

Queensland



ANNO NONO

ELIZABETHAE SECUNDAE REGINAE.

No. 48.

**An Act to Consolidate and Amend the Law relating to
Transport.**

[ASSENTED TO 30TH DECEMBER, 1960.]

BE it enacted by the Queen'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:—

PART I.—PRELIMINARY.

1. (1.) This Act may be cited as "*The State Transport Act of 1960.*" Short title.

*(2.) Except as herein otherwise prescribed this Act shall come into operation on a date to be fixed by the Governor in Council by Proclamation published in the *Gazette*.

*Commenced 27 February 1961. (Proc. pubd. *Gazette* 23 Feb., 1961, p. 1265.)

Construction
of Act.

2. This Act and every Proclamation, Order in Council, regulation, license, permit, approval, authority, direction, determination, prohibition or other act of authority made, issued, granted, given or done under or pursuant to this Act by the Governor in Council, the Commissioner, any delegate of the Commissioner, or any other person or authority, shall be read and construed so as not to exceed the legislative power of the State to the intent that where any enactment contained in this Act, or provision contained in any such Proclamation, Order in Council or regulation, or any, or any term, provision, condition or limitation of any, such license, permit or authority, or any such direction, determination, prohibition or other act of authority would but for this section have been construed as being in excess of that power it shall nevertheless be a valid enactment, provision, license, permit, approval, authority, direction, determination, prohibition or, as the case may be, act of authority to the extent to which it is or was not in excess of that power.

Parts of
Act.

3. This Act is divided into Parts and Divisions of Parts and a Schedule as follows:—

PART I.—PRELIMINARY, ss. 1-5 ;

PART II.—ADMINISTRATION, ss. 6-14 ;

PART III.—VEHICLES FOR HIRE, ss. 15-24 ;

PART IV.—ROAD PASSENGER SERVICES, ss. 25-36 ;

PART V.—PERMITS, ss. 37-44 ;

PART VI.—OFFENCES, ss. 45-53 ;

PART VII.—ACQUISITION OF ROAD PASSENGER SERVICES, ss. 54-55 ;

PART VIII.—WATER OR AIR TRANSPORT ;

Division I.—Water Transport, ss. 56-57 ;

Division II.—Air Transport, ss. 58-59 ;

Division III.—When Transport by Water or Air unlawful, s. 60 ;

Division IV.—Licensing, s. 61 ;

PART IX.—SAFETY, ss. 62-65 ;

PART X.—GENERAL, ss. 66-79 ;

SCHEDULE.

4. (1.) "*The State Transport Facilities Acts, 1946 to 1959,*" are hereby repealed. Repeals.

(2.) Any and every license to provide and carry on a service for the carriage of goods by road granted under the repealed Acts and in force at the date of the commencement of this Act shall— Determination of licenses for the carriage of goods.

- (a) if the remainder of the term thereof still to run at and including the date of the commencement of this Act is not longer than thirty days, continue in force until the expiration of the term thereof and shall be and is hereby determined as from the expiration of the term thereof ; or
- (b) if the remainder of the term thereof still to run at and including the date of the commencement of this Act is longer than thirty days, continue in force for a period of thirty days from and including the date of the commencement of this Act, and shall be and is hereby determined as from the expiration of that period.

(3.) Any and every license to provide and carry on a service for the carriage of both passengers and goods by road granted under the repealed Acts and in force at the date of the commencement of this Act— Determination of licenses for the carriage of both passengers and goods.

- (a) to the extent to which it relates to the carriage of goods by road shall—
 - (i.) if the remainder of the term thereof still to run at and including the date of the commencement of this Act is not longer than thirty days, continue in force until the expiration of the term thereof and shall be and is hereby determined as from the expiration of the term thereof ; or
 - (ii.) if the remainder of the term thereof still to run at and including the date of the commencement of this Act is longer than thirty days, continue in force for a period of thirty days from and including the date of the commencement of this Act, and shall be and is hereby determined as from the expiration of that period ;

- (b) to the extent to which it relates to the carriage of passengers by road, shall be deemed a license granted under this Act for the remainder of the term of such license still to run at the date of the commencement of this Act and shall accordingly continue in force under and subject to this Act.

Determina-
tion of
permits
respecting
the carriage
of goods.

(4.) Any and every permit under Part VI. of the repealed Acts permitting the use of a vehicle or vehicles for the carriage of goods by road during a period specified in the permit, issued under the repealed Acts and in force at the date of the commencement of this Act shall—

- (a) if the remainder of the period specified in the permit still to run at and including the date of the commencement of this Act is not longer than thirty days, continue in force until the expiration of such period ;
- (b) if the remainder of the period specified in the permit still to run at and including the date of the commencement of this Act is longer than thirty days, continue in force for a period of thirty days from and including the date of the commencement of this Act and shall be and is hereby determined as from the expiration of that period.

Determina-
tion of
permits
respecting
the carriage
of both
passengers
and goods.

(5.) Any and every permit under Part VI. of the repealed Acts permitting the use of a vehicle or vehicles for the carriage of both passengers and goods by road during a period specified in the permit, issued under the repealed Acts and in force at the date of the commencement of this Act—

- (a) to the extent to which it relates to the carriage of goods by road, shall—
- (i.) if the remainder of the period thereof still to run at and including the date of the commencement of this Act is not longer than thirty days, continue in force until the expiration of such period ;
- (ii.) if the remainder of the period specified in the permit still to run at and including the date of the commencement of this Act is longer than thirty days, continue in force

for a period of thirty days from and including the date of the commencement of this Act, and shall be and is hereby determined as from the expiration of that period ;

- (b) to the extent to which it relates to the carriage of passengers by road, shall be deemed a permit under Part V. of this Act issued under this Act for the remainder of the period for which such permit was issued still to run at the date of the commencement of this Act and shall accordingly continue in force under and subject to this Act.

(6.) Any and every license to provide and carry on a service for the carriage of passengers by road granted under the repealed Acts and in force at the date of the commencement of this Act shall be deemed a license granted under this Act for the remainder of the term of such license still to run at such date and shall accordingly continue in force under and subject to this Act.

(7.) Any and every permit under Part VI. of the repealed Acts permitting the use of a vehicle or vehicles for the carriage of passengers by road issued under the repealed Acts and in force at the date of the commencement of this Act shall, as from the commencement of this Act, be deemed a permit under Part V. of this Act issued under this Act and shall accordingly be in force under, subject to and in accordance with this Act.

(8.) Any and every license to provide and carry on a service for the carriage of passengers or goods, or both passengers and goods by air granted under the repealed Acts and in force at the commencement of this Act shall be deemed a license granted under this Act for the remainder of the term of such license still to run at such date and shall accordingly continue in force under and subject to this Act.

(9.) In respect of the use on any road of a vehicle for the carriage of goods on or after the date of the commencement of this Act, such use, or the causing or

permitting thereof, shall not be an offence against this Act if the goods are carried upon the vehicle under and in accordance with a license or a permit under the repealed Acts which, in respect of such carriage, is then in force under the provisions of subsections two, three, four or five of this section.

(10.) Any certificate of approval issued under the repealed Acts in respect of the use of any vehicle in carrying on any licensed service and in force at the commencement of this Act—

- (a) in relation to goods, save as prescribed by subsection nine of this section, shall not authorise, justify or excuse the use by any person of such vehicle in carrying goods contrary in any respect to this Act ;
- (b) in relation to passengers, shall be deemed issued under this Act and shall accordingly continue in force under and subject to this Act.

(11.) Every license to hire under and within the meaning of Part VIA. of the repealed Acts, which is in force at the date of the commencement of this Act shall, subject as hereinafter provided in this subsection, continue in force until it expires by effluxion of time or is surrendered, cancelled or suspended under this Act :

Provided that the provisions of Part III. of this Act shall apply as if every such license were a license issued under those provisions, and for the purpose of so applying those provisions, every such license shall be deemed a license issued thereunder.

(12.) Where any license or permit mentioned in subsections two, three, four, five, six, seven, eight or eleven of this section is suspended at the date of the commencement of this Act, it shall not be in force as prescribed by the applicable one of those subsections until the expiration of the period for which it was suspended, and then only if it has not expired or been determined during the period of its suspension, and it shall continue in force thereafter to the extent prescribed only for the remainder of the period for which it would have been in force if it had not been so suspended.

(13.) During the period on and from the date of the commencement of this Act and thereafter while any license or permit under the repealed Acts is, in relation to the carriage by road of goods, continued in force by subsections two, three, four or five of this section, the provisions of the repealed Acts relating to licenses or permits in respect of the carriage by road of goods shall be deemed in force in respect of such license or permit, the holder thereof, and all other persons and all vehicles concerned.

(14.) Without limiting the operation of "*The Acts Interpretation Acts, 1954 to 1957*"—

- (a) every Proclamation, Order in Council, regulation, notification, or prohibition made, issued or given under any provision of the repealed Acts and in force at the time when such provision is repealed shall, subject as hereinafter provided, continue in force until it expires by effluxion of time unless sooner repealed, amended, revoked, suspended or cancelled under this Act :

Proclamation,
&c., under
repealed
Acts.

Provided that every such Proclamation, Order in Council, regulation, notification, or prohibition shall, while it so continues in force, be read and construed subject to this Act ;

- (b) all proceedings and things commenced, or had, or done by the Governor in Council, or by the Minister, or by the Commissioner for Transport, or by any other body or person under or in pursuance of any provision of the repealed Acts 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 of such provision had taken place ;
- (c) all moneys which, having accrued due under any provision of the repealed Acts are at the date of the repeal of such provision due or payable to or recoverable by the Crown or the Commissioner for Transport shall be and continue to be so due, payable and recoverable, and may be paid and received and recovered accordingly ;

Proceedings,
&c.

Moneys, &c.,
due.

Penalties.

(d) all penalties and forfeitures imposed under any provision of the repealed Acts and incurred at the date of the repeal of such provision shall and may be enforced as if such provision had not been repealed ; and

Actions,
&c.

(e) all actions and proceedings of whatever nature under any provision of the repealed Acts commenced or pending at the date of the repeal of such provision, may be carried on and prosecuted as if no such repeal had been made, and no such action or proceeding shall abate or be discontinued or prejudicially affected by anything in this Act contained.

Interpreta-
tion.

5. (1.) In this Act, unless the context otherwise indicates or requires, the following terms shall have the meanings respectively assigned to them, that is to say :—

Ambulance.

“Ambulance”—Any vehicle equipped as an ambulance and used by an ambulance brigade, a board or committee of a hospital to which “*The Hospitals Acts, 1937 to 1955*,” apply, or a body approved by the Commissioner, solely as a transport waggon in connection with the transport of sick or injured persons ;

Authorised
officer.

“Authorised officer”—The Commissioner, the Deputy Commissioner, the secretary to the Commissioner, any member of the Police Force, and any other person acting under the authority of the Commissioner ;

Caravan
trailer.

“Caravan trailer”—Any vehicle without motive power attached to a motor vehicle and equipped as a caravan for camping or for use as a dwelling ;

Commis-
sioner.

“Commissioner”—The Commissioner for Transport appointed or deemed to be appointed under this Act : the term includes the Deputy Commissioner while acting as the Commissioner and any person who may be appointed by the Governor in Council to act as Commissioner for Transport ;

“Deputy Commissioner”—The Deputy ^{Deputy Commissioner.} Commissioner for Transport appointed or deemed to be appointed under this Act: the term includes any person who may be appointed by the Governor in Council to act as Deputy Commissioner for Transport;

“License”—A license, (including any renewal ^{License.} thereof under this Act) granted or continued in force by or under this Act and in force at the material time, and, with reference to any particular provision of this Act, a license of the description appropriate according to that provision:

Provided that to the extent to which any license under the repealed Acts mentioned in subsections two or three of section four of this Act relates to the carriage by road of goods, the term does not include such license;

“Licensee”—The holder of a license and any ^{Licensee.} person upon, to or in whom the license devolves or is assigned by operation of law;

“Load capacity”—In relation to a vehicle, ^{Load capacity.} including a trailer—

- (a) the load capacity thereof as shown in the certificate of registration issued in respect thereof under the regulations under “*The Main Roads Acts, 1920 to 1959,*” or under any corresponding legislation, ordinance or law of any State or Territory of the Commonwealth; or
- (b) where in such certificate there is shown the maximum permissible gross weight of the vehicle or trailer together with the load which may be carried thereon and also the tare weight of the vehicle or trailer, the difference between such gross weight and tare weight; or
- (c) where no such load capacity or weights are shown in such certificate or no such certificate exists or is in force, the load capacity aforesaid of a similar vehicle or trailer registered under the regulations under “*The Main Roads Acts, 1920 to 1959,*” or, if in the opinion of the

Commissioner there is no such similar vehicle or trailer, the load capacity thereof as determined by the Commissioner ;

Local Authority.

