purposes of subsection (3), the Director-General may, from time to time, determine the number of persons who are to be nominated as designated directors and the number of persons who are to be nominated as designated managers. Such a determination may be made generally or in any particular case or class of cases.
- (5) Procedures for making and dealing with applications may be settled by the Director-General, subject to any provisions of the regulations.

### **31B Grant or refusal of application**

- (1) Having regard to the purpose of accreditation under this Division, the Director-General may grant an application and accredit the applicant for the purpose of carrying on a taxi-cab service, or may refuse the application.
- (2) Before an application is granted, the applicant must meet any criteria set forth in the regulations and must satisfy the Director-General as to any matter the Director-General considers relevant.
- (3) An applicant is required to pay any fee fixed by the regulations for the accreditation when first issued.
- (4) Particulars of an accreditation are to be given in writing by the Director-General to the accredited person.
- (5) An accreditation may be given so as to be general or limited, that is to say:
  - (a) appropriate generally for a taxi-cab service, or
  - (b) appropriate only for the service or services designated in the accreditation, or for a service or services having the scope or characteristics so designated.

### **31C Term of and renewal of accreditation**

- (1) An accreditation under this Division, unless sooner suspended or cancelled, remains in force for a period determined by the Director-General and specified in the particulars of the accreditation.
- (2) An accreditation is renewable from time to time on payment of the fee fixed by the

regulations.

- (3) Procedures for renewal may be settled by the Director-General, subject to any provisions of the regulations.

### **31D Conditions of accreditation**

- (1) An accreditation under this Division is subject to:
  - (a) the condition imposed by this Division, and
  - (b) the conditions prescribed by the regulations, and
  - (c) such additional conditions as the Director-General, having regard to the purpose of accreditation under this Division, may impose on the accreditation.
- (2) Conditions imposed by the Director-General may be varied (whether by amendment, addition, revocation or suspension of one or more conditions) by the Director-General from time to time by notice served on the accredited person.
- (3) An accredited taxi-cab operator who contravenes a condition of the operator's accreditation is guilty of an offence.

Maximum penalty: 1,000 penalty units.

- (4) A variation of conditions imposed on an accreditation by the Director-General is, for the purposes of Division 3 of Part 5 (Reviews by Administrative Decisions Tribunal), a variation of the accreditation.

### **31E Statutory condition regarding service standards**

- (1) Each accreditation under this Division is subject to a condition that the accredited taxi-cab operator must comply with service standards determined under this section.
- (2) The Director-General may from time to time determine service standards with which accredited taxi-cab operators are required to comply.
- (3) Without limitation, standards may make provision for or with respect to:
  - (a) requiring accredited taxi-cab operators to comply with such service requirements imposed by the taxi-cab network with which the operator is affiliated as are necessary to enable the network to comply with its obligations imposed by or under this Act, and
  - (b) enabling the Director-General to impose financial sanctions for contraventions of the standards by accredited taxi-cab operators (not exceeding an amount equal to 500 penalty units for any such contravention), and
  - (c) requiring accredited taxi-cab operators to comply with the applicable contract

determination in respect of amounts of chargeable fares required to be paid to the operators by drivers to whom the determination applies.

- (4) Any person may obtain from the Director-General a copy of the standards on payment of the fee (if any) prescribed by the regulations.
- (5) The regulations may make provision for or with respect to:
  - (a) the procedures to be followed in making determinations under this section, and
  - (b) the publication of determinations under this section, and
  - (c) the imposition of financial sanctions under this Division.
- (6) Nothing in this section limits the matters for or with respect to which regulations may be made under this Act.

### **31F Variation, suspension or cancellation of accreditation**

- (1) Having regard to the purpose of accreditation under this Division, the Director-General may at any time vary, suspend or cancel any person's accreditation under this Division.
- (2) Without limiting subsection (1), the Director-General may vary, suspend or cancel a person's accreditation under this Division:
  - (a) for failure to comply with a service requirement imposed by the taxi-cab network with which the operator is affiliated, but only if the Director-General is satisfied that the requirement is reasonable and necessary to enable the network to comply with its obligations imposed by or under this Act, and
  - (b) for failure to comply with a service standard requiring compliance with the applicable contract determination, and
  - (c) for failure to pay a financial sanction imposed under the standards under this Division.
- (3) The accreditation of a corporation is automatically cancelled when there is no designated director or manager.

### **31G Taxi-cab service to be linked to network booking service**

An accredited taxi-cab operator must ensure that, at all times while a taxi-cab is being used for the purposes of the operator's taxi-cab service:

- (a) arrangements are in force with a taxi-cab network for the provision of a taxi-cab booking service in respect of the taxi-cab, and
- (b) the taxi-cab is fitted with a receiver, appropriate for receipt of messages from the

network, in working order,

unless exempted by the Director-General from the provisions of this section.

Maximum penalty: 1,000 penalty units.

## **Division 4 Taxi-cab licences**

### **32 Licence**

- (1) The Director-General may license motor vehicles as taxi-cabs, subject to and in accordance with this Division.
- (2) Subject to subsection (3):
  - (a) the authority of a licence for a taxi-cab, if the licence is let or sublet, inures to the benefit of the lessee or sublessee to the exclusion of the lessor or sublessor, and
  - (b) a reference in this Act or the regulations to the licensee of, or the holder of a licence for, a taxi-cab is a reference to the person having the benefit of the authority of the licence concerned.
- (3) However:
  - (a) the regulations may provide that such a lessor is subject to specified provisions of this Act or of the regulations relating to licensed taxi-cabs, either to the exclusion of any lessee or sublessee or jointly with any lessee or sublessee, and
  - (b) the conditions of a licence may provide that such a lessor is subject to the provisions of specified terms and conditions of the licence, either to the exclusion of any lessee or sublessee or jointly with any lessee or sublessee.

The regulations or conditions referred to in this subsection may provide that the lessor and any lessee or sublessee are jointly and severally liable under any specified provisions or for any matters arising in connection with them.
- (4) The following provisions have effect:
  - (a) the regulations may provide that specified kinds of terms and conditions of licences apply to accredited taxi-cab operators carrying on taxi-cab services by means of the taxi-cabs concerned, and
  - (b) the conditions of a licence may provide that specified terms and conditions of the licence apply to an accredited taxi-cab operator carrying on a taxi-cab service by means of the taxi-cab concerned.

The regulations or conditions referred to in this subsection may provide that such a term or condition applies to a taxi-cab operator to the exclusion of a licensee or may provide that the operator and licensee are jointly and severally liable in connection

with such a term or condition.

### **32A Application for licence**

- (1) A person may apply to the Director-General for a licence under this Division.
- (2) An applicant is required to pay any fee fixed by the regulations for consideration of the application.
- (3) An application made by a corporation is not to be considered by the Director-General unless the corporation nominates designated directors or managers (as referred to in section 35).
- (4) For the purposes of subsection (3), the Director-General may, from time to time, determine the number of persons who are to be nominated as designated directors and the number of persons who are to be nominated as designated managers. Such a determination may be made generally or in any particular case or class of cases.
- (5) Procedures for making and dealing with applications may be settled by the Director-General, subject to any provisions of the regulations.

### **32B Grant or refusal of application**

- (1) The Director-General may grant an application and issue to the applicant a licence for the taxi-cab concerned, or may refuse the application.
- (2) Before an application is granted, the applicant must meet any criteria set forth in the regulations and must satisfy the Director-General as to any matter the Director-General considers relevant.

### **32C Term of and renewal of licence**

- (1) A licence, unless sooner suspended or cancelled, remains in force for a period determined by the Director-General and specified in the licence.
- (2) A licence is renewable from time to time on payment of the fee fixed by the regulations.
- (3) Procedures for renewal may be settled by the Director-General, subject to any provisions of the regulations.
- (4) This section does not apply to a short-term licence issued under this Division.

### **32D Short-term licences**

- (1) If an applicant for a licence requests a short-term licence, the Director-General may issue to the applicant a licence for a limited duration.
- (2) A short-term licence, unless sooner suspended or cancelled, remains in force for the

period (not exceeding 6 years) determined by the Director-General and specified in the licence.

- (3) Such a licence is not renewable and cannot be transferred except on the application of the holder's legal personal representative or of a trustee of the holder's estate.

### **32E Area of operation of licences**

- (1) A licence for a taxi-cab may specify the area of operation of the taxi-cab.
- (2) If no area is specified, the taxi-cab may be used to carry on a taxi-cab service anywhere in New South Wales.
- (3) A licence for a taxi-cab does not confer on any person an exclusive right to operate a taxi-cab in the area of operation specified in the licence.

### **32F Conditions of licence**

- (1) A licence is subject to:
  - (a) the conditions prescribed by the regulations, and
  - (b) such additional conditions as the Director-General may impose on the licence.
- (2) Conditions imposed by the Director-General may be varied (whether by amendment, addition, revocation or suspension of one or more conditions) by the Director-General from time to time by notice served on the licensee.
- (3) A licensee who contravenes a condition of the licence is guilty of an offence.  
Maximum penalty: 1,000 penalty units.
- (4) A variation of conditions imposed on a licence by the Director-General is, for the purposes of Division 3 of Part 5 (Reviews by Administrative Decisions Tribunal), a variation of the licence.

