

2 GEO. VI. No. 15, 1938. *State Transport Act.*

TRANSPORT.

An Act to Provide for the Better Co-ordination and Utilisation of Transport Facilities within the State, and for other purposes.

2 GEO. VI.
No. 15.
THE STATE
TRANSPORT
ACT OF 1938.

[ASSENTED TO 24TH NOVEMBER, 1938.]

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows :—

*1. (1.) This Act may be cited as "*The State Transport Act of 1938*," and shall, subject as hereinafter provided, come into operation on a date to be proclaimed by the Governor in Council by Proclamation published in the *Gazette*, which date is hereinafter referred to as the commencement of this Act.

Short title
and
commence
ment of
Act.

(2.) This Act shall be read and construed so as not to exceed the legislative power of the State to the intent that where any enactment thereof would but for this subsection have been construed as being in excess of that power it shall nevertheless be a valid enactment to the extent to which it is not in excess of that power.

Construction
of Act.

Repeals and Savings.

2. Subject to the provisions hereinafter in this section contained, the Acts mentioned in Part I. of Schedule I. to this Act are repealed (such Acts being hereinafter in this section referred to as the repealed Acts), the Acts mentioned in Part II. of the said Schedule are amended to the extent therein respectively provided ; and the provisions contained in Part III. to the said Schedule shall apply and extend to the Acts therein mentioned :

Repeal of
the Act
23 Geo. V.
No. 24.
Schedule I.

Provided that, but without limiting the operation of † "*The Acts Shortening Acts*"—

(i.) All Proclamations, Orders in Council, regulations, notifications, registrations, permits, prohibitions, orders, licenses, and

Proclama-
tion, &c.,
under
repealed
Acts.

* Act proclaimed in force on and from 2nd January, 1939. (Proclamation dated 15th December, 1938, and published in *Gazette* of 17th December, 1938, page 2622).

† 31 Vic. No. 6 and amending Acts, *supra*, pages 15 *et seq.*

approvals made, issued, or given under the repealed Acts, or any of them, and in force at the coming into operation of this Act shall, subject as hereinafter provided, continue in force until the same or any of them are repealed, amended, revoked, or cancelled under this Act :

Provided that every such Proclamation, Order in Council, regulation, notification, registration, permit, prohibition, order, license, or approval shall be read and construed subject to this Act ;

Proceedings,
&c.

(ii.) All proceedings and things commenced, or had, or done by the Governor in Council, or by the Minister, or by the State Transport Board, or by the Registrar of Vehicles, or by any other body or person under or in pursuance of the said repealed Acts, or any of them, may be continued and completed and shall be and continue to be of the same force and effect to all intents and purposes as if no such repeal had taken place ;

Moneys, &c.,
due.

(iii.) All moneys which having accrued due under the repealed Acts, or any of them, are at the commencement of this Act due or payable to or recoverable by the Crown, or the Minister, or the State Transport Board, or any other body or person shall be and continue to be so due, payable, and recoverable, and may be paid and received and recovered by the corresponding body or person established or appointed under this Act ; and, moreover, any moneys standing to the credit of any Fund established under the repealed Acts, or any of them, shall be transferred to the Fund established under this Act ;

Penalties.

(iv.) All penalties and forfeitures imposed under the said repealed Acts, or any of them, and incurred at the commencement of this Act shall and may be enforced as if this Act had not come into operation :

Actions, &c.

(v.) All actions and proceedings of whatever nature commenced or pending at the commencement of this Act under the repealed Acts, or any of them, may be carried on and

1938.

State Transport Act.

prosecuted as if this Act had not come into operation, and no such action or proceeding shall abate or be discontinued or prejudicially affected by anything in this Act contained ;

- (vi.) The State Transport Board constituted under the repealed Act shall be dissolved and the members thereof shall go out of office as and from the commencement of this Act ; Dissolution of Board.
- (vii.) When in any Act reference is made to any provision of the repealed Acts, or any of them, or of any Act thereby repealed, it shall be taken, unless the context otherwise indicates or requires, that such reference is to the corresponding provision of this Act, and such enactment shall be read and construed accordingly, and where any other Act makes any provision with respect to any fund established under the repealed Acts, or any of them, such provision shall be deemed to be made with respect to and shall apply to the corresponding fund established under this Act. Reference to repealed Acts.

Interpretation.

3. In this Act, unless the context otherwise indicates or requires, the following terms have the meanings respectively assigned to them, that is to say :— Interpretation.

“ Commission ”—The State Transport Commission appointed under this Act ; Commission.

“ Minister ”—The Minister for Transport or other Minister for the time being charged with the administration of this Act ; Minister.

“ Motor vehicle ”—A vehicle propelled by gas, motor spirit, oil, electricity, steam, or any other motive power, and used or intended to be used on any public highway : the term includes motor bicycle and motor cycle, but does not include a railway or tramway locomotive, tram motor, tram car, fire engine, fire reel, or traction engine used for road rolling or grading ; Motor vehicle.

Owner.	“ Owner ”—The term and its derivatives include every person who is the owner, joint owner, or part owner of the vehicle, and any person who has the use of the same under a hiring agreement or hire-purchase agreement ;
Passenger.	“ Passenger ” does not include the driver or conductor ;
Prescribed.	“ Prescribed ”—Prescribed by this Act ;
Registrar of Vehicles.	“ Registrar of Vehicles ” or “ Registrar ”—The officer appointed under this Act to be the Registrar of Vehicles, or any person duly acting as such : Provided that from and after the commencement of this Act any reference in any Act, regulation, or law to the Registrar of Heavy Vehicles or the Registrar of Motor Vehicles shall be and be deemed to be and shall be construed as a reference to the Registrar of Vehicles ;
Regulations.	“ Regulations ”—Regulations made under the authority of this Act ;
Tare.	“ Tare ”—The weight of the vehicle fully equipped for travelling but not including any load ;
This Act.	“ This Act ”—This Act and all Proclamations, Orders in Council, regulations, directions, determinations, notifications, and licenses thereunder ;
Tractor.	“ Tractor ”—A power-driven vehicle used or intended to be used for hauling trailing vehicles (including a trailing vehicle partially superimposed thereon), but not built or equipped to carry passengers or goods (other than fuel or water for its own consumption) ;
Traffic area.	“ Traffic area ”—A traffic area declared in pursuance of this Act ;
Traffic route.	“ Traffic route ”—A traffic route declared in pursuance of this Act ;
Vehicle.	“ Vehicle ” shall include any vehicle whatsoever propelled or drawn by mechanical means used or let or intended to be used or let for the conveyance of passengers or of goods, or of

1938.

