

Transport Services Licensing Act 1989

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An Act to reform the law relating to land transport licensing

BE IT ENACTED by the Parliament of New Zealand as follows:

1 Short Title and commencement

- (1) This Act may be cited as the Transport Services Licensing Act 1989.
- (2) Except as otherwise provided in this Act, this Act shall come into force on the 1st day of October 1989.

2 Interpretation

- (1) In this Act, unless the context otherwise requires,—

Accident*[Repealed]*

Accident: this definition was inserted, as from 1 April 1993, by section 2 Transport Services Licensing Amendment Act (No 3) 1992 (1992 No 109).

Accident: this definition was repealed, as from 20 July 2005, by section 103(3) Railways Act 2005 (2005 No 37). *See* sections 105 to 111 of that Act as to the transitional provisions.

*[Repealed]***Approved safety system***[Repealed]*

Approved safety system: this definition was inserted, as from 1 April 1993, by section 2 Transport Services Licensing Amendment Act (No 3) 1992 (1992 No 109).

Approved safety system: this definition was repealed, as from 20 July 2005, by section 103(3) Railways Act 2005 (2005 No 37). *See* sections 105 to 111 of that Act as to the transitional provisions.

[Repealed]

Approved taxi organisation means a taxi organisation approved or deemed to be approved by the Director under section 21 of this Act

Authority means Land Transport New Zealand established by section 66 of the Land Transport Management Act 2003

Authority: this definition was inserted, as from 20 August 1993, by section 35(1) Land Transport Act 1993 (1993 No 88).

Authority: this definition was amended, as from 1 March 1999, by section 215(1) Land Transport Act 1998 (1998 No 110) by substituting the words “continued by section 184 of the Land Transport Act 1998” for the words “established by section 15 of the Land Transport Act 1993”.

Authority: this definition was substituted, as from 1 December 2004, by section 19(1) Land Transport Management Amendment Act 2004 (2004 No 97). *See* sections 20 to 22 of that Act as to the savings and transitional provisions.

Business location, in relation to any matter required by this Act to be displayed on any vehicle, means—

- (a) In the case of a licence holder, operator, or approved taxi organisation which has its base location in an urban area, the location of that base by reference to the town or city, and the suburb (if any), in which it is situated:
- (b) In any other case, any description of location by which the base location of the licence holder, operator, or organisation can be easily identified, whether by reference to any road and area, or by reference to the nearest urban area:

Control, in relation to a transport service or a proposed or approved taxi organisation, means direct or indirect control of

the management of the whole or part of the transport service or taxi organisation by shareholding or the holding of any position (however described) in the management of the whole or part of the transport service or taxi organisation that gives the person a significant influence on the operation of the whole or part of the service or organisation (whether or not other persons are also involved)

Designated stand means an area designated by a territorial authority as an area in which small passenger service vehicles, being vehicles that are identified by signs as taxis and that are indicating their availability for hire, may wait for hires

Director means the Director of Land Transport appointed under section 186 of the Land Transport Act 1998

Director: this definition was inserted, as from 20 August 1993, by section 35(1) Land Transport Act 1993 (1993 No 88).

Director: this definition was amended, as from 1 March 1999, by section 215(1) Land Transport Act 1998 (1998 No 110) by substituting the words “section 186 of the Land Transport Act 1998” for the words “section 24 of the Land Transport Act 1993”.

Director: this definition was amended, as from 1 December 2004, by section 19(1) Land Transport Management Amendment Act 2004 (2004 No 97) by omitting the word “Safety”. See sections 20 to 22 of that Act as to the savings and transitional provisions.

Driver identification card means the driver identification card required by section 19 of this Act to be held by the driver of a small passenger service vehicle or a vehicle recovery service vehicle

Enforcement officer means the Director or any constable or traffic officer; and includes any officer of the Authority acting pursuant to a delegation from the Director. Any person claiming or appearing to be acting pursuant to any such delegation shall, in the absence of evidence to the contrary, be presumed to be so acting

Enforcement officer: this definition was amended, as from 1 July 1992, by section 2(1) Transport Services Licensing Amendment Act (No 2) 1992 (1992 No 69) by substituting the word “constable” for the words “member of the Police”.

Enforcement officer: this definition was amended, as from 20 August 1993, by section 35(1) Land Transport Act 1993 (1993 No 88) by substituting the word “Authority” for the word “Ministry”.

Goods service—

(a) Means—

- (i) The carriage of goods on any road, whether or not for hire or reward, by means of a motor vehicle whose gross laden weight is 6,000 kilograms or more; and
 - (ii) The carriage of goods on any road for hire or reward by means of a motor vehicle whose gross laden weight is less than 6,000 kilograms:
- (b) Includes—
 - (i) The letting on hire of a motor vehicle whose gross laden weight is 6,000 kilograms or more by a person who drives the vehicle or provides a driver for the vehicle, where the motor vehicle is used for the carriage of goods; and
 - (ii) The carriage of goods by the owner of the goods using a vehicle whose gross laden weight is 6,000 kilograms or more:
- (c) Does not include—
 - (i) A vehicle recovery service; or
 - (ii) A service involving the carriage of goods for personal domestic purposes where the service is not operated for more than a total of 7 days in any 12-month period; or
 - (iii) Any carriage of goods by a vehicle being used under a passenger service licence where the goods are in the possession of passengers in that vehicle; or
 - (iv) Any carriage of goods by a small passenger service vehicle being used under a passenger service licence where the carriage is of such small amounts of goods, or occurs so infrequently, that it does not form a significant part of the overall operations of the vehicle; or
 - (v) Any service specified as an exempt service in Part 1 of Schedule 1 to this Act or in regulations referred to in that Part:

Goods service: this definition was amended, as from 1 April 1993, by section 2(2) Transport Services Licensing Amendment Act (No 3) 1992 (1992 No 109) by substituting the expression “6,000” for the expression “3,500”.

Goods service licence means a licence granted or deemed to be granted under section 8 or section 9 of this Act that authorises its holder to carry on a goods service

Goods service vehicle—

- (a) Means a motor vehicle used or capable of being used in a goods service for the carriage of goods; but
- (b) Does not include a vehicle specified as an exempt vehicle in Part 2 of Schedule 1 to this Act or in regulations referred to in that Part:

Goods service vehicle: this definition was substituted, as from 1 April 1993, by section 2(1) Transport Services Licensing Amendment Act (No 3) 1992 (1992 No 109).

Gross laden weight has the same meaning as it has in section 2(1) of the Land Transport Act 1998

Gross laden weight: this definition was substituted, as from 1 March 1999, by section 215(1) Land Transport Act 1998 (1998 No 110).

Incident*[Repealed]*

Incident: this definition was inserted, as from 1 April 1993, by section 2 Transport Services Licensing Amendment Act (No 3) 1992 (1992 No 109).

Incident: this definition was repealed, as from 20 July 2005, by section 103(3) Railways Act 2005 (2005 No 37). *See* sections 105 to 111 of that Act as to the transitional provisions.

[Repealed]

Large passenger service vehicle means any passenger service vehicle other than a small passenger service vehicle

Light rail vehicle*[Repealed]*

Light rail vehicle: this definition was inserted, as from 1 April 1993, by section 2 Transport Services Licensing Amendment Act (No 3) 1992 (1992 No 109).

Light rail vehicle: this definition was repealed, as from 20 July 2005, by section 103(3) Railways Act 2005 (2005 No 37). *See* sections 105 to 111 of that Act as to the transitional provisions.

[Repealed]

Ministry*[Repealed]*

Ministry: this definition was repealed, as from 20 August 1993, by section 35(1) Land Transport Act 1993 (1993 No 88).

[Repealed]

Motor vehicle has the same meaning as it has in section 2(1) of the Land Transport Act 1998

Motor vehicle: this definition was inserted, as from 1 April 1993, by section 2 Transport Services Licensing Amendment Act (No 3) 1992 (1992 No 109).

Motor vehicle: this definition was substituted, as from 1 March 1999, by section 215(1) Land Transport Act 1998 (1998 No 110).

Notify means to notify in writing; and **notification** has a corresponding meaning

Parking warden means a parking warden appointed or deemed to be appointed under section 7 of the Transport Act 1962

Passenger service means, subject to section 47 of this Act,—

- (a) The carriage of passengers on any road for hire or reward by means of a motor vehicle; and includes the letting on hire of a vehicle by a person who drives the vehicle or provides a driver for the vehicle if, during the hiring, the vehicle is used for the carriage of passengers; and
- (b) The carriage of passengers on any road, whether or not for hire or reward, by means of a large passenger service vehicle;—

but does not include any service specified as an exempt service in Part 1 of Schedule 1 to this Act or in regulations referred to in that Part

Passenger service licence means a licence granted or deemed to be granted under section 8 or section 9 of this Act that authorises its holder to carry on a passenger service

Passenger service vehicle means a vehicle used or available for use in a passenger service for the carriage of passengers; but does not include a vehicle specified as an exempt vehicle in Part 2 of Schedule 1 to this Act or in regulations referred to in that Part

Proposed safety system*[Repealed]*

Proposed safety system: this definition was inserted, as from 1 April 1993, by section 2 Transport Services Licensing Amendment Act (No 3) 1992 (1992 No 109).

Proposed safety system: this definition was repealed, as from 20 July 2005, by section 103(3) Railways Act 2005 (2005 No 37). *See* sections 105 to 111 of that Act as to the transitional provisions.

[Repealed]

Railway line*[Repealed]*

Railway line: this definition was inserted, as from 1 April 1993, by section 2 Transport Services Licensing Amendment Act (No 3) 1992 (1992 No 109).

Railway line: this definition was repealed, as from 20 July 2005, by section 103(3) Railways Act 2005 (2005 No 37). *See* sections 105 to 111 of that Act as to the transitional provisions.

[Repealed]

Rail service*[Repealed]*

Rail service: this definition was inserted, as from 1 April 1993, by section 2 Transport Services Licensing Amendment Act (No 3) 1992 (1992 No 109).

Rail service: this definition was repealed, as from 20 July 2005, by section 103(3) Railways Act 2005 (2005 No 37). *See* sections 105 to 111 of that Act as to the transitional provisions.

[Repealed]

Rail service operator*[Repealed]*

Rail service operator: this definition was inserted, as from 1 April 1993, by section 2 Transport Services Licensing Amendment Act (No 3) 1992 (1992 No 109).

Rail service operator: this definition was repealed, as from 20 July 2005, by section 103(3) Railways Act 2005 (2005 No 37). *See* sections 105 to 111 of that Act as to the transitional provisions.

[Repealed]

Rail service vehicle*[Repealed]*

Rail service vehicle: this definition was inserted, as from 1 April 1993, by section 2 Transport Services Licensing Amendment Act (No 3) 1992 (1992 No 109).

Rail service vehicle: this definition was repealed, as from 20 July 2005, by section 103(3) Railways Act 2005 (2005 No 37). *See* sections 105 to 111 of that Act as to the transitional provisions.

[Repealed]

regional council—

- (a) means a regional council within the meaning of the Local Government Act 2002; and
- (b) includes—
 - (i) the Auckland Regional Transport Authority established by section 7 of the Local Government (Auckland) Amendment Act 2004; and
 - (ii) a territorial authority within the meaning of the Local Government Act 2002 that has under this Act the functions, duties, and powers of a regional council under this Act; but

- (c) does not include the Auckland Regional Council, and the Waikato Regional Council in relation to that part of its region within the district of the Franklin District Council

regional council: this definition was amended, as from 1 July 1992, by section 2(2) Transport Services Licensing Amendment Act (No 2) 1992 (1992 No 69) by inserting the words “; and includes any territorial authority under this Act”.

regional council: this definition was substituted, as from 1 July 2003, by section 262 Local Government Act 2002 (2002 No 84). *See* sections 273 to 314 of that Act as to the savings and transitional provisions.

regional council: this definition was substituted, as from 1 December 2004, by section 46 Local Government (Auckland) Amendment Act 2004 (2004 No 57). *See* clause 2 Local Government (Auckland) Amendment Act Commencement Order 2004 (SR 2004/399).

Rental service means the letting of a motor vehicle on hire for the carriage of passengers (including the driver) or of goods, or both, to a person who drives the vehicle or provides a driver for the vehicle; but does not include—

- (a) The letting of a motor vehicle under a hire purchase agreement or a bailment that is for a period exceeding 6 months; or
- (b) Any service specified as an exempt service in Part 1 of Schedule 1 to this Act or in regulations referred to in that Part:

Rental service licence means a licence granted or deemed to be granted under section 8 or section 9 of this Act that authorises its holder to carry on a rental service

Rental service vehicle means a vehicle used or available for use in a rental service for letting on hire for the carriage of passengers or goods, or both, to a person who drives the vehicle or provides a driver for the vehicle; but does not include a vehicle specified as an exempt vehicle in Part 2 of Schedule 1 to this Act or in regulations referred to in that Part

Secretary*[Repealed]*

Secretary: this definition was repealed, as from 20 August 1993, by section 35(1) Land Transport Act 1993 (1993 No 88).

[Repealed]

Service includes—

- (a) An operation carried out on one occasion only:
- (b) An operation carried out solely for the benefit of the persons carrying it out:

Small passenger service vehicle means any passenger service vehicle that is designed or adapted to carry 12 or fewer persons (including the driver)

Taxi means a small passenger service vehicle that is being operated under a passenger service licence but is not for the time being exempt from the provisions of any of rules 3(1), 12(1), 16(1), and 19 of Part 1 of Schedule 3 to this Act

Taxi: this definition was inserted, as from 1 April 1993, by section 2 Transport Services Licensing Amendment Act (No 3) 1992 (1992 No 109).

Traffic officer means an enforcement officer under the Land Transport Act 1998

Traffic officer: this definition was substituted, as from 1 March 1999, by section 215(1) Land Transport Act 1998 (1998 No 110).

Transit means the body corporate called Transit that is continued by section 75 of the Land Transport Management Act 2003.

Transit: this definition was inserted, as from 13 November 2003, by section 90 Land Transport Management Act 2003 (2003 No 118).

Transit New Zealand*[Repealed]*

Transit New Zealand: this definition was repealed, as from 13 November 2003, by section 90 Land Transport Management Act 2003 (2003 No 118).

[Repealed]

Transport service—

- (a) Means any goods service, passenger service, rental service, or vehicle recovery service; but
- (b) Does not include any service specified as an exempt service in Part 1 of Schedule 1 to this Act or in regulations referred to in that Part:

Transport service: this definition was substituted, as from 1 April 1993, by section 2(1) Transport Services Licensing Amendment Act (No 3) 1992 (1992 No 109).

Transport service: paragraph (a) of this definition was amended, as from 20 July 2005, by section 103(3) Railways Act 2005 (2005 No 37) by omitting the words “rail service,”. See sections 105 to 111 of that Act as to the transitional provisions.

Transport service driver means any person who is, or is from time to time, employed or engaged in driving a vehicle

being used in a transport service, whether or not that person is licensed or required to hold a licence to drive such a vehicle

Transport service driver: this definition was substituted, as from 1 April 1993, by section 2(1) Transport Services Licensing Amendment Act (No 3) 1992 (1992 No 109).

Transport service licence means any of the following licences granted or deemed to be granted under section 8 or section 9 of this Act

- (a) A goods service licence:
- (b) A passenger service licence:
- (c)
- (d) A rental service licence:
- (e) A vehicle recovery service licence:

Transport service licence: this definition was substituted, as from 1 April 1993, by section 2(1) Transport Services Licensing Amendment Act (No 3) 1992 (1992 No 109).

Transport service licence: paragraph (c) of this definition was repealed, as from 20 July 2005, by section 103(3) Railways Act 2005 (2005 No 37). *See* sections 105 to 111 of that Act as to the transitional provisions.

Transport service vehicle means any goods service vehicle, passenger service vehicle, rental service vehicle, or vehicle recovery service vehicle

Transport service vehicle: this definition was substituted, as from 1 April 1993, by section 2(1) Transport Services Licensing Amendment Act (No 3) 1992 (1992 No 109).

Transport service vehicle: this definition was amended, as from 20 July 2005, by section 103(3) Railways Act 2005 (2005 No 37) by omitting the words “rail service vehicle,”. *See* sections 105 to 111 of that Act as to the transitional provisions.

Unique identifier means the unique identifier required by section 19(2)(c) of this Act to be specified on a driver identification card

Vehicle recovery service means the towing or carrying on any road of a motor vehicle, irrespective of the size or design of the towing or carrying vehicle, and whether or not the towing or carrying of the vehicle is carried out by a person intending to carry out repairs on the vehicle; but does not include—

- (a) The towing or carrying of any motorcycle or moped; or
- (b) The towing or carrying of one motor vehicle by another where—

- (i) The towing or carrying is not carried out directly or indirectly for reward; and
- (ii) The towing or carrying vehicle is not designed or adapted for the purpose of towing or carrying motor vehicles; or
- (c) The towing or carrying of a vehicle by a person who owns the vehicle; or
- (d) Any service where the Director has in writing notified the operator that the nature of the service is such that the carriage of vehicles should be treated as the carriage of goods; or
- (e) Any service specified as an exempt service in Part 1 of Schedule 1 to this Act or in regulations referred to in that Part:

Vehicle recovery service licence means a licence granted or deemed to be granted under section 8 or section 9 of this Act that authorises its holder to carry on a vehicle recovery service

Vehicle recovery service vehicle means a vehicle used or available for use in a vehicle recovery service for towing or carrying on a road any motor vehicle; but does not include any vehicle specified as an exempt vehicle in Part 2 of Schedule 1 to this Act or in regulations referred to in that Part.

- (2) Terms defined in the Land Transport Act 1998 shall, unless the context otherwise requires, and to the extent that they are not inconsistent with the provisions of this section or any other provision of this Act, have the meaning so defined for the purposes of this Act.
- (3) Where any service includes vehicles that are specified as exempt vehicles in Part 2 of Schedule 1 to this Act or in regulations referred to in that Part, the operation of those vehicles shall not be treated as part of the operation of the service.

Section 2 was amended, as from 20 August 1993, by section 35(1) Land Transport Act 1993 (1993 No 88) by substituting the word “Director” for the words “Secretary” and “Secretary for Transport”, wherever either term occurred.

Subsection (2) was amended, as from 1 March 1999, by section 215(1) Land Transport Act 1998 (1998 No 110) by substituting the words “the Land Transport Act 1998” for the words “the Transport Act 1962”.

3 Act to bind the Crown

- (1) Except as provided in subsection (2) of this section, this Act shall bind the Crown.
- (2) No transport service licence in respect of any transport service operated by—
 - (a) The Armed Forces; or
 - (b) The Fire Services Commission; or
 - (c) The Police; or
 - (d) Any emergency service organisation approved by the Director for the purposes of this section,—shall be capable of being suspended or revoked for any reason.

Section 3 was amended, as from 20 August 1993, by section 35(1) Land Transport Act 1993 (1993 No 88) by substituting the word “Director” for the word “Secretary”.

3A Application of Act to rail service operators

[Repealed]

Section 3A was inserted, as from 1 April 1993, by section 3 Transport Services Licensing Amendment Act (No 3) 1992 (1992 No 109).

Section 3A was repealed, as from 20 July 2005, by section 103(3) Railways Act 2005 (2005 No 37). See sections 105 to 111 of that Act as to the transitional provisions.

Part 1

Transport services licensing

4 Classes of transport service

There shall be the following classes of transport service:

- (a) Goods service:
- (b) Passenger service:
- (c) Rental service:
- (d) Vehicle recovery service:
- (e)

Paragraph (e) was inserted, as from 1 April 1993, by section 4 Transport Services Licensing Amendment Act (No 3) 1992 (1992 No 109).

Paragraph (e) was repealed, as from 20 July 2005, by section 103(3) Railways Act 2005 (2005 No 37). See sections 105 to 111 of that Act as to the transitional provisions.

5 Transport services to be licensed

- (1) Every transport service shall be licensed.

- (2) Every person commits an offence who carries on any transport service otherwise than under the authority of the appropriate licence.
- (3) Every person commits an offence who does any act in any capacity as an agent for any transport service if, at the time the person did the act, the appropriate licence was not in force in respect of the service and the person knew or ought to have known that the appropriate licence was not in force.
- (4) If any body corporate commits an offence against this section, every director and every other person concerned in the management of the body corporate may be convicted of the offence if it is proved that the act or omission that constituted the offence occurred with that person's authority, permission, or consent.
- (5) Every person who commits an offence against this section is liable on summary conviction to a fine not exceeding \$10,000.
- (6) A person who is convicted of a second or subsequent offence against this section is liable on summary conviction to a fine not exceeding \$25,000 and, unless in the circumstances of the case the court considers there are special reasons relating to either offence why it should not do so, the court must order every vehicle used under the transport service to be surrendered to the Director and held by the Director, at the expense of the convicted person, for a period specified by the court that does not exceed 90 days.

Section 5 was substituted, as from 1 April 1993, by section 5 Transport Services Licensing Amendment Act (No 3) 1992 (1992 No 109).

Subsection (6)(a) was amended, as from 20 August 1993, by section 35(1) Land Transport Act 1993 (1993 No 88) by substituting the word "Director" for the words "Secretary" and "Secretary for Transport", wherever either term occurred.

Subsection (6) was substituted, as from 20 July 2005, by section 103(3) Railways Act 2005 (2005 No 37). See sections 105 to 111 of that Act as to the transitional provisions.

6 Application for transport service licence

Every application for a transport service licence shall be made to the Director on the form provided by the Director, or one to

similar effect, and shall contain such information as is required by the Director and be accompanied by the prescribed fee.

Compare: 1962 No 135 s 116

Section 6 was amended, as from 20 August 1993, by section 35(1) Land Transport Act 1993 (1993 No 88) by substituting the word “Director” for the word “Secretary”.

6A Application for rail service licence

[Repealed]

Section 6A was inserted, as from 1 April 1993, by section 6 Transport Services Licensing Amendment Act (No 3) 1992 (1992 No 109).

Sections 6A to 6I were repealed, as from 20 July 2005, by section 103(3) Railways Act 2005 (2005 No 37). See sections 105 to 111 of that Act as to the transitional provisions.

6B Proposed safety system

[Repealed]

Section 6B was inserted, as from 1 April 1993, by section 6 Transport Services Licensing Amendment Act (No 3) 1992 (1992 No 109).

Section 6B was amended, as from 20 August 1993, by section 35(1) Land Transport Act 1993 (1993 No 88) by substituting the word “Director” for the words “Secretary” and “Secretary for Transport”, wherever either term occurred.

Sections 6A to 6I were repealed, as from 20 July 2005, by section 103(3) Railways Act 2005 (2005 No 37). See sections 105 to 111 of that Act as to the transitional provisions.

6C Matters to be taken into account in considering proposed safety system

[Repealed]

Section 6C was inserted, as from 1 April 1993, by section 6 Transport Services Licensing Amendment Act (No 3) 1992 (1992 No 109).

Section 6C was amended, as from 20 August 1993, by section 35(1) Land Transport Act 1993 (1993 No 88) by substituting the word “Director” for the words “Secretary” and “Secretary for Transport”, wherever either term occurred.

Sections 6A to 6I were repealed, as from 20 July 2005, by section 103(3) Railways Act 2005 (2005 No 37). See sections 105 to 111 of that Act as to the transitional provisions.

6D Approval of safety system

[Repealed]

Section 6D was inserted, as from 1 April 1993, by section 6 Transport Services Licensing Amendment Act (No 3) 1992 (1992 No 109).