“ **Local Authority** ”—The term includes Brisbane City Council and a joint Local Authority and, for the purpose of joining with any Local Authority or Local Authorities to form a Joint Local Authority for any purpose of this Act, Brisbane City Council shall be deemed to be a Local Authority under and within the meaning of “ *The Local Government Acts, 1936 to 1959* ” ;

Minister.

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

Motor car.

“ **Motor car** ”—Any motor vehicle constructed, fitted, or equipped principally for the carriage of persons and which is not a motor cycle, motor omnibus, or service omnibus ;

Motor cycle.

“ **Motor cycle** ”—Any motor vehicle having less than four wheels and having the motive power transmitted to not more than one wheel, and the weight of which when unladen does not exceed eight hundredweight ;

Motor omnibus.

“ **Motor omnibus** ”—Any motor vehicle constructed, fitted, or equipped principally for the carriage of eight or more adult persons and which is used for the carriage of passengers at separate and distinct fares or of charter parties for any distance not exceeding twenty miles ;

Motor truck.

“ **Motor truck** ”—Any motor vehicle constructed, fitted, equipped, or used principally for the carriage of goods ;

Motor vehicle.

“ **Motor vehicle** ”—Any vehicle propelled by gas, motor spirit, oil, electricity, steam, or any other mechanical power : the term includes a motor cycle and a trailer or caravan trailer attached to a motor vehicle, but does not include a railway or tramway locomotive, tram motor, tram car, fire engine, fire reel, traction engine, or any machinery especially designed for roadmaking ;

- “ Operator ”—A person who drives a vehicle or who rides a motor cycle or velocipede ; Operator.
- “ Overhang ”—That portion of a vehicle measured from the centre of the back axle to the rearmost portion of the vehicle ; Overhang.
- “ Owner ”—The term includes every person who is the owner, joint owner, or part owner of any vehicle, and any person who has the use of the same under a hiring agreement or hire-purchase agreement ; Owner.
- “ Part ”—Part of this Act ; Part.
- “ Passenger ”—Any person carried or about to be carried on a vehicle other than the operator or conductor and, as respects a motor truck, one additional person carried as a relief operator or loader ; Passenger.
- “ Passenger service license ”—A license under this Act to undertake and carry on a service for the carriage of passengers by road, and which license is in force at any material time ; Passenger service license.
- “ Percentage overhang ”—The proportion which the overhang bears to the wheel base of a vehicle ; Percentage overhang.
- “ Permit ”—A permit under Part V. of this Act or a permit under Part VI. of the repealed Acts issued or continued in force by or under this Act, and in force at the material time :
 Provided that to the extent to which any permit under Part VI. of the repealed Acts mentioned in subsections four or five of section four of this Act relates to the carriage by road of goods, the term does not include such permit ; Permit.
- “ Person ”—The term includes any Authority and any body corporate ; Local Person.
- “ Primary producer ”—Any person engaged solely or substantially in agricultural, horticultural, viticultural, dairying, pastoral or other like pursuits ; Primary producer.
- “ Repealed Acts ”—The Acts repealed by this Act or any of those Acts ; Repealed Acts.

Road.	“ Road ”—Any road or street which the public are entitled to use, and includes any road or street dedicated or proclaimed under any Act or law as a public road or street, and all bridges and ferries and the approaches thereto upon any such road or street ;
Secretary.	“ Secretary ”—The officer appointed under this Act to be the secretary to the Commissioner or any officer for the time being performing the duties of the office of secretary ;
Service omnibus.	“ Service omnibus ”—Any motor vehicle used for the carriage of passengers at separate and distinct fares for any distance exceeding twenty miles ;
Tare.	“ Tare ”—The weight of the vehicle fully equipped as prescribed for travelling but not including any load ;
Total weight.	“ Total weight ”—The weight of the vehicle together with the weight of the load contained therein or thereon ;
Tractor or traction engine.	“ Tractor ” or “ Traction engine ”—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) ;
Trailer.	“ Trailer ”—Any vehicle without motive power attached or designed for attachment to another vehicle ;
Vehicle.	“ Vehicle ”—Includes any vehicle whatsoever propelled or drawn by motive power : the term expressly includes a motor vehicle, motor cycle, trailer or tractor, or traction engine, but does not include a tram or train.

(2.) Derivatives of terms to which meanings are assigned by this section shall have corresponding meanings.

PART II.—ADMINISTRATION.

6. The Commissioner and other officers ^{Minister.} administering this Act shall have regard to any directions which the Minister may give from time to time as respects policy.

No person shall have any right or remedy in law on the ground that any such ministerial direction has not been followed or applied by the Commissioner or any such officer.

Neither the Supreme Court nor any other court or judicial tribunal whatsoever shall have jurisdiction to entertain any suit, action or other proceeding whatsoever for enforcing a right, remedy or claim alleged to be had by any person by virtue of any such ministerial direction.

7. (1.) The persons holding at the commencement of this Act the offices under the repealed Acts of Commissioner for Transport and Deputy Commissioner for Transport, shall without further or other appointment, be respectively the Commissioner for Transport and Deputy Commissioner for Transport under this Act. ^{Continuance in office of Commissioner and Deputy Commissioner.}

Subject to this Act, they shall hold respectively the offices of Commissioner and Deputy Commissioner under this Act for the remainder still to run at the commencement of this Act of the terms of their respective appointments under the repealed Acts and be eligible for reappointment.

(2.) Subject to subsection one of this section the Governor in Council shall and may from time to time appoint the Commissioner for Transport and the Deputy Commissioner for Transport. ^{Appointment of Commissioner and Deputy Commissioner.}

Every such appointment shall be for such term, not exceeding seven years, as the Governor in Council may determine and the appointee shall, subject to this Act, hold office for the term for which he is appointed, and be eligible for reappointment.

(3.) Where immediately prior to appointment to the office of Commissioner or Deputy Commissioner, an appointee held office under "*The Public Service Acts, 1922 to 1960,*" the appointment or any renewal of the

appointment or, in the case of the Deputy Commissioner, his subsequent appointment to the office of Commissioner, shall not affect the rights accrued or accruing to him under such Act or "*The Public Service Superannuation Acts, 1958 to 1960.*"

For the purposes of determining such rights the appointee shall be deemed to hold the office of Commissioner or Deputy Commissioner under "*The Public Service Acts, 1922 to 1960.*"

This subsection applies to the persons continued in office by subsection one of this section.

Powers of
Deputy
Commis-
sioner.

8. The Deputy Commissioner may, in the event of the absence from duty for any reason whatsoever of the Commissioner, act as Commissioner for Transport, and while he so acts shall have and may exercise all of the powers, functions and authorities of the Commissioner.

The fact that the Deputy Commissioner has exercised any power, function or authority of the Commissioner shall, until the contrary is proved, be conclusive evidence that the Commissioner was then absent from duty.

Salary of
Commis-
sioner and
Deputy
Commis-
sioner.

9. The Commissioner and Deputy Commissioner shall respectively be paid such salaries and allowances as the Governor in Council shall fix.

Disquali-
fications
from
office of
Commis-
sioner and
Deputy
Commis-
sioner.

10. The office of the Commissioner or Deputy Commissioner shall become vacant if he—

- (a) directly or indirectly engages in any paid employment outside the duties of his office or of any office to which he is appointed by virtue of his position of Commissioner, or as the case may be, Deputy Commissioner, or directly or indirectly engages in any trade or business except as a member of a body corporate consisting of more than twenty persons; or
- (b) becomes bankrupt, or compounds with his creditors or otherwise takes advantage of the laws in force for the time being relating to bankruptcy; or

- (c) except by reason of illness or physical incapacity or on leave granted by the Minister (power to grant such leave being hereby authorised) absents himself from duty for fourteen consecutive days or for twenty-eight days in all in any calendar year ; or
- (d) is convicted of an indictable offence for which he is liable to be punished by imprisonment for twelve months or more ; or
- (e) dies or becomes mentally sick ; or
- (f) is removed from office by the Governor in Council for misbehaviour or incapacity ; or
- (g) resigns his office by writing under his hand addressed to the Minister and such resignation is accepted by the Governor in Council.

11. (1.) The Governor in Council shall appoint a ^{Secretary and officers.} secretary to the Commissioner for Transport and may appoint all such inspectors and other officers as he deems necessary for the due and proper administration of this Act.

(2.) The secretary, inspectors and other officers shall be appointed and hold their respective offices under, subject to and in accordance with "*The Public Service Acts, 1922 to 1960.*"

(3.) The secretary to the Commissioner for Transport and all inspectors and other officers appointed pursuant to the repealed Acts for the administration thereof before and in office at the date of the commencement of this Act shall, without further or other appointment, be deemed appointed to their respective offices pursuant to and for the purposes of this Act. ^{Officers appointed to administer the repealed Acts.}

12. (1.) The Commissioner may from time to time, ^{Power of delegation.} in relation to any matters or class of matters, or in relation to a particular part of the State, by writing under his hand delegate all or any of his powers, authorities, functions and duties under this Act as may be specified in the writing (other than this power of delegation) so that any delegated power, authority, function or duty may be exercised or, as the case may be, shall be performed by the delegate with respect to the matters or class of matters or in relation to the particular part of the State specified in the writing.

Any delegation under this section may, if the Commissioner deems it so desirable, be made by the delegation of all or any of his powers, authorities, functions and duties under this Act as may be specified in the delegation to the holder of an office specifying the office but without naming the holder; and in every such case each successive holder of the office in question and each person who for the time being occupies or performs the duties of that office may exercise or, as the case may be, shall perform without further or other authority and while he holds or occupies or performs the duties of that office every delegated power, authority, function or duty with respect to the matters or class of matters or in relation to the particular part of the State specified in the writing.

(2.) Where, by or under this Act, the exercise of a power, authority, or function or performance of a duty of the Commissioner is dependent upon the opinion, belief or state of mind of the Commissioner in relation to any matter, that power, authority, function or duty may be exercised or performed upon the opinion, belief or state of mind of the person to whom it is delegated under this section.

(3.) The Commissioner may, at his will, revoke a delegation made by him under this section.

No delegation shall prevent the exercise of any power, authority, function or duty by the Commissioner.

(4.) The Commissioner may make such and so many delegations under this section and to such number of persons and either at any one and the same time or from time to time as he may consider necessary or desirable.

(5.) Any delegation may be published in the *Gazette* and upon such publication shall be judicially noticed and presumed in force until the contrary is proved.

Powers, &c.,
of
officer.

13. (1.) The Deputy Commissioner or any other officer shall exercise and perform such of the powers, authorities, functions and duties of the Commissioner as may be prescribed or directed by the Commissioner.

(2.) The exercise and performance by the Deputy Commissioner or any other officer of any of the powers, authorities, functions or duties of the Commissioner may be prescribed or directed by the Commissioner by specifying the office but without naming the holder;

and in every such case each successive holder of the office in question and each person who for the time being occupies or performs the duties of that office may exercise or, as the case may be, shall perform without further or other authority and while he holds or occupies or performs the duties of that office the prescribed or directed powers, authorities, functions or duties.