State Transport Act.

both: the term also includes any animal-drawn vehicle the tare of which exceeds twenty-five hundredweight, and also any trailer, but does not include a traction engine or tractor, or tram or train:

Provided that any one or more of these definitions may from time to time be modified by Order in Council.

Minister for Transport.

4. Notwithstanding anything in this Act or in any other Act contained, the Minister of the Crown holding office on the passing of this Act as Minister for Transport shall be the Minister for Transport, and any reference in any Act or law to the Secretary for Railways shall be and be deemed to be construed as if for the words the "Secretary for Railways" the words the "Minister for Transport" were substituted.

Application of Act.

5. (1). Unless otherwise exempted this Act shall apply to all vehicles used for the carriage of goods upon any traffic route or for the carriage of persons upon any traffic route or within any traffic area, and in addition this Act shall apply to such other vehicles as the Commission may from time to time determine.

(2.) Subject to the Commission otherwise determining, either generally or in any particular case, when a vehicle is used in full compliance with a condition set forth in Schedule II. to this Act, such vehicle shall, according as the condition concerned so prescribes, be exempted either wholly or in part from this Act:

Provided that this Schedule or any part thereof may from time to time be modified by Order in Council.

Licensing of Vehicles.

6. (1.) The owner of every vehicle to which this Act applies shall, before he commences to use the same, make application in the prescribed form to the prescribed officer for the licensing of such vehicle, and shall if such license is granted pay the fees prescribed.

It shall be the duty of every applicant for a license to supply to such officer all such information respecting the vehicle for the licensing of which application is made as may be prescribed or as he may require.

(2.) No vehicle shall be licensed which does not comply with the conditions prescribed, including among other things the conditions designed to secure the safety of the public and their goods.

(3.) No vehicle carrying passengers to which this Act applies shall be licensed under this Act unless or until the prescribed insurance policy has been produced to such officer.

(4.) Upon the licensing of every vehicle the owner thereof shall be entitled to receive a license in the form prescribed.

(5.) Upon the licensing of a vehicle under this Act the owner thereof shall be under no liability to register the same with or to pay any fees in respect of the same to any Local Authority under any provisions of **"The Local Government Act of 1936,"* or any by-law thereunder, or, in the case of the Brisbane City Council, under the provisions of †*"The City of Brisbane Acts, 1924 to 1937,"* or any ordinance thereunder, but he shall not be exempt from any liability to comply with any of the provisions of ‡*"The Traffic Acts, 1905 to 1933,"* in force within a traffic district, or any by-laws or regulations thereunder, or any of the provisions of §*"The Main Roads Acts, 1920 to 1934,"* or any regulations thereunder, or any of the provisions of ¶*"The Motor Vehicles Insurance Act of 1936,"* or any regulations thereunder.

Insurance of
heavy
vehicle
carrying
passengers.

7. The owner of every vehicle to which this Act applies carrying passengers shall indemnify himself, and shall during the currency of the license in respect of such vehicle keep himself at all times indemnified by a contract of insurance, either with the Insurance Commissioner or with some insurer licensed under ¶*"The Insurance Acts, 1916 to 1934,"* to carry on general insurance business in Queensland, against all sums for which he may become legally liable by way of damages in respect of such vehicle for accidental bodily injury (fatal or non-fatal) to any passenger.

* 1 Geo. VI. No. 1, *supra*, page 16035.

† 15 Geo. V. No. 32 and amending Acts, *supra*, pages 11140 *et seq.*

‡ 5 Edw. VII. No. 18 and amending Acts, *supra*, pages 3487 *et seq.*

§ 10 Geo. V. No. 26 and amending Acts, *supra*, pages 9265 *et seq.*

¶ 1 Edw. VIII. No. 31, *supra*, page 16351.

¶ 7 Geo. V. No. 27 and amending Acts, *supra*, pages 7497 *et seq.*

1938.

State Transport Act.

Every owner shall be deemed to comply with this section if the minimum amount of such insurance is fifty pounds for each passenger up to the prescribed number.

8. No vehicle to which this Act applies shall be used for the conveyance of passengers or goods, or both, on any traffic route or in any traffic area, as the case may be, unless and until this Act has been fully complied with in respect of such vehicle.

Act to be complied with in respect of vehicle.

The State Transport Commission.

9. (1.) For the purposes of this Act there shall be constituted a Commission to be called "The State Transport Commission" (hereinafter referred to as "the Commission").

Constitution of Commission.

(2.) The Commission shall consist of three members each of whom shall be appointed by the Governor in Council.

Membership of Commission.

(3.) The Governor in Council shall appoint one of such members to be the chairman of the Commission.

Chairman.

(4.) Subject to this Act, every member shall hold office during good behaviour for the term for which he is appointed or reappointed, but no such appointment or reappointment shall be for a term exceeding three years.

Tenure of office of member.

(5.) The Governor in Council shall fix the salary and allowances of the chairman and other members of the Commission.

Salary, &c., of member.

(6.) The person presiding at any meeting of the Commission (and whether the chairman or his deputy) shall have a casting as well as a deliberative vote.

Casting vote.

10. (1.) The Commission shall be a body corporate under the name and style of "The State Transport Commission," and by that name shall have perpetual succession and an official seal, and shall be capable in law of suing and being sued in its corporate name, and of acquiring, holding, and disposing of property.

Commission to be body corporate.

(2.) All courts, judges, justices, and persons acting judicially shall take judicial notice of the seal of the Commission affixed to any document or notice, and shall presume that it was duly affixed.

Decision of
Commission to be
confirmed by
Minister.

(3.) Every decision of the Commission shall be submitted to the Minister for his confirmation within twenty-eight days after such decision has been placed on record under the hand of the secretary to the Commission.

(4.) Subject to the direction of the Governor in Council with respect to decisions on matters of routine (which the Governor in Council is hereby empowered to so direct) no decision of the Commission shall have any effect unless or until it has been confirmed by the Minister.