Section 6D was amended, as from 20 August 1993, by section 35(1) Land Transport Act 1993 (1993 No 88) by substituting the word “Director” for the words “Secretary” and “Secretary for Transport”, wherever either term occurred.

Sections 6A to 6I were repealed, as from 20 July 2005, by section 103(3) Railways Act 2005 (2005 No 37). *See* sections 105 to 111 of that Act as to the transitional provisions.

6E Application by operator to vary approved safety system
[Repealed]

Section 6E was inserted, as from 1 April 1993, by section 6 Transport Services Licensing Amendment Act (No 3) 1992 (1992 No 109).

Section 6E was amended, as from 20 August 1993, by section 35(1) Land Transport Act 1993 (1993 No 88) by substituting the word “Director” for the words “Secretary” and “Secretary for Transport”, wherever either term occurred.

Sections 6A to 6I were repealed, as from 20 July 2005, by section 103(3) Railways Act 2005 (2005 No 37). *See* sections 105 to 111 of that Act as to the transitional provisions.

6F Variation of safety system by Director
[Repealed]

Section 6F was inserted, as from 1 April 1993, by section 6 Transport Services Licensing Amendment Act (No 3) 1992 (1992 No 109).

Section 6F was amended, as from 20 August 1993, by section 35(1) Land Transport Act 1993 (1993 No 88) by substituting the word “Director” for the words “Secretary” and “Secretary for Transport”, wherever either term occurred.

Sections 6A to 6I were repealed, as from 20 July 2005, by section 103(3) Railways Act 2005 (2005 No 37). *See* sections 105 to 111 of that Act as to the transitional provisions.

6G Procedure for variation of safety systems
[Repealed]

Section 6G was inserted, as from 1 April 1993, by section 6 Transport Services Licensing Amendment Act (No 3) 1992 (1992 No 109).

Section 6G was amended, as from 20 August 1993, by section 35(1) Land Transport Act 1993 (1993 No 88) by substituting the word “Director” for the words “Secretary” and “Secretary for Transport”, wherever either term occurred.

Sections 6A to 6I were repealed, as from 20 July 2005, by section 103(3) Railways Act 2005 (2005 No 37). *See* sections 105 to 111 of that Act as to the transitional provisions.

6H Relationship between this Act and Health and Safety in Employment Act 1992*[Repealed]*

Section 6H was inserted, as from 1 April 1993, by section 6 Transport Services Licensing Amendment Act (No 3) 1992 (1992 No 109).

Section 6H was repealed, as from 5 May 2003, by section 36 Health and Safety in Employment Amendment Act 2002 (2002 No 86).

6I Notice to be given to applicant*[Repealed]*

Section 6I was inserted, as from 1 April 1993, by section 6 Transport Services Licensing Amendment Act (No 3) 1992 (1992 No 109).

Section 6I was amended, as from 20 August 1993, by section 35(1) Land Transport Act 1993 (1993 No 88) by substituting the word “Director” for the words “Secretary” and “Secretary for Transport”, wherever either term occurred.

Sections 6A to 6I were repealed, as from 20 July 2005, by section 103(3) Railways Act 2005 (2005 No 37). See sections 105 to 111 of that Act as to the transitional provisions.

7 Public notice to be given of application for certain licences

- (1) Every applicant for a passenger service licence or a vehicle recovery service licence shall, unless exempted under subsection (4) of this section, cause a notice of the application, in a form approved for the purpose by the Director, to be published twice at an interval of not more than 7 days in a newspaper or newspapers approved for the purpose by the Director.
- (2) The notice shall specify the name of the applicant, the nature of the service, and the names of the natural persons who are to have control of the transport service.
- (3) Where an applicant is required to publish a notice under this section, no application for a transport service licence shall be granted by the Director under section 8 of this Act until at least 14 days has elapsed following the date of the first publication of the notice.
- (4) The Director may, where the Director considers it appropriate having regard to the limited nature or infrequency of the proposed service or such other matters as the Director considers relevant, exempt any applicant or class of applicant from the requirements of this section.

Subsection (1) was amended, as from 1 April 1993, by section 7 Transport Services Licensing Amendment Act (No 3) 1992 (1992 No 109) by substituting the words “, a vehicle recovery service licence, or a rail service licence” for the words “or a vehicle recovery service licence”.

Subsection (1) was amended, as from 20 July 2005, by section 103(3) Railways Act 2005 (2005 No 37) by substituting the words “or a vehicle recovery service licence” for the words “, a vehicle recovery service licence, or a rail service licence”. *See* sections 105 to 111 of that Act as to the transitional provisions.

Section 7 was amended, as from 20 August 1993, by section 35(1) Land Transport Act 1993 (1993 No 88) by substituting the word “Director” for the word “Secretary”.

8 Grant of licence

- (1) After considering any application for a transport service licence, the Director shall grant to the applicant the licence sought if the Director is satisfied that—
 - (a) The applicant is a fit and proper person to operate the appropriate transport service; and
 - (b) Any person who is to have, or is likely to have, control of the transport service is a fit and proper person to have such control; and
 - (c) The applicant or some person who is to have control of the service is the holder of the appropriate certificate (if any) required by section 18 of this Act; and
 - (d)
- (2) In determining whether or not a person is a fit and proper person to operate or control a transport service, the Director shall have regard to the matters specified in section 24 of this Act.
- (3) Notwithstanding subsections (1) and (2) of this section, where the applicant applies for a goods service licence and the Director—
 - (a) Is not satisfied that the applicant is a fit and proper person to operate a goods service under the licence sought; but
 - (b) Is satisfied that—
 - (i) The applicant is a fit and proper person to operate a goods service under a licence to carry the applicant’s own goods, if specified conditions are imposed; and
 - (ii) The grant of such a licence is not contrary to the public interest,—

the Director may grant the licence on such conditions as the Director may specify on the licence or in writing to the holder.

- (4) Every holder of a goods service licence commits an offence and is liable on summary conviction to a fine not exceeding \$10,000 who fails to comply with or contravenes any condition imposed in respect of the holder's licence under subsection (3) of this section.

Subsection (1)(c) was amended, as from 1 April 1993, by section 8(1) Transport Services Licensing Amendment Act 1992 (1992 No 109) by inserting the word “, and”.

Subsection (1)(d) was inserted, as from 1 April 1993, by section 8(1) Transport Services Licensing Amendment Act 1992 (1992 No 109).

Subsection (1)(d) was repealed, as from 20 July 2005, by section 103(3) Railways Act 2005 (2005 No 37). See sections 105 to 111 of that Act as to the transitional provisions.

Subsections (3), and (4) were inserted, as from 1 April 1993, by section 8(2) Transport Services Licensing Amendment Act (No 3) 1992 (1992 No 109).

Section 8 was amended, as from 20 August 1993, by section 35(1) Land Transport Act 1993 (1993 No 88) by substituting the word “Director” for the word “Secretary”.

9 Rights of existing licence holders and operators

- (1) Every person who, immediately before the 1st day of November 1989, was the holder of a licence issued under Part 7 of the Transport Act 1962 shall be deemed to have been granted, on the 1st day of November 1989, the equivalent transport service licence under this Act as follows:
- (a) Holders of goods-service licences, and holders of any passenger-service licence to which is attached a condition entitling the licence holder to carry goods, shall be deemed to have been granted a goods service licence:
 - (b) Holders of taxicab-service licences and passenger-service licences shall be deemed to have been granted a passenger service licence:
 - (c) Holders of rental-service licences shall be deemed to have been granted a rental service licence.
- (2) Any person who, at any time during the period commencing on the 1st day of November 1988 and ending on the 31st day of October 1989 (both dates inclusive), carried on a transport service that was not required to be licensed under Part 7 of the Transport Act 1962 but is required to be licensed under this Act

shall, subject to subsection (3) of this section, be deemed for a transitional period to be the holder of the appropriate transport service licence granted under this Act as follows:

- (a) Persons carrying on a passenger service shall be deemed to hold a passenger service licence, and persons carrying on a vehicle recovery service shall be deemed to hold a vehicle recovery service licence, during the period commencing on the 1st day of November 1989 and ending on the 31st day of March 1990 (both dates inclusive):
 - (b) Persons carrying on a goods service shall be deemed to hold a goods service licence, and persons carrying on a rental service shall be deemed to hold a rental service licence, during the period commencing on the 1st day of November 1989 and ending on the 31st day of May 1990 (both dates inclusive).
- (3) Any licence deemed by subsection (1) or subsection (2) of this section to have been granted under this Act may at any time on or after the 1st day of November 1989 be revoked or suspended or otherwise dealt with in accordance with the provisions of this Act.
- (4) For the avoidance of doubt it is hereby declared that, for the purposes of subsection (2) of this section, every local authority constituted by an Order in Council giving effect to a final reorganisation scheme prepared under section 15B of the Local Government Act 1974 is the same local authority as each former authority from which any transport service is transferred to that authority.

9A Rights of existing rail service operators

[Repealed]

Section 9A was inserted, as from 1 April 1993, by section 9 Transport Services Licensing Amendment Act (No 3) 1992 (1992 No 109).

Section 9A was amended, as from 20 August 1993, by section 35(1) Land Transport Act 1993 (1993 No 88) by substituting the word “Director” for the words “Secretary” and “Secretary for Transport”, wherever either term occurred.

Section 9A was repealed, as from 20 July 2005, by section 103(3) Railways Act 2005 (2005 No 37). See sections 105 to 111 of that Act as to the transitional provisions.

10 Refusal to grant transport service licence

- (1) The Director shall refuse to grant a transport service licence where—
- (a) The Director is not satisfied that—
 - (i) The applicant is a fit and proper person to be the holder of a transport service licence; or
 - (ii) Any person who is, or is likely, to have control of or any involvement in the operation of the service, is a fit and proper person to be in control of or involved in the operation of the service; or
 - (b) Neither the applicant nor any person who is to have control of the service holds the certificate appropriate to the proposed service required by section 18 of this Act; or
 - (c)
- (2) Where the Director proposes to refuse to grant a licence under this section, the Director shall, in accordance with section 25 of this Act,—
- (a) Notify the applicant and, if appropriate, any person referred to in subsection (1)(a)(ii) of this section, of the Director's intention not to grant the licence; and
 - (b) Specify the grounds for the proposed refusal; and
 - (c) Afford a reasonable opportunity for submissions to be made on the matter; and
 - (d) Notify the applicant of the right of appeal under section 42 of this Act.

Subsection (1) was amended, as from 1 April 1993, by section 10(1) Transport Services Licensing Amendment Act (No 3) 1992 (1992 No 109) by substituting the word “shall” for the word “may”.

Subsection (1)(b) was amended, as from 1 April 1993, by section 10(2) Transport Services Licensing Amendment Act (No 3) 1992 (1992 No 109) by inserting the word “; or”.

Subsection (1)(c) was inserted, as from 1 April 1993, by section 10(2) Transport Services Licensing Amendment Act (No 3) 1992 (1992 No 109).

Subsection (1)(c) was repealed, as from 20 July 2005, by section 103(3) Railways Act 2005 (2005 No 37). See sections 105 to 111 of that Act as to the transitional provisions.

Section 10 was amended, as from 20 August 1993, by section 35(1) Land Transport Act 1993 (1993 No 88) by substituting the word “Director” for the word “Secretary”.

11 Revocation of transport service licence

- (1) Where the Director is satisfied that—
 - (a) The holder of a transport service licence is not a fit and proper person to be the holder of a transport service licence; or
 - (b) Any person having control of the service, or any person who has an involvement in the operation of the service, is not a fit and proper person to have control of, or be involved in, the operation of the service,—the Director may revoke the transport service licence.
- (2) Before revoking a transport service licence under this section the Director shall, in accordance with section 25 of this Act,—
 - (a) Notify the licence holder, and, if appropriate, any person referred to in subsection (1)(b) of this section, of the Director's intention to revoke the licence; and
 - (b) Specify the grounds for the proposed revocation; and
 - (c) Afford a reasonable opportunity for submissions to be made on the matter; and
 - (d) Notify the licence holder of the right of appeal under section 42 of this Act.
- (3) Where the proposed revocation of a licence under this section is on the ground that a person other than the licence holder is not a fit and proper person,—
 - (a) The notice required to be given to the licence holder by section 25 of this Act shall specify the steps that the Director will require to be taken if the licence is not to be revoked, which steps may include a requirement that the person concerned cease all involvement in the service within a specified period; and
 - (b) The licence shall not be revoked where the licence holder complies with any such requirements of the Director.

Section 11 was amended, as from 20 August 1993, by section 35(1) Land Transport Act 1993 (1993 No 88) by substituting the word "Director" for the words "Secretary" and "Secretary for Transport", wherever either term occurred.

12 Demerit points system for operators and drivers

- (1) Every person convicted of an offence specified in Schedule 2 to this Act shall incur—

- (a) The number of operator demerit points specified in the fourth column of that Schedule in relation to the offence; and
 - (b) The number of driver demerit points specified in the fifth column of that Schedule in relation to the offence.
- (2) No person shall incur demerit points under subsection (1) of this section—
 - (a) In respect of any offence committed before the 1st day of November 1989; or
 - (b) Where the offence related to the use by the person of a motor vehicle of less than 3,500 kilograms gross laden weight for purposes unconnected with a transport service.
- (3) Demerit points shall be deemed to have been incurred on the date on which the offence to which they relate was committed.
- (4) Where a person is convicted of 2 or more offences arising out of the same set of circumstances, demerit points shall be recorded in relation to one such offence only, being, in any case where the same number of demerit points does not apply to both or all those offences, the offence to which the greatest number of demerit points applies.
- (5) Where any person appeals against a conviction for an offence to which subsection (1) of this section applies,—
 - (a) No demerit points shall be recorded in relation to the offence pending the determination of the appeal; and
 - (b) Any recording of demerit points made in relation to the offence before the filing of the notice of the appeal, and any disqualification imposed as a result thereof, shall be deemed to be cancelled; and
 - (c) If on the determination of the appeal the conviction is upheld, or if the appeal is abandoned or dismissed for want of prosecution, demerit points shall be recorded in relation to the offence.
- (6) When 2 years has elapsed since the date of the commission of an offence for which demerit points have been recorded in respect of any person, the points in respect of that offence shall cease to have effect except in relation to other offences of which that person is convicted that were committed within 2 years before or after the commission of that offence. Nothing

in this subsection shall cause any period of disqualification under section 14 of this Act to cease.

13 Director to give notice when 100 demerit points incurred

- (1) Where, in relation to offences committed within any 2-year period, 100 or more demerit points have been recorded under this Act in respect of any holder of a transport service licence, person having control of a transport service, or transport service driver, the Director shall where reasonably practicable cause a notice in writing to be given to the person—
 - (a) Warning the person of the consequences under section 14 of this Act of further demerit points being recorded against the person; and
 - (b) Informing the person of the number of demerit points already so recorded; and
 - (c) The offences in respect of which the points were recorded.
- (2) Without limiting subsection (1) of this section, the Director shall not be obliged to give any such notice where on any one occasion, or on any 2 or more occasions occurring within such a period that it would not be reasonably practicable for the Director to give such notice, the person is convicted of one or more offences carrying 100 or more demerit points in total.
- (3) The failure to give notice under subsection (1) of this section shall not affect any person's liability to disqualification under section 14 of this Act.

Section 13 was amended, as from 20 August 1993, by section 35(1) Land Transport Act 1993 (1993 No 88) by substituting the word "Director" for the words "Secretary" and "Secretary for Transport", wherever either term occurred.

14 Disqualification of operator or driver where 200 demerit points incurred

- (1) Where any holder of a transport service licence or person having control of a transport service has, in respect of offences committed within any 2-year period, incurred 200 or more operator demerit points, the Director shall, unless for special reasons relating to any of the offences for which the demerit points were incurred the Director determines otherwise, disqualify that person from—

- (a) Holding any transport service licence; and
 - (b) Having control of any transport service,—
for a period of 5 years commencing on the date on which the disqualification takes effect pursuant to this section.
- (2) Where any transport service driver has, in respect of offences committed within any 2-year period, incurred 200 or more demerit points, the Director shall, unless for special reasons relating to any of the offences for which the demerit points were incurred the Director determines otherwise, disqualify that person from driving any vehicle being used in a transport service, other than a rental service, for a period of 5 years commencing on the date on which the disqualification takes effect pursuant to this section.
- (3) Where the Director determines to disqualify a person under this section, the Director shall, in accordance with section 25 of this Act,—
 - (a) Notify the person of the proposed disqualification; and
 - (b) Specify the grounds for the proposed disqualification, and notify the person of—
 - (i) The number of operator or driver demerit points incurred by the person; and
 - (ii) The offences in respect of which the points were incurred; and
 - (iii) The dates on which the offences were committed; and
 - (c) Afford a reasonable opportunity for submissions to be made on the matter; and
 - (d) Notify the person of the right of appeal under section 42 of this Act.
- (4) Where the person liable to disqualification is a person who does not hold a transport service licence, any copy of the notice that the Director supplies to the licence holder under section 25 of this Act shall not include the matters referred to in subparagraphs (ii) and (iii) of subsection (3)(b) of this section.
- (5) Where the Director determines to disqualify a person under this section,—
 - (a) The period of disqualification shall commence as soon as practicable, once the requirements of section 25 of this Act have been fulfilled; but

- (b) The Director may defer the commencement of any period of disqualification for such period not exceeding 3 months as the Director considers appropriate if the Director is satisfied that immediate commencement of the period of disqualification would cause undue hardship for any person other than the person disqualified.
- (6) The effect of any disqualification under this section shall be as follows:
 - (a) Where the person is the holder of a transport service licence, that licence is deemed to be revoked from the date of disqualification:
 - (b) Where the person is a person having control of a transport service but is not the holder of the transport service licence, the person shall be deemed not to be a fit and proper person to have control of the service and the Director may, unless satisfied that all practicable steps have been taken to remove the person from control of the service, proceed to revoke the transport service licence in accordance with the requirements of sections 11 and 25 of this Act:
 - (c) Where the person is a transport service driver the provisions of section 17 of this Act shall apply in relation to that person.
- (7) Nothing in this section shall derogate from or affect any power under this or any other Act to revoke or suspend or otherwise deal with any transport service licence or driver's licence or to disqualify any person from control of or involvement in any transport service.
- (8) Every person commits an offence who—
 - (a) Being a person disqualified under subsection (1) of this section, applies for a transport service licence or is in control of any transport service during the period of disqualification; or
 - (b) Engages or employs any person in a position in which that person has control of a transport service, knowing that person to be disqualified from such a position,—and is liable on summary conviction to a fine not exceeding \$10,000.

Section 14 was amended, as from 20 August 1993, by section 35(1) Land Transport Act 1993 (1993 No 88) by substituting the word “Director” for the words “Secretary” and “Secretary for Transport”, wherever either term occurred.

15 Disqualification of transport service driver

- (1) Where the Director is satisfied that a transport service driver is not a fit and proper person to drive any vehicle being used in a transport service, the Director may disqualify that person from driving any vehicle being used in a transport service (other than a rental service) for such period not exceeding 10 years as the Director thinks fit.
- (2) Before disqualifying a person under this section, the Director shall, in accordance with section 25 of this Act,—
 - (a) Notify the person of the proposed disqualification; and
 - (b) Specify the grounds for the proposed disqualification; and
 - (c) Afford a reasonable opportunity for submissions to be made on the matter; and
 - (d) Notify the person of the right of appeal under section 42 of this Act.

Section 15 was amended, as from 20 August 1993, by section 35(1) Land Transport Act 1993 (1993 No 88) by substituting the word “Director” for the words “Secretary” and “Secretary for Transport”, wherever either term occurred.

16 Immediate suspension of driver in interests of public safety, etc

- (1) Where, in relation to a person who is a transport service driver,—
 - (a) The Director considers that the person is not a fit and proper person to drive any vehicle being used in a transport service and that the interests of public safety, or the need to ensure that the public is protected from serious or organised criminal activity, would seem to require immediate suspension of the person as a transport service driver; or
 - (b) The person has been charged with any offence that is of such a nature that the interests of public safety, or the need to protect the public against serious or organised criminal activity, would require that a person convicted

of committing such an offence not be a transport service driver,—

the Director may, by notice in writing to the person, and notwithstanding anything in any other provision of this Act, suspend that person from driving any vehicle being used in a transport service, either immediately or with effect from such date as the Director may specify.

- (2) Where the Director suspends a person's driver's licence under this section,—
 - (a) Any notice to be given under subsection (1) of this section shall—
 - (i) Inform the person of the grounds of the suspension; and
 - (ii) Inform the person that the person may make submissions on the matter to the Director; and
 - (iii) Notify the person of the right of appeal under section 42 of this Act; and
 - (b) The Director shall as soon as practicable consider any submissions made on the matter by the person and notify the person of the result of any such consideration.
- (3) The Director may at any time withdraw a suspension imposed under this section.
- (4) Where any suspension has been imposed in respect of a person to whom subsection (1)(b) of this section applies, the suspension shall cease immediately the charge is withdrawn or the person is found not guilty of the offence charged.
- (5) Nothing in this section shall derogate from or affect any power under this or any other Act to revoke, suspend, or otherwise deal with any licence or person involved in any transport service.

Section 16 was amended, as from 20 August 1993, by section 35(1) Land Transport Act 1993 (1993 No 88) by substituting the word "Director" for the words "Secretary" and "Secretary for Transport", wherever either term occurred.

17 Effect of disqualification or suspension of transport service driver

- (1) Where the Director disqualifies or suspends any person from driving a vehicle being used in a transport service under sec-

tion 14 or section 15 or section 16 of this Act, the Director may, for the period of the disqualification or suspension,—

- (a) Revoke or suspend any driver's licence held by the person, not being a licence of a class that relates principally to the use of private motor vehicles, and disqualify the person from holding or obtaining any such licence; and
 - (b) Prohibit the person from driving any vehicle being used in a transport service (other than a rental service), notwithstanding that the person may obtain or continue to hold a driver's licence of a class that, although it relates principally to the use of private motor vehicles, also entitles the person to drive a vehicle that may be used in a transport service.
- (2) Nothing in this section or in sections 14 to 16 derogates from or affects any power of the Director under the Land Transport Act 1998, or under rules made under that Act, to revoke, suspend, or otherwise deal with any driver licence.
 - (3) Every person commits an offence who, having been prohibited pursuant to subsection (1)(b) of this section from driving a vehicle being used in a transport service, drives during the currency of any such prohibition any vehicle being used in a transport service (other than a rental service).
 - (4) Any person who commits an offence against subsection (3) of this section is liable on conviction to a fine not exceeding \$2,000 and to disqualification from holding or obtaining a driver's licence for such period (if any) as the Court thinks fit.
 - (5) Every person commits an offence and is liable on summary conviction to a fine not exceeding \$500 who applies for or obtains a driver's licence, other than a driver's licence that relates principally to the use of private motor vehicles, while the person is disqualified under subsection (1)(a) of this section from obtaining the licence.

Section 17 was amended, as from 20 August 1993, by section 35(1) Land Transport Act 1993 (1993 No 88) by substituting the word "Director" for the words "Secretary" and "Secretary for Transport", wherever either term occurred.

Subsection (2) was substituted, as from 1 March 1999, by section 215(1) Land Transport Act 1998 (1998 No 110).