(3.) Where, by or under this Act, the exercise of a power, authority, function or performance of a duty of the Commissioner is dependent upon the opinion, belief or state of mind of the Commissioner in relation to any matter, that power, authority or function may be exercised, or the duty performed upon the opinion, belief or state of mind of the person authorised or required by prescription or direction to exercise or perform it.

(4.) Any direction under this section may be published in the *Gazette* and upon such publication shall be judicially noticed and presumed in force until the contrary is proved.

(5.) Any instrument, document or writing whatsoever which purports—

(a) to be signed by the Deputy Commissioner or any other officer ; and

(b) to be a license, permit, approval, document or writing under or for any purpose of this Act (including the exercise or performance by the Commissioner of any power, authority, function or duty conferred or imposed upon him by this Act),

shall be presumed to have been granted, issued, made, given or done by the Deputy Commissioner or such officer by due prescription or direction and, until the contrary is proved, shall accordingly be as valid and effectual as if it had been granted, issued, made, given or done by the Commissioner.

14. All courts, judges, justices and persons acting judicially shall take judicial notice of the signature of the Commissioner or of the Deputy Commissioner or of any officer affixed to any document or notice, and, until the contrary is proved, shall presume that it is the signature it purports to be and that it was duly affixed.

Signature of
Commissioner, and
other
officers.

PART III.—VEHICLES FOR HIRE.

Application
of this
Part.

15. (1.) Except as herein in this Part otherwise provided, this Part does not apply with respect to—

- (a) a vehicle approved by the Commissioner for use in carrying on a service for the carriage of passengers licensed under Part IV. while that vehicle is being used for the purpose of carrying on that service;
- (b) a vehicle while that vehicle is being used for the carriage of passengers under and in accordance with a permit; or
- (c) a caravan trailer.

(2.) Except as hereinbefore provided in subsection one of this section, this Part shall apply to and with respect to all vehicles, including trailers—

- (a) kept or let for hire, including any vehicle which is let for hire (otherwise than under a hire-purchase agreement) without the services of a driver; or
- (b) used for the carriage of passengers or goods, or both passengers and goods, for hire; or
- (c) plying or standing for hire for the carriage of passengers or goods, or both passengers and goods.

(3.) For the purposes of this Part a trailer and any vehicle to which it is attached shall be deemed separate vehicles and this Part shall apply to them respectively accordingly.

(4.) A license under this Part shall not exempt or be deemed to exempt the licensee from liability for any contravention of or failure to comply with any of the provisions, other than this Part, of this Act.

Interpreta-
tion.

16. In this Part—

- (a) A “license to hire” means a license (including any renewal of a license) granted under this Part and in force at any material time;
- (b) A “hire driver’s license” means a license (including any renewal of a license) prescribed in respect of a driver (other than the licensee) of a vehicle licensed under this Part; and

(c) As well as a vehicle under and within the meaning of section five of this Act, a "vehicle" includes any means (save a tram or a train) of transport or conveyance whatsoever designed for movement upon a wheel or wheels and propelled by mechanical or animal power but does not include any ambulance.

17. (1.) The Commissioner may under, subject to and in accordance with this Part and the applicable regulations, issue, renew, suspend, cancel or transfer licenses to hire. Issue, renewal and transfer of licenses to hire.

(2.) A license to hire shall not be issued, renewed or transferred in respect of a vehicle unless—

- (a) if the vehicle is required to be registered under "*The Main Roads Acts, 1920 to 1959*," a certificate of registration or of renewal of registration thereunder in respect of the vehicle is current ;
- (b) a certificate is produced to the Commissioner which satisfies him that such vehicle complies with the requirements of "*The Inspection of Machinery Acts, 1951 to 1960*"; and
- (c) such vehicle is constructed and equipped as prescribed,

at the date of the issue, renewal or, as the case may be, transfer of such license.

(3.) Subject to this Part and the applicable regulations, every license to hire and every renewal thereof shall, unless such license is sooner suspended, cancelled or surrendered under this Act or under any other Act or law, be in force for such period, not being longer than twelve months, as is expressly stated in the license or in any endorsement thereon from and including the date of issue or renewal, as the case may be :

Provided that in the case of a license to hire being suspended for a period less than that portion of the period for which the license (or the then current renewal thereof) is in force remaining at the date of the commencement of such period of suspension, such license to hire upon the termination of that period of suspension shall only be in force until the date when it would have expired if it had not been so suspended.

(4.) For the purposes of this section, the day immediately following the day on which the license to hire or the next previous renewal thereof, as the case may be, expired shall, subject to the next succeeding subsection, be deemed to be the date of the renewal of any license to hire renewed under this Act.

(5.) Where a license to hire is renewed subsequent to the date of expiry of the license or next previous renewal thereof, as the case may be, the renewal of the license shall come into force on the date of such subsequent renewal but shall expire on the date on which it would have expired had it been renewed prior to the date of expiry of the license or next previous renewal thereof, as the case may be.

(6.) A license to hire shall not be capable of being assigned, transferred, leased, encumbered or otherwise dealt with save with the prior approval in writing of the Commissioner, and any assignment, transfer, lease, encumbrance or other dealing with such a license otherwise than with such approval shall be absolutely void.

Compliance by the licensee with the requirements of this subsection shall be an implied condition of every license to hire for breach whereof the Commissioner may cancel the license.

Com-
missioner
may invite
applications.

18. (1.) When the Commissioner proposes to issue any new license to hire he may submit such license for sale—

- (a) by public tender ; or
- (b) at a price fixed by him.

(2.) The Commissioner shall by public advertisement call tenders for or applications to purchase any new license to hire which he proposes to sell by public tender or at a price fixed by him, as the case may be.

Such advertisement shall state the particulars of the proposed new license to hire and may require any tender or application to be accompanied by a deposit of the amount specified therein.

(3.) In the case of a sale by public tender, the Commissioner may accept the tender which on a view of all the circumstances appears to him to be the most advantageous in the public interest, or he may decline to accept any tender.

(4.) In the case of a sale at a price fixed by the Commissioner, subject to being satisfied that the applicant in question to purchase is competent and qualified to hold the proposed license to hire, the Commissioner may grant the application which appears to him in all the circumstances to be the most advantageous in the public interest.

If the Commissioner is satisfied that two or more applications to purchase are equally so advantageous, and that the applicants are respectively competent and qualified to hold the proposed license to hire, the Commissioner shall decide the application to be granted by ballot.

(5.) The purchase price of any new license to hire sold by the Commissioner shall be paid into and form part of Consolidated Revenue.

19. If any driver of a vehicle in respect of which a license to hire under this Act is in force wilfully or negligently, by driving such vehicle on any road, causes any injury or damage to be done to any person or property, the owner, licensee, lessee, if any, and such driver shall, jointly and severally, be liable for the amount of such injury or damage, and such amount may be recovered in any court of competent jurisdiction at the suit of the person aggrieved.

Damage
done by
licensed
vehicles.

20. (1.) A person shall not keep or let, or cause or permit to be kept or let, for hire at any time a vehicle unless at that time such vehicle is being kept or let for hire under and in accordance with a license to hire.

Offences.

(2.) A person shall not use, or cause or permit to be used, on a road at any time a vehicle for the carriage of passengers or goods, or both passengers and goods, for hire unless at that time such vehicle is being used for the carriage of such passengers or goods, or both passengers and goods, as the case may be, under and in accordance with a license to hire.

(3.) A person shall not cause or permit to stand or ply for hire for the carriage of passengers or goods, or both passengers and goods, at any time a vehicle unless at that time such vehicle is so standing or plying for hire under and in accordance with a license to hire.

Placing distinguishing sign, &c., on unlicensed vehicle.

21. (1.) A person shall not at any time place or cause or permit to be placed or allow to remain on any vehicle any printing or sign being or containing any of the following words, namely :—“ cab ”, “ licensed cab ”, “ for hire ”, “ vacant ” or any other printing or sign implying or that may be construed to imply that such vehicle is licensed for hire or is for hire or is in use or standing or plying for hire, or any distinguishing number, sign or words prescribed for use on any vehicle or vehicles of any class or description licensed under this Part, unless he is at the time the holder of a license to hire in respect of that vehicle.

(2.) A person shall not at any time place or cause or permit to be placed or allow to remain on any vehicle, save a taxi-meter cab under and within the meaning of the regulations and save also any other vehicle licensed to be used, kept or plied for hire for the carriage of passengers and their luggage, any printing or sign being or containing any of the following words, namely :—“ taxi ”, “ taxi-cab ”, “ licensed taxi-cab ” or any other printing or sign implying or that may be construed to imply that such vehicle is a taxi-meter cab under and within the meaning of the regulations or, as the case may be, so licensed.

(3.) A person shall not at any time when he is not the holder of a license to hire in respect of a vehicle affix, or cause or permit to be affixed, or allow to remain affixed, to that vehicle a taxi-meter.

In this subsection “ taxi-meter ” means any instrument or device designed or intended to indicate by figures or designs the sum of money to be charged for the hire of a vehicle according to—

- (a) the distance travelled by the vehicle as measured thereby ;
- (b) the time the vehicle is in waiting as recorded thereby ; or
- (c) both such distance travelled and such time in waiting.

(4.) Section fifteen of this Act shall be read so as not to limit the application of this section.

22. In any proceeding under or for a purpose of this Part— Facilitation of proof.

(a) Proof that at any time any vehicle in respect of which a license to hire has been issued and is in force under this Act is or was on a road shall be evidence that it is or was plying or standing for hire at that time and, in the absence of evidence in rebuttal thereof, shall be conclusive evidence of such plying or standing for hire ;

(b) Proof that a person applied for or obtained a license to hire for a vehicle shall be evidence that such person was the owner of such vehicle and, in the absence of evidence in rebuttal thereof, shall be conclusive evidence of such ownership.

23. (1.) Where any person is convicted of an offence under this Act or is convicted upon indictment or summarily of an offence against any other Act or Law, then, if the Judge of the Supreme Court or District Court presiding at his trial upon indictment is, or the justices before whom he is summarily convicted are, satisfied upon the evidence (or, upon a plea of guilty, upon the facts relevant to the offence and the circumstances thereof stated by the prosecutor and not rebutted by the defendant)— Power of Courts to disqualify convicted persons from holding or obtaining licenses.

(a) that any license to hire or hire driver's license held by the offender, or the powers and authorities conferred upon the offender by any such license, enabled, aided or facilitated the commission of the offence by him ; or

(b) that, having regard to the nature of the offence, or to the circumstances in which it was committed, or to both, the offender should, in the interest of the public, be prohibited from holding or obtaining any license to hire or hire driver's license either absolutely or for a period,

the Judge or justices may order that the offender shall, from the date of the order, be disqualified absolutely from holding or obtaining any such license, or be so disqualified for such period as the Judge or justices shall specify in the order.

(2.) This section shall be read so as not to limit the operation and effect of sections nineteen to twenty-two, both inclusive, and section thirty-one of "*The Traffic Acts, 1949 to 1959.*"

(3.) Any disqualification under this section shall be in addition to any punishment to which the person convicted may be liable upon his conviction.

(4.) A copy of any order made under this section shall be transmitted to the Commissioner by the Registrar of the Supreme or Circuit Court or District Court or the clerk of the court of petty sessions which recorded the conviction.

Effect of
disqualifica-
tion.

24. (1.) Where under this or any other Act a Judge of the Supreme Court or District Court or justices orders or order that any person shall be disqualified absolutely from holding or obtaining a license to hire or a hire driver's license, any subsisting license to hire or, as the case may be, hire driver's license held by that person shall, by virtue of such order, be and be deemed to be cancelled on and from the date upon which that person became so disqualified.

(2.) Where under this or any other Act a Judge of the Supreme Court or District Court or justices orders or order that any person shall be disqualified for a specified period from holding or obtaining a license to hire or a hire driver's license, any subsisting license to hire or, as the case may be, hire driver's license held by that person shall by virtue of the order, where such license—

- (a) would expire during the period of disqualification so ordered, be and be deemed to be cancelled on and from the date upon which that person became so disqualified ; or
- (b) would not expire during the period of disqualification so ordered, be and be deemed to be suspended on and from the date upon which that person became so disqualified and thereafter until the expiration of the period of disqualification specified in the order.