Executive
officer.

11. The Governor in Council may appoint an executive officer of the Commission, who shall be either a member or an officer thereof.

Every appointment, and every order, notice, certificate, or other document of the Commission relating to the execution of this Act shall be sufficiently authenticated if signed by the chairman or any two members of the Commission or, where prescribed, by the executive officer.

Commission
to be a
commission
under "*The
Official
Inquiries
Evidence
Acts, 1910
to 1929.*"

12. The Commission, or any member or members of the Commission delegated by it, shall for all purposes of this Act be and be deemed to be and to have all the powers, authorities, jurisdiction, and protection of a commission within the meaning of *"*The Official Inquiries Evidence Acts, 1910 to 1929.*"

Appoint-
ment of
officers.

13. The Governor in Council may appoint such officers, including the Registrar of Vehicles, as the Commission thinks necessary for the purposes of this Act, and such officers shall be paid such remuneration as the Governor in Council directs.

General
duties and
powers of
Commission.

14. (1.) It shall be the duty of the Commission to ensure that the reasonable requirements of the public for the conveyance of passengers and goods shall at all times be adequately met.

(2.) With a view to securing as great a degree of co-ordination as possible among the various forms of transport for the conveyance of goods and passengers, and to avoiding unnecessary overlapping of and uneconomic competition between the various forms of

* 1 Geo. V. No. 26 and amending Act, *supra*, pages 748 *et seq.*

1938.

State Transport Act.

such transport, the Commission as occasion requires shall investigate and report on the adequacy or safety of transport facilities, either generally or in any particular locality and make proper recommendations to the Minister, and shall review and report upon any proposed extension or curtailment of any railway, tramway, omnibus, water, or air transport service.

The Commission shall, among other factors, have regard to all of the following, namely :—

- (a) Transport generally in the light of service to the community ;
- (b) The needs of the State for economic development ;
- (c) The impartial and equitable treatment of all conflicting interests.

(3.) The Commission shall also have power to recommend to the Minister the appointment of an expert body or expert bodies—

- (a) To examine the position of branch railway lines that are earning less than working expenses ;
- (b) To review the methods of apportioning revenue and allocating expenditure to various sections of the railway system, and to consider representations of parties directly affected ;
- (c) To suggest improvements to services for the transport of passengers or goods or both, including such matters as the electrification of suburban railway lines, the use of containers, and improvements in railway rolling stock and time tables ;
- (d) To review railway freights and fares.

(4.) The Commission shall also have power with the approval of the Minister to require the Commissioner of Main Roads and the Commissioner of Police to report on any matters relating to road transport, and shall have also power to investigate and report upon any other aspects of transport.

(5.) The Commissioner for Railways in his annual report shall deal fully with each section of railway for which the revenue does not exceed working expenses, and shall justify its closure or retention. The Commissioner for Railways shall also include in his report the recommendation of the Commission which the Commission shall make at his request.

(6.) The Commission may either generally or in any particular case require the Commissioner for Railways to call, and thereupon the Commissioner for Railways shall call, public tenders for co-ordinated services having regard to the special claims of persons already operating co-ordinated services on particular routes.

(7.) (i.) It shall also be the duty of the Commission to recommend provision for air services for the community in cases of emergency.

(ii.) It shall also be the duty of the Commission within the limits of its authority to ensure that air travellers are protected as far as possible against unnecessary risk. Such duties imposed as to air services shall be exercised as prescribed.

Traffic Areas and Traffic Routes.

Traffic
areas and
traffic routes.

15. (1.) Notwithstanding anything contained in any other Act or law to the contrary, the Commission, with the approval of the Minister, may from time to time by notification in the *Gazette*, declare traffic routes between any places whatsoever or traffic areas under and for the purposes of this Act, and may by like notification abolish or vary any traffic route or traffic area.

When a traffic route has been declared between any places then, unless otherwise provided in the relevant notification, the traffic route shall be deemed to include all highways or portions thereof between the places stated in the notification.

(2.) Where communication is practicable between any places by means of water-borne traffic, the Commission, with the approval of the Minister, may from time to time by notification in the *Gazette*, declare all or any such means of communication to be a traffic route or traffic routes under and for the purposes of this Act, and may by like notification abolish or vary any such traffic route.

When a traffic route has been declared between any places under this subsection, then, unless otherwise provided in the relevant notification, such traffic route shall be deemed to include all navigable waterways, or portions thereof, between the places stated in the notification, and upon such declaration this Act shall,

1938.

State Transport Act.

subject to prescribed exemptions, apply, *mutatis mutandis*, to all vessels conveying passengers or goods, or both, over such route and for that purpose every such vessel shall be deemed to be a vehicle as defined.

Licenses.

16. (1.) It shall be the duty of the Commission to issue such and so many licenses to vehicles for the carriage of goods, or passengers, or both goods and passengers, upon any traffic route or traffic routes, or for the carriage of passengers within any traffic area as will ensure that the reasonable requirements of the public will be adequately met :

Power of
Commission
to
license
transport.

Provided that a license may limit such carriage to a part or parts of the traffic route or traffic routes concerned between terminal places to be specified therein.

(2.) (i.) When the Commission determines to issue a license under this section it may submit such license for sale by public tender.

Public
tender for
license.

The Commission shall appoint a time and place for the receipt of any such tender and shall give the prescribed notice of the same and the particulars thereof.

(ii.) Subject to this subsection, every person who tenders for a license shall be deemed to apply for same, and all of the provisions of this Act relating to applications for licenses shall, *mutatis mutandis*, apply and extend accordingly.

(iii.) Where the Commission accepts a tender for a license the amount tendered shall be the licensing fee to be paid under this Act, and all of the provisions of this Act relating to the payment of licensing fees shall, *mutatis mutandis*, apply and extend accordingly.

(iv.) The Commission may accept the tender which on a view of all the circumstances appears to it to be the most advantageous, or the Commission may decline to accept any tender : Provided always that the Commission shall keep in view the obligations of licensees under this Act with respect to their employees or otherwise so as to ensure as far as possible that no tender shall be accepted unless the Commission is satisfied that the licensee will be able to meet such obligations, and also have regard to the special claims of persons already operating services upon the traffic route or within the traffic area as the case may be.