### **32G Variation, suspension or cancellation of licence**

- (1) The Director-General may at any time vary, suspend or cancel any licence if:
  - (a) owing to the default of the licensee, or the agents or employees of the licensee:
    - (i) the provisions of this Act or the regulations, or
    - (ii) the terms and conditions of the licence,have not been or are not being complied with, or
  - (b) the taxi-cab service carried on under the authority of the licence has been or is being conducted in such a manner as to cause danger to the public, or

- (c) the licensee is convicted of an offence against this Act or the regulations with respect to the furnishing of information concerning the service, or
  - (d) the licensee does not have a policy of insurance covering third-party property damage in respect of the taxi-cab, being a policy:
    - (i) issued by a corporation authorised under the *Insurance Act 1973* of the Commonwealth to carry on insurance business, and
    - (ii) providing cover that in the opinion of the Director-General is sufficient for the taxi-cab, or
  - (e) owing to the default of the licensee, or the agents or employees of the licensee, the applicable contract determination has not been complied with in respect of drivers of the taxi-cab concerned to whom the determination applies, or
  - (f) owing to the default of the licensee, or the agents or employees of the licensee, the taxi-cab concerned is not made available in accordance with a service requirement imposed by the taxi-cab network provider with which the taxi-cab operator who operates the taxi-cab is affiliated, but only if the Director-General is satisfied that the requirement is reasonable and necessary to enable the network provider to comply with its obligations imposed by or under this Act.
- (2) A licence issued to a corporation is automatically cancelled when there is no designated director or manager.

### **32H Licence fee**

- (1) In addition to any application fee, a licence fee is payable to the Director-General when a licence is first issued.
- (2) The licence fee is payable by the person to whom the licence is issued in the manner determined by the Director-General.

### **32I Licence fee for ordinary licence**

- (1) The amount of the licence fee for a licence must be determined by inviting applicants for the licence to bid for it at a public auction or to submit sealed tenders for it or by using such other method chosen by the Director-General as will, in the Director-General's opinion, yield as the fee for the licence an amount equivalent to its current value on the open market.
- (2) The Director-General may, in the circumstances specified in the regulations, fix the licence fee at less than the current value of the licence on the open market or decide not to impose a licence fee for the licence.
- (3) This section does not apply to a short-term licence issued under this Division.

### **32J Licence fee for short-term licences**

The amount of the licence fee for a short-term licence issued under this Division is an amount determined by the Director-General.

### **32K Stand-by taxi-cabs**

- (1) An accredited taxi-cab operator may, if a licensed taxi-cab used in the taxi-cab service is out of operation while undergoing repair or service, operate in place of that taxi-cab another motor vehicle even though no licence is in force for it, but only if that other motor vehicle complies with the requirements of this section.
- (2) A motor vehicle that is operated in place of a licensed taxi-cab must:
  - (a) display the number-plates allocated to the taxi-cab by virtue of its being so licensed, and
  - (b) be registered under the *Road Transport (Vehicle Registration) Act 1997*, and
  - (c) in addition to the number-plates referred to in paragraph (a), display the number-plates allocated to that vehicle by virtue of its registration under the *Road Transport (Vehicle Registration) Act 1997*, and
  - (d) comply, to the satisfaction of the Director-General, with the standards prescribed for taxi-cabs, and
  - (e) except to the extent authorised by the Director-General, conform to the terms and conditions imposed by the licence for that taxi-cab, and
  - (f) display a sign in accordance with the regulations identifying the vehicle as a stand-by taxi-cab, and
  - (g) comply with such other requirements as are prescribed by the regulations for the purposes of this subsection.
- (3) While a motor vehicle that is being operated in place of a licensed taxi-cab complies with the requirements of this section, that motor vehicle is taken, for the purposes of this Act, to be a taxi-cab for which a licence is in force.

## **Division 5 Taxi-cab drivers**

### **33 Authorities**

- (1) The Director-General may, by the issue of authorities under this Division, authorise persons to drive taxi-cabs, subject to and in accordance with this Division. A person authorised under this Division is referred to in this Part as an “authorised taxi-cab driver”.
- (2) A person who drives a taxi-cab is guilty of an offence unless the person is an



authorised taxi-cab driver.

Maximum penalty: 100 penalty units.

(3) The purpose of an authority under this Division is to attest:

(a) that the authorised person is considered to be of good repute and in all other respects a fit and proper person to be the driver of a taxi-cab, and

(b) that the authorised person is considered to have sufficient responsibility and aptitude to drive a taxi-cab:

(i) in accordance with the conditions under which the taxi-cab service concerned is operated, and

(ii) in accordance with law and custom.

(4) The regulations may create categories or grades of authorities.

(5) Without limitation, the regulations may provide that subsection (2) does not apply in specified circumstances, including, for example, when a taxi-cab is being driven to a place to have it repaired or serviced.

### **33A Application for authorisation**

(1) A person may apply to the Director-General for authorisation under this Division.

(2) An applicant is required to pay any fee fixed by the regulations for consideration of the application.

(3) Procedures for making and dealing with applications may be settled by the Director-General, subject to any provisions of the regulations.

### **33B Grant or refusal of application**

(1) Having regard to the purpose of authorisation under this Division, the Director-General may grant an application and authorise the applicant to drive a taxi-cab, or may refuse the application.

(2) Before an application is granted, the applicant must meet any criteria set forth in the regulations and must satisfy the Director-General as to any matter the Director-General considers relevant.

(3) An applicant is required to pay any fee fixed by the regulations for the authority when first issued.

(4) An authority is to be given in writing by the Director-General to the authorised person.

(5) The authority may specify the category or grade of the authority, and (without limitation) may specify the kind or kinds of vehicles for which the authority is granted.

### **33C Term of and renewal of authority**

- (1) An authority under this Division, unless sooner suspended or cancelled, remains in force for a period determined by the Director-General and specified in the authority.
- (2) An authority is renewable from time to time on payment of the fee fixed by the regulations.
- (3) Procedures for renewal may be settled by the Director-General, subject to any provisions of the regulations.

### **33D Conditions of authority**

- (1) An authority under this Division is subject to:
  - (a) the condition imposed by this Division, and
  - (b) the conditions prescribed by the regulations, and
  - (c) such additional conditions as the Director-General, having regard to the purpose of authorisation under this Division, may impose on the authority.
- (2) Conditions imposed by the Director-General may be varied (whether by amendment, addition, revocation or suspension of one or more conditions) by the Director-General from time to time by notice served on the authorised person.
- (3) An authorised taxi-cab driver who contravenes a condition of the driver's authority is guilty of an offence.  
  
Maximum penalty: 100 penalty units.
- (4) A variation of conditions imposed on an authority by the Director-General is, for the purposes of Division 3 of Part 5 (Reviews by Administrative Decisions Tribunal), a variation of the authority.

### **33E Statutory condition regarding network directions**

- (1) Each authorisation under this Division is subject to a condition that the authorised taxi-cab driver when in charge of a taxi-cab must comply with directions given by the relevant taxi-cab network to the driver, being conditions of a kind authorised to be given by or under the standards applying to the network.
- (2) The relevant taxi-cab network is the network with which the taxi-cab's accredited taxi-cab operator is affiliated under Division 6.

### **33F Variation, suspension or cancellation of authority**

Having regard to the purpose of authorisation under this Division, the Director-General may at any time vary, suspend or cancel any person's authority under this Division.

## **Division 6 Taxi-cab networks**

### **34 Requirement for authorisation**

- (1) The Director-General may authorise persons to operate taxi-cab networks, subject to and in accordance with this Division. A person authorised under this Division is referred to in this Part as an “authorised taxi-cab network provider”.
- (2) A person who operates a taxi-cab network, being a network operating wholly or partly within New South Wales, is guilty of an offence unless the person is an authorised taxi-cab network provider.

Maximum penalty: 1,000 penalty units.

- (3) The purpose of authorisation under this Division is to attest:
  - (a) that the authorised person is (or, in the case of an authorised person that is a corporation, the designated directors and managers of the corporation are) considered to be of good repute and in all other respects fit and proper to be responsible for the operation of a taxi-cab network, and
  - (b) that the authorised person has demonstrated the capacity to meet and continue to meet the appropriate requirements with respect to:
    - (i) financial viability, and
    - (ii) the delivery of taxi-cab services, including a taxi-cab booking service, and
    - (iii) supervising and monitoring taxi-cab operators and taxi-cab drivers, to the degree and in the manner required in respect of a taxi-cab network.
- (4) The appropriate requirements are:
  - (a) such requirements as may be prescribed by the regulations, and
  - (b) the standards determined under section 34E.

### **34A Application for authorisation**

- (1) A person may apply to the Director-General for authorisation under this Division.
- (2) An applicant is required to pay any fee fixed by the regulations for consideration of the application.
- (3) An application made by a corporation is not to be considered by the Director-General unless the corporation nominates designated directors or managers (as referred to in section 35).
- (4) For the purposes of subsection (3), the Director-General may, from time to time,

determine the number of persons who are to be nominated as designated directors and the number of persons who are to be nominated as designated managers. Such a determination may be made generally or in any particular case or class of cases.