PART IV.—ROAD PASSENGER SERVICES.

25. (1.) Subject to this Act the Commissioner ^{Passenger service licenses.} may—

- (a) grant to any person a license to provide and carry on a service for the carriage of passengers by road ;
- (b) approve of the vehicles to be used in carrying on any licensed passenger service.

(2.) In every passenger service license there shall be implied the following conditions :—

- (a) that no person other than the holder thereof shall be thereby authorised to provide or carry on the service for the carriage of passengers thereby authorised ;
- (b) that the holder thereof shall not be thereby authorised to use in carrying on the service for the carriage of passengers thereby authorised any vehicle except a vehicle approved by the Commissioner.

(3.) Except as permitted by this section, the Commissioner shall not grant any passenger service license unless he has first invited applications for such license as prescribed by section twenty-eight of this Act.

(4.) Where, in the opinion of the Commissioner there are good and sufficient reasons for so doing, he may, with the prior approval of the Governor in Council, grant a passenger service license without first inviting applications for such license.

(5.) A passenger service license may be granted for ^{Period of license.} such period, not being more than seven years, as is specified in the license.

(6.) The Commissioner may from time to time ^{Renewal of license.} renew any passenger service license for such period, not being more than seven years, as he shall determine.

Applications for renewals of such licenses shall be made in the manner and at the time prescribed or, if not prescribed, directed by the Commissioner.

The Commissioner may at his discretion refuse to renew any such license or he may renew same upon and subject to such altered terms and conditions as he shall decide.

Co-ordinated
rail and road
services.

26. For the purpose of enabling the performance of any contract for the carriage by road of passengers entered into or renewed, or proposed to be entered into or renewed, by the Commissioner for Railways, the Commissioner for Railways may arrange with the Commissioner for the grant or renewal of (and subject to this Act the Commissioner may in accordance with such arrangements grant or renew) a license under this Part to the person who is the other party to such contract or proposed contract for the carriage of passengers.

Application
for license.

27. Any person may apply to the Commissioner for a passenger service license.

Such application shall be in the form provided by the Commissioner and shall contain or be accompanied by such particulars as may be required by the Commissioner, and the applicant shall furnish to the Commissioner particulars of the vehicles he proposes to use for the purposes of such service and all such further information and particulars as the Commissioner may require.

Commis-
sioner may
invite
applications.

28. (1.) The Commissioner may, by public advertisement, invite applications for a passenger service license to provide and carry on the service for the carriage of passengers by road specified in such advertisement.

Such advertisement shall state a time and place when and where any intending applicant may obtain a statement in writing of the conditions of the application including the deposit, if any, to be lodged therewith.

The conditions of such an application—

- (a) may state the terms and conditions under and subject to which the Commissioner will be prepared to grant the license; or
- (b) may require an applicant to state the terms and conditions under and subject to which he will be prepared to accept the license; or
- (c) may include both the statement mentioned in subparagraph (a) and the requirement mentioned in subparagraph (b) of this paragraph.

(2.) Where more applications than one are received for any passenger service license, whether in answer to public advertisement or otherwise, the Commissioner may grant the application which on a view of all the circumstances appears to him to be most advantageous in the public interest or the Commissioner may decline to grant any application.

(3.) The Commissioner may grant or refuse to grant an application notwithstanding that it is the only application received by him.

If the Commissioner is satisfied that two or more applications are equally advantageous in the public interest he shall decide the application to be granted by ballot, excepting that where a number of equally advantageous applications includes one from a Local Authority such Local Authority shall be granted the license without recourse to a ballot.

29. The licensee—

(a) shall at all times carry on the service authorised by the passenger service license in compliance in every respect with the terms and conditions thereof except as otherwise permitted or directed by the Commissioner ;

Sale of
licensed
passenger
service.

(b) shall not sell or otherwise dispose of the service authorised by the passenger service license or any part thereof or interest therein without the prior consent of the Commissioner or contrary in any respect to the terms and conditions, if any, to which the Commissioner has subjected his consent.

30. (1.) The Commissioner may, upon application by the licensee and the proposed transferee transfer, under and subject to such terms and conditions as the Commissioner may determine, any passenger service license.

Transfer of
passenger
service
license.

(2.) In considering an application for transfer of a passenger service license the Commissioner shall have regard to the following matters :—

(a) the experience and character of the transferee and his financial capacity to provide and carry on the service ;

- (b) the amount which the transferee is paying for the service, and the value as at the time of the application of the vehicles and other property used in such business which are to be acquired by the transferee ;
- (c) any other factors considered by the Commissioner to be relevant.

(3.) The Commissioner may, in his discretion, refuse to transfer any passenger service license and shall refuse if, in his opinion, the transfer would be contrary to, or not desirable in, the public interest.

(4.) An application may be made under this section in respect of part only of a service authorised under a passenger service license and the Commissioner, if he consents to the transfer as applied for—

- (a) may issue a new passenger service license for the part not transferred of that service, or vary, amend or alter the existing passenger service license so that it shall continue in force in respect only of the part not transferred of that service ; and
- (b) shall issue a fresh passenger service license in respect of the part transferred of that service.

Extension
of licensed
passenger
service.

31. (1.) Where in the opinion of the Commissioner the extension of the service authorised by any passenger service license to any road or area abutting upon or in the vicinity of any road or area comprised in such service is necessary or desirable in the public interest the Commissioner may direct or approve such extension on and from such date and under and subject to such terms and conditions as he may determine.

Every such extension shall be deemed for all purposes of this Part to be included in the service authorised by the passenger service license in question and every term or condition determined by the Commissioner in relation to such extension shall be deemed to be a term or condition of such license.

(2.) The licensee shall provide and carry out the extended service in accordance with the direction of, and under and subject to the terms and conditions determined by, the Commissioner.

(3.) The Commissioner may determine, under and in accordance with the provisions of this Part, the amount of the fee to be paid by the licensee in respect of his licensed passenger service as extended.

32. (1.) The Commissioner, if he considers such ^{Cancellation and suspension.} action necessary or desirable in the public interest, or in any case where he is satisfied that the licensee has contravened or failed to comply with any provision of this Act or any term or condition of his license (and notwithstanding that the licensee has not been convicted of such contravention or failure) may—

(a) cancel; or

(b) suspend for such period as he shall determine, any passenger service license or certificate of approval of a vehicle issued under the provisions of this Part.

(2.) Such suspension shall for the period for which the license or certificate of approval is suspended have the same effect as a cancellation of the license or certificate in question.

33. (1.) A licensee may surrender his passenger service license, by delivering to the Commissioner notice ^{Surrender of license.} in writing.

Such notice—

(a) shall specify the date upon which the surrender is to take effect; and

(b) shall be delivered to the Commissioner not less than thirty days before the date specified therein as the date upon which the surrender is to take effect.

The surrender of the license shall take effect upon the specified date or upon such earlier or later date as the Commissioner, with the consent of the licensee, determines.

(2.) When a passenger service license is surrendered the Commissioner shall cancel as on and from the date when the surrender takes effect, all certificates of approvals of vehicles granted by him in respect of such license.

(3.) A holder of a passenger service license may at any time surrender any certificate of approval of a vehicle granted in respect of such license and shall

surrender such certificate in respect of any vehicle which ceases to be used in carrying on the service authorised by the license.

Form and terms and conditions of passenger service license.

34. (1.) Every passenger service license shall be in or to the effect of the prescribed form and shall state the terms and conditions upon and subject to which it is granted.

(2.) The Commissioner may grant any passenger service license upon and subject to such terms and conditions as he may determine to be necessary or expedient in the public interest including, but without limit to the generality of his power to determine the terms and conditions of any such license, with respect to the number, routes and timetables of vehicles, amenities and facilities for passengers, fares, tickets and the numbering thereof and the information to be shown thereon, the keeping of records and the making to the Commissioner of periodical returns by the holder of the license, and the fees to be paid in respect of the license, and the time and manner of payment thereof.

Power to alter terms and conditions of license.

(3.) The Commissioner may at any time and from time to time amend, alter, add to, vary or revoke the terms and conditions of a passenger service license, or any of them.

Fees for licenses.

35. (1.) A licensing fee of the amount or at the rate determined by the Commissioner shall be payable by every holder of a passenger service license.

Such fee, and any instalment thereof, shall become due and payable, and shall be paid, to the Commissioner at the time and in the manner stated in the license, and any unpaid amount may be recovered by the Commissioner as a debt.

(2.) Such licensing fee shall, in the discretion of the Commissioner, be—

- (a) an amount fixed by the Commissioner; or
- (b) an amount per centum as fixed by the Commissioner of the gross revenue derived from the service authorised by the license; or
- (c) the sum of the amounts fixed by the Commissioner for each and every vehicle used for the purpose of providing and carrying on the licensed passenger service; or

(d) an amount calculated at a rate (not exceeding one penny per passenger per road mile) for each and every passenger carried on any and every vehicle approved for use in providing and carrying on the licensed passenger service.

(3.) (a) Where the Commissioner determines that a licensing fee shall be a fixed amount, or an amount per centum of the gross revenue derived from operating vehicles approved for use in providing and carrying on the licensed passenger service, or a fixed amount for each and every such vehicle, the Commissioner shall as near as may be determine such fee at a sum which would not exceed the maximum fee which would be payable if calculated at the maximum rate specified in paragraph (d) of subsection two of this section.

(b) The provisions of this subsection shall apply so as not to invalidate any determination by the Commissioner with respect to the fee payable by any holder of a passenger service license, except as to any part of such fee which is in excess of the amount calculated as prescribed by paragraph (d) of subsection two of this section, but otherwise the amount of every such fee and every instalment thereof shall become due and payable and be paid under and in accordance with the terms and conditions of the license.

(4.) The provisions of this section shall apply so as to authorise the Commissioner to determine differently the amounts or rates of the licensing fee payable by a holder of a passenger service license in respect of different parts as fixed by the Commissioner of one and the same licensed passenger service.

In and for the purpose of so applying the provisions of this section different parts as fixed by the Commissioner of any one and the same licensed passenger service shall each be deemed to be respectively a separate service licensed under this Act.

36. (1.) Subject to this section the Commissioner may approve of the use of such and so many vehicles as he shall deem necessary or expedient for use in providing and carrying on any service authorised by a passenger service license. ^{Approval of vehicles.}

The Commissioner shall issue a certificate of approval for each vehicle so approved by him.

The holder of the passenger service license shall cause that certificate or a certified copy thereof to be carried upon the vehicle at all times during which it is being used in providing and carrying on the service.

The Commissioner may in such certificate specify the maximum number of passengers to be carried by such vehicle at any and the same time.

- (2.) A vehicle shall not be so approved unless—
- (a) (in the case of a vehicle required to be registered under and in accordance with the provisions of "*The Main Roads Acts, 1925 to 1959*," and the regulations thereunder relating to the registration of motor vehicles) a certificate that the vehicle is appropriately so registered is current at the date of approval;
 - (b) a certificate is produced to the Commissioner which satisfies him that such vehicle complies with the requirements of "*The Inspection of Machinery Acts, 1951 to 1960*";
 - (c) it is appropriately insured under and in accordance with "*The Motor Vehicles Insurance Acts, 1936 to 1959*"; and
 - (d) it is constructed and equipped as prescribed or the Commissioner is satisfied that its use in providing and carrying on the service is essential and would not be likely to endanger the public.

PART V.—PERMITS.

Issue of permits.

37. (1.) Subject to this Act the Commissioner may issue permits with respect to the carrying on vehicles in or on any district or road of passengers or goods.

(2.) One and the same permit may be issued in respect of more vehicles than one.

(3.) A permit may be issued in respect of passengers or goods but not jointly in respect of both.

(4.) A permit with respect to passengers and a permit with respect to goods may be issued in respect of one and the same vehicle.

(5.) A permit with respect to goods may be issued in respect of a vehicle approved for carrying on a service authorised by a passenger service license.