Competition
with
Local
Authority.

(3.) Before the issue of a license to a vehicle for the carriage of passengers within any traffic area where such vehicle is likely to compete with any existing form of transport owned or operated by any Local Authority or other local self-governing body, the Commission shall consult with such Local Authority or other local self-governing body.

Conditions
of licenses.

17. Every license issued by the Commission shall be subject to such terms and conditions (which terms and conditions or any of them may vary in respect of different licenses or class of licenses) as may be prescribed, including the amount of the licensing fee to be paid, the fares and freights to be charged by the licensee, and, subject to this Act and any direction of the Industrial Court under **"The Industrial Conciliation and Arbitration Acts, 1932 to 1937,"* the hours of working of drivers whether or not employees, and the remuneration of employees.

Driving Hours and Safety Provisions.

Limits of
continuous
driving
hours.

18. (1.) Subject to subsection three of this section, it shall not be lawful for any person to drive or cause or permit any person employed by him or subject to his orders to drive any vehicle which is used for the carriage of passengers, or for the carriage of goods, or for the carriage of passengers and goods—

- (a) For any continuous period of more than five and one-half hours; or
- (b) For continuous periods amounting in the aggregate to more than eleven hours in respect of any period of twenty-four hours commencing at midnight; or
- (c) So that the driver has not at least ten consecutive hours for rest in any period of twenty-four hours calculated from the commencement of any period of driving;
- (d) So that the driver has not at least twenty-four consecutive hours for rest in any period of seven days.

For the purposes of this subsection—

- (e) Any two or more periods of time shall be deemed to be a continuous period unless separated by an interval of not less than one half-hour in which the driver is able to obtain rest and refreshment;

* 23 Geo. V. No. 36 and amending Acts, *supra*, pages 14266 *et seq.*

1938.

State Transport Act.

- (f) Any time spent by the driver on other work in connection with a vehicle or the load carried thereby, including in the case of a vehicle used for the carriage of goods, any time spent on a vehicle while on a journey in any other capacity than as a passenger shall be reckoned as time spent in driving ;
- (g) For the purposes of the provisions of this section which relate to the number of consecutive hours for rest which a driver is to have in any specified period of time, time during which the driver is bound by the terms of his employment to obey the directions of his employer or to remain on or near the vehicle, or during which the vehicle is at a place where no reasonable facilities exist for the driver to rest away from such vehicle, shall be deemed not to be time that the driver has for rest.

(2.) No person shall be liable for a breach of this section if he proves to the court that the contravention was due to unavoidable delay in the completion of any journey arising out of circumstances which he could not reasonably have foreseen.

When no liability for breach.

(3.) The Industrial Court constituted under **"The Industrial Conciliation and Arbitration Acts, 1932 to 1937,"* shall have power to direct by an award or otherwise the hours to be observed by drivers, whether or not employees, and other conditions of employment, and a failure to comply with any such direction shall be a breach of **"The Industrial Conciliation and Arbitration Acts, 1932 to 1937,"* and punishable accordingly.

Powers of the Industrial Court.

19. (1.) Every operator of a motor vehicle, including every vehicle totally or partially exempted under Schedule II. to this Act, shall obtain a certificate of competency as an operator and pay the prescribed operator's fee before operating a motor vehicle, including a traction engine or tractor, on any public road. Such certificates shall be issued under the authority of the Commissioner of Police.

Operator of motor vehicle to obtain certificate of competency.

Powers of
Commissioner of
Police to
withdraw
certificate.

(2.) The Commissioner of Police shall withdraw or cancel such certificate if so directed by any judge of the Supreme Court or any police magistrate who is of the opinion that the person to whom the certificate aforesaid has been issued should not in the interests of the public be permitted to operate a motor vehicle. Such order may be made to cover such periods as the judge or police magistrate may direct in any case, and no fresh certificate of competency shall be issued to any person during any period for which his certificate has been so withdrawn or cancelled.

Licensing Fees.

Licensing
fees.

20. (1.) The owner of every vehicle licensed under this Act shall be liable for the due payment of the prescribed licensing fee.

(2.) Subject as hereinafter provided the Commission shall fix the licensing fee payable in respect of every licensed vehicle :

Provided that the licensing fee payable in respect of any vehicle shall be fixed with regard (among other things that may be prescribed) to the carrying capacity and construction thereof, and the extent of the use made or intended to be made of roads within or comprising traffic areas or traffic routes, with a view to obtaining from the owner of such vehicle a just contribution towards the provision of such roads.

(3.) Licensing fees shall be due and payable to the Commission in such instalments and at such times as may be prescribed :

Provided that the Commission may refund or forego the whole or any part of a licensing fee where the vehicle has not been operated in the manner or to the extent contemplated when the license was issued.

(4.) The amount of any such licensing fee or any instalment thereof not duly paid may be recovered by the Commission as a debt by action in its own name or in the name of any person authorised by it in any court of competent jurisdiction.

When
actions not
to be
brought.

21. No action or legal proceedings whatsoever shall be brought by any person against the Commission, or any member thereof, or the Registrar of Vehicles on account of any refusal by the Commission or the Registrar of Vehicles to issue a license or renewal of a license in

1938.

State Transport Act.

respect of any vehicle under this Act, or on account of any conditions which may be imposed by the Commission or by the Registrar of Vehicles at the direction of the Commission in connection with the issue of any license or renewal of a license as aforesaid in respect of any such vehicle, or on account of the cancellation of any such license; and any court in which such proceedings may be commenced shall have no power or authority to hear or determine any such matter, and shall forthwith dismiss such proceedings.

22. Where at any time it appears to the Governor in Council that any circumstances exist or are likely to come into existence within the State or within any part of the State, whether by fire, flood, storm, tempest, act of God, or by reason of any other cause or circumstance whatsoever whereby the peace, welfare, order, good government, or the public safety of the State or any part thereof is or is likely to be imperilled, the Governor in Council may, by Proclamation published in the *Gazette* (in this section referred to as a "Proclamation of emergency") declare that a state of emergency exists in the State or within such part of the State as may be defined in such Proclamation. Every such Proclamation of emergency shall be in force for the period specified therein not exceeding three months but may by a further Proclamation or further Proclamations of emergency be extended from time to time for a further period or periods no one of which shall exceed three months. Emergency powers.