- (5) Procedures for making and dealing with applications may be settled by the Director-General, subject to any provisions of the regulations.

### **34B Grant or refusal of application**

- (1) Having regard to the purpose of authorisation under this Division, the Director-General may grant an application and authorise the applicant to operate a taxi-cab network, or may refuse the application.
- (2) Before an application is granted, the applicant must meet any criteria set forth in the regulations and must satisfy the Director-General as to any matter the Director-General considers relevant.
- (3) An applicant is required to pay any fee fixed by the regulations for the authorisation when first issued.
- (4) Particulars of an authorisation are to be given in writing by the Director-General to the authorised person.
- (5) An authorisation may be given so as to be general or limited, that is to say:
  - (a) appropriate generally for taxi-cab services, or
  - (b) appropriate only for the service or services designated in the authorisation, or for a service or services having the scope or characteristics so designated.

### **34C Term of and renewal of authorisation**

- (1) An authorisation under this Division, unless sooner suspended or cancelled, remains in force for a period determined by the Director-General and specified in the particulars of the authorisation.
- (2) An authorisation is renewable from time to time on payment of the fee fixed by the regulations.
- (3) Procedures for renewal may be settled by the Director-General, subject to any provisions of the regulations.

### **34D Conditions of authorisation**

- (1) An authorisation under this Division is subject to:
  - (a) the conditions imposed by this Division, and
  - (b) the conditions prescribed by the regulations, and

(c) such additional conditions as the Director-General, having regard to the purpose of authorisation under this Division, may impose on the authorisation.

- (2) Conditions imposed by the Director-General may be varied (whether by amendment, addition, revocation or suspension of one or more conditions) by the Director-General from time to time by notice served on the authorised person.
- (3) An authorised taxi-cab network provider who contravenes a condition of the provider's authorisation is guilty of an offence.

Maximum penalty: 1,000 penalty units.

- (4) A variation of conditions imposed on an authorisation by the Director-General is, for the purposes of Division 3 of Part 5 (Reviews by Administrative Decisions Tribunal), a variation of the authorisation.

### **34E Statutory conditions regarding affiliation and service standards**

- (1) Each authorisation under this Division is subject to a condition that the accredited taxi-cab network provider must have arrangements in place for the affiliation of accredited taxi-cab operators with the taxi-cab network.
- (2) Each authorisation under this Division is subject to a condition that the authorised taxi-cab network provider must comply with service standards determined under this section.
- (3) The Director-General may from time to time determine service standards with which authorised taxi-cab network providers are required to comply, being:
- (a) standards with which the network providers must themselves comply, and
  - (b) standards that the providers must ensure taxi-cab operators and taxi-cab drivers comply with.
- (4) Without limitation, standards for an authorised taxi-cab network provider may make provision for or with respect to:
- (a) requiring the network provider to accept applications for affiliation by, and to maintain affiliation with, accredited taxi-cab operators, so long as they pay the network booking service fees and abide by the rules of the network, and
  - (b) the rules of the network so far as they apply to taxi-cab operators and taxi-cab drivers, and
  - (c) maintenance of vehicles used as taxi-cabs, and
  - (d) safety of taxi-cab drivers and of their passengers, and
  - (e) training of taxi-cab drivers, and

- (f) requiring the network provider to ensure that specified service levels for the carrying out of services related to the network provider's taxi-cab booking service, and the provision of booked taxi-cabs, are met, and
  - (g) requiring the network provider to ensure that a specified number or type of taxi-cabs, or a percentage of the total number or type of taxi-cabs, operated by taxi-cab operators affiliated with the network provider are on the road:
    - (i) from time to time, or
    - (ii) at a specified location or locations, or
    - (iii) at a specified time or times or during a specified period or periods, or
    - (iv) for the purpose of meeting demand arising from a specified event or events, and
  - (h) authorising the kinds of directions that the network provider is authorised to give taxi-cab operators and taxi-cab drivers, and
  - (i) without limiting paragraph (h), authorising or requiring the network provider to impose such service requirements on individual taxi-cab operators and taxi-cab drivers, or groups of taxi-cab operators and taxi-cab drivers, as are necessary to enable the network provider to comply with its obligations imposed by or under this Act, and
  - (j) requiring the network provider to supervise and monitor taxi-cab operators and taxi-cab drivers in relation to compliance with service requirements and other matters, and
  - (k) requiring reports to be furnished to the Director-General, whether on a regular basis or in specified circumstances or classes of circumstances or both, and
  - (l) providing facilities, including electronic monitoring facilities, as required by the Director-General, for the purpose of enabling or assisting the Director-General to monitor the performance of the network, the delivery of taxi-cab services by the network and the network's supervision and monitoring of taxi-cab operators and taxi-cab drivers, and entering into arrangements with the Director-General for this purpose, and
  - (m) enabling the Director-General to impose financial sanctions for contraventions of standards on the network provider (not exceeding an amount equal to 500 penalty units for any such contravention), and
  - (n) any other aspect of or relating to taxi-cab services, or affiliation under this Division.
- (5) Any person may obtain from the Director-General a copy of the standards on payment

of the fee (if any) fixed by the regulations.

- (6) The regulations may make provision for or with respect to:
- (a) the procedures to be followed in making determinations under this section, and
  - (b) the publication of determinations under this section, and
  - (c) the imposition of financial sanctions under this Division.
- (7) Nothing in this section limits the matters for or with respect to which regulations may be made under this Act.

### **34F Variation, suspension or cancellation of authorisation**

- (1) Having regard to the purpose of authorisation under this Division, the Director-General may at any time vary, suspend or cancel any person's authorisation under this Division.
- (2) Without limiting subsection (1), the Director-General may vary, suspend or cancel a person's authorisation under this Division for failure to pay a financial sanction imposed on the person under the standards under this Division.
- (3) The authorisation of a corporation is automatically cancelled when there is no designated director or manager.

## **Division 7 Miscellaneous**

### **35 Designated directors and managers of corporations**

For the purposes of this Part:

- (a) a corporation may nominate, and the Director-General may accept the nomination of, any number of its directors or managers as designated directors or managers, and
- (b) further nominations may be made and accepted from time to time, and
- (c) a person so nominated becomes a designated director or manager, but only when the Director-General certifies acceptance of the nomination.

### **35A Exemptions regarding networks**

- (1) The Director-General may, by order in writing or by the terms or conditions of an authorisation under this Division, exempt an accredited taxi-cab operator from the provisions of section 30 (1) (c) or section 31G or both.
- (2) Nothing in this section affects any other power of exemption under this Act.

## **Part 4A Private hire vehicles**

## **Division 1 Preliminary**

### **36 Application of Part**

This Part applies to and in relation to private hire vehicles.

#### **36A Definitions**

In this Part:

**accredited private hire vehicle operator** means a person accredited under Division 3 to carry on a private hire vehicle service.

**authorised private hire vehicle driver** means a person authorised under Division 5 to drive a private hire vehicle.

**private hire vehicle service** means a public passenger service carried on by means of one or more private hire vehicles.

## **Division 2 Private hire vehicle services**

### **37 Private hire vehicle service requirements**

- (1) A person who carries on a private hire vehicle service, being a service operating wholly or partly within New South Wales, by means of a private hire vehicle is guilty of an offence if:
  - (a) the person is not accredited for the purpose of carrying on the service under Division 3, or
  - (b) the private hire vehicle is not licensed under Division 4.
- (2) A person who carries on a private hire vehicle service, being a service operating wholly or partly within New South Wales, by means of a private hire vehicle is guilty of an offence if:
  - (a) the service is carried on otherwise than in accordance with the terms and conditions of the person's accreditation under Division 3, or
  - (b) the service is carried on otherwise than in accordance with such of the terms and conditions of the private hire vehicle's licence as are applicable to the person under Division 4.

Maximum penalty: 1,000 penalty units.

## **Division 3 Private hire vehicle operators**

### **38 Accreditation**

- (1) The Director-General may accredit persons for the purpose of carrying on private hire



vehicle services, subject to and in accordance with this Division. A person accredited under this Division is referred to in this Part as an “accredited private hire vehicle operator”.

- (2) The purpose of accreditation under this Division is to attest:
  - (a) that the accredited person is (or, in the case of an accredited person that is a corporation, the designated directors and managers of the corporation are) considered to be of good repute and in all other respects fit and proper to be responsible for the operation of a private hire vehicle service, and
  - (b) that the accredited person has demonstrated the capacity to meet and continue to meet the appropriate requirements with respect to:
    - (i) financial viability, and
    - (ii) safety of drivers, passengers and the public, and
    - (iii) vehicle maintenance,to the degree and in the manner required in respect of services of the kind specified in the accreditation.
- (3) The appropriate requirements are such requirements as may be prescribed by the regulations.

### **38A Application for accreditation**

- (1) A person may apply to the Director-General for accreditation under this Division.
- (2) An applicant is required to pay any fee fixed by the regulations for consideration of the application.
- (3) An application made by a corporation is not to be considered by the Director-General unless the corporation nominates designated directors or managers (as referred to in section 41).
- (4) For the purposes of subsection (3), the Director-General may, from time to time, determine the number of persons who are to be nominated as designated directors and the number of persons who are to be nominated as designated managers. Such a determination may be made generally or in any particular case or class of cases.
- (5) Procedures for making and dealing with applications may be settled by the Director-General, subject to any provisions of the regulations.