18 Certificate of knowledge of law and practice required for transport service operations

- (1) Subject to subsection (2) of this section, after the 31st day of December 1991, no person shall
 - (a)
 - (b) be entitled to obtain a transport service licence or continue to hold any such licence unless that person or some person who has or is to have control of the service is the holder of a certificate issued by the Director or a person approved by the Director to the effect that the person concerned has an adequate knowledge of the laws and practices concerning the safe and proper operation of the transport service to which the licence relates.
- (2) Nothing in subsection (1) of this section shall apply to require the holding of a certificate in respect of any transport service licence to the extent that—
 - (a) Any exemption granted under the Land Transport Act 1998; or
 - (ab) On the 31st day of December 1991 the holder of the licence was the holder of a relevant transport service licence; or
 - (ac)
 - (b) The Director, having regard to the limited or infrequent nature of the service or proposed service, or any other matter that the Director considers relevant, exempts the holder from that requirement.
- (3) Any exemption granted by the Director under subsection (2)(b) of this section may be for such limited period or subject to such conditions as the Director thinks fit.
- (4) If at any time neither the holder of a transport service licence nor any person who has control of the service is the holder of a certificate required by this section, the Director, after giving the holder of the licence not less than 28 days' notice of the Director's intention to do so, and a reasonable opportunity to make submissions on the matter, may suspend the licence until the holder of the licence or some person who has control of the service is the holder of such a certificate.

- (5) Subject to subsection (4) of this section, any such suspension shall cease immediately upon the holder of the licence or any person having control of the service obtaining the appropriate certificate and notifying the Director accordingly.
- (6) Any licence holder or person having control of a transport service who notifies the Director under subsection (5) of this section that the licence holder or any person having control of the service holds the appropriate certificate required by this section, knowing that that information is incorrect or being reckless as to whether or not it is correct, commits an offence and is liable on summary conviction to a fine not exceeding \$10,000.

Subsection (1) was amended, as from 31 August 1990, by section 2(1) Transport Service Licensing Amendment Act 1990 (1990 No 123) by substituting the words “after the 31st day of December 1991, no person shall” for the words “no person shall, on or after—”.

Subsection (1)(a) and (b) were repealed, as from 31 August 1990, by section 2(1)(b) Transport Services Licensing Amendment Act 1990 (1990 No 123).

Subsection (2)(a) was substituted, as from 1 March 1999, by section 215(1) Land Transport Act 1998 (1998 No 110).

Subsection (2)(ab) was inserted, as from 31 August 1990, by section 2(2) Transport Services Licensing Amendment Act 1990 (1990 No 123).

Subsection (2)(ac) was inserted, as from 1 April 1993, by section 11 Transport Services Licensing Amendment Act (No 3) 1992 (1992 No 109).

Subsection (2)(ac) was repealed, as from 20 July 2005, by section 103(3) Railways Act 2005 (2005 No 37). *See* sections 105 to 111 of that Act as to the transitional provisions.

Section 18 was amended, as from 20 August 1993, by section 35(1) Land Transport Act 1993 (1993 No 88) by substituting the word “Director” for the words “Secretary” and “Secretary for Transport”, wherever either term occurred.

18A Area knowledge certificate required by taxi drivers

- (1) No person shall drive a taxi or cause or permit another person to drive a taxi unless the driver holds an area knowledge certificate issued by the Director, or by a person or organisation approved under subsection (4)(b) of this section, in respect of that person.
- (2) No person driving a taxi shall accept a hire in any area unless the person holds an area knowledge certificate applicable to that area.

- (3) Every approved taxi organisation shall notify the Director in writing of its operating area by reference to local authority boundaries.
- (4) An area knowledge certificate—
 - (a) Shall be in a form prescribed by the Director;
 - (b) May be issued by a person or organisation approved by the Director;
 - (c) Shall not be issued unless the applicant has passed a test prescribed by or under regulations made under section 66 of this Act, which test shall be conducted in English;
 - (d) Shall relate specifically to the operating area (as notified to the appropriate regional council under Part 2 of this Act) of the approved taxi organisation for which the applicant will be driving.
- (5) The Director may revoke any approval given under subsection (4)(b) of this section, if the Director considers that the holder of the approval has failed to maintain a standard of competency the Director considers appropriate.
- (6) Every person commits an offence and is liable on summary conviction to a fine not exceeding \$2,000 who—
 - (a) Drives a taxi without holding an area knowledge certificate under this section; or
 - (b) Causes or permits to drive a taxi another person who does not hold an area knowledge certificate under this section; or
 - (c) While driving a taxi, accepts a hire in any area without holding an area knowledge certificate under this section that is applicable to that area.

Section 18A was inserted, as from 1 April 1993, by section 12(1) Transport Services Licensing Amendment Act (No 3) 1992 (1992 No 109) and came into force on 1 September 1993. *See* section 12(2) of that Act as to when a holder of a Class C licence shall be deemed to be the holder of an area knowledge certificate issued under this section

Section 18A was amended, as from 20 August 1993, by section 35(1) Land Transport Act 1993 (1993 No 88) by substituting the word “Director” for the words “Secretary” and “Secretary for Transport”, wherever either term occurred.

19 Drivers of small passenger vehicles and vehicle recovery service vehicles to hold photographic driver identification card

- (1) Except in accordance with an exemption under subsection (2B) of this section, no person shall, on or after the 1st day of April 1990, drive a small passenger service vehicle or a vehicle recovery service vehicle being used in any transport service unless that person holds a current driver identification card.
- (2) A driver identification card—
 - (a) Shall be applied for in accordance with the Land Transport Act 1998 and rules made under that Act, and any such application—
 - (i) Shall contain such information as is required by the Land Transport Act 1998 and rules made under that Act; and
 - (ii) May be rejected unless the applicant consents to checks being made as to any criminal or other record or history of the applicant relevant to whether or not the applicant is a fit and proper person to drive a vehicle being used in the relevant transport service; and
 - (iii) Shall be accompanied by the prescribed fee:
 - (b) Shall bear a recent photograph of the driver:
 - (c) Shall display a unique driver identifier made up of any combination of characters or numbers, or both, approved by the Director as—
 - (i) Being sufficiently memorable to be easily recalled by users of the service provided by the driver; and
 - (ii) Appropriate to identify the driver from other drivers in any transport service:
 - (d) Shall display such other information or material as may be required by the Land Transport Act 1998 and rules made under that Act:
 - (e) Subject to subsection (2A) of this section, shall be current for such period not exceeding 5 years as may be specified on the card.

- (2A) To enable the co-ordination of the documentation relating to the licence concerned, the Director may extend the currency of any driver identification card for any period (not exceeding 12 months) the Director thinks fit.
- (2B) Having regard to the nature of the service operated, the Director may exempt any driver, or drivers of any class or description, from the requirements of this section, unconditionally, or subject to any conditions the Director thinks fit.
- (3) Where, having regard to the matters specified in section 24 of this Act, the Director is not satisfied that an applicant for a driver identification card is a fit and proper person to drive a small passenger service vehicle or vehicle recovery service vehicle, the Director may—
 - (a) Refuse to issue a driver identification card to the applicant; and
 - (b) Revoke any licence held by the applicant that authorises the applicant to drive a small passenger service vehicle or a vehicle recovery service vehicle.
- (4) Where the Director refuses to issue a driver identification card and revokes any licence under subsection (3) of this section, the Director shall, in accordance with section 25 of this Act,—
 - (a) Notify the person concerned of the refusal; and
 - (b) Specify the grounds for the refusal; and
 - (c) Afford a reasonable opportunity for submissions to be made on the matter; and
 - (d) Notify the person of the right of appeal under section 42 of this Act.
- (5) Every person who drives a vehicle in contravention of subsection (1) of this section commits an offence and is liable on summary conviction to a fine not exceeding \$5,000.
- (6) Every person commits an offence and is liable on summary conviction to a fine not exceeding \$1,000 who, being the driver of a small passenger service vehicle or a vehicle recovery service vehicle being used in a passenger service or a vehicle recovery service, fails to produce his or her driver identification card on being requested to do so by an enforcement officer.
- (7) Nothing in this section shall derogate from or affect the power of the Director under any other provision of this or any other

Act to revoke, suspend, or otherwise deal with any transport service licence or driver's licence.

Subsection (1) was amended, as from 31 August 1990, by section 3(1) Transport Service Licensing Amendment Act 1990 (1990 No 123) by substituting the words "Except in accordance with an exemption under subsection (2B) of this section, no" for the word "No".

Subsection (2)(a) was amended, as from 1 March 1999, by section 215(1) Land Transport Act 1998 (1998 No 110) by substituting the words "in accordance with the Land Transport Act 1998 and rules made under that Act" for the words "on a form provided by the Director, or in such other manner as may be prescribed by regulations made under the Transport (Vehicle and Driver Registration and Licensing) Act 1986".

Subsection (2)(a)(i) was amended, as from 1 March 1999, by section 215(1) Land Transport Act 1998 (1998 No 110) by substituting the words "the Land Transport Act 1998 and rules made under that Act" for the words "the Director or as is prescribed in any such regulations".

Subsection (2)(c) was amended, as from 14 December 1992, by section 13(1) Transport Services Licensing Amendment Act (No 3) 1992 (1992 No 109) by inserting the word "driver".

Subsection (2)(d) was amended, as from 1 March 1999, by section 215(1) Land Transport Act 1998 (1998 No 110) by substituting the words "the Land Transport Act 1998 and rules made under that Act" for the words "the Director or prescribed in the regulations".

Subsection (2)(e) was amended, as from 31 August 1990, by section 3(2) Transport Service Licensing Amendment Act 1990 (1990 No 123) by substituting the words "Subject to subsection (2A) of this section, shall" for the word "Shall".

Subsection (2)(e) was amended, as from 14 December 1992, by section 13(2) Transport Services Licensing Amendment Act (No 3) 1992 (1992 No 109) by substituting the expression "5 years" for the expression "12 months".

Subsections (2A) and (2B) were inserted, as from 31 August 1990, by section 3(3) Transport Service Licensing Amendment Act 1990 (1990 No 123).

Section 19 was amended, as from 20 August 1993, by section 35(1) Land Transport Act 1993 (1993 No 88) by substituting the word "Director" for the words "Secretary" and "Secretary for Transport", wherever either term occurred.

19A Ambulance drivers

- (1) Any ambulance operator approved for the purpose by the Director may issue driver identification cards to ambulance drivers employed by the operator.
- (2) A driver identification card under this section—
 - (a) Shall contain such information as is required by the Director; and
 - (b) Shall bear a photograph of the driver; and
 - (c) Shall either—

- (i) Display a unique driver identifier made up of any combinations of characters or numbers, or both, approved by the Director; or
 - (ii) Display the full name of the holder; and
- (d) Shall be current for such period not exceeding 5 years as may be specified on the card.
- (3) Nothing in section 19 of this Act shall apply to any person who holds a current driver identification card under this section, so long as that person produces it on being requested to do so by an enforcement officer who is in uniform or produces evidence of identity as an enforcement officer.

Section 19A was inserted, as from 1 April 1993, by section 14 Transport Services Licensing Amendment Act (No 3) 1992 (1992 No 109).

Section 19A was amended, as from 20 August 1993, by section 35(1) Land Transport Act 1993 (1993 No 88) by substituting the word “Director” for the words “Secretary” and “Secretary for Transport” wherever either term occurred.

20 Operator of small passenger service vehicle to be member of approved taxi organisation

- (1) No holder of a passenger service licence shall operate under that licence any small passenger service vehicle (being a vehicle that is not exempt from the requirement to display the signs referred to in rule 3 of Part 1 of Schedule 3 to this Act) unless the licence holder is a member of an approved taxi organisation.
- (2) Every person who contravenes subsection (1) of this section commits an offence and is liable on conviction to a fine not exceeding \$5,000.
- (3) Every person who is deemed by section 9(2)(a) of this Act to hold a passenger service licence during the period commencing on the 1st day of November 1989 and ending on the 31st day of March 1990, and who operates a small passenger service vehicle during that period, shall be deemed for the purposes of this section to be a member of an approved taxi organisation during that period.
- (4) For the purposes of this section,—
 - (a) Every approved taxi organisation that holds a passenger service licence; and

- (b) Every operator who holds a passenger service licence and operates under a contract with an approved taxi organisation—

shall be deemed to be a member of that taxi organisation.

Subsection (4) was inserted, as from 1 April 1993, by section 15 Transport Services Licensing Amendment Act (No 3) 1992 (1992 No 109).

21 Approved taxi organisations

- (1) The Director may, on application by any—
- (a) Organisation representing operators of small passenger service vehicles; or
 - (b) Person who holds or has made application for a passenger service licence,—
- approve that organisation or person as an approved taxi organisation for the purposes of this Act.
- (2) Any such application shall—
- (a) Be on the form provided by the Director for the purpose, or one to similar effect; and
 - (b) Specify the responsible officer or officers of the proposed organisation; and
 - (c) Contain such other information as is required by the Director; and
 - (ca) Be accompanied by a copy of the applicant's proposed operating rules; and
 - (d) Be accompanied by the prescribed fee; and
 - (e) Be published in accordance with the provisions of section 7 of this Act as if it were an application for a transport service licence to which that section applies (and for the purposes of this section subsections (2) to (4) of that section shall also apply to any application made under this section).
- (3) After considering any application for approval under this section, the Director shall approve the organisation or person as an approved taxi organisation if the Director is satisfied that—
- (a) The applicant is an organisation or person entitled to make application under subsection (1) of this section, and, in the case of a person who is also an applicant for a passenger service licence, that person has obtained or will obtain such a licence; and

- (b) All persons who will or are likely to have control of the proposed organisation are fit and proper persons to have such control, having regard to the provisions of section 24 of this Act; and
 - (ba) The operating rules, rosters, and other internal operating procedures of the proposed organisation are likely to give it adequate control over its members and their drivers; and
 - (bc) The members and drivers within the proposed organisation have the ability to meet the requirements of Part 1 of Schedule 3 to this Act; and
 - (c) The proposed organisation is likely to be able to provide a 24 hour a day and 7 day a week service in the area it serves in accordance with the requirements of subsection (1)(a) of section 22 of this Act, or such lesser service as may be required pursuant to any exemption granted or likely to be granted under subsection (2) of that section.
- (3A) The approval under this section of an organisation or person as an approved taxi organisation shall be deemed to include approval of the proposed operating rules of the organisation or person.
- (4) Where the Director refuses to approve an organisation or a person under this section, the Director shall, in accordance with section 25 of this Act,—
- (a) Notify the applicant of that refusal; and
 - (b) Specify the grounds for the refusal; and
 - (c) Afford a reasonable opportunity for submissions to be made on the matter; and
 - (d) Notify the applicant of the right of appeal under section 42 of this Act.
- (5) Every taxi organisation approved by a Licensing Authority under Part 7 of the Transport Act 1962 shall be deemed to have been approved as an approved taxi organisation under this section.

Subsections (2)(ca), (3)(ba) and (bc), and (3A) were inserted, as from 1 April 1993, by section 16 Transport Services Licensing Amendment Act (No 3) 1992 (1992 No 109).

Section 21 was amended, as from 20 August 1993, by section 35(1) Land Transport Act 1993 (1993 No 88) by substituting the word “Director” for the words “Secretary” and “Secretary for Transport”, wherever either term occurred.

22 Requirements relating to approved taxi organisations

(1) Every approved taxi organisation shall—

- (a) Ensure, through a telephone communications system on which bookings can be made, that the services of its members who operate small passenger service vehicles are available to the public 24 hours a day and 7 days a week, or for such lesser period or in such other manner as may be specified by a regional council as the condition of an exemption granted under subsection (2) of this section; and
- (b) Assign unique fleet numbers to member vehicles; and
- (c) Maintain a register of licence holders who are members of the organisation, their drivers, the unique fleet numbers assigned by the organisation, and the number of vehicles operated by each member; and
- (d) Maintain the register of complaints referred to in rule 11 of Part 1 of Schedule 3 to this Act, and comply with the provisions of that rule; and
- (e) Notify the Director of the granting, revocation, or modification of any exemption under this section, and the conditions of any such exemption, not later than 14 days after the exemption, revocation, or modification was notified to the organisation; and
- (f) Ensure that its members and their drivers hold appropriate current area knowledge certificates where required by section 18A of this Act, and an appropriate ability to communicate in the English language; and
- (g) Ensure that its members and their drivers maintain an adequate knowledge of the organisation’s current operating area (as so notified); and
- (h) Notify the Director of any change in its responsible officers; and
- (i) Make the register of licence holders available at reasonable times during normal business hours for inspection by any enforcement officer.

- (2) Any regional council in whose region an approved taxi organisation provides a service may, in respect of the service within that region, exempt the organisation from the requirements specified in subsection (1)(a) of this section if, in the opinion of the regional council, public demand does not require such a level of service.
- (3) Any such exemption—
 - (a) May be subject to such conditions as the regional council may specify:
 - (b) May be granted, revoked, or modified by the regional council at any time, after giving such notice and such opportunity to make submissions on the matter as may be reasonable in all the circumstances to both—
 - (i) The approved taxi organisation concerned; and
 - (ii) Any other approved taxi organisation that may be affected by the proposed grant, revocation, or modification of the exemption.
- (4) Any approved taxi organisation that fails to comply with—
 - (a) Any requirement of subsection (1) of this section; or
 - (b) Any condition of an exemption granted under subsection (2) of this section,—commits an offence and is liable on conviction to a fine not exceeding \$10,000.
- (4A) Every organisation or person being an approved taxi organisation immediately before the commencement of this subsection shall, within 3 months after being so required by the Director, furnish the Director with a copy of the organisation's operating rules.
- (4B) Every approved taxi organisation shall submit to the Director, for the Director's approval, a copy of every amendment to the organisation's approved operating rules.
- (4C) The Director shall approve rules and alterations furnished or submitted under subsection (4A) or subsection (4B) of this section if satisfied that the rules or amended rules, as the case may be, are likely to give the organisation adequate control over its members and their drivers.

- (4D) Every approved taxi organisation shall ensure that its members and their drivers comply with the organisation's approved operating rules.
- (4E) Every approved taxi organisation that contravenes or fails to comply with any of subsections (4A) to (4D) of this section commits an offence and is liable on summary conviction to a fine not exceeding \$2,000.
- (5) Nothing in subsection (1)(a) of this section shall, before the 1st day of April 1990, apply to an organisation that is deemed by section 21(5) of this Act to be an approved taxi organisation to the extent that the organisation is providing a level of service that would not breach the terms of any approval given before the 1st day of November 1989 by the Licensing Authority under Part 7 of the Transport Act 1962 in respect of that organisation.

Subsection (1) was substituted, as from 1 April 1993, by section 17 Transport Services Licensing Amendment Act (No 3) 1992 (1992 No 109).

Subsection (2) was amended, as from 13 November 2003, by section 90 Land Transport Management Act 2003 (2003 No 118) by omitting the words "and having regard to the requirements of section 594ZZI of the Local Government Act 1974,".

Subsections (4A) to (4E) were inserted, as from 1 April 1993, by section 17 Transport Services Licensing Amendment Act (No 3) 1992 (1992 No 109).

Section 22 was amended, as from 20 August 1993, by section 35(1) Land Transport Act 1993 (1993 No 88) by substituting the word "Director" for the words "Secretary" and "Secretary for Transport", wherever either term occurred.

23 Revocation of approval of approved taxi organisation

- (1) The Director may revoke any approval of a taxi organisation given under section 21 of this Act where—
 - (a) The organisation has been convicted 3 times or more of an offence against section 22(4) of this Act; or
 - (b) The organisation is no longer an organisation or person that would qualify for approval as an approved taxi organisation under section 21(1) of this Act; or
 - (c) The Director is satisfied that the organisation, or any person having control of the organisation, is not a fit and proper person to be, or have control of, an approved taxi organisation; or

- (d) The Director is satisfied that the organisation cannot adequately maintain proper control over the activities of its members and their drivers; or
 - (e) The Director is satisfied that, by reason of the failure of operators and drivers within the organisation to maintain area knowledge or an appropriate ability to communicate in the English language, the organisation is not a fit and proper person to have control of a taxi organisation.
- (2) Before revoking any approval under subsection (1) of this section, the Director shall, in accordance with section 25 of this Act,—
- (a) Notify the organisation of the proposed revocation; and
 - (b) Specify the grounds for the proposed revocation; and
 - (c) Afford a reasonable opportunity for submissions to be made on the matter; and
 - (d) Notify the organisation of the right of appeal under section 42 of this Act.

Subsection (1)(c) was amended, as from 1 April 1993, by section 18 Transport Services Licensing Amendment Act (No 3) 1992 (1992 No 109) by inserting the word “; or”.

Subsection (1)(d) and (e) were inserted, as from 1 April 1993, by section 18 Transport Services Licensing Amendment Act (No 3) 1992 (1992 No 109).

Section 23 was amended, as from 20 August 1993, by section 35(1) Land Transport Act 1993 (1993 No 88) by substituting the word “Director” for the words “Secretary” and “Secretary for Transport”, wherever either term occurred.

24 Criteria for fit and proper person test

- (1) For the purpose of determining whether or not a person is a fit and proper person for any of the purposes of this Act, the Director may have regard to, and may give such relative weight as the Director thinks fit having regard to the degree and nature of the person’s involvement in any transport service to, the following matters:
- (a) The person’s criminal history (if any):
 - (b) Any offending by the person in respect of transport-related offences (including any infringement offences):
 - (c) Any history of mental health or serious behavioural problems:

- (d) Any complaints made in relation to any transport service provided or operated by the person or in which the person is involved, particularly complaints made by users of the service:
 - (e) Any history of persistent failure to pay fines incurred by the person in respect of transport-related offences:
 - (f) Any other matter that the Director considers it is appropriate in the public interest to take into account.
- (2) Without in any way limiting the matters that the Director may have regard to under subsection (1) of this section,—
- (a) When assessing whether or not a person is a fit and proper person in relation to any passenger service involving the use of small passenger service vehicles, or to any vehicle recovery service, the Director shall have particular regard to—
 - (i) Any history of mental health or behavioural problems:
 - (ii) Any offending in respect of offences of violence, sexual offences, drugs offences, arms offences, or offences involving organised criminal activities:
 - (iii) Any offending in respect of major transport-related offences, particularly offences relating to safety or to road user charges:
 - (iv) Any persistent offending of any kind:
 - (v) Any complaints in respect of the person or any transport service operated by the person that are of a persistent or serious nature:
 - (b) When assessing whether or not a person is a fit and proper person in relation to any passenger service involving the use of large passenger service vehicles, the Director shall have particular regard to—
 - (i) Any history of mental health or behavioural problems that indicate a propensity for violence:
 - (ii) Any offending in respect of offences of violence or sexual offences:
 - (iii) Any offending in respect of major transport-related offences, particularly offences relating to safety or to road user charges:

- (c) When assessing whether or not a person is a fit and proper person in relation to any goods service, the Director shall have particular regard to—
 - (i) Any criminal activity conducted in the course of any transport service or transport-related business or employment;
 - (ii) Any offending in respect of major transport-related offences, particularly offences relating to safety or to road user charges;
 - (d) When assessing whether or not a person is a fit and proper person in relation to any transport service, the Director shall have particular regard to any matter that the Director considers should be taken into account in the interests of public safety or to ensure that the public is protected from serious or organised criminal activity.
- (3) In determining whether or not a person is a fit and proper person for any of the purposes of this Act, the Director may have regard to—
 - (a) Any conviction for any offence whatsoever, whether or not—
 - (i) The conviction was in a New Zealand Court; or
 - (ii) The offence was committed before the commencement of this Act; or
 - (iii) The person incurred demerit points under this Act in respect of the conviction; and
 - (b) The fact that the person has been charged with any offence,—
but shall not be confined to consideration of such matters only, and may take into account such other matters and evidence as the Director considers relevant.
- (4) The Director may, for the purpose of determining whether or not a person is a fit and proper person for any of the purposes of this Act,—
 - (a) Seek and receive such information as the Director thinks fit; and
 - (b) Consider information obtained from any source.
- (5) If the Director proposes to take into account any information that is or may be prejudicial to the person, the Director shall, subject to subsection (6) of this section and to section 25(4) of

this Act, disclose that information to the person and, in accordance with section 25 of this Act, give the person a reasonable opportunity to refute or comment on it.