(6.) Every permit shall specify, in a manner reasonably sufficient to identify it or them, the vehicle or vehicles to which the permit relates.

(7.) A permit may be issued—

- (a) in respect of a specified period of time; or
- (b) in respect of a specified occasion.

(8.) Where the payment of a fee is a condition of a permit issued under this section the Commissioner may, before issuing that permit, require the applicant to provide as prescribed, security for the due payment of that fee.

(9.) In considering whether he will issue or refuse to issue a permit under this Part (the Commissioner, except as otherwise provided in this Part, being hereby authorised to issue or refuse to issue any such permit at his discretion) the Commissioner may have regard to any factors which the Commissioner thinks should be taken into account, including the state and condition of the vehicle concerned.

(10.) The Commissioner may require an applicant for a permit under this section to satisfy him that any and every vehicle to which the application relates is appropriately insured under and in accordance with the provisions of "*The Motor Vehicles Insurance Acts, 1936 to 1959*," and, in the case of a vehicle required to be registered under and in accordance with the provisions of "*The Main Roads Acts, 1920 to 1959*," relating to the registration of motor vehicles, that such vehicle is appropriately so registered.

(11.) A permit under this Part shall not be transferable, assignable or renewable.

A person shall not be entitled to apply for or obtain a permit under this Part as of right, or have any right or remedy whatsoever in law in respect of the refusal of the Commissioner to grant or the cancellation or suspension by the Commissioner of such a permit.

Passengers.

38. (1.) With respect to passengers the Commissioner may permit any person to carry on the vehicle or vehicles specified in the permit passengers in or on the district or road specified in the permit.

(2.) Such a permit may specify the maximum number of passengers thereby permitted to be carried on any vehicle therein specified at any one and the same time or the class of passengers thereby permitted to be carried on any vehicle therein specified, or both those matters.

Classes of permits.

39. (1.) With respect to goods, the Commissioner may issue the following classes of permits :—

- (a) Class I., that is a permit permitting a person who holds in respect of a vehicle a license to hire to carry on such vehicle any goods other than restricted goods in or on the district or road specified in the permit ;
- (b) Class II., that is a permit permitting a person who holds in respect of a vehicle a license to hire to carry on such vehicle goods of the class specified in the permit in or on the district or road specified in the permit ;
- (c) Class III., that is a permit permitting the owner of a vehicle to carry on such vehicle goods the property of such owner, being either goods other than restricted goods or the class of goods specified in the permit, in or on the district or road specified in the permit.

Restricted goods.

40. In relation to any permit under this Part the expression "restricted goods" means goods which the Commissioner specifies in the permit to be—

- (a) not permitted thereby to be carried in terms thereof ; or
- (b) excepted from the goods permitted thereby to be carried in terms thereof.

Terms and conditions of permits.

41. (1.) The Commissioner may issue any permit upon and subject to such terms and conditions as he deems fit including, but without limit to the generality of his power to determine the terms and conditions of any permit, with respect to the documents to be carried on any and every vehicle in respect of which the permit

is issued, the keeping of records and the making to the Commissioner of periodical returns by the permittee, the amount or rate of the fee to be paid in respect of the permit, and the periodical payment of amounts of such fee.

(2.) Returns or information furnished by permittees to the Commissioner, pursuant to his requirements, with respect to passengers or goods carried or fares or freights charged, and other matters specified by the Commissioner shall be verified as prescribed or, in so far as not prescribed, directed by the Commissioner.

Returns and information to be verified.

(3.) The Commissioner may at any time and from time to time amend, alter, add to, vary or revoke the terms and conditions of a permit, or any of them.

42. (1.) The Commissioner may require any holder of a passenger service license to make any passenger-carrying vehicle approved for use in carrying on the service authorised by such license available for use for such purpose relating to the carriage of passengers as is specified by the Commissioner.

When Commissioner may require carriage of passengers.

(2.) The Commissioner shall issue to such licensee a permit under this Part to use for such purpose the vehicle specified in such permit and to so use it under and subject to such terms and conditions (including fares or other payment to be paid or made, the time and manner of carrying out such purpose, and the fee, if any, payable for such permit) as are specified in the permit.

(3.) Failure by a licensee to carry out the purpose under and in accordance with the terms and conditions of the permit shall be deemed a breach of a condition of his passenger service license and the Commissioner may deal with such license accordingly.

43. (1.) The Commissioner, if he considers such action necessary or desirable in the public interest, or in any case where he is satisfied that the permittee has contravened or failed to comply with any provision of this Act or any term or condition of his permit (and notwithstanding that the permittee has not been convicted of such contravention or failure) may—

Cancellation and suspension of permits.

(a) cancel; or

(b) suspend for such period as he shall determine, any permit under this Part.

(2.) Suspension shall for the period for which the permit is suspended have the same effect as a cancellation of the permit.

Permit fees.

44. (1.) Where so determined by the Commissioner as a condition of, or condition precedent to the issue of, a permit under this Part a permit fee of the amount or at the rate (not exceeding the prescribed maximum) determined by the Commissioner shall be payable by the permittee in respect of a permit under this Part.

Where payment of a fee is a condition of a permit such fee and any instalment thereof shall become due and payable, and shall be paid, to the Commissioner at the time and in the manner stated in the permit, and any unpaid amount may be recovered by the Commissioner as a debt.

Where payment of a fee is a condition precedent to the issue of a permit, the amount of such fee shall be paid in full to the Commissioner before the issue of the permit.

(2.) In respect of a permit, the fee payable—

(a) with respect to the carriage of passengers, may, in the discretion of the Commissioner, be—

- (i.) a fixed amount ;
- (ii.) the sum of the amounts fixed by the Commissioner for each and every vehicle in respect of which the permit is issued ;
- (iii.) an amount per centum of the gross revenue derived from such carriage ; or
- (iv.) an amount calculated at a rate per passenger per road mile for each and every passenger carried,

but shall not in any event exceed the rate of one penny per passenger per road mile ;

(b) with respect to the carriage of goods, may in the discretion of the Commissioner, be—

- (i.) a fixed amount ;
- (ii.) the sum of the amounts fixed by the Commissioner for each and every vehicle in respect of which the permit is issued ; or

(iii.) an amount calculated at a rate not exceeding the sum of the products obtained by multiplying, in respect of each and every vehicle in respect of which the permit is issued—

- (a) three pence ; by
- (b) the load capacity of the vehicle expressed in tons (including fractions of tons to the nearest hundredweight) ; and by
- (c) the number of road miles on which goods are carried on the vehicle pursuant to the permit,

but shall not in any event exceed an amount calculated as prescribed by subparagraph (iii.) of this paragraph (b).

(3.) The provisions of subsection two of this section limiting the amount of the fee in respect of a permit shall apply so as not to invalidate any determination by the Commissioner with respect to such fee except as to any part of such fee which is in excess of—

- (a) with respect to passengers, the rate of one penny per passenger per road mile ; or
- (b) with respect to goods, the amount calculated as prescribed by subparagraph (iii.) of paragraph (b) of that subsection,

but otherwise the amount of such fee and any instalment thereof shall become due and payable and be paid under and in accordance with the terms and conditions of the permit.

PART VI.—OFFENCES.

45. This Part does not apply to the use upon any road of any vehicle hereinafter in this section specified at any time when such vehicle is being used solely for a purpose hereinafter in this section specified in relation to such vehicle, that is to say :—

(1.) Any vehicle owned by the Crown, or by any Crown corporation or instrumentality or corporation or instrumentality or person representing the Crown while such vehicle is being used for purposes of the

business of the Crown or of such corporation or instrumentality or person, but not including any such vehicle which is carrying passengers for hire or reward, or for any other consideration whatsoever.

Private
motor car.

(2.) Any motor car (except a motor car in respect of which a license to hire is in force) equipped for the carriage of not more than seven persons when that motor car is carrying passengers for domestic, private or family purposes only and is not carrying any passenger for hire or reward or for any consideration whatsoever.

Cab used
privately.

(3.) Any motor car in respect of which a license to hire is in force when that motor car is carrying passengers who are members of the family of the operator at that time of that motor car or who ordinarily reside with and are dependent upon him, and that motor car is not carrying any passenger for hire or reward or for any consideration whatsoever.

Cab.

(4.) Any vehicle in respect of which a license to hire authorising the carriage of passengers is in force, carrying passengers from and to places distant respectively not more than twenty-five miles from the principal post office of the city, town or place specified in that license to hire.

Motor truck
used
privately.

(5.) Any motor truck, when that motor truck is carrying for domestic, private or family purposes only, passengers not more than six of whom are persons who are neither members of the family of the owner at that time of that motor truck nor persons ordinarily residing with and dependent upon that owner and that motor truck is not then—

(a) carrying any passenger for hire or reward or for any consideration whatsoever; or

(b) being used in or for any purpose of any profession, trade or business.

Charitable
and public
purposes.

(6.) Any vehicle carrying any passenger without hire or reward or any consideration whatever for a purpose which the Commissioner has determined is a charitable or a public purpose or a purpose of a like nature, but for the purposes of this paragraph (6) the carriage of members of a sporting body or of persons connected therewith shall not be a public purpose or a purpose of a like nature.

(7.) Any vehicle carrying those members of a Life-savers. recognised surf life-saving association or club who actively engage in patrolling beaches for the purpose of life-saving to or from a beach where such members have been or will be so engaged.

(8.) Any vehicle owned by an employer and carrying Employees. any employee and his necessary tools of trade, being tools designed for use by hand, from the employer's place of business to a job or from one job to another.

(9.) Any vehicle carrying any passenger without Business purposes. hire or reward or any other consideration whatsoever, where such passenger is being carried for a purpose of a profession, trade, or business other than a business of carrying passengers or goods.

(10.) Any vehicle carrying such fruit and vegetables Perishable fruit and vegetables, &c. as may be determined by the Commissioner from time to time to be of a highly perishable nature, fresh milk, fresh cream, fresh meat, fresh fish or such other goods as may be determined by the Commissioner from time to time.

(11.) Any vehicle carrying for delivery by such Foodstuffs for primary producer. vehicle to a primary producer at his place of primary production, foodstuffs for human consumption for use by him.

(12.) Any vehicle carrying empty milk or cream Returning empty containers. cans or empty fish cases solely for the purpose of returning same to the place from which fresh milk, fresh cream or fresh fish was or were carried therein.

(13.) Any vehicle carrying empty second-hand fruit Firewood, or fertilisers and empty bottles. cases, firewood or fertilisers or while being used for the purpose of collecting empty bottles.

(14.) Any vehicle carrying raw sugar a distance not Raw sugar. greater than five miles from the mill at which the raw sugar is loaded on such vehicle.

(15.) Any vehicle carrying camping gear without Camping gear. hire or reward or any other consideration whatsoever.

(16.) Any vehicle while being used by a commercial Travellers' samples. traveller in the course of his business and carrying samples, up to a weight not exceeding five hundredweight, of goods for exhibition to prospective purchasers and not for sale.

Newspapers. (17.) Any vehicle carrying newspapers or periodicals for distribution.

Stone, clay, &c., for road purposes. (18.) Any vehicle carrying stone, road metal, gravel, earth, clay, or loam for use in constructing, repairing, or maintaining any road in Queensland for the Crown or for any Crown corporation or instrumentality, or instrumentality, corporation, or person representing the Crown or for any Local Authority.

Nearest station. (19.) Any vehicle carrying any goods to or from the nearest railway, or Local Authority tramway, station or the nearest such station which the Commissioner has determined is the most suitable having regard to loading facilities, convenience of transport, and any other factors which the Commissioner deems relevant.

Standard distance. (20.) Any vehicle carrying goods other than raw sugar for a distance not greater than the standard distance.

Save as varied by the Commissioner the standard distance shall be twenty-five miles.

The Commissioner may from time to time by notification published in the *Gazette* vary the standard distance in respect of—

- (a) roads generally or a particular road or roads ;
- (b) goods generally or a particular class or classes of goods ;
- (c) vehicles generally or a particular class or classes of vehicles,

or all or any of the aforesaid.