### **38B Grant or refusal of application**

- (1) Having regard to the purpose of accreditation under this Division, the Director-General may grant an application and accredit the applicant for the purpose of carrying on a

private hire vehicle service, or may refuse the application.

- (2) Before an application is granted, the applicant must meet any criteria set forth in the regulations and must satisfy the Director-General as to any matter the Director-General considers relevant.
- (3) An applicant is required to pay any fee fixed by the regulations for the accreditation when first issued.
- (4) Particulars of an accreditation are to be given in writing by the Director-General to the accredited person.
- (5) An accreditation may be given so as to be general or limited, that is to say:
  - (a) appropriate generally for a private hire vehicle service, or
  - (b) appropriate only for the service or services designated in the accreditation, for a service or services having the scope or characteristics so designated.

### **38C Term of and renewal of accreditation**

- (1) An accreditation under this Division, unless sooner suspended or cancelled, remains in force for a period determined by the Director-General and specified in the particulars of the accreditation.
- (2) An accreditation is renewable from time to time on payment of the fee fixed by the regulations.
- (3) Procedures for renewal may be settled by the Director-General, subject to any provisions of the regulations.

### **38D Conditions of accreditation**

- (1) An accreditation under this Division is subject to:
  - (a) the conditions prescribed by the regulations, and
  - (b) such additional conditions as the Director-General, having regard to the purpose of accreditation under this Division, may impose on the accreditation.
- (2) Conditions imposed by the Director-General may be varied (whether by amendment, addition, revocation or suspension of one or more conditions) by the Director-General from time to time by notice served on the accredited person.
- (3) An accredited private hire vehicle operator who contravenes a condition of the operator's accreditation is guilty of an offence.

Maximum penalty: 1,000 penalty units.

- (4) A variation of conditions imposed on an accreditation by the Director-General is, for

the purposes of Division 3 of Part 5 (Reviews by Administrative Decisions Tribunal), a variation of the accreditation.

### **38E Variation, suspension or cancellation of accreditation**

- (1) Having regard to the purpose of accreditation under this Division, the Director-General may at any time vary, suspend or cancel any person's accreditation under this Division.
- (2) The accreditation of a corporation is automatically cancelled when there is no designated director or manager.

## **Division 4 Private hire vehicle licences**

### **39 Licence**

- (1) The Director-General may license motor vehicles as private hire vehicles, subject to and in accordance with this Division.
- (2) Subject to subsection (3):
  - (a) the authority of a licence for a private hire vehicle, if the licence is let or sublet, inures to the benefit of the lessee or sublessee to the exclusion of the lessor or sublessor, and
  - (b) a reference in this Act or the regulations to the licensee of, or the holder of a licence for, a private hire vehicle is a reference to the person having the benefit of the authority of the licence concerned.
- (3) However:
  - (a) the regulations may provide that such a lessor is subject to specified provisions of this Act or of the regulations relating to licensed private hire vehicles, either to the exclusion of any lessee or sublessee or jointly with any lessee or sublessee, and
  - (b) the conditions of a licence may provide that such a lessor is subject to the provisions of specified terms and conditions of the licence, either to the exclusion of any lessee or sublessee or jointly with any lessee or sublessee.

The regulations or conditions referred to in this subsection may provide that the lessor and any lessee or sublessee are jointly and severally liable under any specified provisions or for any matters arising in connection with them.

- (4) The following provisions have effect:
  - (a) the regulations may provide that specified kinds of terms and conditions of licences apply to accredited private hire vehicle operators carrying on private hire vehicle services by means of the private hire vehicles concerned, and

- (b) the conditions of a licence may provide that specified terms and conditions of the licence apply to an accredited private hire vehicle operator carrying on a private hire vehicle service by means of the private hire vehicle concerned.

The regulations or conditions referred to in this subsection may provide that such a term or condition applies to a private hire vehicle operator to the exclusion of a licensee or may provide that the operator and licensee are jointly and severally liable in connection with such a term or condition.

### **39A Application for licence**

- (1) A person may apply to the Director-General for a licence under this Division.
- (2) An applicant is required to pay any fee fixed by the regulations for consideration of the application.
- (3) An application made by a corporation is not to be considered by the Director-General unless the corporation nominates designated directors or managers (as referred to in section 41).
- (4) For the purposes of subsection (3), the Director-General may, from time to time, determine the number of persons who are to be nominated as designated directors and the number of persons who are to be nominated as designated managers. Such a determination may be made generally or in any particular case or class of cases.
- (5) Procedures for making and dealing with applications may be settled by the Director-General, subject to any provisions of the regulations.

### **39B Grant or refusal of application**

- (1) The Director-General may grant an application and issue to the applicant a licence for the private hire vehicle concerned, or may refuse the application.
- (2) Before an application is granted, the applicant must meet any criteria set forth in the regulations and must satisfy the Director-General as to any matter the Director-General considers relevant.

### **39C Term of and renewal of licence**

- (1) A licence, unless sooner suspended or cancelled, remains in force for a period determined by the Director-General and specified in the licence.
- (2) A licence is renewable from time to time on payment of the fee fixed by the regulations.
- (3) Procedures for renewal may be settled by the Director-General, subject to any provisions of the regulations.

- (4) This section does not apply to a short-term licence issued under this Division.

### **39D Short-term licences**

- (1) If an applicant for a licence requests a short-term licence, the Director-General may issue to the applicant a licence for a limited duration.
- (2) A short-term licence, unless sooner suspended or cancelled, remains in force for the period (not exceeding 6 years) determined by the Director-General and specified in the licence.
- (3) Such a licence is not renewable and cannot be transferred except on the application of the holder's legal personal representative or of a trustee of the holder's estate.

### **39E Area of operation of licences**

- (1) A licence for a private hire vehicle may specify the area of operation of the private hire vehicle.
- (2) If no area is specified, the private hire vehicle may be used to carry on a private hire vehicle service anywhere in New South Wales.
- (3) A licence for a private hire vehicle does not confer on any person an exclusive right to operate a private hire vehicle in the area of operation specified in the licence.

### **39F Conditions of licence**

- (1) A licence is subject to:
  - (a) the conditions prescribed by the regulations, and
  - (b) such additional conditions as the Director-General may impose on the licence.
- (2) Conditions imposed by the Director-General may be varied (whether by amendment, addition, revocation or suspension of one or more conditions) by the Director-General from time to time by notice served on the licensee.
- (3) A licensee who contravenes a condition of the licence is guilty of an offence.  
Maximum penalty: 1,000 penalty units.
- (4) A variation of conditions imposed on a licence by the Director-General is, for the purposes of Division 3 of Part 5 (Reviews by Administrative Decisions Tribunal), a variation of the licence.

### **39G Variation, suspension or cancellation of licence**

- (1) The Director-General may at any time vary, suspend or cancel any licence if:
  - (a) owing to the default of the licensee, or the agents or employees of the licensee:

- (i) the provisions of this Act or the regulations, or
  - (ii) the terms and conditions of the licence,
- have not been or are not being complied with, or
- (b) the private hire vehicle service carried on under the authority of the licence has been or is being conducted in such a manner as to cause danger to the public, or
  - (c) the licensee is convicted of an offence against this Act or the regulations with respect to the furnishing of information concerning the service, or
  - (d) the licensee does not have a policy of insurance covering third-party property damage in respect of the private hire vehicle, being a policy:
    - (i) issued by a corporation authorised under the *Insurance Act 1973* of the Commonwealth to carry on insurance business, and
    - (ii) providing cover that in the opinion of the Director-General is sufficient for the private hire vehicle.
- (2) A licence issued to a corporation is automatically cancelled when there is no designated director or manager.

### **39H Licence fee**

- (1) In addition to any application fee, a licence fee is payable to the Director-General when a licence is first issued.
- (2) The licence fee is payable by the person to whom the licence is issued in the manner determined by the Director-General.

### **39I Licence fee for ordinary licence**

- (1) The amount of the licence fee for a licence must be determined by inviting applicants for the licence to bid for it at a public auction or to submit sealed tenders for it or by using such other method chosen by the Director-General as will, in the Director-General's opinion, yield as the fee for the licence an amount equivalent to its current value on the open market.
- (2) The Director-General may, in the circumstances specified in the regulations, fix the licence fee at less than the current value of the licence on the open market or decide not to impose a licence fee for the licence.
- (3) This section does not apply to a short-term licence issued under this Division.

### **39J Licence fee for short-term licences**

The amount of the licence fee for a short-term licence issued under this Division is an

amount determined by the Director-General.

## **Division 5 Private hire vehicle drivers**

### **40 Authorities**

- (1) The Director-General may, by the issue of authorities under this Division, authorise persons to drive private hire vehicles, subject to and in accordance with this Division. A person authorised under this Division is referred to in this Part as an “authorised private hire vehicle driver”.
- (2) A person who drives a private hire vehicle is guilty of an offence unless the person is an authorised private hire vehicle driver.

Maximum penalty: 100 penalty units.