- (6) Nothing in subsection (5) of this section shall require the Director to disclose any information the disclosure of which would be likely to endanger the safety of any person.
- (7) Where the Director determines not to disclose any information in reliance on subsection (6) of this section,—
 - (a) The Director shall inform the person—
 - (i) Of the fact of non-disclosure; and
 - (ii) That the person may seek a review by an Ombudsman of that non-disclosure pursuant to the Official Information Act 1982; and
 - (b) The provisions of that Act shall apply to that non-disclosure as if, following a request under that Act for the information withheld, the information had been withheld in reliance on section 6(d) of that Act.

Section 24 was amended, as from 20 August 1993, by section 35(1) Land Transport Act 1993 (1993 No 88) by substituting the word “Director” for the words “Secretary” and “Secretary for Transport”, wherever either term occurred.

25 Rights of persons affected in relation to adverse decisions

- (1) In this section, unless the context otherwise requires,—

Adverse decision means any decision of the Director under this Act in respect of which there is a right of appeal pursuant to section 42 of this Act, and includes any decision to suspend a licence under section 18(4) of this Act

Affected licence holder, in relation to any person directly affected by an adverse decision, means the holder of or the applicant for the transport service licence for the transport service in which that person has or is to have control or is or will be involved, whether as a driver or otherwise

Person directly affected, in relation to any adverse decision, means the person who would be entitled under section 42 of this Act to appeal against that adverse decision

Person on the basis of whose character the adverse decision arises, in relation to any adverse decision made or proposed to be made on the ground that any person is not a fit and proper person for the purposes of the relevant service, licence,

- or other matter to which the decision relates, means the person whom the Director assesses as not being a fit and proper person.
- (2) Where the Director proposes to make an adverse decision under this Act in respect of any person, other than a decision to suspend a transport service driver under section 16 of this Act, the Director shall, by notice in writing,—
- (a) Notify the person directly affected of the proposed decision; and
 - (b) Subject to subsection (4) of this section, inform that person of the grounds for the proposed decision; and
 - (c) Specify a date by which submissions may be made to the Director in respect of the proposed decision (which date shall not be less than 21 days after the date on which the notice is given); and
 - (d) Where appropriate, specify the date on which the proposed decision will, unless the Director otherwise determines, take effect, being a date not earlier than 28 days after the date the notice is given; and
 - (e) Notify the person of the person's right of appeal under section 42 of this Act, in the event of the Director proceeding with the proposed decision; and
 - (f) Specify such other matters as in any particular case may be required by any provision of this or any other Act.
- (3) Where the Director gives a notice under subsection (2) of this section, the Director—
- (a) Shall also supply a copy of the notice to—
 - (i) Any person on the basis of whose character the adverse decision arises, where that person is not the person directly affected:
 - (ii) Any affected licence holder, where the Director considers that the proposed adverse decision is likely to have a significant impact on the operations of that licence holder:
 - (b) May supply a copy of the notice to any other affected licence holder.
- (4) No notice or copy of a notice given under this section shall include or be accompanied by any information referred to in section 24(5) of this Act except to the extent that—

- (a) The notice or copy is supplied to the person to whom the information relates; or
 - (b) That person consents to the supply of that information to any other person.
- (5) Where any notice or copy of a notice is given to any person under this section,—
 - (a) It shall be the responsibility of the person to ensure that all information that the person wishes to have considered by the Director in relation to the proposed adverse decision is received by the Director within the period specified in the notice pursuant to subsection (2)(c) of this section, or within such further period as the Director may allow in any case:
 - (b) The Director may, but shall not be obliged to, consider any information supplied by the person after the expiry of the period referred to in paragraph (a) of this subsection, other than information requested by the Director and supplied by the person within such reasonable time as the Director may specify:
 - (c) The Director shall consider any submissions made in accordance with paragraph (a) of this subsection, and any information supplied pursuant to a request referred to in paragraph (b) of this subsection, but shall not be obliged to hear any person on the matter.
- (6) After considering the matters referred to in subsection (5)(c) of this section, the Director shall—
 - (a) Finally determine whether or not to make the proposed adverse decision; and
 - (b) As soon as practicable thereafter, notify in writing the person directly affected, and any other person of a kind referred to in subsection (3)(a) of this section, of—
 - (i) The Director's decision; and
 - (ii) Where appropriate, the date on which the decision will take effect; and
 - (iii) Where appropriate, the right of appeal under section 42 of this Act.

Section 25 was amended, as from 20 August 1993, by section 35(1) Land Transport Act 1993 (1993 No 88) by substituting the word “Director” for the words “Secretary” and “Secretary for Transport”, wherever either term occurred.

26 Transfer of licence prohibited

- (1) No transport service licence may be transferred, leased, or assigned to any person.
- (2) Nothing in subsection (1) of this section shall prevent the carrying on of a transport service under a transport service licence that was previously held by a deceased person, for a period not exceeding 6 months following the death of the person,—
 - (a) By the personal representative of the deceased person; or
 - (b) By any other person pursuant to an arrangement with the personal representative.
- (3) Nothing in subsection (1) of this section shall apply in respect of any passenger service licence that was formerly a taxi-cab-service licence where the lease was granted in accordance with Part 7 of the Transport Act 1962 before the 1st day of November 1989.
- (4) Every term or condition in any such lease that is imposed by a Licensing Authority or implied by section 145 of the Transport Act 1962 shall cease to be of effect on and after the 1st day of November 1989.

27 Licence to continue in force until surrendered or revoked

- (1) Every transport service licence shall take effect on the day it is granted and shall continue in force until it is surrendered or revoked under this Act.
- (2) Where no vehicle has been operated pursuant to a licence for a period of 2 years, the licence shall be deemed to have been surrendered and shall be revoked by the Director.

Section 27 was amended, as from 20 August 1993, by section 35(1) Land Transport Act 1993 (1993 No 88) by substituting the word “Director” for the words “Secretary” and “Secretary for Transport”, wherever either term occurred.

28 Surrender of licences

The holder of any licence may at any time surrender the licence to the Director.

Section 28 was amended, as from 20 August 1993, by section 35(1) Land Transport Act 1993 (1993 No 88) by substituting the word “Director” for the words “Secretary” and “Secretary for Transport”, wherever either term occurred.

29 Register of licences

- (1) The Authority shall keep a register of licences granted, suspended, surrendered, and revoked under this Act.
- (2) The register shall be available for public inspection at any reasonable time on payment of the prescribed fee (if any).

Section 29 was amended, as from 20 August 1993, by section 35(1) Land Transport Act 1993 (1993 No 88) by substituting the word “Authority” for the word “Secretary”.

*Duties of licence holders***30 Licence holder to notify changes to Director**

- (1) Every holder of a transport service licence shall—
 - (a) Notify the Director of any change in the business or residential address of the holder of the licence;
 - (b) Notify the Director of any change in the person or persons having control of the service or the business or residential address of any such person;
 - (c) If the licensee or any of the persons referred to in paragraph (a) of this subsection is a body corporate, notify the Director of any change in the person or persons (not being bodies corporate) who in fact have control of that body corporate and any change in the residential address of any such person.
- (2) The notification required to be given under subsection (1) of this section shall be given either before the change occurs or within 14 days after it has occurred, and shall include such other identification information as the Director may require.
- (3) Nothing in paragraph (b) or paragraph (c) of subsection (1) of this section shall require the notification of any change in the person or persons having control of the service or business, or any change in the residential address of a person to the extent that—
 - (a) The person having control—
 - (i) Is an elected member of any local authority, and has control of the service or business in that capacity only; or
 - (ii) Is an officer of the State services or of any Crown agency or local authority, and has control of the service or business by reason only of any position

held *ex officio* in relation to that service or business, unless the Director by notice in writing to the holder of the licence requires any such change or changes to be notified under this section; or

(b) The Director—

(i) By notice in the *Gazette* in respect of any class of transport service or person; or

(ii) By notice to the licence holder concerned, in any particular case,—

exempts services or persons of that class, or the licence holder, from the requirements of this section.

(3A) References in this section to a person or persons having control of a service or business or body corporate shall, in relation to any holder of a transport service licence, be read as including a person or persons holding a principal management position in the employ of the licence holder, but shall not be read as including persons employed in lower positions.

(4) Every holder of a transport service licence who fails to comply with this section commits an offence and is liable on summary conviction to a fine not exceeding \$2,000.

Compare: 1962 No 135 s 127

Subsection (3A) was inserted, as from 1 April 1993, by section 19 Transport Services Licensing Amendment Act (No 3) 1992 (1992 No 109).

Section 30 was amended, as from 20 August 1993, by section 35(1) Land Transport Act 1993 (1993 No 88) by substituting the word “Director” for the words “Secretary” and “Secretary for Transport”, wherever either term occurred.

31 Requirements as to vehicles

(1) Every holder of a transport service licence shall ensure that—

(a) Every vehicle to be used in connection with the service is maintained in a fit and proper condition and that the requirements of any Act or regulation made for this purpose are met:

(b) No vehicle is used in connection with the service unless and until all fees payable in respect of the vehicle and the service under any Act, regulation, or bylaw have been duly paid.

- (2) The holder of any transport service licence shall, whenever required to do so by the Director, present for inspection any vehicle that is used in the service.
- (3) No person shall use any vehicle in a transport service if that vehicle has suffered serious damage until the vehicle has been inspected by a person authorised by the Director, or the owner of the vehicle has been informed by such a person that the vehicle is not to be inspected.

Compare: 1962 No 135 s 132(1); SR 1984/119, regs 12, 13

Subsection (3) was amended, as from 20 August 1993, by section 35(1) Land Transport Act 1993 (1993 No 88) by substituting the words “a person” for the words “an officer of the Ministry of Transport” and “an officer”, respectively.

Section 31 was amended, as from 20 August 1993, by section 35(1) Land Transport Act 1993 (1993 No 88) by substituting the word “Director” for the words “Secretary” and “Secretary for Transport”, wherever either term occurred.

32 Licence holder to disclose name of driver of vehicle

- (1) Where the holder of a transport service licence employs any person to drive a vehicle under that licence, the licence holder, on being informed of any offence alleged to have been committed by that person or by a person driving a vehicle being used under the licence, and on being requested to do so by the Director or an enforcement officer, shall supply forthwith in writing the full name and address of the driver.
- (2) Every holder of a licence who in contravention of this section fails to supply the name and address of any driver commits an offence and is liable on summary conviction to a fine not exceeding \$1,000.

Section 32 was amended, as from 20 August 1993, by section 35(1) Land Transport Act 1993 by substituting the word “Director” for the words “Secretary” and “Secretary for Transport”, wherever either term occurred.

33 Notification of vehicles used in transport service

No certificate of fitness shall be issued on or after the 1st day of June 1990 in respect of any transport service vehicle unless the person issuing the certificate of fitness has been notified of the licence under which the vehicle is being operated.

34 Certificate of responsibility where person other than owner operates vehicle under licence

- (1) Where any vehicle is used under a transport service licence but its use under that licence has not been notified under section 33 of this Act, the owner of the vehicle shall obtain from the person using the vehicle under the licence (if that person is not the owner) a certificate of responsibility, in a form prescribed by the Director, indicating that the vehicle is being used in the service, and that in respect of that vehicle the person operating the service may be liable to be prosecuted, and may incur any demerit points, in the case of any offence being committed in relation to the use of the vehicle in that service.
- (2) A certificate of responsibility shall be obtained before the vehicle is used in the relevant service unless in the circumstances it is unreasonable to do so.
- (3) Every person who obtains a certificate of responsibility in respect of any vehicle registered in his or her name shall retain that certificate for a period of not less than 12 months after the last date to which it relates, and shall produce the certificate on demand by an enforcement officer.
- (4) Every person who fails to comply with any of the provisions of subsections (1) to (3) of this section commits an offence and is liable on summary conviction to a fine not exceeding \$500.
- (5) In any proceedings for an offence against this section it shall be for the holder of the licence under which the vehicle was operated to satisfy the Court that in the circumstances it was unreasonable for a certificate of responsibility to be obtained before the vehicle concerned was used in the transport service.

Section 34 was amended, as from 20 August 1993, by section 35(1) Land Transport Act 1993 (1993 No 88) by substituting the word “Director” for the words “Secretary” and “Secretary for Transport”, wherever either term occurred.

35 Goods service licence holder to display identification on vehicles

- (1) On and after the 1st day of November 1989 every holder of a goods service licence shall ensure that there is clearly displayed on the outside of both forward doors of every vehicle (not being a trailer) used under the licence the name and business location of the holder of the licence.

- (1A) In the case of a goods service vehicle,—
- (a) It shall be sufficient compliance with subsection (1) of this section if the name and business location of the holder is displayed in positions (other than on the outside of both forward doors) approved by the Director:
 - (b) The Director may exempt the vehicle from the requirements of subsection (1) of this section if it is a vintage or classic vehicle.
- (1B) The Director may give an approval under subsection (1A)(b) of this section only if compliance with subsection (1) of this section would detract from the appearance of the vehicle.
- (2) Nothing in subsection (1) of this section shall apply where the vehicle is operated under a certificate of responsibility and the name and business location of the owner of the vehicle is clearly displayed on the outside of the vehicle.
- (3) Every holder of a goods service licence who fails to comply with subsection (1) of this section commits an offence and is liable on summary conviction to a fine not exceeding \$2,000.

Subsections (1A) and (1B) were inserted, as from 1 April 1993, by section 20 Transport Services Licensing Amendment Act (No 3) 1992 (1992 No 109).

Section 35 was amended, as from 20 August 1993, by section 35(1) Land Transport Act 1993 (1993 No 88) by substituting the word “Director” for the words “Secretary” and “Secretary for Transport”, wherever either term occurred.

36 Licence holder to display identification on large passenger service vehicles, and maintain complaints register

- (1) On and after the 1st day of November 1989 every holder of a passenger service licence shall ensure that there is clearly displayed on the outside of every large passenger service vehicle used under the licence the name and business location of the holder of the licence.
- (2) The Director may exempt any licence holder from the requirements of subsection (1) of this section for such period and subject to such conditions as the Director may determine.
- (3) Nothing in subsection (1) of this section shall apply where the vehicle is operated under a certificate of responsibility and the name and business location of the owner of the vehicle is clearly displayed on the outside of the vehicle.

- (4) Every holder of a passenger service licence under which any large passenger service vehicle is used shall ensure that there is maintained a single register of complaints received in respect of the operation of all such vehicles operated under the licence.
- (5) The register shall be maintained, and available for inspection at any reasonable time by an enforcement officer who is in uniform or who produces evidence of identity as an enforcement officer, for a period of not less than 2 years following the date of the latest entry in the register.
- (6) Every holder of a passenger service licence who fails to comply with subsection (1) or subsection (4) or subsection (5) of this section commits an offence and is liable on summary conviction to a fine not exceeding \$2,000.

Section 36 was amended, as from 20 August 1993, by section 35(1) Land Transport Act 1993 (1993 No 88) by substituting the word “Director” for the words “Secretary” and “Secretary for Transport”, wherever either term occurred.

Transport service rules

37 Small passenger service rules

- (1) The rules set out in Part 1 of Schedule 3 to this Act shall apply in respect of every small passenger service vehicle operated under a passenger service licence.
- (2) Any enforcement officer who is in uniform or who produces evidence of identity as an enforcement officer may direct the driver of any small passenger service vehicle that is not in compliance with any such rule to cease making the vehicle available for hire and to remove the vehicle from any designated stand until such time as the vehicle is in compliance with the rules.
- (3) Every holder of a passenger service licence and every driver of a small passenger service vehicle who acts in contravention of or fails to comply with any rule set out in Part 1 of Schedule 3 to this Act, or any direction given by an enforcement officer under subsection (2) of this section, commits an offence and is liable on summary conviction to a fine not exceeding \$2,000.

38 Vehicle recovery service rules

- (1) The rules set out in Part 2 of Schedule 3 to this Act shall apply in respect of every vehicle recovery service operated under a vehicle recovery service licence.
- (2) Any enforcement officer who is in uniform or who produces evidence of identity as an enforcement officer may direct the driver of any vehicle recovery service vehicle that is not in compliance with any such rule to cease making the vehicle available for towing or carrying until such time as the vehicle is in compliance with the rules.
- (3) Every holder of a vehicle recovery service licence and every driver of a vehicle being used in a vehicle recovery service who acts in contravention of or fails to comply with any rule set out in Part 2 of Schedule 3 to this Act, or any direction given by an enforcement officer under subsection (2) of this section, commits an offence and is liable on summary conviction to a fine not exceeding \$2,000.

39 Rental service rules

- (1) The rules set out in Part 3 of Schedule 3 to this Act shall apply in respect of every rental service operated under a rental licence.
- (2) Every holder of a rental service licence who acts in contravention of or fails to comply with any such rule commits an offence and is liable on summary conviction to a fine not exceeding \$2,000.

Requirements of rail service participants

The heading “Requirements of rail service participants” was inserted, as from 1 April 1993, by section 21 Transport Services Licensing Amendment Act (No 3) 1992 (1992 No 109).

This heading was repealed, as from 20 July 2005, by section 103(3) Railways Act 2005 (2005 No 37). It previously read “Requirements of rail service participants”

39A Operator’s duty to report accidents and incidents

[Repealed]

Sections 39A to 39P were inserted, as from 1 April 1993, by section 21 Transport Services Licensing Amendment Act (No 3) 1992 (1992 No 109).

Section 39A was amended, as from 20 August 1993, by section 35(1) Land Transport Act 1993 (1993 No 88) by substituting the word “Director” for the words “Secretary” and “Secretary for Transport”, wherever either term occurred.

Sections 39A to 39P were repealed, as from 20 July 2005, by section 103(3) Railways Act 2005 (2005 No 37). *See* sections 105 to 111 of that Act as to the transitional provisions.

39B Functions and duties of Director

[Repealed]

Sections 39A to 39P were inserted, as from 1 April 1993, by section 21 Transport Services Licensing Amendment Act (No 3) 1992 (1992 No 109).

Section 39B was amended, as from 20 August 1993, by section 35(1) Land Transport Act 1993 (1993 No 88) by substituting the word “Director” for the words “Secretary” and “Secretary for Transport”, wherever either term occurred.

Sections 39A to 39P were repealed, as from 20 July 2005, by section 103(3) Railways Act 2005 (2005 No 37). *See* sections 105 to 111 of that Act as to the transitional provisions.

39C Duty of Director to notify accidents and incidents to Transport Accident Investigation Commission

[Repealed]

Sections 39A to 39P were inserted, as from 1 April 1993, by section 21 Transport Services Licensing Amendment Act (No 3) 1992 (1992 No 109).

Section 39C was amended, as from 20 August 1993, by section 35(1) Land Transport Act 1993 (1993 No 88) by substituting the word “Director” for the words “Secretary” and “Secretary for Transport”, wherever either term occurred.

Sections 39A to 39P were repealed, as from 20 July 2005, by section 103(3) Railways Act 2005 (2005 No 37). *See* sections 105 to 111 of that Act as to the transitional provisions.

39D Power of Director to impose conditions or suspend rail service licence

[Repealed]

Sections 39A to 39P were inserted, as from 1 April 1993, by section 21 Transport Services Licensing Amendment Act (No 3) 1992 (1992 No 109).

Section 39D was amended, as from 20 August 1993, by section 35(1) Land Transport Act 1993 (1993 No 88) by substituting the word “Director” for the words “Secretary” and “Secretary for Transport”, wherever either term occurred.

Sections 39A to 39P were repealed, as from 20 July 2005, by section 103(3) Railways Act 2005 (2005 No 37). *See* sections 105 to 111 of that Act as to the transitional provisions.

39E Power of Director to impose prohibition or conditions or to detain or immobilise rail service vehicles

[Repealed]

Sections 39A to 39P were inserted, as from 1 April 1993, by section 21 Transport Services Licensing Amendment Act (No 3) 1992 (1992 No 109).

Section 39E was amended, as from 20 August 1993, by section 35(1) Land Transport Act 1993 (1993 No 88) by substituting the word “Director” for the words “Secretary” and “Secretary for Transport”, wherever either term occurred.

Sections 39A to 39P were repealed, as from 20 July 2005, by section 103(3) Railways Act 2005 (2005 No 37). *See* sections 105 to 111 of that Act as to the transitional provisions.

39F Regular audit of safety system

[Repealed]

Sections 39A to 39P were inserted, as from 1 April 1993, by section 21 Transport Services Licensing Amendment Act (No 3) 1992 (1992 No 109).

Subsection (1) was substituted, as from 20 August 1993, by 35(1), Land Transport Act 1993.

Section 39F was amended, as from 20 August 1993, by section 35(1) Land Transport Act 1993 (1993 No 88) by substituting the word “Director” for the words “Secretary” and “Secretary for Transport”, wherever either term occurred.

Sections 39A to 39P were repealed, as from 20 July 2005, by section 103(3) Railways Act 2005 (2005 No 37). *See* sections 105 to 111 of that Act as to the transitional provisions.

39G Appointment of safety auditors

[Repealed]

Sections 39A to 39P were inserted, as from 1 April 1993, by section 21 Transport Services Licensing Amendment Act (No 3) 1992 (1992 No 109).

Section 39G was amended, as from 20 August 1993, by section 35(1) Land Transport Act 1993 (1993 No 88) by substituting the word “Director” for the words “Secretary” and “Secretary for Transport”, wherever either term occurred.

Sections 39A to 39P were repealed, as from 20 July 2005, by section 103(3) Railways Act 2005 (2005 No 37). *See* sections 105 to 111 of that Act as to the transitional provisions.

39H Functions and duties of safety auditors

[Repealed]

Sections 39A to 39P were inserted, as from 1 April 1993, by section 21 Transport Services Licensing Amendment Act (No 3) 1992 (1992 No 109).

Subsection (1)(a) was amended, as from 20 August 1993, by section 35(1) Land Transport Act 1993 (1993 No 88) by substituting the words “a rail service operator” for the words “the Secretary”.

Section 39H was amended, as from 20 August 1993, by section 35(1) Land Transport Act 1993 (1993 No 88) by substituting the word “Director” for the words “Secretary” and “Secretary for Transport”, wherever either term occurred, with the exception of subs (1)(a).

Sections 39A to 39P were repealed, as from 20 July 2005, by section 103(3) Railways Act 2005 (2005 No 37). *See* sections 105 to 111 of that Act as to the transitional provisions.

39I Regular safety audit report

[Repealed]

Sections 39A to 39P were inserted, as from 1 April 1993, by section 21 Transport Services Licensing Amendment Act (No 3) 1992 (1992 No 109).