When any such Proclamation of emergency is in force in the State or in any part of the State, the Governor in Council may by Order in Council give such directions and prescribe such matters as he shall deem necessary or desirable to secure the peace, welfare, order, good government, and/or the public safety of the State or any part of the State according as a state of emergency has been declared under this Act to exist within the State or within such part thereof. And without limiting the generality of such powers the Governor in Council may make provisions for securing the essentials of life to the people generally or, in any particular case, the securing and regulating of the supply and distribution of food, water, fuel, light, and/or other necessities, the provision and maintenance of the means of transit,

transport, locomotion, and/or other services, and prescribing such other acts, matters, and things as the Governor in Council shall consider necessary or expedient to give effect to any such Order in Council.

And every such order and direction shall be obeyed and have full force and effect accordingly.

Penalties.

General
penalty.

23. (1.) Every person committing a breach of or failing to comply with any of the provisions of this Act shall, if no other penalty is specified, be liable to a penalty not exceeding one hundred pounds.

Recovery of
penalties
and fees.

(2.) All penalties incurred and fees payable under this Act may be recovered in a summary way by complaint under **"The Justices Acts, 1886 to 1932."*

Regulations and Orders in Council.

Regulations.

24. (1.) The Governor in Council may from time to time make all such regulations as he deems necessary or convenient for the purpose of carrying this Act into execution.

Schedule III.

Without limiting the generality of the foregoing provisions, regulations may be made for all or any of the purposes set forth in Schedule III. to this Act, which Schedule may from time to time be modified by Order in Council.

A regulation may impose a penalty for any breach thereof and may also impose different penalties in case of successive breaches, but no such penalty shall exceed one hundred pounds.

A regulation may also impose a daily penalty for any breach thereof—that is to say, a penalty for each day on which the offence is continued after notice has been given to the offender of the commission of the offence, or after a conviction or order by any court, as the case may be; but no such penalty shall exceed ten pounds per day.

(2.) Regulations may be made upon the passing of this Act.

Notifica-
tions.

25. (1.) Every notification made under this Act shall be published in the *Gazette* and shall be judicially noticed.

* 50 Vic. No. 17 and amending Acts, *supra*, pages 1132 *et seq.*

1938.

State Transport Act.

(2.) The Minister may by written notification amend or rescind any notification made under this Act.

(3.) No misnomer or inaccurate description or omission contained in any such notification shall in any wise prevent or abridge the operation of this Act with respect of the subject-matter of such description, provided the same is designated so as to be understood.

(4.) No notification purporting to be made under this Act and being within the powers conferred on the Minister shall be deemed to be invalid on account of non-compliance with any of the matters required by this Act as preliminary to the same.

26. All Proclamations, Orders in Council, and regulations made or purporting to have been made under this Act shall be published in the *Gazette*, and thereupon shall be of the same effect as if they were enacted in this Act and shall be judicially noticed, and shall not be questioned in any proceedings whatsoever.

Proclama-
tions, Orders
in Council,
and
regulations.

Any such Order in Council may be rescinded, modified, or amended, whether by addition or otherwise, by a subsequent Order in Council under this Act.

The publication in the *Gazette* of any such Proclamation, Order in Council, or regulation shall be conclusive evidence of the matters contained therein of the power and authority to make such Proclamation, Order in Council or regulation.

All Proclamations, Orders in Council, and regulations shall be laid before the Legislative Assembly within fourteen days after such publication if Parliament is in session; or, if not, then within fourteen days after the commencement of the next session.

If Parliament passes a resolution disallowing any such Proclamation, Order in Council, or regulation, of which resolution notice has been given at any time within fourteen sitting days of such House after such Proclamation, Order in Council, or regulation has been laid before it, such Proclamation, Order in Council, or regulation shall thereupon cease to have effect, but without prejudice to the validity of anything done in the meantime.

For the purpose of this section, the term "sitting days" shall mean days on which the House actually sits for the despatch of business.

State Transport Road Fund.

State
Transport
Road Fund.

27. (1.) There shall be created and kept at the Treasury a Fund to be called "The State Transport Road Fund."

(2.) To the credit of such Fund shall be placed—

- (a) All moneys collected as licensing fees or fees for permits under this Act ;
- (b) All moneys collected by the Registrar of Vehicles for the endorsement of the form of certificate of registration or renewal of registration that the vehicle in respect of which the certificate aforesaid has been endorsed is to be operated by the owner or his nominee only or by the owner or his nominee and other persons, as prescribed by this Act ;
- (c) All penalties recovered for breaches of this Act ;
- (d) All other moneys received or recovered by the Commission under this Act.

(3.) The moneys to the credit of the Fund shall be applied as follows:—

- (a) Towards the payment of all expenses necessarily incurred in carrying this Act into execution and in doing and performing any acts and things which the Commission is by this Act empowered or required to do ;
- (b) The money collected as licensing fees and for any penalties recovered for breaches of this Act relating to the licensing of vehicles under this Act shall be paid to the Consolidated Revenue after deducting from the balance in the Fund at the end of each financial year an amount equal to twenty-four forty-sevenths of the total amount received, for the purposes of allocation thereof to Local Authorities, and after deducting the cost of administration of this Act ;
- (c) All fees collected in respect to the endorsement of certificates as prescribed by the Act, and any fees or penalties recovered for breaches of this Act relating to the endorsement of certificates shall, after deducting the cost of collection of same, be paid to the Consolidated Revenue of the State.

1938.

State Transport Act.

(4.) At the end of each financial year of the Treasury, the amount available for allocation to Local Authorities shall be allocated and paid in such proportions as the Minister, upon the recommendation of the Commissioner of Main Roads, shall direct, to and amongst the several Local Authorities upon the roads of which heavy vehicles licensed under this Act were used during such year.

The sums so paid to a Local Authority shall be applied by it towards the construction, renewal, repair, and maintenance of the said roads of its area, and not otherwise.

The Minister may require proper accounts of such expenditure to be furnished to him.

(5.) For the purposes of this section the Commissioner of Main Roads shall be deemed to be a Local Authority and any amounts due to the Commissioner pursuant to this section shall be paid from the Fund into the Main Roads Fund as provided in **"The Main Roads Acts, 1920 to 1934."*

SCHEDULES.