While the notification continues in force the distance specified therein shall become and be the standard distance in respect of any road, or goods, or vehicles in respect of which the notification applies such specified distance.

The Commissioner may by a further notification in the *Gazette* revoke any variation of a standard distance and thereupon the standard distance of twenty-five miles shall again apply in respect of any road, or goods, or vehicles in respect of which the revoked variation applied when in force.

Where goods are carried or are being carried for a distance exceeding the standard distance then this paragraph (20) shall apply so as not to authorise those goods to be carried for so much of that excessive distance as does not exceed the standard distance, either upon one and the same vehicle or, by transshipment from one to another, upon two or more vehicles.

(21.) Any vehicle carrying goods other than raw sugar between places if in the carriage of similar goods between those places those goods cannot be carried whether directly or indirectly for more than twenty-five miles by rail. Not competitive with railway.

“ Directly ”, in relation to carriage of goods, includes the carriage by a route which is not a direct route but is a route whereon those goods are not required to be carried by road for more than twenty-five miles for despatch by rail or for delivery after carriage by rail.

“ Indirectly ”, in relation to carriage of goods, means the carriage by a route by which goods cannot be carried directly but which is a route reasonably adequate to meet the convenience and requirements of the public for the carriage of their goods between the places in question.

(22.) Any vehicle in respect of which the Commissioner has issued a certificate of authorisation while such vehicle is being used under and in accordance with the terms and conditions of such certificate (the Commissioner being hereby authorised to grant any such certificate under and subject to such terms and conditions as he shall specify in such certificate). Certificate of authorisation.

(23.) Any vehicle owned by any Local Authority while such vehicle is being used within the Area of that Local Authority (or if the vehicle is being used for a purpose of or connected with a work of that Local Authority situated outside its Area, upon the road ordinarily used in travelling the shortest route between its Area and the site of that work) for any purpose of such Local Authority, but not including any vehicle owned by a Local Authority which is carrying passengers, or goods, or both passengers and goods, for hire or reward, or for any other consideration whatsoever. Local Authorities.

(24.) Any vehicle carrying passengers or goods in compliance in every respect with an Order in Council referred to in this paragraph (24). Order in Council.

The Governor in Council may by Order in Council made upon the recommendation of the Commissioner, permit the use on roads generally, or on a particular road or roads, or on roads within a specified locality of vehicles generally, or of any class or classes of vehicles, or of any particular vehicle or vehicles, for the carriage of passengers generally, or any particular class or classes of passengers, or for the carriage of goods generally or any particular class or classes of goods.

Any such Order in Council may be subject to such terms and conditions as the Governor in Council, upon the recommendation of the Commissioner, specifies therein including, but without limit to the power to impose terms and conditions, with respect to the picking up and setting down of passengers or the loading or off-loading of goods.

Ambulances
and
fire-fighting
vehicles.

(25.) Any ambulance or any fire engine, fire reel, or other vehicle equipped and used solely for the purpose of fighting or preventing fires.

Use of
vehicle for
two or more
purposes at
any and the
same time.

46. (1.) Where a vehicle referred to in section forty-five of this Act is being used upon any road at any and the same time for two or more of the purposes specified in the said section in relation to such vehicle, this Part—

- (a) does not apply to such use, if such vehicle is, as respects each such purpose, being used at that time under and in accordance with such of the provisions of the said section forty-five as prescribe that this Act does not apply to its use for that purpose ;
- (b) applies to such use, if such vehicle is, as respects any such purpose, being used at that time otherwise than under and in accordance with such of the provisions of the said section forty-five as prescribe that this Act does not apply to its use for that purpose.

(2.) Where a vehicle referred to in section forty-five of this Act is being used upon any road at any and the same time for two or more purposes any of which is not specified in the said section in relation to such vehicle, this Part applies to such use.

(3.) At any time when this Part does not apply to the use of a vehicle on a road for the carriage of passengers, this Part does not apply to the carriage on that vehicle of—

Passengers' luggage.

- (a) luggage consisting of wearing apparel and other personal effects of the passengers then being carried on that vehicle; or
- (b) food or drink for consumption by those passengers on or in connection with their journey:

Provided that this subsection shall apply so as not to exempt from the application of this Part the carriage as aforesaid of luggage, food, or drink for hire or reward or for any consideration whatsoever excepting a charge which may be lawfully made under this Act in respect of the luggage of a passenger carried for hire or reward.

(4.) References in this section to section forty-five of this Act include that section and any Order in Council made thereunder, or under the corresponding provision of the repealed Acts, and for the time being in force.

47. Upon proof of the use of any vehicle upon a road alleged in a complaint for an offence against sections forty-eight or forty-nine of this Act, the adjudicating court shall presume that this Part of this Act applies to such use unless the contrary is proved to its satisfaction.

Presumption that this Part applies.

48. A person who at any time uses or causes or permits to be used on a road a vehicle for the carriage of passengers shall—

Offence with respect to carriage of passengers.

- (a) unless he holds a passenger service license and such vehicle is approved for use in carrying on such service and is then being used in compliance in every respect with the terms and conditions of such license; or
- (b) unless he holds a permit under Part V. of this Act in respect of such vehicle and such vehicle is then being used in compliance in every respect with the terms and conditions of such permit,

be guilty of an offence against this Act and liable—

- (i.) for a first such offence, to a penalty of not more than fifty pounds;

- (ii.) for a second such offence to a penalty of not less than twenty-five pounds or more than one hundred pounds ; or
- (iii.) for a third or subsequent such offence, to a penalty of not less than fifty pounds or more than two hundred pounds.

Offence with respect to carriage of goods.

49. A person who at any time uses or causes or permits to be used on any road a vehicle for the carriage of goods shall, unless such goods are being at that time carried upon that vehicle under and in accordance with a permit under this Act issued in respect of such vehicle and in the name of such person, be guilty of an offence against this Act and liable—

- (a) for a first such offence, to a penalty of not more than one hundred pounds ;
- (b) for a second such offence, to a penalty of not less than one hundred pounds or more than two hundred pounds ;
- (c) for a third or subsequent such offence, to a penalty of not less than two hundred pounds or more than five hundred pounds.

Previous offences.

50. Convictions of offences against the provisions of the repealed Acts corresponding to sections forty-eight and forty-nine of this Act shall be offences for the purpose of the provisions of those sections relating to penalties for a second, third or subsequent offence and be taken into account accordingly.

Fee in respect of illegal use.

51. (1.) The Commissioner may require a person who at any time uses or causes or permits to be used on a road any vehicle contrary to sections forty-eight or forty-nine of this Act to pay in respect of that use a fee of an amount determined by the Commissioner, but not exceeding double the amount of the maximum fee payable in respect of the use in question were that use permitted by the Commissioner under this Act.

(2.) In any proceedings for an offence against sections forty-eight or forty-nine of this Act, or for the recovery of the amount or any part of the amount of a fee

determined by the Commissioner under this section, a certificate purporting to be signed by the Commissioner and stating that he requires payment of a fee determined by him at a specified amount in respect of any specified use of a vehicle, and that the amount or any specified part of the amount of that fee has not been paid, shall be evidence of the matters certified to therein and, in the absence of evidence in rebuttal, shall be conclusive evidence of those matters.

(3.) Upon convicting a person of an offence against sections forty-eight or forty-nine of this Act the Court in addition to any penalty imposed for the offence, shall order the offender to pay the amount, if any, of the fee required in the case by the Commissioner.

This subsection applies so as not to limit or prejudice howsoever the right of the Commissioner to recover in any manner prescribed by this Act any unpaid amount of any fee required by the Commissioner under this section to be paid, it being hereby declared that such fee shall be recoverable from any person who used or caused or permitted the use in question of the vehicle, notwithstanding that proceedings for an offence under this Act in respect of that use have not been instituted or that, upon conviction for an offence under this Act, the offender has not been ordered to pay the amount of such fee.

52. Where any goods have been carried by road in contravention of section forty-nine of this Act—

(a) the consignor of those goods ; and

(b) if he takes delivery thereof, the consignee of those goods,

shall be jointly and severally liable to pay to the Commissioner in respect of that carriage a fee of such amount as the Commissioner shall determine, but not exceeding double the amount of the maximum fee payable in respect of that carriage were it permitted by the Commissioner under this Act.

Any amount of any fee fixed by the Commissioner under this section not paid to him upon demand made by him may be recovered by the Commissioner as a debt or in a summary way by complaint under "*The Justices*

Liability of
consignors
and
consignees
in respect of
goods
unlawfully
carried by
road.

Acts, 1886 to 1958,” and notwithstanding that a person has not been convicted of an offence under this Act in relation to the carriage by road of the goods in respect of which that fee was so determined.

Execution
against
vehicle.

53. (1.) Any warrant of execution for the amount of any penalty for an offence against section forty-nine of this Act may be executed by seizure and sale of the goods and chattels of the offender and, where the vehicle in respect of which the offence was committed is not the sole and absolute property of the offender, by seizure and sale of such vehicle as if it were the sole and absolute property of the offender.

Where the vehicle in respect of which the offence was committed comprised a trailer attached to a vehicle the warrant may be executed by seizure and sale of either the trailer, or the vehicle to which it was attached, or both of them.

(2.) If it appears to the person to whom the warrant is directed that the vehicle is not, at the time of its seizure, the sole and absolute property of the offender, such person shall pay the whole of the proceeds of the sale of the vehicle to the clerk of petty sessions to whom the warrant orders him to pay the amount to be levied thereunder.

So much of such proceeds as exceeds the amount ordered to be levied and the costs and charges of the execution shall be deemed to have come into the custody of the clerk of petty sessions in connection with the proceedings in respect of the offence.

(3.) Any justice or justices shall, upon the application of the Commissioner, or a person acting under the general or particular authority of the Commissioner, issue a warrant of execution for any amount which has not been paid of any penalty for an offence against section forty-nine of this Act.

Notwithstanding the provisions of “*The Justices Acts, 1886 to 1958,*” a justice or justices—

(a) shall not postpone the issue of the warrant of execution ;

- (b) shall issue the warrant of execution notwithstanding that the decision adjudging the penalty made no provision for the levy thereof by distress or execution, or directed that in default of payment thereof forthwith or within a time allowed the offender should be imprisoned for a certain time.

(4.) This section does not authorise the execution of a warrant for recovery of any amount of penalty for an offence against section forty-nine of this Act—

- (a) before the expiration of the time, if any, for payment of the penalty allowed by the justices adjudging the penalty as part of their decision; or
- (b) after the offender has been imprisoned for default in paying the penalty.

(5.) In this section the expression "penalty" includes any costs or fees which the justices adjudging the penalty ordered, as part of their decision, to be paid.

PART VII.—ACQUISITION OF ROAD PASSENGER SERVICES.

54. (1.) Where any person other than a Local Authority, a Crown corporation or instrumentality, or a corporation or instrumentality representing the Crown is the holder of a passenger service license—

Acquisition of private service by Crown instrumentality or Local Authority.

- (a) any Local Authority; or
- (b) any Crown corporation or instrumentality or corporation or instrumentality representing the Crown,

which would, subject to holding such license have power and authority in law to carry on such service—

- (i.) may apply to the Commissioner for a passenger service license to provide and carry on such service;
- (ii.) shall accompany such application with particulars in writing of the vehicles and other property wholly or partly used by the licensee in or for the purpose of carrying

on the service authorised by the license which the applicant considers it will require for use in carrying on the service if the license therefor is granted to the applicant ;

(iii.) shall, within seven days after making such application, deliver to the licensee notice in writing of such application accompanied by the particulars referred to in paragraph (ii.) of this subsection ; and

(iv.) shall, within seven days after making such application, give public notice of the making of such application by advertisement in the *Gazette* and in a newspaper circulating in the locality in which the service is situated.

(2.) Such application, if made, shall be made not less than one year before the expiration of the period of the license or not less than one year before the expiration of any subsequent period of renewal of the license, and shall be made under and in compliance with the provisions of this Part of this Act relating to applications for passenger service licenses.