Section 39I was amended, as from 20 August 1993, by section 35(1) Land Transport Act 1993 (1993 No 88) by substituting the word “Director” for the words “Secretary” and “Secretary for Transport”, wherever either term occurred.

Sections 39A to 39P were repealed, as from 20 July 2005, by section 103(3) Railways Act 2005 (2005 No 37). *See* sections 105 to 111 of that Act as to the transitional provisions.

39J Matters to be included in regular safety audit report

[Repealed]

Sections 39A to 39P were inserted, as from 1 April 1993, by section 21 Transport Services Licensing Amendment Act (No 3) 1992 (1992 No 109).

Section 39J was amended, as from 20 August 1993, by section 35(1) Land Transport Act 1993 (1993 No 88) by substituting the word “Director” for the words “Secretary” and “Secretary for Transport”, wherever either term occurred.

Sections 39A to 39P were repealed, as from 20 July 2005, by section 103(3) Railways Act 2005 (2005 No 37). *See* sections 105 to 111 of that Act as to the transitional provisions.

39K Notification of requirement for improvements

[Repealed]

Sections 39A to 39P were inserted, as from 1 April 1993, by section 21 Transport Services Licensing Amendment Act (No 3) 1992 (1992 No 109).

Section 39K was amended, as from 20 August 1993, by section 35(1) Land Transport Act 1993 (1993 No 88) by substituting the word “Director” for the words “Secretary” and “Secretary for Transport”, wherever either term occurred.

Sections 39A to 39P were repealed, as from 20 July 2005, by section 103(3) Railways Act 2005 (2005 No 37). *See* sections 105 to 111 of that Act as to the transitional provisions.

39L Supplementary audit of rail service

[Repealed]

Sections 39A to 39P were inserted, as from 1 April 1993, by section 21 Transport Services Licensing Amendment Act (No 3) 1992 (1992 No 109).

Section 39L was amended, as from 20 August 1993, by section 35(1) Land Transport Act 1993 (1993 No 88) by substituting the word “Director” for the words “Secretary” and “Secretary for Transport”, wherever either term occurred.

Sections 39A to 39P were repealed, as from 20 July 2005, by section 103(3) Railways Act 2005 (2005 No 37). *See* sections 105 to 111 of that Act as to the transitional provisions.

39M Extension of time to effect improvements and repairs

[Repealed]

Sections 39A to 39P were inserted, as from 1 April 1993, by section 21 Transport Services Licensing Amendment Act (No 3) 1992 (1992 No 109).

Section 39M was amended, as from 20 August 1993, by section 35(1) Land Transport Act 1993 (1993 No 88) by substituting the word “Director” for the words “Secretary” and “Secretary for Transport”, wherever either term occurred.

Sections 39A to 39P were repealed, as from 20 July 2005, by section 103(3) Railways Act 2005 (2005 No 37). *See* sections 105 to 111 of that Act as to the transitional provisions.

39N Special safety audits

[Repealed]

Sections 39A to 39P were inserted, as from 1 April 1993, by section 21 Transport Services Licensing Amendment Act (No 3) 1992 (1992 No 109).

Subsection (1) was amended, as from 20 August 1993, by section 35(1) Land Transport Act 1993 (1993 No 88) by substituting the word “an” for the word “the” (where it secondly occurred).

Section 39N was amended, as from 20 August 1993, by section 35(1) Land Transport Act 1993 (1993 No 88) by substituting the word “Director” for the words “Secretary” and “Secretary for Transport”, wherever either term occurred.

Sections 39A to 39P were repealed, as from 20 July 2005, by section 103(3) Railways Act 2005 (2005 No 37). *See* sections 105 to 111 of that Act as to the transitional provisions.

39O Special audit report

[Repealed]

Sections 39A to 39P were inserted, as from 1 April 1993, by section 21 Transport Services Licensing Amendment Act (No 3) 1992 (1992 No 109).

Section 39O was amended, as from 20 August 1993, by section 35(1) Land Transport Act 1993 (1993 No 88) by substituting the word “Director” for the words “Secretary” and “Secretary for Transport”, wherever either term occurred.

Sections 39A to 39P were repealed, as from 20 July 2005, by section 103(3) Railways Act 2005 (2005 No 37). *See* sections 105 to 111 of that Act as to the transitional provisions.

39P Power of entry of safety auditor carrying out special safety audit

[Repealed]

Sections 39A to 39P were inserted, as from 1 April 1993, by section 21 Transport Services Licensing Amendment Act (No 3) 1992 (1992 No 109).

Section 39P was amended, as from 20 August 1993, by section 35(1) Land Transport Act 1993 (1993 No 88) by substituting the word “Director” for the words “Secretary” and “Secretary for Transport”, wherever either term occurred.

Sections 39A to 39P were repealed, as from 20 July 2005, by section 103(3) Railways Act 2005 (2005 No 37). *See* sections 105 to 111 of that Act as to the transitional provisions.

Passenger Complaints Board

The heading “Passenger Complaints Board” was repealed, as from 10 April 1992, by section 2(2) Transport Services Licensing Amendment Act 1992 (1992 No 28).

40 Constitution of Passenger Complaints Board

[Repealed]

Sections 40 and 41 were repealed, as from 10 April 1992, by section 2(2) Transport Services Licensing Amendment Act 1992 (1992 No 28).

41 Functions of Passenger Complaints Board

[Repealed]

Sections 40 and 41 were repealed, as from 10 April 1992, by section 2(2) Transport Services Licensing Amendment Act 1992 (1992 No 28).

*Appeals***42 Appeal to District Court**

- (1) Any person who is dissatisfied with any decision relating to that person and made by the Director under any of sections 6D, 6E, 6F, 10, 11, 14, 15, 16, 19, 21, 23, 39D, 39E, and 39K of this Act may appeal to a District Court against that decision.
- (2) It is hereby declared that the exercise of any power conferred on the Director by any provision referred to in subsection (1) of this section is a decision within the meaning of that subsection.

Section 42 was substituted, as from 1 April 1993, by section 22(1) Transport Services Licensing Amendment Act (No 3) 1992 (1992 No 109).

Section 42 was amended, as from 20 August 1993, by section 35(1) Land Transport Act 1993 (1993 No 88) by substituting the word “Director” for the words “Secretary” and “Secretary for Transport”, wherever either term occurred.

43 Procedure

- (1) Every appeal under section 42 of this Act shall be brought, by way of originating application, not later than 28 days after the date on which the appellant was notified pursuant to section 25(6) of this Act (or section 16(2)(b) of this Act, in the case of a suspension under that section) of the decision appealed against, or within such further period as the District Court may allow.
- (2) In dealing with an appeal under section 42 of this Act,—
 - (a) A District Court may hear all evidence tendered and representations made by or on behalf of any party to the appeal that the Court considers relevant to the appeal, whether or not that evidence would be otherwise admissible in that Court; and
 - (b) The Court may—
 - (i) Confirm, reverse, or modify the decision appealed against, and make such orders and give such directions to the Director as may be necessary to give effect to the Court’s decision; or
 - (ii) Refer the matter back to the Director with directions to reconsider the whole or any specified part of the matter; and

- (c) Subject to this section, every such appeal shall be made and determined in accordance with the District Courts Act 1947 and the rules of Court made under that Act.
- (3) Subject to section 45 of this Act, the decision of the District Court on any appeal under section 42 of this Act shall be final.

Section 43 was amended, as from 20 August 1993, by section 35(1) Land Transport Act 1993 (1993 No 88) by substituting the word “Director” for the words “Secretary” and “Secretary for Transport”, wherever either term occurred.

44 Decision of Director to continue in force pending appeal, etc

- (1) Every decision of the Director appealed against under section 42 of this Act shall continue in force pending the determination of the appeal, and no person shall be excused from complying with any of the provisions of this Act on the ground that any appeal is pending.
- (2) Notwithstanding that any appeal under section 42 of this Act may have been determined in favour of the appellant, the Director may, subject to the like right of appeal, refuse to grant, revoke, suspend, disqualify, or otherwise deal with in accordance with the provisions of this Act any licence, driver identification card, approval, or person to which or to whom the appeal related, or any licence, driver identification card, or approval granted or restored in compliance with the decision of the District Court on the appeal, on any sufficient grounds supported by facts or evidence discovered since the hearing of the appeal.

Section 44 was amended, as from 20 August 1993, by section 35(1) Land Transport Act 1993 (1993 No 88) by substituting the word “Director” for the words “Secretary” and “Secretary for Transport”, wherever either term occurred.

45 Appeal to High Court on question of law

- (1) Any party to an appeal under section 42 of this Act who is dissatisfied with the decision of the District Court as being erroneous in point of law may appeal to the High Court on that question of law.
- (2) Every appeal under this section shall be heard and determined in accordance with the rules of Court.

46 Further appeal to Court of Appeal

- (1) Any party to an appeal under section 45 of this Act who is dissatisfied with the decision of the High Court in respect of the appeal as being erroneous in law may, with the leave of the High Court or (if that leave is declined) with special leave of the Court of Appeal, appeal to the Court of Appeal on that question of law.
- (2) On any appeal under subsection (1) of this section the Court of Appeal may make such order or determination as it thinks fit.
- (3) The decision of the Court of Appeal on an appeal under this section, or on any application for leave to appeal, shall be final.
- (4) Subject to the foregoing provisions of this section, the procedure in respect of any appeal under this section shall be in accordance with the ordinary rules of Court.

Part 2**Registration of road, rail, and other
passenger services****47 Interpretation**

- (1) In this Part of this Act, unless the context otherwise requires,—
Contracted service, in respect of a passenger service, means a specified service in respect of which a regional council has contracted to pay for the supply of that service, and, to the extent that a regional council has contracted to pay for the supply of part only of a specified service, means that part
Passenger service,—
 - (a) Subject to paragraph (b) of this definition, means—
 - (i) Any **passenger service** within the meaning of section 2(1) of this Act; and
 - (ii) Except in section 57 of this Act (other than to the extent specified in subsection (3) of that section), any harbour ferry service, passenger rail service, cable car, hovercraft, monorail, tramway, or other form of public transport (other than air transport) that is available to the public generally; but
 - (b) Does not include an ambulance service:

Passenger service: substituted, as from 31 August 1990, by section 4(1) Transport Services Licensing Amendment Act 1990 (1990 No 123).

Regional passenger transport plan means a plan (identified as a regional passenger transport plan)—

- (a) Prepared by a regional council or a territorial authority that has the functions, powers, and duties of a regional council under this Act; and
- (b) Prepared in consultation with the public and the constituent authorities (if any) in the region concerned; and
- (c) Made available to the public; and
- (d) Specifying the passenger services the regional council or territorial authority proposes to be provided in its region or district, both generally and in respect of the transport disadvantaged:

Regional passenger transport plan: substituted, as from 31 August 1990, by section 4(1) Transport Services Licensing Amendment Act 1990 (1990 No 123).

Regional passenger transport plan: further substituted, as from 1 July 1992, by section 3(1) Transport Services Licensing Amendment Act (No 2) 1992 (1992 No 69).

Registered service means—

- (a) In respect of a passenger service, a passenger service registered under section 49 of this Act; and
- (b) In respect of a specified service, any part of the service that is so registered;—

and includes a contracted service

Specified service means a passenger service specified in a regional passenger transport plan.

- (2) In addition to the matters described in paragraph (d) of the definition (in subsection (1) of this section) of the term **regional passenger transport plan**, such a plan—

- (a) May specify the conditions of the services the regional council or territorial authority concerned proposes to be provided in its region; and
- (b) Without limiting the generality of paragraph (a) of this subsection, may specify all or any of the following matters:
 - (i) Routes, capacity, frequency of service, and fare structure:

- (ii) Any special provisions for users of a specified class or description of the services or any of them; and
- (c) May specify any other matters the regional council or territorial authority thinks fit.

Subsection (2) was inserted, as from 31 August 1990, by section 4(2) Transport Services Licensing Amendment Act 1990 (1990 No 123).

Subsection (2) was amended, as from 1 July 1992, by section 3(2) Transport Services Licensing Amendment Act (No 2) 1992 (1992 No 69) by substituting the expression “paragraph (d)” for the expression “paragraph b”.

Subsection (2) was amended, as from 1 July 1992, by section 3(2) Transport Services Licensing Amendment Act (No 2) 1992 (1992 No 69) by inserting in two places the words “or territorial authority”.

48 Passenger services operated on or after 1 July 1991 to be notified to regional council

- (1) Except as provided in subsection (4) of this section, every person who proposes to operate a passenger service on or after the 1st day of July 1991 shall, not later than 21 days before the service is to be commenced, and earlier if possible, notify details of the service, including routes or areas of operation, timetables or operating hours, fares, and such other matters as may be required by the Director or the regional council, to every regional council in whose region the service is to operate.
- (2) Except in the case of notices to which section 56(3A) of this Act applies, no notice under this section shall be given before the 1st day of December 1990.
- (3) With the consent of the regional council concerned, any notice required by this section to be given by any person may—
 - (a) Be given by an organisation on behalf of the person; and
 - (b) Relate to any number of services.
- (4) Nothing in this section or in section 50 of this Act shall apply in respect of—
 - (a) Any region in which the service does not pick up or set down passengers; or
 - (b) Any service that is not available to the public generally; or
 - (c) Any charter of a large passenger service vehicle.
- (5) Notwithstanding subsection (2) of this section, any notice under section 56 of this Act is a sufficient compliance with

subsection (1) of this section in respect of the service to which the notice relates; but

- (a) Section 49(1) of this Act shall apply to such a notice given to the regional council concerned before the 1st day of October 1990 as if, for the words “within 21 days of receiving the notice”, there were substituted the words “not later than the 21st day of October 1990”; and
- (b) Nothing in section 54 or section 55 of this Act shall apply in respect of the service concerned if it is a small passenger service being operated under a passenger service licence and is not involved in a scheduled service over a specified route or between or through specified locations.

Subsection (1) was amended, as from 31 August 1990, by section 5(1) Transport Services Licensing Amendment Act 1990 (1990 No 123) by substituting the word “person” for the words “holder of a passenger service licence”.

Subsections (2) and (3) were substituted, as from 31 August 1990, by section 5(2) Transport Services Licensing Amendment Act 1990 (1990 No 123).

Subsection (5) was inserted, as from 31 August 1990, by section 5(3) Transport Services Licensing Amendment Act 1990 (1990 No 123).

Section 48 was amended, as from 20 August 1993, by section 35(1) Land Transport Act 1993 (1993 No 88) by substituting the word “Director” for the words “Secretary” and “Secretary for Transport”, wherever either term occurred.

49 Registration of notified service

- (1) Subject to section 54 of this Act, a regional council shall, unless it declines registration under subsection (2) of this section, register a passenger service notified to it under section 48 of this Act within 21 days of receiving the notice concerned.
- (2) A regional council may decline to register a passenger service under this section where the service proposed—
 - (a) Is likely to have a material adverse effect on the financial viability of any contracted service; or
 - (b) Is likely to increase the net cost to the regional council of any contracted service; or
 - (c) Is contrary to sound traffic management or any other environmental factor identified by the regional council as being of importance to its region.

- (3) Where a regional council declines to accept registration of a passenger service under this section it shall—
- (a) Forthwith advise in writing the person seeking registration of—
- (i) That decision, and the grounds for the decision; and
- (ii) If applicable, any date on which the service will be able to be registered; and
- (b) As soon as practicable, make publicly available its reasons for the decision and, if applicable, the date when the service will be able to be registered.

Subsection (1) was amended, as from 31 August 1990, by section 6 Transport Service Licensing Amendment Act 1990 (1990 No 123) by substituting the words “notice concerned” for the word “notification”.

50 Abandonment or variation of registered service

- (1) Except as provided in this section, and subject to section 55 of this Act, the operator of a registered service who wishes to abandon or vary that service shall give not less than 21 days' prior notice in writing to the regional council with which the service is registered.
- (2) The regional council may reduce or waive the period of notice required by subsection (1) of this section if it is satisfied that the public would not be unreasonably disadvantaged by the earlier abandonment of or variation to the service.
- (3) Any notice required by this section to be given by the holder of a licence may, if the regional council consents, be given by any organisation acting on behalf of a group of holders of such licences and may relate to any number of licence holders.
- (4) Subject to section 55 of this Act, the regional council with which the service is registered shall, unless it declines registration under subsection (5) of this section, withdraw registration of the service or, as the case may require, register the variation in the service, on the later of—
- (a) The 21st day after the date on which the notification of abandonment or variation was received by it, or such earlier date as may be appropriate having regard to any waiver of or reduction in the notice required under subsection (2) of this section; or

- (b) The date on which the operator has specified that the service is to be abandoned or varied.
- (5) A regional council may decline to register a proposed variation in a service notified to it under this section where the service, as proposed to be varied,—
 - (a) Is likely to have a material adverse effect on the financial viability of any contracted service; or
 - (b) Is likely to increase the net cost to the regional council of any contracted service; or
 - (c) Is contrary to sound traffic management or any other environmental factor identified by the regional council as being of importance to its region.
- (6) Where a regional council declines to register any variation of a service under this section, it shall—
 - (a) Forthwith advise in writing the person seeking the variation of—
 - (i) That decision, and the grounds for the decision; and
 - (ii) If applicable, any date on which the variation will be able to be registered; and
 - (b) As soon as practicable, make publicly available its reasons for the decision and, if applicable, the date when the variation will be able to be registered.

51 Operation of unregistered service, etc

Every person who, on or after the 1st day of July 1991,—

- (a) Operates within any region a passenger service that is not registered within that region; or
- (b) Being the operator of a registered service, without reasonable excuse abandons or varies that service without giving the notice required by section 50 of this Act or in contravention of section 55 of this Act,—

commits an offence and is liable on summary conviction to a fine not exceeding \$20,000.

Section 51 (that part before paragraph (a)) was amended, as from 1 April 1993, by section 23 Transport Services Licensing Amendment Act (No 3) 1992 (1992 No 109) by substituting the word “person” for the words “holder of a passenger service licence”.

Paragraph (a) was amended, as from 1 April 1993, by section 23 Transport Services Licensing Amendment Act (No 3) 1992 (1992 No 109) by inserting the word “passenger”.

52 Regional council to make register of services available to public

- (1) Every regional council shall maintain and make available to the public a current register of all services registered by it under this Part of this Act.
- (2) A regional council that fails to comply with the provisions of subsection (1) of this section commits an offence and is liable upon summary conviction to a fine not exceeding \$2,000.

53 Regional council to ensure passenger transport information available

Every regional council that registers details of any service under this Part of this Act shall satisfy itself that the information is reasonably readily available to the public free of charge or at a reasonable price, and if it is not so satisfied shall ensure that the information is so available.

53A Regional councils to consider contracting out functions under Act

- (1) Every regional council and every territorial authority that has the functions, powers, and duties of a regional council under this Act shall, in the course of performing its functions, powers, and duties under this Act, consider whether it could most efficiently and effectively perform those functions, powers, and duties by means of its own operations or by contracting out those operations to appropriate persons selected after an appropriate competitive process.
- (2) Where a regional council or such a territorial authority considers that other persons can more efficiently and effectively perform any of its functions, powers, and duties under this Act, the council or authority—
 - (a) Shall invite tenders for the performance of such functions; and

- (b) If a tender is successful, shall enter into an agreement setting out the terms on which those functions, powers, and duties are to be performed by the other person.
- (3) Every regional council and every such territorial authority shall have and may exercise all such powers as are necessary or reasonably expedient to enable it to perform its duties under this section, and such powers and duties are in addition to, and not in substitution for, powers and duties conferred on regional councils and such territorial authorities by any other Act.
- (4) Where a regional council or territorial authority invites tenders under subsection (2) of this section, any other regional council or territorial authority may submit a tender and, if successful, enter into an agreement under that subsection.
- (5) Despite any other provision of this Act, any regional council referred to in subsection (1) may, in accordance with section 17 of the Local Government Act 2002, and without an appropriate competitive process under this section, transfer any of its functions, powers, and duties under this Act to a territorial authority that has no direct or indirect interest in any passenger service.

Section 53A was inserted, as from 1 July 1992, by section 4 Transport Services Licensing Amendment Act (No 2) 1992 (1992 No 69).

Subsection (5) was inserted, as from 29 July 1995, by section 2 Transport Services Licensing Amendment Act 1995 (1995 No 47).

Subsection (5) was substituted, as from 1 July 2003, by section 262 Local Government Act 2002 (2002 No 84). See sections 273 to 314 of that Act as to the savings and transitional provisions.

*Restrictions on registration, etc, for period 1
February 1991 to 31 January 1992*

The heading “Restrictions on registration, etc, for period 1 February 1991 to 31 January 1992” was repealed, as from 1 July 1992, by section 5 Transport Services Licensing Amendment Act (No 2) 1992 (1992 No 69).

**54 Restrictions on registration and variation of services
between 1 February 1991 and 31 October 1991**
[Repealed]

Sections 54 to 58 were repealed, as from 1 July 1992, by section 5 Transport Services Licensing Amendment Act (No 2) 1992 (1992 No 69).

55 Abandonment or variation of service registered before 1 February 1991

[Repealed]

Sections 54 to 58 were repealed, as from 1 July 1992, by section 5 Transport Services Licensing Amendment Act (No 2) 1992 (1992 No 69).

*Requirements relating to taxi services and
scheduled passenger services for period 1
November 1989 to 30 June 1991*

The heading “Requirements relating to taxi services and scheduled passenger services for period 1 November 1989 to 30 June 1991” was repealed, as from 1 July 1992, by section 5 Transport Services Licensing Amendment Act (No 2) 1992 (1992 No 69).

56 Small passenger vehicle services to be notified to regional council

[Repealed]

Sections 54 to 58 were repealed, as from 1 July 1992, by section 5 Transport Services Licensing Amendment Act (No 2) 1992 (1992 No 69).

57 Restriction on scheduled passenger services for period 1 November 1989 to 30 June 1991

[Repealed]

Sections 54 to 58 were repealed, as from 1 July 1992, by section 5 Transport Services Licensing Amendment Act (No 2) 1992 (1992 No 69).

58 Transitional Licensing Authority

[Repealed]

Sections 54 to 58 were repealed, as from 1 July 1992, by section 5 Transport Services Licensing Amendment Act (No 2) 1992 (1992 No 69).

Appeals

59 Appeal to District Court

- (1) Where a regional council has declined under this Part of this Act to register any passenger service or variation in a passenger service, or has refused its consent to the abandonment of a service under section 55 of this Act, the operator of the service may, by way of originating application, within 28 days after being notified of the decision appeal to the District Court against that decision.

- (2) On the hearing of an appeal under subsection (1) of this section, the District Court may—
 - (a) Confirm, vary, or reverse the decision appealed against, and make such orders and give such directions to the regional council as may be necessary to give effect to the Court's decision; or
 - (b) Refer the matter back to the regional council with directions to reconsider the whole or any specified part of the matter.
- (3) Subject to this section, every such appeal shall be made and determined in accordance with the District Courts Act 1947 and the rules of Court made under that Act.
- (4) Subject to section 60 of this Act, the decision of the District Court on any appeal under this section shall be final.

60 Appeal to High Court from District Court or Transitional Licensing Authority on question of law

- (1) Any party to an appeal under section 59 of this Act who is dissatisfied with the decision of the District Court as being erroneous in point of law may appeal to the High Court on that question of law.
- (2) Any party to any proceedings before the Transitional Licensing Authority who is dissatisfied with any decision of that Authority as being erroneous in point of law may appeal to the High Court on that question of law.
- (3) Every appeal under this section shall be heard and determined in accordance with the rules of Court.