SCHEDULES.

SCHEDULE I.

SCHEDULE I.

PART I.—REPEAL OF ACTS.

No.	Title.
23 Geo. V. No. 24 ..	† <i>"The State Transport Act of 1932."</i>
16 Geo. V. No. 22 ..	† <i>"The Heavy Vehicles Act of 1925."</i>
20 Geo. V. No. 13 ..	§ <i>"The Heavy Vehicles Act Amendment Act of 1929."</i>
22 Geo. V. No. 38 ..	<i>"The Heavy Vehicles Acts Amendment Act of 1931."</i>

PART II.—AMENDMENT OF OTHER ACTS.

(i.) *Amendment of the Traffic Acts.*

Subsection one of section six of ¶*"The Traffic Acts, 1905 to 1933,"* is amended by inserting therein after the words "on the recommendation of " the words "the State Transport Commission constituted under ***"The State Transport Act of 1938."* "

* 10 Geo. V. No. 26 and amending Acts, *supra*, pages 9265 *et seq.*

† *Supra*, page 14406.

‡ *Supra*, page 11499.

§ *Supra*, page 12792.

|| *Supra*, page 13954.

¶ 5 Edw. VII. No. 18 and amending Acts, *supra*, pages 3487 *et seq.*

** This Act.

(ii.) *Amendment of the Inspection of Machinery Acts.*

Section fifty-seven of **"The Inspection of Machinery Acts, 1915 to 1930,"* is amended by inserting before the third last paragraph thereof the following proviso, namely :—

" Provided that any regulations to be made under this Act relating to the inspection of motor vehicles shall be made by the Governor in Council upon the recommendation of the State Transport Commission constituted under †*"The State Transport Act of 1938."* "

PART III.—INCORPORATION OF REGULATIONS UNDER OTHER ACTS.

The Governor in Council may on the recommendation of the Commission by Order in Council incorporate in any regulations made under ‡*"The Main Roads Acts, 1920 to 1934"* (or any Act amending or in substitution for the same) such regulations made under §*"The Traffic Acts, 1905 to 1933"* (or any Act amending or in substitution for the same) as he thinks desirable, and upon the publication of any such Order in Council aforesaid in the *Gazette* all such regulations so incorporated shall be deemed to have been made under the authority of †*"The Main Roads Acts, 1920 to 1934,"* and such regulations shall thereupon apply to all State highways, main, developmental, secondary, mining access, tourist roads and tourist tracks as defined in †*"The Main Roads Acts, 1920 to 1934,"* as if such roads were situated in traffic districts as defined in §*"The Traffic Acts, 1905 to 1933."*

SCHEDULE II.

SCHEDULE II.

PART I.—VEHICLES TOTALLY EXEMPTED FROM ACT.

This Act shall not apply to—

- (a) Any vehicle owned, kept, or used by the Crown or by any corporation or person representing the Crown or by any Local Authority or other local self-governing body ; or
- (b) Any vehicle owned, kept, and used by any person solely for the carriage of fruit and vegetables of a highly perishable nature (as may be determined by the Commission from time to time by notification in the *Gazette*), milk, cream, fresh meat, fresh fish, and stone, road metal, gravel, earth, clay, or loam used for the construction or maintenance of any road in Queensland for the Crown or for any corporation representing the Crown or for any Local Authority or other local self-governing body, and any other material, commodity, or thing which the Commission by notification in the *Gazette* from time to time declares to be exempt : Provided that the carriage of any goods other than those mentioned in this clause shall not be deemed to invalidate the exemption herein granted if such other goods are carried in accordance with paragraph (iv.) of clause (c) ; or

* 6 Geo. V. No. 24 and amending Acts, *supra*, pages 6859 *et seq.*

† This Act.

‡ 10 Geo. V. No. 26 and amending Acts, *supra*, pages 9265 *et seq.*

§ 5 Edw. VII. No. 18 and amending Acts, *supra*, pages 3487 *et seq.*

1938.

State Transport Act.

SCHEDULE II.

- (c) Any vehicle while in the opinion of the Commission such vehicle—
- (i.) Is returning direct from a journey on which it was exempt from the provisions of the Act under clause (b) of this Part, and is not carrying goods for hire or reward or which are intended for sale, or passengers, or
 - (ii.) Is engaged solely in carrying passengers or goods or both not in competition with any existing facility, or
 - (iii.) Is kept, let, or used for the purpose of carrying goods which are for the use of the driver or the owner or neighbours of the owner or driver and which are not intended for sale and for the carriage of which no consideration whatsoever is given or received, or
 - (iv.) Is owned, kept, and used by any person for the carriage of goods other than those set out in clause (b) of this Part to or from the nearest railway station with suitable loading facilities or to or from the nearest point with suitable loading facilities on a Local Authority tramway, or
 - (v.) Being a motor vehicle equipped for the carriage of seven or less persons, is not used upon any traffic route or is only used casually, as may be prescribed, upon a traffic route for the carriage of persons for hire or reward or for any consideration whatsoever, or is used for family purposes only ;
- (d) Any vehicle while being used for the carriage of persons for family or charitable purposes or, with a written permit from the Commission or from any person authorised by the Commission in that behalf, for public purposes or purposes of a like nature :
- Provided that no such vehicle is in any case used for hire or reward, and that the use of any such vehicle by a sporting body shall not be deemed to be a charitable or public purpose or a purpose of a like nature : For the purposes of this paragraph the term " public purpose or purpose of a like nature " shall include such purposes as may from time to time be approved by the Commission or as may be prescribed ;
- (e) Any vehicle while being used for the carriage of persons in any district within which there is no suitable train service or the services of a licensed vehicle available :
- Provided that the owner and/or the driver satisfies the Commission or an authorised person that there is no suitable train service or the services of a licensed vehicle available ;
- (f) Any vehicle solely employed in the carriage of household furniture and utensils and which is specially equipped for that purpose to the satisfaction of the Commission ;
- (g) Any vehicle while solely employed in the carriage of young lambs or calves for distances not exceeding two hundred and fifty miles or such greater distance as the Commission may determine having regard to the prevention of bruising or losses ;