- (3) The purpose of an authority under this Division is to attest:
  - (a) that the authorised person is considered to be of good repute and in all other respects a fit and proper person to be the driver of a private hire vehicle, and
  - (b) that the authorised person is considered to have sufficient responsibility and aptitude to drive a private hire vehicle:
    - (i) in accordance with the conditions under which the private hire vehicle service concerned is operated, and
    - (ii) in accordance with law and custom.
- (4) The regulations may create categories or grades of authorities.
- (5) Without limitation, the regulations may provide that subsection (2) does not apply in specified circumstances, including, for example, when a private hire vehicle is being driven to a place to have it repaired or serviced.

### **40A Application for authorisation**

- (1) A person may apply to the Director-General for authorisation under this Division.
- (2) An applicant is required to pay any fee fixed by the regulations for consideration of the application.
- (3) Procedures for making and dealing with applications may be settled by the Director-General, subject to any provisions of the regulations.

### **40B Grant or refusal of application**

- (1) Having regard to the purpose of authorisation under this Division, the Director-General may grant an application and authorise the applicant to drive a private hire vehicle, or may refuse the application.

- (2) Before an application is granted, the applicant must meet any criteria set forth in the regulations and must satisfy the Director-General as to any matter the Director-General considers relevant.
- (3) An applicant is required to pay any fee fixed by the regulations for the authority when first issued.
- (4) An authority is to be given in writing by the Director-General to the authorised person.
- (5) The authority may specify the category or grade of the authority, and (without limitation) may specify the kind or kinds of vehicles for which the authority is granted.

#### **40C Term of and renewal of authority**

- (1) An authority under this Division, unless sooner suspended or cancelled, remains in force for a period determined by the Director-General and specified in the authority.
- (2) An authority is renewable from time to time on payment of the fee fixed by the regulations.
- (3) Procedures for renewal may be settled by the Director-General, subject to any provisions of the regulations.

#### **40D Conditions of authority**

- (1) An authority under this Division is subject to:
  - (a) the conditions prescribed by the regulations, and
  - (b) such additional conditions as the Director-General, having regard to the purpose of authorisation under this Division, may impose on the authority.
- (2) Conditions imposed by the Director-General may be varied (whether by amendment, addition, revocation or suspension of one or more conditions) by the Director-General from time to time by notice served on the authorised person.
- (3) An authorised private hire vehicle driver who contravenes a condition of the driver's authority is guilty of an offence.  
Maximum penalty: 100 penalty units.
- (4) A variation of conditions imposed on an authority by the Director-General is, for the purposes of Division 3 of Part 5 (Reviews by Administrative Decisions Tribunal), a variation of the authority.

#### **40E Variation, suspension or cancellation of authority**

Having regard to the purpose of authorisation under this Division, the Director-General may at any time vary, suspend or cancel any person's authority under this Division.



## Division 6 Miscellaneous

### 41 Designated directors and managers of corporations

For the purposes of this Part:

- (a) a corporation may nominate, and the Director-General may accept the nomination of, any number of its directors or managers as designated directors or managers, and
- (b) further nominations may be made and accepted from time to time, and
- (c) a person so nominated becomes a designated director or manager, but only when the Director-General certifies acceptance of the nomination.

### 42 (Renumbered as section 55A)

## Part 4B Taxi-cabs and private hire vehicles: transfer tax

### 43 Definitions

- (1) In this Division, **transport district** means a transport district established under the [Transport Administration Act 1988](#) or that was previously established under the [Transport Act 1930](#).
- (2) For the purposes of this Division, the current market value of the licence for a taxi-cab which is transferred is an amount that, in the opinion of the Director-General, represents the current market value, at the date of the transfer, of the licence.

### 44 Transfer of licences for taxi-cabs

(1) If:

- (a) the licence in respect of a taxi-cab authorised to operate in a transport district:
  - (i) was first granted under the *Transport Licensing Act 1931* before 25 December 1986 (the date of commencement of the [Transfer of Public Vehicles \(Taxation\) Amendment Act 1986](#)), or
  - (ii) was first granted under the *Transport Licensing Act 1931*, or under this Act, on or after that date but is not a licence to which subsection (2) applies, and
- (b) the holder of the licence transfers it to another person,

there is to be charged, levied, collected and paid for the use of the Crown in right of New South Wales a tax on the transfer of the licence, calculated at the rate of 2.5% of its current market value.

(c), (d) (Repealed)

(2) If:

- (a) the licence in respect of a taxi-cab authorised to operate in a transport district was first granted under the *Transport Licensing Act 1931*, or under this Act, on or after 25 December 1986 (the date of commencement of the *Transfer of Public Vehicles (Taxation) Amendment Act 1986*), and
- (b) the licence fee payable in respect of the grant of the licence was an amount equivalent to the then current market value of the licence, and
- (c) the holder of the licence transfers it to another person,

there is to be charged, levied, collected and paid for the use of the Crown in right of New South Wales a tax on the transfer of the licence calculated at the rate of 2.5 per cent of its current market value.

(3) If:

- (a) the taxi-cab to which a licence relates is not authorised to operate in a transport district, and
- (b) the holder of the licence transfers it to another person,

there is to be charged, levied, collected and paid for the use of the Crown in right of New South Wales a tax on the transfer of the licence calculated at the rate of 2.5 per cent of its current market value.

#### **45 Transfer of licences for private hire vehicles**

There is to be charged, levied, collected and paid for the use of the Crown in right of New South Wales a tax of \$500:

- (a) on the transfer of a licence for a private hire car granted under the *Transport Licensing Act 1931*, and
- (b) on the transfer of a licence for a private hire vehicle granted under this Act.

#### **46 Exemption from tax**

The transfer of a licence for a taxi-cab or private hire vehicle is exempt from tax under this Division if the holder of the licence has died and the transferee is entitled to the licence under the will or on the intestacy of the holder.

## **Part 5 Review of certain decisions**

### **Division 1 Notifications**

#### **47 Effect of notification of decisions of the Director-General**

- (1) If the Director-General makes a decision that is able to be reviewed under this Part, it is the duty of the Director-General to cause any person entitled to request the review,

or to lodge the application with the Administrative Decisions Tribunal for a review:

- (a) in the case of a person entitled to lodge an application with the Tribunal—to be given notice that is in accordance with section 48 (Notice of decision and review rights to be given by administrators) of the *Administrative Decisions Tribunal Act 1997* and a statement of reasons setting out the matters specified by section 49 (3) of that Act, or
  - (b) in other cases—to be notified in writing of the fact of the decision and of the reasons for it.
- (2) If the Director-General makes a decision that is able to be reviewed under this Part, any such decision has effect from the time the notice is given and continues in effect unless rescinded by the Director-General or by the Administrative Decisions Tribunal determining an application under Division 3.
- (3) A notice given under this section is a sufficient notice for the purposes of section 48 of the *Administrative Decisions Tribunal Act 1997*.

## **Division 2 Review by review panels**

### **48 Review of decisions concerning service contracts**

The holder of a service contract who is aggrieved by any decision of the Director-General:

- (a) with respect to the variation, suspension, cancellation, renewal or transfer of the contract, or
- (b) that affects the holder's exclusive rights under the contract,

may request the Director-General to cause the decision to be reviewed under this Division.

### **49 Review panels**

For the purposes of a review requested under this Part, the Minister may appoint a review panel consisting of nominees of the Director-General, who are to be taken to represent the Department of Transport, and persons who, in the opinion of the Director-General, are representative of persons engaged in carrying on a passenger transport business.

### **50 Conduct of review**

- (1) A request for a review under this Part must be accompanied by a written submission from the person who requests it, setting out the reasons why that person thinks the decision concerned is incorrect or should not have been made.
- (2) A review panel may decline to investigate any case that is not supported by such a submission or if the submission concerned appears on the face of it to be frivolous or vexatious or to be otherwise not worth considering.

- (3) Otherwise the panel must, in accordance with any directions of the Director-General, consider any case referred to it and report to the Director-General, setting out its reasons why the relevant decision of the Director-General should stand or should be reconsidered by the Director-General, as the case requires.

#### **51 Effect of review**

- (1) The Director-General is not bound to accept any recommendation of a review panel.
- (2) Nothing in this Part affects the operation of section 28.

### **Division 3 Reviews by Administrative Decisions Tribunal**

#### **52 Applications to Administrative Decisions Tribunal**

- (1) Any person whose application under Part 2, 4 or 4A has been refused, or whose accreditation, authority or authorisation has been varied, suspended or cancelled may apply to the Administrative Decisions Tribunal for a review of the refusal, variation, suspension or cancellation.
- (2) If, on an application to the Administrative Decisions Tribunal by a driver employed by the State Transit Authority whose authority has been varied, suspended or cancelled, the Administrative Decisions Tribunal is satisfied that another dispute pending before the Transport Appeals Board involves substantially the same issues, it may remit the application for hearing by that Board. In that event, the Transport Appeals Board has jurisdiction to hear and determine the application as if it were the Administrative Decisions Tribunal.
- (3) A person aggrieved by a decision of the Director-General:
  - (a) to refuse to issue or transfer a licence to the person, or
  - (b) to suspend or cancel the person's licence, or
  - (c) with respect to the conditions imposed on the person's licence, or any variation or proposed variation of them,may apply to the Administrative Decisions Tribunal for a review of the decision.
- (4) (Repealed)

#### **53 (Repealed)**

### **Part 6 Miscellaneous**

#### **53A Advertising**

- (1) A person must not cause to be published any advertisement that advertises a commercial service involving the operation of a vehicle if:

(a) the service is of a kind that requires the operator of the service to be accredited or authorised under this Act and the service is not so accredited or authorised, or

(b) the vehicle is of a kind that is required to be licensed under this Act and the vehicle is not so licensed.