**Part 3
Miscellaneous**

61 Notices

- (1) Except as otherwise specified in this Act or in regulations made under this Act, where pursuant to this Act any notice or other document is to be given, served on, or furnished to any person, that notice or other document may be—
 - (a) Given to the person personally; or
 - (b) Sent by registered post to the person at the person's usual or last known place of business or abode; or

- (c) Given personally to any other person authorised to act on behalf of the person; or
 - (d) Sent by registered post to that other person at that other person's usual or last known place of business or abode; or
 - (e) Except in the case of any notice or document to be given or served in the course of or for the purpose of any court proceedings for an offence against this Act or any appeal under this Act, sent by post to the person, or any other person authorised to act on the person's behalf, at that person's or other person's usual or last known place of business or abode.
- (2) Any notice or other document so sent by post or registered post shall be deemed to have been given, served, or received 7 days after the date on which it was posted, unless the person to whom it was posted proves that, otherwise than through that person's fault, the notice or document was not received.

62 Information for offences

- (1) Every information for an offence against Part 1 of this Act shall be laid by the Director or an enforcement officer.
- (2) In the absence of proof to the contrary it shall be presumed that every information for an offence against Part 1 of this Act has been laid by a person authorised to do so under subsection (1) of this section.

Compare: 1962 No 135 s 170

Section 62 was amended, as from 20 August 1993, by section 35(1) Land Transport Act 1993 (1993 No 88) by substituting the word "Director" for the words "Secretary" and "Secretary for Transport", wherever either term occurred.

63 Evidence and proof

In any proceedings for an offence against this Act—

- (a) If it is proved that passengers or goods were carried in or on any motor vehicle, the passengers or goods shall be deemed to have been carried in such a manner as to bring the motor vehicle under the requirements of this Act unless the defendant satisfies the Court to the contrary:

- (b) Any licence or other document issued under this Act or any regulations in force under this Act may be proved by the production of a copy of the licence or document certified to be correct and signed by the Director or by an officer of the Authority authorised in that behalf by the Director:
- (c) Evidence of the contents of the register maintained under section 29 of this Act may be given by a certificate signed by the Director or any officer of the Authority authorised in that behalf by the Director; and every such certificate shall be sufficient evidence of the matters stated in it, until the contrary is proved:
- (d) The production of a certificate signed by the Director or by an officer of the Authority authorised in that behalf by the Director to the effect that on a specified date a person was or was not the holder of any transport service licence or any specified type of transport service licence shall be sufficient evidence of the matter certified, until the contrary is proved:
- (e) Until the contrary is proved, it shall be presumed that every certificate purporting to have been certified or given under this section has been certified or given by the Director or by an officer of the Authority authorised by the Director to certify documents or give certificates under this section.

Compare: 1962 No 135 s 171

Paragraph (a) was amended, as from 20 August 1993, by section 24 Transport Services Licensing Amendment Act (No 3) 1992 (1992 No 109) by inserting in two places the words “or rail service vehicle”.

Paragraph (a) was amended, as from 20 July 2005, by section 103(3) Railways Act 2005 (2005 No 37) by omitting the words “or rail service vehicle” in both places where they appear. *See* sections 105 to 111 of that Act as to the transitional provisions.

Section 63 was amended, as from 20 August 1993, by section 35(1) Land Transport Act 1993 (1993 No 88) by substituting the word “Authority” for the word “Ministry” wherever it occurred, and by substituting the word “Director” for the words “Secretary” and “Secretary for Transport”, wherever either term occurred.

63A Power to inspect records

- (1) For the purpose of ascertaining whether the provisions of this Act have been or are being complied with by any person to whom this Act applies, any enforcement officer may require that person to produce for inspection any books or records in that person's possession or over which that person has control, including (but not limited to) logbooks, records associated with logbooks, financial records relating to expenditure on fuel, invoices, vehicle maintenance records, depreciation records for vehicles, time and wage records, and waybills.
- (2) The enforcement officer may take extracts from or make copies of any books or records so produced.

Section 63A was inserted, as from 1 April 1993, by section 25 Transport Services Licensing Amendment Act (No 3) 1992 (1992 No 109).

64 Requirements of Act additional to other requirements

The provisions of this Act are in addition to and shall not derogate from the provisions of any other Act relating to the licensing, control, or taxation of vehicles or persons using vehicles.

Compare: 1962 No 135 s 175

65 Application of fees, etc

All fees and other money (not being fines, infringement fees, or other penalties) received or recovered for the purposes of this Act shall be paid or credited to the Authority.

Compare: 1962 No 135 s 177

Section 65 was amended, as from 20 August 1993, by section 35(1) Land Transport Act 1993 (1993 No 88) by substituting the words "shall be paid or credited to the Authority" for the words "and payable to the Crown shall be paid or credited to the Ministry's Departmental Bank Account".

Section 65 was amended, as from 1 March 1999, by section 215(1) Land Transport Act 1998 (1998 No 110), by substituting the words "for the purposes of this Act" for the words "under this Act".

66 Regulations

The Governor-General may, by Order in Council, make regulations for all or any of the following purposes:

- (a)

- (b) Exempting any service or class or category of service from being a transport service for the purposes of this Act:
- (c) Exempting any vehicle or class or category of vehicle from being a transport service vehicle for the purposes of this Act:
 - (ca)
 - (cb)
 - (cc)
- (cd) Empowering the Director to prescribe tests for the purpose of the issue of an area knowledge certificate under section 18A of this Act; and authorising the Director, in such circumstances as may be specified in the regulations, to require an applicant for or the holder of an area knowledge certificate to undergo such prescribed tests as the Director may specify in writing, including (but not limited to) a second or subsequent test:
- (d) Providing for the furnishing by any person in relation to any transport service carried on by the person of information relating to that service, and prescribing the nature of the information and the form, manner, and time in or at which it is to be furnished:
- (e) Prescribing the matters to be entered in any register of complaints required to be kept pursuant to section 36 of this Act or to any rule set out in Schedule 3 to this Act, and the manner in which such matters are to be entered:
- (f) Providing for such matters as are contemplated by or necessary for giving full effect to the provisions of this Act and for its due administration.

Paragraph (a) was repealed, as from 1 March 1999, by section 215(1) Land Transport Act 1998 (1998 No 110).

Paragraphs (ca) to (cd) were inserted, as from 1 April 1993, by section 26 Transport Services Licensing Amendment Act (No 3) 1992 (1992 No 109).

Paragraphs (ca), (cb) and (cc) were repealed, as from 20 July 2005, by section 103(3) Railways Act 2005 (2005 No 37). *See* sections 105 to 111 of that Act as to the transitional provisions.

Section 66 was amended, as from 20 August 1993, by section 35(1) Land Transport Act 1993 (1993 No 88) by substituting the word “Director” for the words “Secretary” and “Secretary for Transport”, wherever either term occurred.

66A Schedules referring to offences may be amended by Order in Council

The Governor-General may from time to time, by Order in Council, amend Schedule 2—

- (a) By omitting any reference to a regulation that has been revoked, and, if appropriate, substituting a reference to the corresponding new regulation:
- (b) By amending any reference to a regulation for the purpose of updating that reference.

Section 66A was inserted, as from 30 April 1997, by section 2 Transport Services Licensing Amendment Act 1997 (1997 No 5).

67*Amendments, repeals, revocations, and savings*

Section 67 was repealed, as from 10 April 1992, by section 2(2) Transport Services Licensing Amendment Act 1992 (1992 No 28).

68 Amending New Zealand Railways Corporation Act 1981

- (1) Part 6 of the New Zealand Railways Corporation Act 1981 is hereby repealed.
- (2) The New Zealand Railways Corporation Act 1981 is hereby amended by inserting, after section 119, the following section:

“119A Application of certain road transport Acts to Corporation

Notwithstanding section 4(1) of this Act, or any other enactment or rule of law, proceedings for any offence committed on or after the 1st day of November 1989 against the Transport Act 1962, the Road User Charges Act 1977, the Transport (Vehicle and Driver Registration and Licensing) Act 1986, or the Transport Services Licensing Act 1989, or any regulations or bylaws made under any of those Acts, may be brought against the Corporation as if the Corporation were not an instrument of the Executive Government of New Zealand for the purposes of those Acts.”

69 Repeals and revocations

- (1) Part 7 of the Transport Act 1962 is hereby repealed.
- (2) The following enactments are hereby consequentially repealed:

- (a) Section 13 of the Transport Amendment Act 1972:
 - (b) The Transport Amendment Act (No 3) 1982:
 - (c) Sections 3, 4, 6, 7, and 19 to 22 of the Transport Amendment Act (No 2) 1983:
 - (d) Sections 20 and 21 of the Transport Amendment Act (No 2) 1985:
 - (e) Section 6 of the Transport Amendment Act (No 3) 1985:
 - (f) The Transport Amendment Act (No 4) 1985:
 - (g) So much of Schedule 2 to the Commerce Act 1986 as relates to the Transport Act 1962:
 - (h) Section 53(4) of the Transport (Vehicle and Driver Registration and Licensing) Act 1986:
 - (i) So much of Schedule 3 to the State-Owned Enterprises Act 1986 as relates to section 105(3) of the Transport Act 1962:
 - (j) Sections 30 to 33 of the Transport Amendment Act 1987:
 - (k) So much of Part A of Schedule 1 to the State-Owned Enterprises Amendment Act 1987 as relates to the Transport Act 1962.
- (3) The following regulations are hereby revoked:
- (a) The Transport (Auckland Harbour Ferry Services) Order 1977 (SR 1977/251):
 - (b) The Transport Licensing Regulations 1984 (SR 1984/119):
 - (c) The Transport Licensing Regulations 1984, Amendment No 1 (SR 1985/84):
 - (d) The Transport Licensing Regulations 1984, Amendment No 3 (SR 1986/85):
 - (e) The Transport Licensing Regulations 1984, Amendment No 4 (SR 1987/315):
 - (f) The Transport Licensing Regulations 1984, Amendment No 5 (SR 1988/169):
 - (g) The Transport Licensing Regulations 1984, Amendment No 6 (SR 1988/245):
 - (h) The Transport (School Bus Services) Notice 1988 (SR 1988/257).
- (4) This section shall come into force on the 1st day of November 1989.

70 Bodies abolished under section 69 of this Act

- (1) The following bodies established under Part 7 of the Transport Act 1962 are hereby abolished:
 - (a) The Licensing Appeal Authority:
 - (b) The Charges Appeal Authority:
 - (c) The Deputy Licensing Appeal Authority:
 - (d) The Deputy Charges Appeal Authority:
 - (e) Every Licensing Authority (including any Licensing Authority for a harbour-ferry service district).
- (2) Every member of the bodies abolished by subsection (1) of this section shall vacate office on the commencement of this section, and shall not be entitled to any compensation in respect of such loss of office.
- (3) Subject to subsections (4) and (5) of this section and section 71 of this Act, all proceedings that at the commencement of this section are before the bodies abolished by subsection (1) of this section shall lapse.
- (4) Where any appeal before the Licensing Appeal Authority has not been determined before the 1st day of November 1989, that appeal shall stand referred to the District Court nearest to the place where the appeal was filed; and that Court and any other District Court to which the matter may be transferred shall have the same jurisdiction in the matter as the Licensing Appeal Authority would have had if it had not been abolished.
- (5) Any proceedings under section 140 or section 141 of the Transport Act 1962 that have not been completed before the 1st day of November 1989 shall stand referred to and may be continued before the Transitional Licensing Authority as if that Authority were the Licensing Authority before which the proceedings were commenced.
- (6) Nothing in subsection (4) or subsection (5) of this section shall derogate from or affect the power of the Director under this Act to revoke, suspend, or otherwise deal with in accordance with the provisions of this Act any licence that is the subject of proceedings referred to in those subsections.
- (7) This section shall come into force on the 1st day of November 1989.

Section 70 was amended, as from 20 August 1993, by section 35(1) Land Transport Act 1993 (1993 No 88) by substituting the word “Director” for the words “Secretary” and “Secretary for Transport”, wherever either term occurred.

71 Certain decisions of Licensing Authorities to continue to have effect

- (1) Where a Licensing Authority has—
 - (a) Revoked any licence under section 140(9)(a) or section 141(6)(a) of the Transport Act 1962; or
 - (b) Suspended any licence under section 140(9)(b) or section 141(6)(b) of the Transport Act 1962,—that decision shall continue to be of full force and effect, and the licensee shall not be entitled to apply for or to be granted any transport service licence under this Act, or to be named as a person to have control of any transport service to which this Act applies, during the period specified in the decision of the Licensing Authority as the period within which the person is not entitled to apply for a licence, or the period of suspension, as the case may be.
- (2) Where a Licensing Authority has imposed any condition on a licence under section 140(9)(c) or section 141(6)(c) of the Transport Act 1962 that condition shall continue to be of full force and effect and shall apply to any licence granted or deemed to be granted to a person under this Act.
- (3) Every person who operates any transport service in breach of any condition referred to in subsection (2) of this section commits an offence and is liable on summary conviction to a fine not exceeding \$10,000.

Schedule 1

Section 2

Exempt transport services and vehicles

1

Exempt services

1

Passenger services operated by or under the control of any area health board, local authority, or incorporated charitable organisation where—

1—*continued*

- (a) The vehicles used are private motorcars driven by volunteers; and
- (b) The only payments made in respect of provision of the service are for reimbursement of operating costs.

1A

Transport provided in motor vehicles that are designed or adapted to carry 12 or fewer persons (including the driver) by persons providing home or community support services, where—

- (a) the transport is provided to clients as an incidental part of the service; and
- (b) a fee or fare is not required of the client for the provision of transport.

2

Passenger services carried on by means of motorcars in which persons are carried to or from their place of employment or business pursuant to a cost-sharing arrangement between occupants of the vehicle.

3

Transport services—

- (a) carried on exclusively for the purpose of providing relief or assistance during a state of emergency declared under the Civil Defence Emergency Management Act 2002 where—
 - (i) the service has been requested or ordered by a Controller under the Civil Defence Emergency Management Act 2002; and
 - (ii) the service is under the control of that Controller;
- (b) Carried on exclusively for the purpose of performing any public service or providing assistance to the civil power in time of emergency within the meaning of section 9 of the Defence Act 1990;
- (c) Carried on by any part or member of the Armed Forces on active service within the meaning of section 44 of the Defence Act 1990;
- (d) Carried on exclusively for the purpose of undertaking a class 3 search and rescue operation where—

1—*continued*

- (i) The service has been requested by a Rescue Co-ordination Centre; and
- (ii) The service is under the control of that Centre:
- (e) Carried on exclusively for the purpose of providing relief or assistance during a pollution emergency that is being dealt with under the Marine Pollution Act 1974.

4

Any service to the extent only that it uses vehicles specified as exempt in Part 2 of this Schedule.

4A

Any passenger service where

- (a) The vehicle used is a large passenger service vehicle hired from a person who holds both a passenger service licence and a rental service licence; and
- (b) The only payments made in respect of the hire of the large passenger service vehicle to the person who hires the vehicle are payments reimbursing that person for the costs of hiring and operating the vehicle.

Where a large passenger service vehicle is used in such circumstances, the vehicle shall be deemed to be operating under the licensee's passenger service licence.

5

Any service that is specified as an exempt service by regulations made under this Act.

Clause 1A was inserted, as from 22 June 2005, by section 95(5) Land Transport Amendment Act 2005 (2005 No 77). *See* sections 96 to 100 of that Act as to the transitional and savings provisions.

Clause 3 was substituted, as from 1 April 1993, by section 27(1) Transport Licensing (Amendment Act, No 3) 1992 (1992 No 109).

Paragraph (a) was substituted, as from 1 December 2002, by section 117 Civil Defence Emergency Management Act 2002 (2002 No 33). *See* sections 118 to 121 of that Act as to the transitional provisions.

Clause 4A was inserted, as from 1 April 1993, by section 27(2) Transport Licensing (Amendment Act, No 3) 1992 (1992 No 109).

2

Exempt vehicles

1

Vehicles running on self laying tracks or rollers.

Item 1 was amended, as from 1 March 1999, by section 215(1) Land Transport Act 1998 (1998 No 110), by inserting the words “self laying”.

2

Vehicles that operate solely on or in areas to which the public does not have access as of right. A vehicle shall not cease to be an exempt vehicle under this clause by reason only of the fact that it is being used on a road in connection with its inspection, servicing, or repair, or for the purpose of a practicable driving test required by or under any enactment.

3

Vehicles used as places of abode to the extent that they are not used in a rental service.

4

Vehicles listed as farm vehicles in Part 1 of Schedule 1 to the Motor Spirits Duty Refund Regulations 1978, or in any provisions made in substitution for that Schedule.

5

Tractors (being motor vehicles designed principally for traction at speeds not exceeding 50 kilometres an hour and not being vehicles fitted with self-laying tracks or a traction engine).

6

Forklifts (being motor vehicles designed principally for lifting and stacking goods by means of 1 or more forks, tines, platens, or clamps, and not being vehicles fitted with self-laying tracks).

7

Hearses.

8

Traction engines (as defined in section 2 of the Transport (Vehicle and Driver Registration and Licensing) Act 1986).

2—continued

9

Any vehicle that is specified as an exempt vehicle by regulations made under this Act.

Schedule 2 Demerit points

Section 12

The item relating to the Land Transport Act 1998 was inserted, as from 1 March 1999, by section 215(1) Land Transport Act 1998.

The item relating to sections 18A(4) and 23(1)(a) Road User Charges Act 1977 was inserted, as from 1 April 1993, by section 28 Transport Services Licensing Amendment Act 1992 (1992 No 109).

The item relating to section 18A(4) Road User Charges Act 1977 was omitted, as from 20 August 1993, by section 35(1) Land Transport Act 1993 (1993 No 88).

The item relating to section 69A(3) Transport Act 1962 was inserted, as from 29 July 1995, by section 3 Transport Services Licensing Amendment Act 1995 (1995 No 47).

The items relating to the sections 69A(3) and 68B(3) Transport Act 1962 were omitted, as from 1 March 1999, by section 215(1) Land Transport Act 1998 (1998 No 110).

The item relating to sections 18A(1) and 18A(2) Transport Services Licensing Act 1989 was inserted, as from 20 August 1993, by section 35(1) Land Transport Act 1993 (1993 No 88).

Title of Act, Regulations, Etc	Provision of Act, Regulations, Etc	Brief Description of Offence	Operator Demerit Points	Driver Demerit Points
Transport Act 1962	67(1)	Owner or hirer failing to give information about driver	15	—

Title of Act, Regulations, Etc	Provision of Act, Regulations, Etc	Brief Description of Offence	Operator Demerit Points	Driver Demerit Points
Road User Charges Act 1977	23(1)(a)	Contravening section 5 by operating vehicle without distance recorder	50	50
	23(1)(b)	Altering or defacing distance licence	25	25
	23(1)(c)	Operating with altered, etc, licence	15	15
	23(1)(d)	Displaying or causing to be displayed false or invalid licence	15	15
	23(1)(e)	Operating vehicle displaying false or invalid licence	15	15
	23(1)(fa)	Contravention of section 22A relating to fitting, etc, of hubodometer	25	25
	23(1)(fc)	Knowingly operating vehicle with defective hubodometer	25	25
	23(1)(g)	Altering or wilfully defacing distance recorder	25	25
	23(1A)	Contravening section 22A with intent to evade liability under Act	100	100

Title of Act, Regulations, Etc	Provision of Act, Regulations, Etc	Brief Description of Offence	Operator Demerit Points	Driver Demerit Points
Land Transport Act 1998	52(1)(c)	Contravening section 118 by failing to give information about driver	15	—
	52(1)(b) or (c)	Contravening section 113(2) or (3), or section 115, by failing to comply with directions given by enforcement officer	25	25
	52(1)(c)	Failing to comply with direction of enforcement officer given under section 125 or section 126 about stopping, inspecting, weighing, or off-loading overweight vehicle	25	25
Traffic Regulations 1976	136(c)	Altering or displaying warrant or certificate of fitness, etc, with intent to deceive	25	25
Transport Services Licensing Act 1989	18A(1) and (2)	Driving without appropriate area knowledge certificate, etc	25	25
	19(5)	Driving without current driver identification card	25	25
	20(2)	Operating taxi when not member of approved taxi organisation	25	25

Title of Act, Regulations, Etc	Provision of Act, Regulations, Etc	Brief Description of Offence	Operator Demerit Points	Driver Demerit Points
(a) Schedule 3 Part 1-Small Passenger Service Rules	5(1), 6(1)	Failure to display schedule of fares, etc	15	15
	10	Failure to display sealed driver identification card	15	15
	12(3)(d)	Using a meter with intent to deceive	100	100
	18	Failure to use most advantageous route	15	15
	21	Charging fare in excess of registered fare	25	25
(b) Schedule 3 Part 2-Vehicle Recovery Service Rules	3	Failure to display sealed driver identification card	15	15
	9	Moving vehicle without completing tow authority	25	25
	12	Failure to maintain register of tows	15	—
(c) Schedule 3 Part 3-Rental Services Rules	1	Failure to maintain register of vehicles and hires	15	—
	2(2)	Offer of unauthorised hire agreement	25	—

Schedule 3

Sections 37, 38, and 39

Transport service rules

The Third Schedule was amended, as from 20 August 1993, by section 35(1) Land Transport Act 1993 (1993 No 88) by substituting the word “Director” for the words “Secretary” and “Secretary for Transport”, wherever either term occurred.

1

Small passenger service rules

1 Director may grant exemptions

- (1) The Director may, subject to such conditions as the Director thinks fit, exempt the holder of any passenger service licence from all or any of the requirements of these rules in respect of any small passenger service vehicle while that vehicle—
 - (a) Is used in any registered or contracted service operating between defined points or areas or along defined routes; or
 - (b) Is used in tour or special contract work; or
 - (c) Is used in other special circumstances in respect of which the Director considers an exemption is appropriate—and is not otherwise available for hire; and any such exemption shall apply also in respect of any person driving the vehicle.
- (2) The driver of any small passenger service vehicle shall produce a copy of any such exemption on demand by any hirer or by any enforcement officer who is in uniform or who produces evidence of identity as an enforcement officer.

2 Application of certain clauses

Except as provided in any exemption granted under rule 1 of this Schedule, rules 3 to 21 of this Schedule shall apply in respect of any small passenger service vehicle at all times when it is hired or available for hire.

3 Signs

- (1) The holder of a passenger service licence shall ensure that every small passenger service vehicle being operated under the licence—

1—*continued*

- (a) Has fitted on its roof a sign approved by the Director displaying the word “TAXI”; and
 - (b) Has fitted, in a position approved by the Director, a sign approved by the Director indicating whether or not the small passenger service vehicle is available for hire.
- (2) The signs referred to in subclause (1) of this rule may, if the Director so approves, be combined in one sign.
- (3) No person shall drive any small passenger service vehicle that is available for hire during the hours of darkness unless the sign or signs required by subclause (1) of this rule are illuminated.
- (4) Any sign required by this rule may be removed, with the consent of the hirer, while the vehicle is hired and being used in connection with a funeral or wedding.

4 Advertising material

No holder of a passenger service licence shall permit any small passenger service vehicle to be used in the service if there is any advertising material on the outside or on the inside of the vehicle that is on any window or that may impede vision from or into the vehicle or that may obscure any notice, sign, or other matter required by or under this or any other Act to be displayed in or on the vehicle.