- (h) Any vehicle while solely employed in the carriage of firewood or fertilisers ;
- (i) Any vehicle owned by a baker while solely employed by him in the delivery of his bread direct to customers ;
- (j) Any vehicle while carrying pigs, calves, poultry, or lambs for a distance not exceeding twenty-five miles ;
- (k) Any vehicle while solely employed in collecting bottles ;
- (l) Any vehicle while solely employed in the delivery of newspapers when, in the opinion of the Commission, suitable train services are not available ;
- (m) Any vehicle which does not carry goods for a greater distance than fifteen miles on a traffic route :

Provided that this exemption shall not be construed so as to—

- (i.) Make this Act applicable to a vehicle solely used to carry passengers or goods or both to the nearest station or loading point upon a State railway, or
- (ii.) Exempt from this Act a vehicle carrying goods and/or passengers both within a traffic area and over a traffic route when the place of commencement of such carriage was within the traffic area and the goods and/or passengers were carried for a total distance of more than fifteen miles from such place of commencement ;
- (n) Any vehicle solely used upon the road between Brisbane and Ipswich for the carriage of bricks and pipes for distances not exceeding twenty-five miles.

PART II.—VEHICLES PARTIALLY EXEMPTED.

The licensing fee payable in respect of a vehicle—

- (a) Used for carrying pigs and calves from areas adjacent to Pacific Highway for distances exceeding twenty-five miles but not more than forty miles from Brisbane ; or
 - (b) Used by hawkers, or used by manufacturers to deliver their own manufactures direct to customers within a radius of thirty miles from their premises ; or
 - (c) Owned by an oil company, and used as a tank waggon,
- shall be fixed at a sum not greater than the amount payable in respect of the use of a vehicle for the like purpose as at the commencement of this Act.

PART III.—EXEMPTIONS FROM PAYMENT OF VEHICLE OPERATOR'S FEE.

Limbless and T.B. soldiers and drivers of ambulance vehicles shall be exempted from liability to pay vehicle operator's fee.

1938.

State Transport Act.

SCHEDULE III.

SCHEDULE III.

1. Prescribing all matters which by the Act are required or permitted to be prescribed for carrying out or giving effect to the Act.

2. Regulating the business and proceedings of the Commission ; the meetings thereof, quorum, deputies for members including the chairman, casual vacancies, and the keeping of proper minutes of the Commission : Provided that subject to such regulations, the Commission may meet at such times and conduct its business in such manner as it shall think fit.

3. The classification of vehicles to which this Act applies ; prescribing conditions (including conditions designed to secure the safety of the public and their goods), to which vehicles must conform before being licensed, including amongst any other matters deemed desirable or convenient the construction of the vehicle, its weight, its maximum load or carrying capacity, its height, its length and overhang, the description of its wheels and its motor or animal power ; prohibition of the issue of licenses to and the cancellation of the licenses of vehicles which do not conform to the prescribed conditions.

4. Prescribing operating fees payable for the licensing and renewal of the licenses of vehicles, which fees may vary according to the class of vehicle, weight of vehicle, weight of load, motor or animal power, type, size, and number of wheels, type of tyres, or according to all or any of these matters or according to any other matters deemed proper to be taken into consideration ; fixing the places and times for the licensing and renewal of licenses ; the payment of fees and procedure for the recovery thereof ; authorising the seizure and the sale of any vehicle for default in the payment of any fee or fine or otherwise in the observance of this Act, notwithstanding any change in the ownership thereof.

5. Prescribing the maximum and/or minimum fares or freights that shall or may be charged for the conveyance of passengers and/or goods in vehicles to which this Act applies.

6. Prescribing the maximum load or maximum number of passengers which may be carried on any licensed vehicle, and prescribing penalties for exceeding the prescribed load or number.

7. The appointment of persons, whether or not employees of any Department of State, to be authorised officers under and for all or any of the purposes of this Act ; defining the powers, authorities, and duties of authorised officers ; requiring owners and persons in charge of registered depôts or vehicles, whether licensed under this Act or not, to permit and aid in the inspection of such registered depôts and/or any goods therein or thereat or in the inspection and weighing of such vehicles and/or in the inspection, weighing, and measuring of all goods in or upon any such vehicle, and to answer questions put by authorised officers and to furnish to authorised officers such information as they may require for the purposes of enabling them to perform their functions under this Act ; requiring such owners and persons in charge to state, when so requested by an authorised officer, their names and places of address, and on demand to produce the license of the vehicle concerned.

8. Prescribing the displaying upon licensed vehicles of a distinguishing sign, and the carriage upon such vehicle of the license thereof or a true copy of such license, certified as correct under the hand of a justice of the peace.

9. The revocation, cancellation, or suspension of licenses for a breach of the provisions of this Act or after repeated breaches thereof.

10. Prescribing the records to be kept by owners of registered depôts or licensed vehicles and including, without limiting the provision, time books and waybills, and the manner in which such records are to be kept; and further prescribing returns of information to be furnished by the aforesaid persons to the Commission, including the time and manner and verification of all returns so furnished.

11. Providing for the registration of depôts for goods which have been or are to be conveyed by licensed vehicles and regulating the use of such depôts, including the hours of operation thereof.

12. Providing generally for facilitating the identification of vehicles and in particular for determining and regulating generally the size, shape, and character of the identification marks, including name and address of the licensee and the terminal points between which the vehicle is licensed to operate, to be fixed and the mode in which they are to be fixed.

13. Providing generally for the size, number, position, and candle-power of the lights to be carried and exhibited by vehicles; and the time at which such lights are to be carried and exhibited.

14. Providing for the proper illumination at night time of identification marks or numbers of vehicles.

15. Providing for the regulation of the carriage of dangerous goods.

16. Authorising checking of the weights of vehicles whether or not licensed under this Act found upon any State highway, main, developmental, secondary, mining access, or tourist road or tourist track, and of the load carried upon or in any such vehicle; and providing for the use of instruments for the purpose of such check weighing.

17. Providing the terms and conditions under which permits for the casual use of any vehicle to which this Act applies may be granted.