Maximum penalty: 50 penalty units.

(2) A reference in this section to an advertisement includes a reference to any form of notice or statement in the nature of an advertisement.

### **53B Requirement to return documents or number-plates**

(1) If an accreditation, authority, authorisation or licence under this Act is suspended or cancelled or otherwise ceases to be in force, the person to whom it was granted must immediately return it to the Director-General.

Maximum penalty: 25 penalty units.

(2) If a licence is cancelled, or is suspended for a period of more than 28 days, or otherwise ceases to be in force, the person to whom it was granted must, unless otherwise directed by the Director-General in writing, return any number-plates allocated to the taxi-cab or private hire vehicle by virtue of its being licensed to the Roads and Traffic Authority or the Commissioner of Police within 7 days of the cancellation, suspension or discontinuation taking effect.

Maximum penalty: 25 penalty units.

### **54 Offences involving credentials**

A person who:

(a) by any false statement or misrepresentation, obtains or attempts to obtain any accreditation, authority or authorisation under this Act or procures or attempts to procure a service contract, or

(b) forges or fraudulently alters or uses any such accreditation, authority or authorisation, or

(c) fraudulently allows any such accreditation, authority or authorisation to be used by any other person,

is guilty of an offence.

Maximum penalty: 20 penalty units.

### **55 Offenders to state name and address**

(1) A person reasonably suspected by a member of the Police Force or by an authorised officer to be committing or to have committed an offence against this Act or the

regulations may be required to state his or her full name and residential address.

(2) A person who:

- (a) fails or refuses to comply with the requirements of a member of the Police Force or authorised officer made under this section, or
- (b) in purported compliance with such a requirement, states a name that is not his or her name or an address that is not his or her residential address,

is guilty of an offence.

Maximum penalty: 5 penalty units.

(3) A person is not guilty of an offence under this section unless it is established that the member of the Police Force or authorised officer:

- (a) warned the person that a failure or refusal to comply with the requirement is an offence, and
- (b) identified himself or herself as a member of the Police Force or as an authorised officer, as the case requires.

#### **55A Inspection of vehicles, premises, equipment and records**

- (1) The powers conferred by this section may be exercised by an authorised officer for the purpose of determining whether there has been compliance with or a contravention of this Act or the regulations or the conditions or limitations of any licence, accreditation, authority, authorisation, requirement or exemption issued, made or given under this Act.
- (2) An authorised officer may, by notice in writing, require a person to furnish records or information.
- (3) An authorised officer may enter premises (other than any premises, or a part of any premises, that are used as a dwelling) that the officer reasonably suspects are being used for the purposes of a public passenger service, a taxi-cab network (as defined in section 29A) or for the keeping of records for any such purposes.
- (4) An authorised officer may, at any premises lawfully entered, do anything that in the opinion of the authorised officer is necessary to be done for the purpose mentioned in subsection (1).
- (5) An authorised officer may:
  - (a) inspect any vehicle or vessel that the officer reasonably suspects is being used for the purposes of a public passenger service and inspect or test any taxi-meter, radio receiver or other equipment, or inspect any furnishings or fittings, in or on or about the vehicle or vessel, or

(b) by notice in writing, require the owner or person in possession of any such vehicle, vessel or equipment specified in the notice to have the vehicle, vessel or equipment inspected or tested within a time limited by the notice.

(6) Schedule 1 has effect in relation to the powers of an authorised officer under this section.

## **56 Obstruction**

A person who hinders or obstructs an authorised officer in the execution of his or her powers, authorities, duties or functions under this Act or the regulations is guilty of an offence against this Act.

Maximum penalty: 5 penalty units.

## **57 Powers of authorised officers**

(1) A power expressed by this Act or the regulations to be conferred on an authorised officer may be exercised only by an authorised officer whose instrument of appointment authorises the officer to exercise that power.

(2) When exercising any power under this Act, an authorised officer must comply with any person's request (being a request that is reasonable in the circumstances) to produce identification indicating that he or she is an authorised officer.

(3) The Director-General is to issue each authorised officer with means of identification for the purposes of this section.

## **58 Offences by corporations**

(1) If a corporation contravenes any provision of this Act or the regulations, each person who is a director of the corporation or who is concerned in the management of the corporation is to be taken to have contravened the same provision if the person knowingly authorised or permitted the contravention.

(2) A person may be proceeded against and convicted under a provision pursuant to subsection (1) whether or not the corporation has been proceeded against or convicted under that provision.

(3) Nothing in this section affects any liability imposed on a corporation for an offence committed by the corporation against this Act or the regulations.

## **59 Penalty notices for certain offences**

(1) In this section:

**penalty notice** means a notice to the effect that, if the person served with the notice does not wish to have an alleged offence dealt with by a court, the person may pay, in accordance with the notice, the penalty specified in the notice.

**penalty notice offence** means an offence against this Act or the regulations declared by the regulations to be a penalty notice offence.

- (2) An authorised officer may serve a penalty notice on a person who appears to the officer to have committed a penalty notice offence.
- (3) The amount of the penalty to be specified in a penalty notice is the amount prescribed by the regulations for the alleged offence concerned, being an amount not exceeding the maximum amount of penalty which could be imposed for the offence by a court.
- (4) A penalty notice may be served personally or by post.
- (5) If the amount of the penalty prescribed by the regulations for an alleged offence is paid under this section, no person is liable to any further proceedings for the alleged offence.
- (6) Payment of a penalty under this section is not to be regarded as an admission of liability for the purpose of, nor in any way affect or prejudice, any civil claim, action or proceeding arising out of the same occurrence.
- (7) This section does not limit the operation of any other provision of this or any other Act or of any statutory rule.

## **60 Proceedings for offences**

- (1) Proceedings for an offence against this Act or the regulations may be dealt with in a summary manner before a Local Court constituted by a Magistrate sitting alone or before the Supreme Court in its summary jurisdiction.
- (2) The maximum monetary penalty that may be imposed by a Local Court for an offence under a provision of this Act or the regulations is 100 penalty units or the maximum monetary penalty provided for the offence, whichever is less.
- (3) Despite the *Justices Act 1902* or any other Act, proceedings for an offence under this Act or the regulations may be commenced not later than one year after the date alleged to be the date on which the offence was committed.

## **60A Fares or other remuneration**

The Director-General may from time to time, by notice published in the Gazette, determine fares (including maximum fares) or approve other arrangements for remuneration in connection with taxi-cab or private hire vehicle services.

## **61 Recovery of amounts due**

Any fees, charges or taxes payable under this Act or the regulations may be recovered by the Director-General as a debt in any court of competent jurisdiction.



## **62 Records and evidentiary matters**

- (1) The Director-General must keep records of the grant, refusal, variation, suspension and cancellation of accreditations, authorities, contracts, authorisations and licences under this Act.
- (2) A certificate purporting to be signed by the Director-General and certifying that:
  - (a) on a date specified in the certificate, or
  - (b) during any period so specified,

the particulars set forth in the certificate as to any matter required to be recorded under this section did or did not appear on or from the records is, for the purposes of any legal proceedings, prima facie evidence of what it certifies.

- (3) Such a certificate is admissible in any proceedings:
  - (a) without proof of the authenticity of the Director-General's signature, and
  - (b) without production of any record or document on which the certificate is founded.
- (4) In any legal proceedings under this Act, proof is not required (until evidence is given to the contrary) of the following:
  - (a) the fact that a vehicle is subject to a provision of this Act or the regulations in question,
  - (b) the fact that the defendant is, or at any relevant time was, the driver of any vehicle in question,
  - (c) the fact that the defendant is, or at any relevant time was, the owner or agent of the owner of any vehicle in question,
  - (d) the fact that, at any relevant time, any vehicle was used for commercial purposes.