(3.) Upon receipt of an application under subsection one of this section, the Commissioner shall, having regard to the convenience and requirements of the public and to the representations, if any, made by the applicant and the licensee, or either of them, and to the public interest—

(a) determine whether he will grant or refuse to grant the application ; and

(b) if he determines to grant the application, also determine the vehicles and other property wholly or partly used by the licensee in or for the purpose of carrying on the service authorised by the license which will be required by the applicant for use in carrying on the service on and after the issue of a license in pursuance of the application.

Such determination shall be made and notice thereof (accompanied, if the determination is to issue a passenger service license to the applicant, by particulars of the vehicles and other property in respect of which the Commissioner has made the determination specified

in paragraph (b) of this subsection) shall be delivered to the applicant and the licensee not later than six months before the expiry date of the license or, as the case may be, renewal of the license.

(4.) A holder of a passenger service license shall not, at any time after the delivery to him of notice of an application under subsection one of this section, sell, lease, assign, or part with the possession of the service authorised by the license to which such application relates, or any vehicle or other property which the applicant considers it will require for use in carrying on the licensed service if the license therefor is issued to it pursuant to the application, unless the Commissioner has determined prior to such time—

- (a) that he refuses to issue a passenger service license for such service to the applicant; or
- (b) as respects any such vehicle or other property, that such vehicle or other property will not be required by the applicant for use in carrying on the service when the applicant is licensed so to do,

or unless he has received the prior consent in writing of the Commissioner to such sale, lease, assignment, or parting with possession.

(5.) If the Commissioner determines to grant an application made under this section—

- (a) the subsisting passenger service license shall continue in force until the then period thereof, or, as the case may be, of the renewal thereof expires by effluxion of time unless such license is sooner cancelled, suspended, or surrendered under and pursuant to the provisions of this Act, but such license shall not be further renewed;
- (b) a passenger service license to provide and carry on the service in question shall be issued to the applicant, the period of such license to commence forthwith upon the expiration of the subsisting license:

Provided that if the subsisting license is cancelled or surrendered such license shall be issued to the applicant forthwith upon such cancellation or surrender;

- (c) from and after the date upon which the period of the passenger service license issued to the applicant commences all vehicles and other property which the Commissioner has determined will be required by the applicant as the licensee for use in carrying on the service in question, and available for such use at such date, shall become vested in the Local Authority, instrumentality, or corporation to which a passenger service license has been issued, discharged from all trusts, obligations, contracts, mortgages, or other encumbrances, claims, estates, or interests whatsoever, and the right, title, estate, or interest of the former licensee and every other person in or to such vehicles and other property shall be taken to have been converted into a claim for compensation under this Part.

Every such person shall, on asserting his claim as prescribed, and making out his right, title, estate, or interest in respect of such service, vehicles, or other property be entitled to compensation from the Local Authority, corporation, or instrumentality.

Compensation.

55. (1.) When a passenger service license is granted to a Local Authority, corporation, or instrumentality pursuant to the provisions of section fifty-four of this Act, the holder of the former such license shall, subject to this section, be entitled to be paid compensation in respect of all vehicles and other property which were necessary for use and which were being used in or for the purpose of carrying on such service upon the date upon which his license expired.

Such Local Authority, corporation, or instrumentality and such former licensee may agree upon such vehicles and other property, and, subject to the approval of the Commissioner, such agreement shall be binding upon the parties thereto.

If they fail to so agree or if the Commissioner refuses to approve of the agreement made by them, the Commissioner shall determine such vehicles and other property.

(2.) The total compensation payable by the Local Authority, corporation, or instrumentality to which the passenger service license is issued to the holder of the former such license shall be the sum of the following amounts, that is to say :—

- (a) the value as at the date when taken of the vehicles and other property taken and vested in such Local Authority, corporation, or instrumentality ;
- (b) the aggregate amount, if any, by which the loss of the license diminished the respective values of all or any such vehicles and other property as (it having been agreed or determined were necessary for use and were being used in or for the purpose of carrying on the service upon the date upon which the passenger service license of the former licensee expired) are not taken and vested in such Local Authority, corporation, or instrumentality ; and
- (c) (if the former licensee was the original grantee of the license or obtained the original license by transmission by death and proves that he carried on the business at all times in such manner that the requirements of the public were not at any time prejudiced by profits taken by him from the business), five per centum of the sum of the amounts referred to in paragraphs (a) and (b) of this subsection multiplied by the number of years comprised in the period during which the license (including any renewal or renewals thereof) was in force but in no case exceeding five years.

(3.) The diminution in the value of any vehicle or other property resulting from the loss of the passenger service license shall be the difference, as at the date of such loss, between—

- (a) the amount which would be the fair market value of such vehicle or other property if a market were available for its sale for continued use for a purpose similar to that for which the former licensee was using it at such date ; and

- (b) the amount which would be the fair market value of such vehicle or other property if a market as specified in paragraph (a) of this subsection were not available.

A licensee who claims compensation for diminution in the value of any vehicle or other property must establish that a market as specified in paragraph (a) of this subsection for such vehicle or other property is not available.

(4.) Subject to subsections two and three of this section, the amount of compensation may be agreed upon between the Local Authority, corporation, or instrumentality to which a passenger service license has been issued and the former licensee, and, subject to approval by the Commissioner, such agreement shall be binding upon the parties thereto.

If such parties cannot agree or the Commissioner refuses to approve of the agreement made by them, the amount of compensation shall be determined by the Land Court, which, subject to the provisions of subsections two and three of this section, for that purpose shall have and may exercise the jurisdiction conferred upon it by "*The Public Works Land Resumption Acts, 1906 to 1955.*" which Acts shall, subject to all necessary modifications, apply and extend accordingly :

Provided that the former licensee shall make to such court his claim for compensation not later than one year after the date upon which he lost the license.

(5.) The Land Court may, notwithstanding any other Act or law, rule or process of law, order payment of the costs of the proceedings before it :

Provided that if the amount of the compensation as determined by it is the amount claimed by the former licensee or is nearer to such amount than to the amount offered by the Local Authority, corporation, or instrumentality, costs (if any) shall be awarded to the licensee, otherwise costs (if any) shall be awarded to the Local Authority, corporation, or instrumentality.

(6.) Any Local Authority, corporation, or instrumentality to which a passenger service license is granted pursuant to this Part shall pay to the

Commissioner all costs incurred by the Commissioner with respect to the issue of such license, and the Commissioner may recover any unpaid amount of such costs as a debt.

PART VIII.—WATER OR AIR TRANSPORT.

Division I.—Water Transport.

56. (1.) The Commissioner may from time to time prohibit the carriage of passengers, or goods, or both passengers and goods by water upon any of the inland or coastal waters of this State, or partly upon any such inland and partly upon any such coastal waters, except under and in accordance with the terms and conditions of a license under this Part. Regulation
of water
transport.

Notice of such prohibition shall be published in the *Gazette* and such notice shall specify the waters to which the prohibition relates, either by reference to places or in any other manner sufficiently identifying such waters.

As respects goods any such prohibition may relate to any class or classes of goods and, in that event the notice of the prohibition published in the *Gazette* shall also specify such class or classes of goods.

(2.) The provisions of this Part shall not apply to or in respect of any vessel which while carrying passengers, or goods, or both passengers and goods from one place to another within this State is navigated outside the coastal waters of this State.

(3.) Any prohibition imposed under the provisions of the repealed Acts corresponding to this section, and in force at the commencement of this Act, shall be deemed imposed under this section and shall continue in force accordingly.

57. Subject to this Act, the Commissioner may— Commis-
sioner may
license the
carriage of
passengers
and goods
by water.

(a) grant to any person a license to provide and carry on a service for the carriage of passengers or goods, or both passengers and goods upon any of the inland or coastal waters of this State or partly upon any such inland and partly upon any such coastal waters specified in any notice of a prohibition under this Division of this Part; and

(b) approve of the vessels to be used for the purpose of carrying on such licensed service.

A vessel shall not be so approved or its approval continued in force unless all other laws and regulations relating to such vessel and its operation have been and are at all times complied with.

Division II.—Air Transport.

Regulation
of air
transport.

58. (1.) The Commissioner may from time to time prohibit the carriage of passengers, or goods, or both passengers and goods by air from any place within this State to any other place within this State, except under and in accordance with the terms and conditions of a license under this Part.

Notice of such prohibition shall be published in the *Gazette* and shall specify the places between which such carriage is prohibited.

As respects goods any such prohibition may relate to any class or classes of goods and, in that event the notice of the prohibition published in the *Gazette* shall also specify such class or classes of goods.

(2.) Any prohibition imposed under the provisions of the repealed Acts corresponding to this section, and in force at the commencement of this Act, shall be deemed imposed under this section and shall continue in force accordingly.

Licensing of
air
transport.

59. Subject to this Act the Commissioner may grant to any person a license to provide and carry on a service for the carriage by air of passengers or goods, or both passengers and goods between places specified in any notice of a prohibition under this Division of this Part.

Division III.—When Transport by Water or Air Unlawful.

Offences in
relation to
transport
by water or
by air.

60. It shall be unlawful to carry passengers, or goods, or both passengers and goods by water or air at any time when such carriage is prohibited by the Commissioner.

If any owner of a vessel or aircraft carries or permits or allows to be carried in or on any vessel or aircraft any passengers, or goods, or both passengers

and goods at any time when such carriage is unlawful, such owner shall be guilty of an offence and liable to a penalty of not more than one hundred pounds.

Division IV.—Licensing.

61. With respect to licenses under this Part the Commissioner shall have and may exercise the powers and authorities conferred upon him by Part IV. and the provisions of that Part shall, with and subject to all necessary modifications, apply and extend accordingly: Application of Part IV.

Provided that the licensing fee in respect of any such license shall, in the discretion of the Commissioner, be—

- (a) an amount fixed by the Commissioner ;
- (b) the sum of the amounts fixed by the Commissioner for each and every vessel or, as the case may be, aircraft used for the purpose of providing and carrying on the licensed service ; or
- (c) an amount per centum as fixed by the Commissioner from the gross revenue derived from the licensed service,

but shall not in any event exceed twenty per centum of the gross revenue derived from the licensed service.

PART IX.—SAFETY.

62. (1.) It shall not be lawful for any person to operate or cause or permit any person employed by him or subject to his orders to operate any vehicle having an unladen weight in excess of four tons— Limits of continuous driving hours.

- (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 operator has not at least ten consecutive hours for rest in any period of twenty-four hours calculated from the commencement of any period of operating ; or

- (d) so that the operator 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 operator is able to obtain rest and refreshment ;
- (f) any time spent by the operator 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 operating ;
- (g) as respects the provisions of this section which relate to the number of consecutive hours for rest which an operator is to have in any specified period of time, time during which the operator 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 operator to rest away from such vehicle, shall be deemed not to be time that the operator has for rest :

Provided that where circumstances occur whereby the operator is compelled to camp either in or near the vehicle such time so occupied by him shall be deemed to be time that the operator has for rest.

When no liability for breach.

(2.) A person shall not 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.

(3.) In any proceedings for an offence against this section in respect of a vehicle a certificate or document purporting to be issued pursuant to the regulations under "*The Main Roads Acts, 1920 to 1959,*" or to any corresponding legislation, ordinance or law of any

State or Territory of the Commonwealth, which states the unladen weight of the vehicle (or any thing purporting to be a duplicate original or copy of such a certificate or document) shall be received in evidence and shall be evidence of the matter stated therein and, in the absence of evidence in rebuttal thereof, shall be conclusive evidence of that matter.

(4.) The Commissioner may, on a joint application of such representatives of the employers and employees as the Minister for Labour and Industry certifies to be properly representative of employers and employees concerned, recommend to the Governor in Council that the periods of time prescribed in this section may be varied and the Governor in Council by Order in Council published in the *Gazette* may vary such periods of time accordingly (and this section shall take effect accordingly), but no such recommendation shall be made by the Commissioner if he is of opinion that the variation applied for is likely to be detrimental to the public safety.