18. Prohibiting or regulating the transshipment of goods and/or passengers in transit.

19. Providing for the qualifications of and tests to be passed by applicants for certificates of competency as operators of motor vehicles; the conditions to be observed by persons learning to operate a motor vehicle; and for the issue of permits to such persons; providing also what fees shall be paid for endorsement of a certificate of competency as an operator of a motor vehicle (and if necessary defining the term "operator of a motor vehicle"); providing also what fees shall be paid for endorsement of a certificate of registration or renewal of registration of a motor vehicle; providing also for the duration

1938.

State Transport Act.

of certificates of competency as operators of motor vehicles ; providing also for the endorsement of any certificate of competency as an operator of a motor vehicle ; and providing also for the refusal to issue, suspension, and cancellation of any certificate of competency as an operator of a motor vehicle.

20. (i.) Providing for the issue of a consolidated form embodying registration as a vehicle and licensing under this Act, and a consolidated form of renewal of both registration and license. Such form shall include provision for the endorsement thereon that the vehicle in respect of which the certificate aforesaid is issued is to be operated by the owner or his nominee only or by the owner or his nominee and other persons.

(ii.) Providing in addition to any fees that may be payable on the issue or renewal of such consolidated registration and license certificate, the owner shall pay such additional amount as may be prescribed on account of the endorsement aforesaid.

(iii.) Providing that subject to this Act, any person may upon payment of a fee to be prescribed have his certificate of competency as an operator of a motor vehicle endorsed that such fee has been paid for the period denoted on such certificate of competency, and that thereupon the owner of any motor vehicle shall be under no liability to pay any additional fee or to have the consolidated certificate or any renewal thereof further endorsed on account of any such person aforesaid operating such motor vehicle during the period denoted as aforesaid.

(iv.) Providing that the owner of any motor vehicle who has paid the additional amount as provided in subclause (ii.) hereof may make application to the Registrar to have the certificate of competency as an operator of a motor vehicle of himself or his nominee endorsed that such fee has been paid for the period concerned, and upon such endorsement of such certificate of competency aforesaid such owner or his nominee, as the case may be, shall for the purposes of operating any other motor vehicle be deemed to be a person who has had his certificate of competency as an operator of a motor vehicle endorsed as provided in subclause (iii.) hereof, and the provisions of the said subclause (iii.) shall apply accordingly.

(v.) Providing that all amounts collected by the Registrar on account of any such endorsement as aforesaid shall be paid into Consolidated Revenue after deducting therefrom the costs of collection and any other expenses incurred under this Act.

21. Prescribing what shall constitute "the Rule of the Road" and applying and enforcing such regulations in respect thereof throughout the State (and whether in a traffic district within the meaning of **The Traffic Acts, 1905 to 1933*" or not.)

22. Providing that the owner of a motor vehicle as well as the operator of a motor vehicle shall be jointly and severally liable for an offence if such motor vehicle is with the knowledge, connivance, or authority of such owner and/or operator operated by a person not holding a certificate of competency as an operator of a motor vehicle.

* 5 Edw. VII. No. 18 and amending Acts, *supra*, pages 3487 *et seq.*

23. Defining what shall constitute an endorsement on a license, certificate of registration, renewal of registration, or certificate of competency.

24. Providing that any document attached to any license, certificate of registration, renewal of registration, or certificate of competency under the direction of the Registrar shall be deemed to be an endorsement on such license, certificate of registration, renewal of registration, or certificate of competency.

25. Providing for the transfer of the endorsement on a license, certificate of registration or renewal of registration with the transfer of such license, certificate of registration or renewal of registration.

26. Providing for the cancellation of the endorsement on a license, certificate of registration or renewal of registration with the cancellation of such license, certificate of registration or renewal of registration, and for refunds of fees wholly or in part on account of any such cancellation.

27. Providing for the transfer of nominations endorsed on certificate of registration and renewal of registration as prescribed, and prescribing any necessary fees therefor.

28. Providing for the adjustment of motor vehicle registration or renewal of registration fees and vehicle licenses or renewal of license fees if necessary as a result of the issue of consolidated certificates of registration and licensing.

29. Providing for interim payments of fees for a certificate of competency as an operator of a motor vehicle where an existing driver's license held by an owner of a motor vehicle expires before the due date of renewal of the certificate of registration for the vehicle, or where a certificate of competency as an operator of a motor vehicle is obtained by the owner of a motor vehicle before the due date of renewal of the certificate of registration.

30. Providing for additional tests to be passed by a holder of a certificate of competency as an operator of a motor vehicle issued to such holder operating a motor vehicle outside a traffic area if such holder desires to operate a motor vehicle inside a traffic area and for the endorsement of such certificate of competency after such tests shall have been passed by the holder.

31. Providing for the inspection of vehicles by officers of the Department of the Chief Inspector of Machinery under **"The Inspection of Machinery Acts, 1915 to 1930,"* as may be directed by the Commission.

32. Providing for reciprocity in regard to registration of vehicles and the issue of certificates of competency as operators of motor vehicles between the State of Queensland and any other State of the Commonwealth.

33. Providing for the arrest by any police officer of any person in charge of a motor vehicle refusing to give his name and address to any police officer, or refusing to stop such motor vehicle if so directed by such police officer, and the penalties for such offences.

* 6 Geo. V. No. 24 and amending Acts, *supra*, pages 6859 *et seq.*

1938.

State Transport Act.

34. Providing for the arrest by any police officer of any person found under the influence of liquor or drugs in charge of a motor vehicle, and the penalties for any such offence.

35. Providing for the payment of registration or license, or operating, or renewal of registration or license or operating fees in instalments, and directing, in the case of any part payment, the proportion thereof and the fund into which any such amount is to be paid.

36. The mode and onus of proof of matters required to be proved under and for the purposes of this Act and for facilitating such proof; for the purpose of any proceedings under this Act dispensing with proof of any formal matters as of handwriting or of documents or of authority.

37. Prescribing forms for the purposes of this Act.

38. Specifying the form in which accounts of moneys expended by Local Authorities shall be furnished to the Minister, and by whom the same shall be vouched.

39. Prescribing similar provisions *mutatis mutandis* as set out above regarding the regulation of air craft and air services operating intra state.

40. The amount of any penalty for any offence against the regulations: Provided that any such amount shall not exceed one hundred pounds.

41. Generally for carrying the provisions of this Act into full force and effect.

TRUSTS AND TRUSTEES.

See CONSTITUTION (THE APPROPRIATION ACT, No. 1).