## **63 Regulations**

- (1) The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.
- (2) In particular, the regulations may make provision for or with respect to the following:
  - (a) the prohibition or restriction of the use of public passenger vehicles on any specified road or road related area or any portion of a road or road related area, or within any specified area, either generally or within certain hours, and
  - (b) the sections, terminal points and stopping-places on bus or ferry routes, and

- (c) the number of public passenger vehicles of any class or description which may ply or stand for hire in any road or road related area, and
- (d) the regulation or prohibition of eating, drinking or smoking in public passenger vehicles, and
- (e) the methods which may be adopted by the drivers of public passenger vehicles plying for hire in any road or road related area and the regulation or prohibition of plying for hire in any particular road or road related area or part of a road or road related area, and
- (f) the prohibition of any person from touting or calling out or otherwise importuning any person to use a public passenger vehicle, and
- (g) requirements as to service contracts, licences, authorities and authorisations under this Act, including:
  - (i) their form, and the terms, conditions and particulars applying to them, and
  - (ii) forms and conditions to be observed when submitting applications or tenders for them, and
  - (iii) matters relating to their award, refusal, transfer, suspension, cancellation or surrender, and
  - (iv) conditions of service applicable to school bus services or in other special circumstances, and
- (h) the adjustment of payments and refunds in connection with contract and licence fees, and
- (i) the conduct of passengers and drivers on public passenger vehicles, and
- (j) the powers and duties of drivers of public passenger vehicles and of authorised officers, and
- (k) the authority of drivers of buses or other public passenger vehicles, and of authorised officers, to eject persons guilty of any contravention of a regulation, and
- (l) the dress to be worn by the drivers of public passenger vehicles, and
- (m) the wearing of badges by drivers of public passenger vehicles and the regulation of the form and description, and the issue, wearing and return, of those badges, and
- (n) the taking up or setting down of passengers or other matters incidental to the transport of passengers, and

- (o) the carriage of passengers' luggage or other goods, and animals, on public passenger vehicles, and
- (p) the regulation or prohibition of the carriage of passengers standing in or on any part of a public passenger vehicle, and
- (q) the publication of fares or other arrangements for remuneration payable by passengers on public passenger vehicles, and
- (r) the collection of fares or other remuneration, and the determination of maximum or minimum fares or rates of remuneration, payable for the carriage of passengers or of passengers' luggage or other goods by public passenger vehicles, and
- (s) the remuneration of persons constituting a review panel, and
- (t) the furnishing by accredited service operators of returns (verified as prescribed) containing information (including particulars of income and expenditure) necessary or convenient to be ascertained to enable any matter concerning a public passenger service (including its profitability) to be determined, and
- (u) the furnishing by owners of public passenger vehicles of returns and other information, verified as prescribed, and
- (v) the imposition of penalties for the failure, neglect or refusal by a passenger to pay any fare or for quitting the public passenger vehicle before paying the fare, and
- (w) the age of vehicles that may be used as public passenger vehicles, and
- (x) the design, equipment and fittings (internal or external) of public passenger vehicles, and
- (y) the more effective checking of time-tables and ensuring that buses or ferries are not withdrawn from the ordinary route for special service unless the approval of the Director-General is first obtained, and
- (z) the compilation, publication and observance of time-tables, and
- (aa) the custody and return of property left in public passenger vehicles, the payment of compensation for any such property and the disposal or sale of any such property not claimed and the time of any such disposal or sale, and
- (bb) the regulation or prohibition of advertisements relating to public passenger vehicles or services, including advertisements displayed within or on the outside of public passenger vehicles, and
- (cc) the declaration of the speed not to be exceeded by buses whether generally or in any specified locality or on any specified road or road related area or part of a road or road related area, and

- (dd) the exhibition in or on any public passenger vehicle of such notices in the public interest as the Director-General considers necessary, and
  - (ee) the erection and display of signs and notices for the guidance of the drivers of public passenger vehicles and the public, and
  - (ff) the records and accounts to be kept by holders of service contracts and the holders of provisional authorities and the manner of keeping them, and
  - (gg) the records to be kept by the drivers and owners of public passenger vehicles and by accredited service operators, the manner of keeping those records and their inspection, and
  - (hh) the sale of tickets and the conditions under which tickets must be sold, and
  - (ii) the granting of free or concession passes on public passenger vehicles, and
  - (jj) generally as to the regulation and control of public passenger vehicles, their drivers and passengers.
- (3) The regulations may exempt, or provide for the exemption (either absolutely or subject to conditions) of, any person or vehicle or any class of persons or vehicles from all or any of the provisions of this Act.
- (4) The regulations may create offences punishable by a penalty not exceeding 50 penalty units.
- (5) (Repealed)

#### **64 Repeals and savings**

- (1) Each Act specified in Schedule 2 is repealed.
- (2) Regulations in force under the *Transport Licensing Act 1931* are repealed.
- (3) Schedule 3 has effect.

#### **65 (Repealed)**

### **Schedule 1 Provisions relating to powers of authorised officers**

(Section 55A)

#### **1 Notices requiring records or information to be furnished**

- (1) This clause applies to a notice referred to in section 55A (2).
- (2) The notice must specify the manner in which information or records are required to be furnished and a reasonable time by or at which they must be furnished.

- (3) The notice may only require a person to furnish records that are in the person's possession or that are within the person's power to obtain lawfully.
- (4) The authorised officer may take copies of any records furnished in response to the notice.
- (5) If any record required by the notice to be furnished is in electronic, mechanical or other form, the notice requires the record to be furnished in written form, unless the notice otherwise provides.

## **2 Entry of premises**

- (1) This clause applies to the entry of premises by an authorised officer under section 55A (3).
- (2) The officer may enter the premises without notice at any reasonable time.
- (3) Entry may be on foot or by means of a motor vehicle or other vehicle, or in any other manner.
- (4) Entry may be effected with the aid of such police officers as the authorised officer considers necessary and, where necessary, with the use of reasonable force.

## **3 Powers of authorised officers exercisable at premises**

Without limiting section 55A (4), an authorised officer may, at any premises lawfully entered, do any or all of the following:

- (a) inspect any maintenance facilities, equipment or apparatus used for the purposes of or in connection with a public passenger service,
- (b) take such photographs, films or audio, video and other recordings as the authorised officer considers necessary,
- (c) seize anything connected with an offence against this Act or the regulations,
- (d) exercise any other power under section 55A or under the provisions of this Schedule.

## **4 Power to inspect and test**

- (1) This clause applies to the inspection of a vehicle or vessel under section 55A (5) (a) and to the inspection and testing of any equipment in accordance with that paragraph.
- (2) The authorised officer may, for the purposes of any such inspection:
  - (a) enter and remain in the vehicle or vessel, and
  - (b) enter and remain in any workshop or other premises where the vehicle or vessel is located, and

- (c) operate the vehicle or vessel and any operable equipment in, on or about the vehicle or vessel.

## **5 Stopping of vehicles for inspection or test**

- (1) The driver or person in charge of a vehicle that is being driven or used on a road or road related area or in any other place must, for the purpose of enabling an authorised officer to inspect or test the vehicle or any equipment under section 55A (5) (a), comply with any reasonable direction by an authorised officer to stop, stand, park or manoeuvre the vehicle, or to do any other thing, for the purpose of facilitating the inspection or testing of the vehicle.
- (2) A direction to stop the vehicle may be given by the authorised officer by displaying a sign or by any other reasonable method.
- (3) If a vehicle has been stopped in compliance with a direction under subclause (1), any inspection and testing of the vehicle or equipment under section 55A (5) (a) must be carried out:
  - (a) at or as near as practicable to the place where the direction to stop the vehicle is given, and
  - (b) as soon as practicable, and in any case within one hour, after the vehicle is stopped in accordance with the direction.

## **6 Power to require vehicles or equipment to be inspected or tested**

- (1) This clause applies to a notice requiring a vehicle or vessel or any equipment to be inspected or tested under section 55A (5) (b).
- (2) The notice may require the vehicle, vessel or equipment:
  - (a) to be inspected or tested at a specified place (being a place within 80 kilometres of the owner's or person's residence or place of business), or
  - (b) to be tested by or in the presence of an authorised officer.

## **7 Assistance to be given to authorised officers**

- (1) This clause applies for the purpose of enabling an authorised officer to exercise any of the powers of an authorised officer under section 55A in connection with any premises.
- (2) The Director-General may, by notice in writing served on the occupier of the premises, require the person to provide such reasonable assistance and facilities as are specified in the notice within a specified time and in a specified manner.
- (3) A person who neglects or fails to comply with the Director-General's requirements under this clause is taken to have obstructed the authorised officer in the exercise of

the officer's powers under section 55A.

## 8 Care to be taken

- (1) In the exercise of a power of entering or searching premises, an authorised officer must do as little damage as possible.
- (2) The Director-General (on behalf of the Crown) must compensate all interested parties for any damage caused by an authorised officer in exercising a power of entering the premises (but not any damage caused by the exercise of any other power), unless the occupier obstructed or hindered the authorised officer in the exercise of the power of entry.

## Schedule 2 Repeals

(Section 64 (1))

*Transport Licensing Act 1931 No 32*

*Transfer of Public Vehicles (Taxation) Act 1969 No 35*

*State Transport (Co-ordination) Amendment Act 1986 No 138*

*State Transport (Co-ordination) Amendment Act 1987 No 297*

*State Transport (Co-ordination) Amendment Act 1988 No 36*

*State Transport (Co-ordination) (Transport Administration) Amendment Act 1988 No 113*

## Schedule 3 Savings and transitional provisions

(Section 64 (3))

## Part 1 Preliminary

### 1 Definition

In this Schedule, **the former Act** means the *Transport Licensing Act 1931*.