5 Schedule of fares and charges inside vehicle

- (1) Every holder of a passenger service licence shall ensure that there is carried within every small passenger service vehicle being used under the licence, and displayed so as to be readily visible to all passengers, a schedule, in a form approved by the Director,—
 - (a) Showing fares and charges, and multiple hire discounts; and
 - (b) Showing the circumstances in which extra charges may be made and the maximum amount of those charges; and
 - (c) Showing the name and telephone number of the approved taxi organisation to which complaints may be

1—*continued*

made, or, where the licence holder is not a member of an approved taxi organisation, the name and number of a person (other than the driver of the vehicle) designated by the licence holder as a person to whom complaints may be made; and

- (d) Informing passengers that complaints may also be made to the Authority.
- (2) No person shall drive any small passenger service vehicle if that vehicle does not have displayed the schedule required by subclause (1) of this rule.
- (3) Any schedule required to be displayed by this rule may be removed, with the consent of the hirer, while the vehicle is hired and being used in connection with a funeral or wedding.

Clause 5(1)(d) was amended, as from 20 August 1993, by section 35(1) Land Transport Act 1993 (1993 No 88) by substituting the word “Authority” for the words “Ministry of Transport or the Passenger Complaints Board”.

6 Schedule of fares on outside of vehicle

- (1) Every holder of a passenger service licence shall ensure that there is displayed on the outside of every small passenger service vehicle being used under the licence, in a place or places and manner approved by the Director, a schedule of fares and charges, and multiple hire discounts.
- (2) No person shall drive any small passenger service vehicle if that vehicle does not have displayed on it the schedule required by subclause (1) of this rule.
- (3) Any schedule required to be displayed by this rule may be removed, with the consent of the hirer, while the vehicle is hired and being used in connection with a funeral or wedding.

7 Fares, etc, to be registered with Director

- (1) The fares, charges, and multiple hire discounts referred to in rules 5 and 6 of these rules shall be registered with the Director before being displayed in or on any small passenger service vehicle.
- (2) No person shall display in or on any small passenger service vehicle, or drive any such vehicle on which is displayed, any

1—*continued*

fare, charge, or multiple hire discount that has not been registered with the Director.

8 Fare schedules of organisations

- (1) Any organisation representing the operators of small passenger service vehicles may register a uniform fare, charge, and multiple hire discount schedule with the Director in respect of all small passenger vehicles operated by the organisation or by members of the organisation, irrespective of whether the vehicles are operated under a licence held by the organisation or under licences held by members of the organisation.
- (2) Any agreement between operators of small passenger service vehicles to abide by any such schedule or by rules which require compliance with any such schedule, and the enforcement of any such schedule, is hereby specifically authorised for the purposes of the Commerce Act 1986.

9 Operator identification

- (1) Every holder of a passenger service licence shall ensure that there is clearly displayed on both the inside and outside of every small passenger service vehicle used under the licence,—
 - (a) In the case of a member of an approved taxi organisation, the name, business location, and telephone number of the approved taxi organisation to which the licensee belongs, together with a unique fleet number assigned by the organisation to that vehicle;
 - (b) In any other case, the name, business location, and telephone number of the operator, together with the unique fleet number for that vehicle.
- (1A) The information required by subclause (1) of this rule to be displayed on the inside of the vehicle shall be positioned at the front of the vehicle, and the unique fleet number and name of the organisation shall be positioned on the inside at the rear of the vehicle.

1—*continued*

- (2) The information required by subclause (1) of this rule to be displayed on the outside of the vehicle shall be positioned on the forward doors on both sides of the vehicle.
- (3) Any material required to be displayed by this rule may be removed, with the consent of the hirer, while the vehicle is hired and being used in connection with a funeral or wedding.

Clause 9(1) was substituted, as from 1 April 1993, by section 29 Transport Services Licensing Amendment Act (No 3) 1992 (1992 No 109).

Clause 9(1A) was inserted, as from 1 April 1993, by section 29 Transport Services Licensing Amendment Act (No 3) 1992 (1992 No 109).

10 Driver identification

- (1) Every holder of a passenger service vehicle licence under which a small passenger service vehicle is operated, and every person driving any such vehicle, shall ensure that there is displayed in the vehicle, in a position so as to be readily visible to hirers, the driver's sealed driver identification card.
- (2)
- (3) Subclause (1) of this rule shall apply at any time when the vehicle is available for hire, irrespective of whether or not there is any hirer in the vehicle.
- (4) Nothing in subclause (1) of this rule shall apply to the holder of a driver identification card issued under section 19A of this Act.

Clause 10(2) was repealed, as from 1 April 1993, by section 29 Transport Services Licensing Amendment Act (No 3) 1992 (1992 No 109).

Clause 10(4) was inserted, as from 1 April 1993, by section 29 Transport Services Licensing Amendment Act (No 3) 1992 (1992 No 109).

11 Register of complaints

- (1) Every approved taxi organisation shall ensure that there is maintained a single register of complaints received in respect of—
 - (a) The operation of all small passenger service vehicles operated by holders of passenger service licences who are members of the organisation:
 - (b) The services operated:
 - (c) The persons involved in operating the services.

1—*continued*

- (2) Every holder of a passenger service licence under which one or more small passenger service vehicles are operated, being a licence holder who is not a member of an approved organisation, shall ensure that there is maintained a single register of complaints received in respect of—
 - (a) The operation of all small passenger service vehicles operated by that holder;
 - (b) The services operated;
 - (c) The persons involved in operating the services.
- (3) The register shall be made available for inspection at any reasonable time by any enforcement officer who is in uniform or who produces evidence of identity as an enforcement officer.
- (4) The register shall be maintained, and available for inspection under subclause (3) of this rule, for a period of not less than 2 years following the date of the latest entry in the register.

Clauses 11(1) and (2) were substituted, as from 1 April 1993, by section 29 Transport Services Licensing Amendment Act (No 3) 1992 (1992 No 109).

12 Driver's duties and conduct

- (1) Every driver of a small passenger service vehicle shall, if on duty and disengaged, accept any hiring of the vehicle and accept as a passenger the hirer and any person the hirer may require him or her so to accept, up to the authorised seating capacity of the vehicle, except that—
 - (a) The driver may refuse to accept any person as a passenger, or refuse to continue the hiring of the vehicle by any person, if the driver believes, on reasonable grounds,—
 - (i) That the driver's personal safety would be threatened or endangered thereby; or
 - (ii) That the person appears to be under the influence of drink or drug, is in a filthy condition, or is consuming food or drink; or
 - (iii) That the person is noisy or violent or is disturbing the public peace; or
 - (iv) That the person is accompanied by any animal (unless that person's sight is impaired and the animal is a guide dog):

1—*continued*

- (b) The driver may refuse to accept a hire where the hirer has previously failed to pay the fare due for a previous hire and does not pay that fare before the commencement of the new hire:
 - (c) The driver may refuse to accept a hire where he or she has sought and been refused prepayment of the fare:
 - (d) The driver may refuse to accept a hire where the vehicle has an adult seating capacity (including the driver) in excess of 6 and is being used in a service that regularly operates between defined points or areas, or is being used in a registered service irrespective of capacity, and the prospective hire is not consistent with that service:
 - (e) The driver may refuse to accept a hire in any area where the driver does not hold an area knowledge certificate that applies to that area.
- (2) Every driver of a small passenger service vehicle shall—
- (a) At all times while engaged in operation of the vehicle conduct himself or herself in an orderly, clean, and civil manner:
 - (b) On being asked by a prospective hirer a question as to the scale or basis of fare chargeable for any specific hiring, state the correct scale or basis of fare (including extra charges) applicable to the hiring; and, where a multiple tariff meter is in operation, inform the hirer when any change in tariff setting is being made:
 - (c) Carry in or upon the vehicle any reasonable quantity of any luggage when so requested by the hirer, take proper care of any such luggage, and secure it in such a manner as to prevent it being lost or damaged; except that the driver shall not be required to carry upon the vehicle any luggage that—
 - (i) Would endanger the safe driving and handling of the vehicle; or
 - (ii) Cannot be reasonably or conveniently carried in or on the vehicle without causing damage to the vehicle; or
 - (iii) Is of a dirty or objectionable nature:

1—*continued*

- (d) Immediately on the termination of each hiring, check the vehicle for any property that may have been left in the vehicle by anyone:
 - (e) If any property is found in the vehicle, notify the driver's office forthwith, and, unless it is previously claimed, deliver it to a police station within 24 hours:
 - (f) At the end of every hiring, demand no more than the exact amount of the fare and other charges (if any) payable for the hiring as registered under rule 7(1) of these rules, less a deduction of the amount of any prepayment made by the hirer:
 - (g) On request by any hirer, issue an itemised receipt to the hirer for any fare paid by the hirer, indicating the fare, any special charges, the driver's unique identifier, and the registration number of the vehicle.
- (3) No driver of a small passenger service vehicle shall—
- (a) When plying for hire, cause the vehicle to be drawn up on or within 20 metres of a designated stand that is already occupied by the full number of vehicles that the stand is intended to accommodate; or
 - (b) Allow any person, except the hirer and such person or persons as the hirer will admit, to ride in the vehicle:
Provided that nothing in this paragraph shall apply in the case of a driver under instruction where the hirer consents to the carriage of that person; or
 - (c) Place or carry or allow to be placed or carried in or upon the vehicle any substance of an offensive character; or
 - (d) Use a meter with intent to deceive; or
 - (e) Operate the vehicle if the meter has been tampered with; or
 - (f) Carry in the vehicle any passengers in excess of the authorised maximum number prescribed by the certificate of loading or otherwise than on the seats provided for the purpose.

Clause 12(1)(e) was inserted, as from 1 April 1993, by section 29 Transport Services Licensing Amendment Act (No 3) 1992 (1992 No 109). See section 12 for area knowledge certificate requirements.

1—*continued*

Clause 16(6)(ca) was inserted, as from 1 April 1993, by section 29(6) Transport Services Licensing Amendment Act (No 3) 1992 (1992 No 109).

13 Cruising for hire

- (1) The driver of any small passenger service vehicle (not being a vehicle that is exempt from the requirement to display the signs referred to in rule 3(1) of these rules) may make the vehicle available for hire on any road by driving the vehicle at such a speed as will not impede or interfere with traffic and by displaying an appropriate sign and shall, subject to the exclusions provided in these rules, accept any hiring offered while the vehicle is so available for hire.
- (2) No driver of a small passenger service vehicle shall accept a hire, other than by radiotelephone, within 20 metres of any designated stand on which a small passenger service vehicle is available for hire, being a designated stand that is on the same side of the road as the driver of the vehicle at the time the prospective hire arises.
- (3) No driver of a small passenger service vehicle shall accept a hire in circumstances where the accepting of the hire would create a traffic hazard or would impede traffic flow.

14 Stands

- (1) Where any small passenger service vehicle is available for hire (not being a vehicle referred to in subclause (2) of this rule) and the driver does not wish to seek hires by cruising, the driver may take up station on a designated stand for such vehicles; and, if he or she does so, shall comply with any bylaws relating to the stand.
- (2) No driver of a vehicle that is exempted by the Director from the requirement to display the signs referred to in rule 3(1) of these rules shall take up station on a designated stand.
- (3) The driver of every small passenger service vehicle shall observe the following rules in connection with the use of any designated stand:
 - (a) The driver shall not take up a position on the stand unless the vehicle is available for hire:

1—*continued*

- (b) The driver shall take up with the vehicle the first vacant position on the stand behind the last vehicle thereon:
 - (c) The driver shall accept the first fare offered, whether or not the driver's vehicle is first on the stand, unless there is some lawful reason to refuse the fare:
 - (d) As soon as any vehicle on the stand ahead of the driver moves, the driver shall forthwith move his or her vehicle into the position vacated.
- (4) The driver of a vehicle shall, while the vehicle is waiting on a stand or elsewhere in terms of this rule, remain constantly in immediate attendance thereupon, unless absent for some reasonable cause.
 - (5) This rule shall not apply to the extent that it is inconsistent with any bylaw made by the territorial authority that designated the stand.

15 Obstruction of other small passenger service vehicle or public way

- (1) No person who operates or drives any small passenger service vehicle that is not immediately available for hire shall allow the vehicle to be parked in any place or manner that is likely to impede or interfere with the operation of any small passenger service vehicle that is available for hire.
- (2) No person operating a small passenger service vehicle shall stop the vehicle in any road longer than may be reasonably necessary for the purpose of loading or unloading luggage or taking up or setting down passengers, or for any other lawful purpose, except while the vehicle is on a stand or lawfully parked or is waiting for a hirer who has already hired the vehicle.
- (3) Any enforcement officer may, at the expense of the owner, arrange the removal of any vehicle parked in contravention of subclause (1) or subclause (2) of this rule.

16 Meters and other equipment

- (1) No holder of a passenger service licence, and no driver, shall operate any small passenger service vehicle, or permit it to be

1—*continued*

operated, unless it is fitted with a meter that is in good order and condition and correctly registers, as it accrues, the charge for the hire of the vehicle as displayed in accordance with rules 5 and 6 of these rules.

- (2) No meter shall be used until it has been tested, sealed, and certificated by the Director or a person authorised by the Director.
- (3) New meters or meters transferred from one vehicle to another shall be installed in a position satisfactory to the Director or person authorised by the Director, and shall be designed and positioned so as to be easily read by a hirer.
- (4) Except with the consent of the Director or a person authorised by the Director, no holder of a passenger service licence shall cause or permit any meter to be fitted to any vehicle other than one in respect of which it has been tested.
- (5) The holder of a passenger service licence shall—
 - (a) Whenever the meter has ceased to register or is in any other way out of order, or whenever the seal of the meter is broken or not in place, ensure that the vehicle ceases plying for hire (unless authorised by any enforcement officer) and have the meter repaired, tested, and sealed to the satisfaction of an enforcement officer:
 - (b) Maintain the meter in good working order and condition and have it tested, sealed, and certificated by the Director or a person authorised by the Director at intervals not greater than 6 months apart:
 - (c) Following any alterations made to the vehicle or to the size of the tyres or fittings attached to the vehicle that may affect the correctness of the meter, or where any changes are made to the fare rates, forthwith and before carrying any passengers for hire, have the meter retested, sealed, and certificated by the Director or a person authorised by the Director.
- (6) The driver of every small passenger service vehicle shall—
 - (a) As soon as the vehicle has been hired, or the hirer has become aware of the vehicle's arrival (except to the extent that the hirer becomes so aware at a time earlier

1—*continued*

- than that for which the vehicle was ordered), or the journey has commenced, as the case may require, and not sooner, set the meter fitted to the vehicle in motion:
- (b) Throughout the period of hiring during which the meter must be used to calculate the charge for the hiring, keep the meter in motion and not stop the meter or cause or permit it to be stopped until the hiring has terminated:
 - (c) Immediately upon the termination of any hiring or part of any hiring during which the meter must be used, stop the meter:
 - (ca) Whenever the seal of the meter is broken or not in place, ensure that the vehicle ceases plying for hire (unless authorised by any enforcement officer):
 - (d) Keep the face of the meter sufficiently illuminated during any period of hiring so that the meter may be easily read at any time by the hirer:
 - (e) Where the vehicle has been stopped by an enforcement officer, or is involved in a minor accident, stop the meter for the duration of the interruption to the journey.
- (7) Whenever it appears to the Director that a meter affixed to a small passenger service vehicle may be registering incorrectly or has ceased to register, or is otherwise not in accordance with this rule, the Director may, by notice in writing addressed to any person operating the vehicle, require that person to produce the vehicle at any reasonable time for the purpose of inspecting or testing the meter at such time and place as the Director specifies.
- (8) If, on inspection or testing, the meter is found to be not registering or to be registering incorrectly, the licence holder shall ensure that, unless authorised by an enforcement officer, the vehicle ceases to ply for hire until the meter has been repaired, sealed, and certificated to the satisfaction of the Director.
- (9) No person shall cause or permit any interference with the meter affixed to any vehicle which may prevent it from registering correctly.
- (10) Any enforcement officer who is in uniform or who produces evidence of identity as an enforcement officer may stop any

1—*continued*

small passenger service vehicle for any purpose connected with this rule and inspect the vehicle, and inspect or test any meter or any other equipment fitted to the vehicle.

- (11) Any enforcement officer may direct in writing any person operating a small passenger service vehicle to proceed forthwith, or at such time as the officer may stipulate, to any place in order that the vehicle or any equipment in it may be inspected or tested by the Director or a person authorised by the Director.
- (12) Every holder of a passenger service licence and every driver of a small passenger service vehicle shall afford every facility to any enforcement officer to inspect any such vehicle or inspect or test any meter or any other related equipment fitted to the vehicle.

17 Cleanliness of small passenger service vehicles

No holder of a passenger service licence, and no driver, shall operate a small passenger service vehicle unless it is in good and clean repair and condition and ready for immediate use.

18 Driver to use most advantageous route

Except as provided in rule 19 of these rules (which relates to multiple hires), every driver of a small passenger service vehicle shall, unless otherwise requested or agreed by the hirer, travel from the place the hirer enters the vehicle to the intended destination of the hirer without any unnecessary deviation from the route that is most advantageous to the passenger.

19 Multiple hiring

- (1) The driver of a small passenger service vehicle may permit its simultaneous use by more than one hirer (such use being referred to in this rule as multiple hire) in accordance with this rule.
- (2) The driver of a vehicle wishing to undertake multiple hire shall first request the existing hirer to share, without substantial departure from the most advantageous route to the existing hirer's destination, the use of the vehicle with the prospective hirer and any passenger accompanying the prospective hirer.

1—*continued*

- (3) Where the existing hirer has agreed to a multiple hire he or she may nevertheless object to any prospective hirer once any accompanying passengers are visible to him or her; and if objection is made the multiple hire shall not include the prospective hirer or person so objected to.
- (4) If the existing hirer or hirers agree unconditionally to the request, but not otherwise, the driver may then authorise the use of the vehicle by the other hirer and any accompanying passengers, if that hirer agrees to so share the vehicle.
- (5) Notwithstanding anything in rule 21 of these rules, a person operating or driving a small passenger service vehicle who undertakes a multiple hire may charge such fare as may be agreed with the multiple hirers, provided that each such hirer pays no more than the metered fare that would have applied to that hirer if the hirer had been travelling alone (or, if appropriate, travelling with accompanying passengers of that hirer who were not also hirers).
- (6) Nothing in this rule applies in respect of any small passenger service vehicle that has an adult seating capacity (including the driver) in excess of 6 persons and is used in a service that regularly operates between defined points or areas or is being used in a registered service irrespective of capacity.

20 Smoking

No person may smoke in any small passenger service vehicle that is carrying passengers unless all persons in the vehicle agree that the person may smoke.

21 Fare system

- (1) No person operating or driving a small passenger service vehicle may charge any fare that is in excess of the fare or scale of fares registered with the Director.
- (2) No agreement to pay any fare at any rate in excess of a fare registered with the Director shall be enforceable in respect of the excess.
- (3) Where any small passenger service vehicle displays fares calculated wholly or partly by distance, that vehicle shall be fitted

1—*continued*

with a meter to record the fare as it accumulates. Any agreement to pay a different fare shall be enforceable only if the agreed fare is less than that shown on the meter.

- (4) Nothing in this rule shall prevent the charging of any fare pursuant to, or render unenforceable,—
- (a) Any agreement in respect of a multiple hire that complies with rule 19(5) of these rules; or
 - (b) Any agreement where the service provided includes services beyond those normally provided by a small passenger service (such as grooming and decoration for weddings); or
 - (c) Any agreement with an approved taxi organisation entered into for the purposes of providing or guaranteeing special services or availability of services.

2

Vehicle recovery service rules

1 Interpretation

In these rules, **tow** includes carry.

2 Operator identification

- (1) Every holder of a vehicle recovery service licence shall ensure that there is clearly displayed on both the inside and the outside of every vehicle used under the licence the name, business location, and contact telephone number of the holder of the licence and the name of any relevant vehicle recovery service organisation of which the holder is a member.
- (2) The information required by subclause (1) of this rule to be displayed on the outside of the vehicle shall be positioned on the forward doors on both sides of the vehicle.

3 Driver identification

Every driver of a vehicle recovery service vehicle shall wear, in such a position as to be readily visible, the driver's sealed driver identification card.

*2—continued***4 Advertising material**

No holder of a vehicle recovery service licence shall permit any vehicle to be used in the service if there is any advertising material on the outside or on the inside of the vehicle that is on any window or that may impede vision from or into the vehicle or that may obscure any notice, sign, or other matter required by or under this or any other Act to be displayed in or on the vehicle.

5 Driver responsible for behaviour of passengers

Where the driver of any vehicle being used in a vehicle recovery service permits any person to be a passenger in the vehicle other than—

- (a) Persons who were occupants of any vehicle being towed; or
- (b) Any other person who holds a licence entitling the person to drive a vehicle recovery service vehicle; or
- (c) The holder of the vehicle recovery service licence or any person having control of the service and named as such on the licence,—

the driver shall be responsible for ensuring that the person does not engage in any threatening or improper behaviour; and for the purposes of section 38(3) of this Act the driver shall be deemed to have breached this rule whenever any such person engages in threatening or improper behaviour while the person is a passenger in the vehicle or is in the vicinity of the vehicle at any time when the vehicle is attending a crash, breakdown, or other situation in which the vehicle's services may be required, regardless of any lack of fault on the part of the driver.

6 Driver to comply with direction of enforcement officer or ambulance officer

- (1) The driver of a vehicle recovery service vehicle shall, if so directed by an enforcement officer or an ambulance officer, move himself or herself, and the vehicle, away from the immediate environs of a crash scene.

2—continued

- (2) Where an enforcement officer or an ambulance officer also requests the removal of any person who is, or who arrived at the environs of the crash as, a passenger in the vehicle (other than a person referred to in paragraphs (a) to (c) of rule 5 of these rules), the driver shall also be responsible for ensuring the removal of that person; and for the purposes of section 38(3) of this Act the driver shall be deemed to have breached this rule where the person fails to comply with any such request, regardless of any lack of fault on the part of the driver.

7 Animals prohibited

- (1) Every holder of a vehicle recovery service licence and the driver of any vehicle used in the service shall ensure that no animal is carried in or on any such vehicle at any time when the vehicle is being used in the service or is available for use in the service (irrespective of whether or not there are any passengers in the vehicle).
- (2) Subclause (1) of this rule shall not apply to prevent the carriage of—
- (a) Any animal that was in a vehicle involved in the crash or breakdown or other situation that the vehicle recovery service vehicle was attending; or
 - (b) Any stock involved in a crash where it is appropriate for that stock to be transported by the vehicle from the scene of the crash.

8 Tow authority

- (1) No vehicle may be towed by any vehicle recovery service vehicle unless a tow authority has been completed and is carried in the vehicle recovery service vehicle.
- (2) The tow authority shall be in a form approved by the Director and shall contain—
- (a) The make, model, colour, and registration number of the vehicle being moved; and
 - (b) The time and place of pickup; and
 - (c) The intended place of set down (with actual place of set down, if different); and

2—continued

- (d) The time of set down, to be completed on set down; and
- (e) The name and address and, where practicable, the signature of the person ordering the vehicle to be moved; and
- (f) The name, address, and signature of the driver of the vehicle recovery service vehicle; and
- (g) An indication of whether the reason for the vehicle being moved was a crash, a breakdown, or an unauthorised parking of the vehicle.