### 2 Regulations

- (1) The regulations may contain provisions of a saving or transitional nature consequent on the enactment of this Act or any of the following Acts:

*Passenger Transport Amendment Act 1997*

*Traffic Legislation Amendment Act 1997* (but only in relation to the amendments made to this Act)

*Passenger Transport Amendment Act 2000*

- (2) In particular, the regulations may make provision for or with respect to:
  - (a) the classification (as "commercial" or "non-commercial") of licences that, by the operation of this Schedule or of a regulation, are to be regarded as operating, from a specified date, as service contracts, and

- (b) the transitional application of any regulation imposing a limit on the age of a vehicle that may be used as a public passenger vehicle.
- (3) Any such provision may, if the regulations so provide, take effect from the date of assent to the Act concerned or a later date.
- (4) To the extent to which any such provision takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as:
  - (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication, or
  - (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication.

## **Part 2 Provisions consequent on enactment of this Act**

### **3 Operators of regular passenger services**

- (1) A person who, immediately before the commencement of Part 3, was licensed under the former Act to carry on a regular passenger service may still do so, without benefit of a service contract authorising the service, until such a contract is entered into, unless the parties otherwise agree or the Director-General sooner enters into a service contract with another person for the operation of the service.
- (2) The right conferred by subclause (1) may be varied, cancelled, suspended and otherwise dealt with in the same manner as the relevant licence under the former Act.
- (3) A person to whom this clause applies is to be regarded, on and after the commencement of Part 3, as holding (subject to this Act) an accreditation under this Act that is appropriate for the service concerned.
- (4) Rights conferred by a licence under the former Act held, at the commencement of Part 3, by any person are preserved by this subsection for the benefit of that person but any such rights are subject to the provisions of that Part, and to the powers, duties and functions of the Director-General under that Part, as if they were rights conferred on a holder by that Part or by a service contract entered into for the purposes of that Part.
- (5) For the purposes of subclause (4), the region or route of operation of a licensed service is to be taken to be the region or route of operation of a service identified in a service contract.

### **4 Tax on transfer of licences for taxi-cabs and private hire vehicles**

Division 2 of Part 4 does not operate to impose a tax on the transfer of a licence in respect



of which a tax has been paid under the *Transfer of Public Vehicles (Taxation) Act 1969* or in respect of which a tax is payable by virtue of that Act and any saving contained in the *Interpretation Act 1987*.

## 5 Drivers of vehicles used in regular passenger services

- (1) The Director-General, by order published in the Gazette, may:
  - (a) set out criteria, in the nature of qualifications or experience, for the purposes of this clause, and
  - (b) declare that a person satisfying those criteria is authorised, for a period specified in the order or (if, with respect to any class of cases, the order so provides) for an indefinite period, in the same manner as if he or she held an authority under Division 2 of Part 2 of this Act.
- (2) Any such order has effect in accordance with its tenor.
- (3) The benefit of such an order may be varied, suspended or cancelled in the same circumstances as an authority under Division 2 of Part 2 may be varied, suspended or cancelled.

## 6 Licences for taxi-cabs and private hire cars

A licence in force, immediately before the commencement of this clause, under the former Act with respect to a taxi-cab or private hire car is to be taken to be a licence of the same type issued under this Act, and conferring the same authority on its holder, as if this Act had been in force when the licence was issued.

## Part 3 Provisions consequent on enactment of *Passenger Transport Amendment Act 1997*

### 7 Definitions

In this Part of this Schedule:

**the amending Act** means the *Passenger Transport Amendment Act 1997*.

**the new contract provisions** means the provisions of section 23, as re-enacted by the amending Act.

**the old contract provisions** means the provisions of section 23, as in force immediately before the repeal of that section by the amending Act.

### 8 Existing accreditations and authorities

An accreditation under Division 1 of Part 2, and any driver's authority under Division 2 of that Part, that was in force immediately before the commencement of this clause, remains in force, subject to this Act and the regulations, until the date prescribed in respect of the

accreditation or authority by regulations made in accordance with clause 2.

## **9 Renewal of commercial passenger service contracts**

- (1) A performance assessment regime established under the new contract provisions:
  - (a) applies to a commercial regular passenger service contract entered into after the regime takes effect, and
  - (b) to the extent that it is specified so to apply, applies to a commercial regular passenger service contract that was already in force when the regime took effect (and so applies on and from any specified date in the current term of the contract), except as provided by subclause (3).
- (2) To the extent necessary to give effect to subclause (1) (b), the new contract provisions extend to apply to a contract that was entered into before their commencement.
- (3) Despite their repeal by the amending Act, the old contract provisions are taken to continue to apply (to the exclusion of the new contract provisions) to a commercial regular passenger service contract that was in force at the time their repeal became effective and that had not by then been renewed, but cease to apply on the date of its first renewal.
- (4) The objectives, standards and methods of assessment comprised in a performance assessment regime established under the new contract provisions, to the extent that the regime applies to a commercial regular passenger service contract that is in force at the time the regime takes effect, must be reasonable in view of the fact that the regime has commenced to apply during the currency of the contract and must, in particular, afford the operator reasonable opportunity to make any adjustments necessary to be made in order to meet the requirements of the regime.
- (5) A provision of a commercial regular passenger service contract entered into before or after the enactment of the amending Act, to the extent that it is inconsistent with the provisions of this clause, or with the new contract provisions, is of no effect.
- (6) No compensation is payable to a service operator or any other person as a consequence of the repeal of the old contract provisions and the enactment of the new contract provisions, or of the operation of any provision of this clause, and proceedings for recovery of any such compensation may not be instituted or (even if instituted before the commencement of this clause) maintained.
- (7) Section 28 has effect subject to this clause.

## **10 Network authorities**

An authority that was in force under section 41 of the Act immediately before its repeal by the amending Act is taken to be an authority granted and in force under section 41 as inserted by the amending Act, and remains in force, subject to this Act and the

regulations, until the date prescribed in respect of the authority by regulations made in accordance with clause 2.

## **Part 4 Provisions consequent on enactment of [Passenger Transport Amendment Act 2000](#)**

### **11 Definition**

In this Part:

***the amending Act*** means the [Passenger Transport Amendment Act 2000](#).

### **12 Accredited operators: taxi-cab services**

- (1) A person accredited under Division 1 of Part 2 immediately before the insertion of Division 4 into that Part by the amending Act for a public passenger service carried on by means of a taxi-cab is taken to be a person accredited under Division 3 of Part 4 as inserted by that Act.
- (2) Accordingly, the accreditation of that person is taken to be an accreditation of that person for that service under Division 3 of Part 4 as so inserted.

### **13 Drivers' authorities: taxi-cabs**

- (1) A person who was the holder of an authority under Division 2 of Part 2 immediately before the insertion of Division 4 into that Part by the amending Act authorising the person to drive taxi-cabs is taken to be a person authorised under Division 5 of Part 4 as inserted by that Act.
- (2) Accordingly, the authority held by that person is taken to be an authority under Division 5 of Part 4 as so inserted.

### **14 Licences: taxi-cabs**

- (1) A person who was the holder of a licence under Division 1 of Part 4 immediately before the omission of sections 29–41 (other than section 34A) by the amending Act for a taxi-cab is taken to be a person licensed under Division 4 of Part 4 as inserted by that Act.
- (2) Accordingly, the licence held by that person is taken to be a licence issued under Division 4 of Part 4 as so inserted.
- (3) Section 29 (3) as in force immediately before its repeal by the amending Act, and section 32 (2) (b) as inserted by that Act, do not apply to references in this clause to the holder of such a licence.

### **15 Taxi-cab networks**

An authority in force under section 41 before its omission by the amending Act for a taxi-

cab network is taken to be an authorisation granted under Division 6 of Part 4 as inserted by that Act.

#### **16 Accredited operators: private hire vehicle services**

- (1) A person accredited under Division 1 of Part 2 immediately before the insertion of Division 4 into that Part by the amending Act for a public passenger service carried on by means of a private hire vehicle is taken to be a person accredited under Division 3 of Part 4A as inserted by that Act.
- (2) Accordingly, the accreditation of that person is taken to be an accreditation of that person for that service under Division 3 of Part 4A as so inserted.

#### **17 Drivers' authorities: private hire vehicles**

- (1) A person who was the holder of an authority under Division 2 of Part 2 immediately before the insertion of Division 4 into that Part by the amending Act authorising the person to drive private hire vehicles is taken to be a person authorised under Division 5 of Part 4A as inserted by that Act.
- (2) Accordingly, the authority held by that person is taken to be an authority under Division 5 of Part 4A as so inserted.

#### **18 Licences: private hire vehicles**

- (1) A person who was the holder of a licence under Division 1 of Part 4 immediately before the omission of sections 29–41 (other than section 34A) by the amending Act for a private hire vehicle is taken to be a person licensed under Division 4 of Part 4A as inserted by that Act.
- (2) Accordingly, the licence held by that person is taken to be a licence issued under Division 4 of Part 4A as so inserted.
- (3) Section 29 (3) as in force immediately before its repeal by the amending Act, and section 39 (2) (b) as inserted by that Act, do not apply to references in this clause to the holder of such a licence.

#### **19 Reissue of authorities or licences**

Without limiting any functions of the Director-General, the Director-General may reissue any authorities or licences referred to in this Part, with such alterations as the Director-General considers appropriate having regard to the provisions and operation of the amending Act.

#### **20 Proceedings for offences**

Section 60 (3) as inserted by the amending Act does not apply to offences committed before the commencement of the subsection.

## **Schedule 4 (Repealed)**