Part 2, Clause 8 was amended, as from 20 August 1993, by section 35(1) Land Transport Act 1993 (1993 No 88) by substituting the word “Director” for the words “Secretary” and “Secretary for Transport”, wherever either term occurred.

9 Restriction on moving of vehicles by vehicle recovery service

No person may move any vehicle using a vehicle recovery service vehicle unless the tow authority has been signed by—

- (a) The driver or a person claiming or appearing to be the owner of the vehicle, or a representative of the owner; or
- (b) A constable, traffic officer, parking warden, or emergency service officer; or
- (c) Where the vehicle is being towed from any land or building that is not a road, the owner or a representative of the owner of the land or building:

Provided that, if no such person is available, the driver of the vehicle recovery service vehicle shall record the name, address, and contact telephone number of the person who requested that the tow be undertaken.

10 Tows to be without deviation or delay

The driver of a vehicle recovery service vehicle towing any vehicle shall tow the vehicle to the place of intended set down without unnecessary delay or deviation from the shortest available route, unless otherwise instructed by the driver or owner or person claiming to be a representative of the owner of the

2—continued

vehicle, or by a constable, traffic officer, or emergency service officer.

11 Prevention of damage or loss

Every holder of a vehicle recovery service licence and every driver of a vehicle used under that licence shall take all reasonable precautions to prevent loss of or from, or damage to, any motor vehicle that is being or has been towed under the licence.

12 Register of tows

- (1) Every holder of a vehicle recovery service licence shall maintain a register comprising, in chronological order, all the tow authorities completed in respect of each vehicle recovery service vehicle operated under the licence.
- (2) Every tow authority shall be included in the appropriate register within 18 hours after the completion of the tow to which it relates.
- (3) The register shall be made available for inspection by—
 - (a) Any enforcement officer who is in uniform or who produces evidence of identity as an enforcement officer; and
 - (b) Any person authorised by the Director to collect transport-related statistics who produces evidence of that authority—at any reasonable time during a period of 12 months next following the latest date to which it refers.

13 Register of complaints

- (1) Every holder of a vehicle recovery service licence under which one or more vehicle recovery service vehicles are operated shall ensure that there is maintained a single register of complaints received in respect of the operation of the vehicle recovery service.
- (2) No complaint need be entered in the register unless the complaint is signed and in writing.

2—continued

- (3) The register shall be made available for inspection at any reasonable time by any enforcement officer who is in uniform or who produces evidence of identity as an enforcement officer.
- (4) The register shall be maintained, and available for inspection under subclause (3) of this rule, for a period of not less than 2 years following the day of the latest entry in the register.

3**Rental service rules****1 Register of vehicles and hirers**

- (1) Every holder of a rental service licence shall keep a register and ensure that there is entered in the register, in respect of every hire, the following particulars:
 - (a) The make, model, colour, and registration number of the vehicle:
 - (b) The time and date of delivery:
 - (c) The full name and address of the hirer of the vehicle:
 - (d) The full name and address of the person to whom delivery of the vehicle is given:
 - (e) Except in the case of hire to a Government department or body corporate, the full name and address of every person who is to drive the vehicle, the driver's licence of every such person, and the number of and date of expiry of every such licence.
- (2) No holder of a rental service licence shall hire any rental vehicle to any person other than a department of State or body corporate unless the holder or a person acting on the holder's behalf has first inspected the driver's licence of every person who is to drive the vehicle, and checked that the particulars required to be entered in the register under subclause 1(e) of this rule are correct.
- (3) If delivery of a motor vehicle is given elsewhere than at the licence holder's place of business, it shall be sufficient compliance with this clause if the foregoing particulars and signature are taken on a detached paper and affixed in the register at some time on the same or next following day.

3—*continued*

- (4) The holder of a rental service licence shall, whenever reasonably requested to do so by the Director, produce for inspection by any enforcement officer the register relating to hire transactions for a period of 3 years preceding the date of that request.

2 Agreement for hire of rental vehicle

- (1) The holder of a rental service licence and the hirer of any rental vehicle operated under that licence shall enter into an agreement for the hire of the vehicle which shall be in the terms set out in the Annex to these rules.
- (2) No holder of a rental service licence shall offer any agreement for the hire of any vehicle operated by the holder that is not in the terms set out in the Annex to these rules.
- (3) The holder of the rental service licence shall ensure that the hirer is given at least one copy of the agreement.
- (4) Where a copy or copies of the agreement has or have been given to the hirer, the hirer shall ensure that a copy of the agreement is kept in the vehicle throughout the term of the hire and produced on demand to an enforcement officer.

3 Insurance of hired vehicle

- (1) The holder of a rental service licence shall ensure that, before entering into an agreement for hire of any rental vehicle, the prospective hirer is informed of the effect of clauses 10 and 11 of the agreement and is offered insurance to a standard not less than that specified in clause 10 of the agreement.
- (2) Where the hirer has the insurance cover provided in clause 10 of the agreement and has not signed the acknowledgment in that clause of his or her liability for a specified amount of any damage or loss to which the insurance cover relates, the hirer shall not be liable for that amount of any such damage or loss.
- (3) Where the hirer has not signed the acknowledgment of liability set out in clause 11 of the agreement, the hirer shall not be liable to the owner for any damage to the vehicle or consequential loss of revenue or other expenses other than damage

3—continued

or loss caused in circumstances in which, if the offer of insurance had been made and accepted without provision for the hirer to be liable for a stated amount of damage or loss, the hirer would nevertheless have been liable for that damage or loss.

4 Special provision for hire of motor vehicle for driving lessons or tests

Notwithstanding anything to the contrary in these rules any person may, with the general or specific consent of the holder of the rental service licence, drive a rental vehicle for the purpose of learning to drive the vehicle or undergoing a test for a driver's licence so long as, while the person who does not hold a licence to drive the vehicle is driving the vehicle, that person is at all times accompanied by a person who is the holder of a driver's licence authorising that person to drive that vehicle.

Annex

Agreement to hire rental vehicle

An agreement made the..... day of..... 19..... between [Full name] of [Address] (hereinafter called the owner) of the one part, and [Full name] of [Address] (hereinafter called the hirer) of the other part. It is hereby agreed as follows:

VEHICLE DESCRIPTION

- 1 The owner will let and the hirer will take on hire the following motor vehicle, that is to say a [Description].
Registered No (hereinafter referred to as the vehicle).

DURATION OF HIRE

- 2 The term of hire shall commence at..... am/pm
on / / and shall cease at am/pm
on / / .

PERSONS WHO MAY DRIVE VEHICLE

[Delete this clause where the hirer is a body corporate or a department of State.]

- 3 The vehicle may be driven during the period of hire only by the persons named in this clause, and only if they hold a current driver's licence appropriate for the vehicle at the time when they are driving the vehicle.

Driver's Full Name (Including Hirer if Hirer is Driving)	Private Address	Driver's Licence Expiry Date	Signature of Licence Holder
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ONLY DRIVERS LISTED HERE MAY DRIVE THE VEHICLE

PAYMENTS BY HIRER

- 4 The hirer shall pay to the owner as payment for the hire of the vehicle for the period specified in clause 2 of this agreement the sum of \$.....
- 5 In addition to the payment specified in clause 4 of this agreement, the hirer shall pay to the owner the sum of \$ for the insurance cover set out in clause 10 of this agreement. *[Delete if cover rejected or offered free of charge.]*
- 6 In addition to the payment specified in clause 4 of this agreement, the hirer shall pay to the owner on termination of the hiring a distance charge at the rate of cents per kilometre for every kilometre run in excess of kilometres. *[Delete if not applicable.]*
The total distance that the hirer may run the vehicle during the period of the hire shall not exceed..... kilometres *[Delete if not applicable].*
- 7 The hirer shall pay for all petrol or other fuel (but not oil) used in the vehicle during the period of hire.

HIRER'S OBLIGATIONS

- 8 The hirer shall ensure that—
- (a) The water in the radiator and battery of the vehicle is maintained at the proper level:

- (b) The oil in the vehicle is maintained at the proper level:
 - (c) The tyres are maintained at their proper pressure.
- 9 The hirer shall ensure that all reasonable care is taken in handling and parking the vehicle and that it is left securely locked when not in use.

INSURANCE

[Clause 10 should be deleted if the hirer chooses to refuse the insurance and signs both the acceptances in clause 11.]

- 10 Subject to the exclusions set out below, the hirer, and any driver authorised to drive the vehicle, is fully indemnified in respect of any liability he or she might have to the owner in respect of the loss of or damage to the vehicle and its accessories and spare parts and any consequential loss of revenue or other expenses of the owner, including towing and salvage costs associated with the recovery of the vehicle and its accessories and spare parts.

Subject to the exclusions set out below, the hirer, and any driver authorised to drive the vehicle, is indemnified to the extent of \$ *[insert sum or specify “without limit”]* in respect of any liability he or she might have for damage to any property (including injury to any animal) belonging to any other person and arising out of the use of the vehicle.

Annex, Clause 10 was amended, as from 1 April 1993, by section 29(7)(a) and (b) Transport Services Licensing Amendment Act (No 3) 1992 (1992 No 109) by substituting the expression “\$ *[insert sum or ...]*” for the expression “\$250,000 *[or substitute greater sum or specify ‘without limit’]*”, and omitting the expression “not exceeding \$750”.

EXCLUSIONS

[Any of the following exclusions may be omitted.]

The indemnities referred to above shall not apply where the damage, injury, or loss arises when—

- (a) The driver of the vehicle is under the influence of alcohol or any drug that affects his or her ability to drive the vehicle:
- (b) The vehicle is in an unsafe or unroadworthy condition that arose during the course of the hire and that caused or contributed to the damage or loss, and the hirer or driver was aware

or ought to have been aware of the unsafe or unroadworthy condition of the vehicle:

- (c) The vehicle is operated in any race, speed test, rally, or contest:
- (d) The hirer is not a body corporate or department of State and the vehicle is driven by any person not named in clause 3 of this agreement:
- (e) The vehicle is driven by any person who at the time when he or she drives the vehicle is disqualified from holding or has never held a driver's licence appropriate for that vehicle:
- (f) The vehicle is wilfully or recklessly damaged by the hirer or any other person named in clause 3 of this agreement or driving the vehicle under the authority of the hirer, or is lost as a result of the wilful or reckless behaviour of the hirer or any such person:
- (g) The vehicle is operated on any of the following roads:
[Specify roads where the vehicle may not be operated.]
- (h) The vehicle is operated outside the term of the hire or any agreed extension of that term.

It is agreed between the owner and the hirer that section 11 of the Insurance Law Reform Act 1977 shall apply with respect to the above exclusions as if this clause constituted a contract of insurance.

The general effect of this provision is that an exclusion will not apply if the hirer proves on the balance of probability that the damage or loss was not caused or contributed to by the matters to which the exclusion refers.

The hirer acknowledges that he or she is aware of the above exclusions.

..... [Signature of hirer.]

YOU SHOULD NOT SIGN THIS UNLESS YOU ARE SURE YOU UNDERSTAND ITS EFFECT.

HIRER'S LIABILITY

[Delete if no excess applies]

The hirer acknowledges that he or she shall be liable in respect of the first \$ [*Insert amount*] of the damage or loss referred to in the insurance cover specified in this clause.

This does not apply to damage or loss resulting from fire or from the theft or conversion or attempted theft or conversion of the vehicle.

..... [*Signature of hirer.*]

YOU SHOULD NOT SIGN THIS UNLESS YOU ARE SURE YOU UNDERSTAND ITS EFFECT.

REJECTION OF INSURANCE

[*Clause 11 should be deleted if the hirer chooses to accept the insurance cover in clause 10.*]

- 11 The hirer accepts that the vehicle is hired to the hirer at the hirer's own risk in respect of loss of or damage to the vehicle and consequential loss by the owner. The hirer accepts that he or she may be liable to the owner for any loss of or damage to the vehicle and consequential loss.

..... [*Signature of hirer.*]

YOU SHOULD NOT SIGN THIS UNLESS YOU ARE SURE YOU UNDERSTAND ITS EFFECT.

The hirer accepts that he or she has no insurance cover under this agreement in respect of any damage, injury, or loss caused to any person or property.

..... [*Signature of hirer.*]

YOU SHOULD NOT SIGN THIS UNLESS YOU ARE SURE YOU UNDERSTAND ITS EFFECT.

OWNER'S OBLIGATIONS

- 12 The owner shall supply the vehicle in a safe and roadworthy condition.
- 13 The owner shall be responsible for all ordinary and extraordinary costs of running the vehicle during the term of hire except

to the extent that by the terms of this agreement those costs are payable by the hirer.

NOTE: By virtue of clause 7 of this agreement, the cost of petrol and other fuel, but not oil, used during the term of hire is the responsibility of the hirer.

MECHANICAL REPAIRS AND ACCIDENTS

- 14 If the vehicle is damaged or requires repair or salvage, whether because of an accident or breakdown, the hirer shall advise the owner of the full circumstances by telephone as soon as practicable.
- 15 The hirer shall not arrange or undertake any repairs or salvage without the authority of the owner except to the extent that the repairs or salvage are necessary to prevent further damage to the vehicle or to other property.
- 16 The hirer shall ensure that no person shall interfere with the distance recorder or speedometer, or, except in an emergency, any part of the engine, transmission, braking, or suspension systems of the vehicle.

USE OF THE VEHICLE

- 17 The hirer shall not use or permit the vehicle to be used for the carriage of passengers for hire or reward unless the vehicle is hired with the knowledge of the owner for use in a passenger service licensed under Part I of the Transport Services Licensing Act 1989.
- 18 The hirer shall not—
 - (a) Sublet or hire the vehicle to any other person:
 - (b) Permit the vehicle to be operated outside his or her authority:
 - (c) Operate the vehicle, or permit it to be operated, in circumstances that constitute an offence by the driver against any of sections 56, 57, and 58 of the Land Transport Act 1998:
 - (d) Operate the vehicle or permit it to be operated in any race, speed test, rally, or contest:
 - (e)
 - (f) Operate the vehicle or permit it to be operated in breach of the Transport Act 1962, the Land Transport Act 1998,

the Traffic Regulations 1976, or any other Act, regulations, rules, or bylaws relating to road traffic:

- (g) Operate the vehicle or permit it to be operated for the transport of more than the number of passengers or more than the weight of goods specified in the certificate of loading for the vehicle:
- (h) Drive or permit the vehicle to be driven by any person if at the time of driving the vehicle the hirer or other person is not the holder of a current driver's licence appropriate for the vehicle.

Paragraph (c) was substituted, as from 1 March 1999, by section 215(1) Land Transport Act 1998 (1998 No 110).

Paragraph (e) was repealed, as from 1 April 1993, by section 29(8) Transport Services Licensing Amendment Act (No 3) 1992 (1992 No 109).

Paragraph (f) was amended, as from 1 March 1999, by section 215(1) Land Transport Act 1998 (1998 No 110) by inserting the words "the Land Transport Act 1998," and the word "rules,".

RETURN OF VEHICLE

- 19 The hirer shall, at or before the expiry of the term of hire, deliver the vehicle to [*Insert address to which vehicle to be delivered*], or obtain the owner's consent to the continuation of hire.

IMMEDIATE RETURN OF VEHICLE WHERE DEFAULT OR DAMAGE

- 20 The owner shall have the right to terminate the hiring and take immediate possession of the vehicle if the hirer fails to comply with any of the terms of this agreement, or if the vehicle is damaged. The termination of the hiring under the authority of this clause shall be without prejudice to the other rights of the owner and the rights of the hirer under this agreement or otherwise.

[Signature] Hirer

[Signature] Owner.

[Time and date of signatures]

NOTE TO HIRER

THE OWNER MUST GIVE YOU AT LEAST ONE COPY OF THE AGREEMENT. A COPY MUST BE KEPT IN THE VEHICLE THROUGHOUT THE TERM OF THE HIRE AND PRODUCED ON DEMAND BY ANY POLICE OFFICER, TRAFFIC OFFICER, OR OTHER AUTHORISED EMPLOYEE OF THE AUTHORITY.

The Note at the end of the Annex to Part 3 was amended, as from 20 August 1993, by section 35 Land Transport Act 1993 (1993 No 88) by substituting the word “Authority” for the words “Ministry of Transport”.

Schedule 4

Section 58

Transitional Licensing Authority

Schedule 4 was amended, as from 20 August 1993, by section 35(1) Land Transport Act 1993 (1993 No 88) by substituting the word “Director” for the words “Secretary” and “Secretary for Transport”, wherever either term occurred. For consistency the word “Secretary’s” has been amended to read “Director’s”.

Transitional Licensing Authority

1

In this Schedule,—

Licensing Authority means the Transitional Licensing Authority appointed under section 58 of this Act

Secretary means the Secretary for Transport.

2

The publication in the *Gazette* of a notice of the appointment of the Licensing Authority shall be conclusive evidence that the appointment has been duly made.

3

The Minister may at any time remove the Licensing Authority from office for disability, neglect of duty, or misconduct.

4

The Licensing Authority may at any time resign the office by writing addressed to the Minister.

5

If the Licensing Authority dies, resigns, becomes disqualified, or is removed from office, the office shall become vacant, and shall be filled in the manner in which the appointment to the vacant office was originally made.

6

If the Minister is satisfied that the Licensing Authority is incapacitated by illness, absence, or other sufficient cause from performing the duties of the office, the Minister may appoint any qualified person to be a deputy to act during the incapacity; and any deputy so appointed shall, while acting as such, be deemed to be the Licensing Authority.

7

There shall be paid to the Licensing Authority remuneration by way of fees, salary, or allowances, and travelling allowances and expenses, in accordance with the Fees and Travelling Allowances Act 1951; and the provisions of that Act shall apply accordingly as if the Authority were a **statutory Board** within the meaning of that Act.

8

The Licensing Authority shall cause to be entered in a minute book a record of all decisions made by the Licensing Authority under this Act. Every such entry shall include a statement of the reasons for the decision to which it relates.

9

A copy of any entry in the minute book certified by the Licensing Authority to be correct shall, until the contrary is proved, be sufficient evidence in any proceedings of the decision to which it relates.

10

Any person may, on payment of such fee as may be prescribed, obtain a certified copy of any entry in the minute book.

11

For the purposes of exercising its functions and duties the Licensing Authority shall have the same powers as are conferred on Commissions of Inquiry by section 4 and sections 4B to 9 of the Commissions of Inquiry Act 1908.

12

Section 4 and sections 4B to 9 of the Commissions of Inquiry Act 1908 shall apply to all persons involved in any capacity in any hearing conducted by the Licensing Authority as if it were an inquiry conducted by a Commission under that Act.

13

The Licensing Authority shall have, in relation to any determination on the papers and any hearing, and any decision on any such matter, the same immunities and privileges as are possessed by a District Court Judge in the exercise of the Judge's civil jurisdiction.

14

The Licensing Authority may from time to time publish, in such manner as it thinks fit, such practice directions, not inconsistent with the provisions of this Act and any regulations made under this Act, as it considers will assist in regulating the procedure and carrying out the functions of the Licensing Authority.

15

Subject to this Act, any regulations made under this Act, and any practice directions made under clause 14 of this Schedule, the Licensing Authority may regulate its own procedure.

16

Except as provided in clause 17 of this Schedule, the proceedings of the Licensing Authority on any hearing shall be conducted in public.

17

In determining any matter before it, the Licensing Authority may, if it considers, on stated grounds, that it is in the interests of the parties or of any of them and is not contrary to the interests of other parties concerned or the public interest, order that the hearing, or any part of it, shall be held in private, and may, where the parties so agree, determine any matter on the papers.

18

The Licensing Authority may make an order prohibiting the publication of any report or description of the proceedings or

of any part of the proceedings in any hearing before it (whether heard in public or in private); but no such order shall prohibit the publication of—

- (a) The names and descriptions of the parties to the hearing;
or
- (b) Any decision of the Licensing Authority.

Application for licence

19

Every application for a licence to carry on a scheduled service over a specified route or between or through specified localities shall be made to the Director and be accompanied by the prescribed fee (if any).

20

The Director shall transmit the application to the Licensing Authority, but may in any case before doing so require the applicant to furnish such further information or particulars as may, in the Director's opinion, be necessary to enable the Licensing Authority to come to a proper decision.

21

The Director may, within 14 days after the Director has transmitted the application to the Licensing Authority or such greater period as the Licensing Authority may allow at the request of the Director, supply the Licensing Authority with such relevant information as the Director possesses (whether obtained from the applicant or not), and with such submissions, as the Director considers will assist the Licensing Authority in considering and determining the application.

22

The Licensing Authority shall forward to the applicant a copy of all such information and of those submissions as soon as practicable after it has received them.

23

Within 7 days after receiving such information and submissions or within such longer period as the Licensing Authority may allow at the request of the applicant, the applicant may supply the Licensing Authority with such additional written information and submissions as the applicant thinks fit.

24

The Licensing Authority shall, as soon as practicable, having regard to the rights of the Director and the applicant under clauses 21 to 23 of this Schedule, give not less than 14 days' notice specifying—

- (a) The name of the applicant and the nature of the proposed service; and
- (b) The time and place at which the Licensing Authority proposes to hold a hearing to receive evidence and representations in favour of or against the granting of the application by persons who, in the opinion of the Licensing Authority, are directly interested in or affected by the application.

25

The notice required to be given under clause 24 of this Schedule shall be given—

- (a) In such newspapers as the Licensing Authority considers appropriate; and
- (b) To the applicant and the Director.

26

The applicant, the Director, and any person whom the Licensing Authority considers is directly interested in or affected by the application shall be entitled to be parties to any such hearing.

27

The Licensing Authority shall grant a licence to the applicant unless it is satisfied that—

- (a) Existing services on that route or between or through those localities are adequate to meet the reasonable public demand; and
- (b) The grant of the application would affect materially the economic stability of the holder of any passenger service licence authorised to carry on a service on that route or part of that route or between or through some or all of those localities, and who is carrying on a service in a manner that is at least as efficient as that proposed by the applicant.

28

Every decision of the Licensing Authority under this section shall be in writing and, if an application is not granted or is granted in terms not applied for by the applicant, the reasons for that decision shall be included in it.

29

In granting any licence to carry on a scheduled service over a specified route or between or through specified localities, the Licensing Authority shall include as conditions of the licence—

- (a) The route or routes or localities to be served; and
- (b) The timetables and frequency of service to be observed, either specifically or sufficiently to show the nature of the service authorised; and
- (c) Conditions as to the places at which passengers may be picked up or set down and the localities to which or from which passengers may be carried.

30

The conditions imposed under clause 29 of this Schedule shall be similar in effect to those specified in the application for the licence or as sought by the applicant at the hearing, unless the Licensing Authority considers, for reasons specified in its decision, that those conditions are not appropriate and that those it has included should be substituted.

31

The holder of a licence to carry on a scheduled service over a specified route or between or through specified localities may at any time apply to the Licensing Authority for a variation of the conditions of the licence. The provisions of this Schedule shall, with the necessary modifications, apply to any such application as if it were an application for a licence; except that, if the Licensing Authority is satisfied that the variation does not constitute a significant variation to the overall level of services, the Licensing Authority may determine to deal with the matter on the papers, in which case clauses 24 to 26 of this Schedule shall not apply.

Proceedings to lapse on 30 June 1991

32

All proceedings that are before the Licensing Authority at the close of the 30th day of June 1991 shall lapse.