Any Order in Council made under this subsection may be revoked or varied by a subsequent such Order in Council.

(5.) This section shall not apply to vehicles used for fire brigade or ambulance brigade purposes.

63. With respect to any vehicle being used—

- (a) in carrying on any service authorised under a passenger service license; or
- (b) in carrying any passengers or goods under and in accordance with a permit,

Licenses and permittees to comply with other laws.

it shall be an implied condition of the license or permit that such of the provisions of "*The Traffic Acts, 1949 to 1960*," "*The Inspection of Machinery Acts, 1951 to 1960*," or any other Act or law as apply to such vehicle or such use thereof are being complied with in every respect.

64. With respect to any vehicle approved for use in providing and carrying on a service authorised by a passenger service license, or in respect of which a license to hire is in force, or which is permitted by a permit to be used for carrying passengers or goods, it shall be

Safety of passenger vehicles.

an implied condition of the license or permit that the licensee or permittee will not at any time use or cause or permit to be used the vehicle for carrying passengers or goods unless at that time it—

(a) is in good mechanical order ; and

(b) is in a safe and thoroughly serviceable condition.

Safety of
air
services.

65. It shall be a condition precedent to the grant of, and an implied condition of, a license for a service for the carriage by air of passengers, or goods, or both passengers and goods that, with respect to every aircraft proposed to be used or at any time used in carrying on the service authorised by the license, the law in force in this State with respect to aircraft and their operation is being complied with in every respect.

PART X.—GENERAL.

Death or
bankruptcy
of licensee.

66. (1.) Upon the death or bankruptcy of a holder of a passenger service license or license to hire the Commissioner may on the application within a reasonable time of the executor named in the will of such deceased person, or the legal personal representative, widow or nearest of kin of such deceased person, or the Public Curator, or the trustee of the estate of such bankrupt person, authorise such executor, or legal personal representative, or Public Curator, or trustee, as the case may be, either by himself or by an agent to be approved by the Commissioner, to carry on the business of such deceased or bankrupt person under such license for such period as the Commissioner may fix, with power to renew such authority if necessity arises.

To preserve the continuity of the business of a deceased or bankrupt licensee the Commissioner may permit a person to carry on such business until the grant of authority under the preceding provisions of this subsection.

(2.) If any holder of a passenger service license or license to hire becomes mentally sick and remains so, either in an asylum or reception house or elsewhere, for more than one month, the Commissioner may on the

application of the spouse of such mentally sick person, or of the nearest of kin, or of the Public Curator, authorise such spouse or an agent to carry on the business of such mentally sick person under such license for such period as the Commissioner may fix, with power to renew such authority if necessity arises.

(3.) Every authority or permit granted under this section shall be in the prescribed form, and the grantee thereof shall be subject to this Act in the same manner as the original licensee would have been.

67. (1.) Any person who contravenes or fails to comply with any provision of this Act or with any term, condition or other provision of any license, permit or authorisation under this Act shall be guilty of an offence against this Act. Offences.

(2.) Where any person under the authority of this Act directs anything to be done or forbids anything to be done by another person then if that other person fails to do the thing directed to be done or, as the case may be, does the thing forbidden to be done, that other person shall be guilty of an offence against this Act.

(3.) Any person guilty of an offence against this Act shall, if no specific penalty is provided for that offence, be liable to a penalty not exceeding one hundred pounds.

(4.) All offences against this Act may be prosecuted, and all fees and other moneys payable under this Act and not paid may be recovered in a summary way under "*The Justices Acts, 1886 to 1958*":

Provided that the Commissioner may recover any unpaid amount of any such fee or other moneys by action as for a debt in any court of competent jurisdiction.

(5.) A prosecution for any offence against this Act may be instituted at any time within twelve months after the offence was committed or within six months after the commission of the offence comes to the knowledge of the complainant, whichever is the later period.

Liability for
offence by
corporations.

(6.) (a) Where a body corporate offends against this Act each and every one of the following persons shall be deemed to have committed the offence, and shall be liable to be proceeded against and punished accordingly, namely—

(i.) the managing director, manager, or other governing officer, by whatever name called, and every member of the governing body, by whatever name called thereof; and

(ii.) every person who in Queensland manages, or acts or takes part in the management, administration, or government of the business in Queensland of the body corporate.

(b) This subsection applies so as not to limit or affect howsoever the liability of a body corporate to be proceeded against and punished for an offence against this Act committed by it.

(7.) In any proceedings on a complaint any order which the court is empowered to make may be made without an application or complaint being made in respect thereof, notwithstanding anything to the contrary in this or any other Act.

Forgery of
license, &c.

68. (1.) A person shall not—

(a) forge or counterfeit any license, permit, certificate, or other authority under this Act, or any record, document or other writing whatsoever which he or any other person is required by or under this Act to make or keep or which relates to the carriage by road of any goods; or

(b) utter, or make use of any such license, permit, certificate, or other authority or record, document or other writing so forged or counterfeited; or

(c) personate any person named in any license, permit, certificate, or other authority granted under this Act; or

(d) falsely pretend to be an authorised officer; or

(e) connive at any such forging, counterfeiting, uttering, making use, personating, or pretending as aforesaid.

Penalty: One hundred and fifty pounds or imprisonment for six months.

(2.) (a) With respect to any goods being or which have been carried by road, any record, document or other writing whatsoever produced to an authorised officer shall be deemed to be counterfeit if it contains information or particulars which by omission or commission is or are false or misleading in respect of any of the following :—

- (i.) the consignor or consignee of the goods ;
- (ii.) the place or time of the despatch or delivery or of the loading or unloading of the goods ;
- (iii.) any vehicle (including any trailer attached to a vehicle) used in the carriage ;
- (iv.) the route or any part of the route of the carriage ;
- (v.) the description or quantity of the goods ; or
- (vi.) any other matter appertaining to such carriage.

(b) The person by whom such record, document or other writing was produced to the authorised officer, and the person using or who used for the carriage thereof the vehicle by which the goods in question are being or were carried, or by whom such user is being or was caused or permitted, shall respectively be deemed to have counterfeited it and may be proceeded against and punished for an offence under this section accordingly.

This subsection applies so as not to limit or affect howsoever the liability of the person who actually counterfeited the record, document or other writing in question.

(3.) Any terms used in this section to which meanings are assigned by “*The Criminal Code*” shall have those meanings.

69. (1.) For the purposes of this section—

- (a) “registration number” means the registration number of a vehicle according to its registration under “*The Main Roads Acts, 1920 to 1959,*” or any corresponding legislation, ordinance or law of any State or Territory of the Commonwealth ;
- (b) a registration number shall be false if in respect of the vehicle bearing it it is not the registration number of such vehicle ;

False
number
plate.

- (c) any numeral (or letter or letters and numeral) which is not the registration number of a vehicle, but which is borne by such vehicle in such manner as to be capable of being taken to be the registration number of such vehicle, shall in relation to such vehicle be deemed a false registration number.

(2.) A person shall not use or cause or permit to be used on a road for the carriage of goods a vehicle bearing a false registration number.

Penalty: One hundred and fifty pounds or imprisonment for six months.

General
powers of
authorised
officers.

70 (1.) Any authorised officer may—

- (a) subject to subsection two of this section, enter, search and inspect—
- (i.) any place, including any vehicle in or on any place, where, or where he has reason to believe, any person carries on the business of a carrier of goods or of passengers, or which, or which he has reason to believe, any person uses in or in connection with the business of a carrier of goods or of passengers; or
- (ii.) any place, including any vehicle in or on any place, where, or where he has reason to believe, goods are, in the course of the business carried on in such place, loaded or despatched for carriage by road or unloaded or delivered after carriage by road;
- (b) stop, enter on or in, search and inspect any vehicle which, or which he has reason to believe, is carrying or has carried or is about to carry goods or passengers on any road;
- (c) inspect and examine any goods found by him upon such entry, the containers thereof, and the labels, brands or marks upon or attached to such containers;
- (d) call to his aid any person he may think competent to assist him in such examination and inquiry;

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- (e) make such investigation and inquiry as may be necessary to ascertain whether the provisions of this Act have been, or are being, complied with in respect of any goods by any person using, or who has used, any vehicle to carry by roads such goods, any person causing or permitting, or who has caused or permitted such user, or any person operating, or who has operated, any vehicle in the course of the carriage by road of such goods ;
- (f) question with respect to matters under this Act or appertaining to goods which, or which he has reason to suspect have been or are intended to be carried by road, any person whom he finds in any place, and require any person to answer the questions and to make and subscribe a statutory declaration of the truth of his answers ;
- (g) search for or require the production of any license, permit, certificate or authority in writing under this Act, or of any record, book, document or other writing which by this Act is required to be made or kept in respect of any goods carried by road, or the vehicle used in such carriage, or the operator thereof, or which in his opinion would be made or kept according to good business practice in relation to the carriage by road, or the loading or despatch for carriage by road, or the unloading or delivery after carriage by road, of any goods found by him in any place which, or which he has reason to believe, have been or are intended to be carried by road, and inspect, examine and make copies of or extracts from the same or seize any such record, book, document or other writing ;
- (h) upon the failure to produce to him forthwith upon his requisition any record, book, document or other writing referred to in paragraph (g) of this subsection, search the place in question and examine and make copies of or extracts from or seize all records, books, documents or writings of any kind

whatsoever wherein any entry or memorandum appears in any way relating to any such goods ;

- (i) exercise such other powers as may be prescribed.

(2.) In the case of any place or any part of any place which is used both for residential purposes and in connection with the carrying on of any business, an authorised officer may enter such place or part under the authority of this section at any time between eight o'clock in the forenoon and five o'clock in the afternoon of any day except Christmas Day, Good Friday or a Sunday.

In any other case the entry may be made at any time.

(3.) A person thereunto required by an authorised officer shall not fail to answer any question put to him by such authorised officer under the authority of this Act, but if the question tends to criminate him, and he answers it after objection on that ground, the answer shall not be used against him in any proceedings under this Act for the recovery of a penalty except for that the answer was false or misleading.

(4.) Where any record, book, document or other writing is seized by an authorised officer, the Commissioner, if thereunto required by the person whose property it is, shall as soon as reasonably may be after the seizure give to such person a copy thereof.

Authorised
officer may
require
name and
address.

71. (1.) Any authorised officer who—

- (a) finds any person committing or who reasonably suspects any person of having committed an offence against this Act ; or
- (b) is making inquiries or investigations with a view to establishing whether or not an offence against this Act has been committed by any person ; or
- (c) is of the opinion that the name and address of any person is required for the purpose of giving effect to any provision of this Act, or for the purpose of enabling him to carry out his powers and duties under this Act,

may require such person to state his name and address, or name or address, and, if he has reasonable ground to suppose that the name and address, or name or address given is false, may require evidence of the correctness thereof.

(2.) Any person required under this section to state his name and address or name or address who—

(a) refuses or otherwise fails to state his name and address or, as the case may be, name or address ; or

(b) states a false name and address or, as the case may be, a false name or a false address, shall be guilty of an offence against this Act.

(3.) Any person required under this section to give evidence of the correctness of his name and address, or name or address, who fails to give that evidence, or who gives false evidence with respect to his name and address or, as the case may be, name or address, shall be guilty of an offence against this Act.

72. (1.) A person shall not—

(a) assault, resist, or obstruct an authorised officer in the exercise of his powers or in the discharge of his duties under this Act, or attempt so to do ; or

(b) fail to facilitate by all reasonable means the entry into or on any place or vehicle by an authorised officer ; or

(c) fail to answer any question put to him in pursuance of this Act by an authorised officer or give to any such question an answer which is in any respect false or misleading ; or

(d) fail to comply with the lawful requisition or any part of the lawful requisition of an authorised officer ; or

(e) when required by or under this Act to furnish any assistance or to furnish any information to an authorised officer, fail to furnish that assistance or information, as the case may be, or, in the latter case, furnish information which is in any respect false or misleading ; or

Assaulting,
&c., author-
ised officers.

- (f) fail, without reasonable excuse, the proof whereof shall lie upon him, to produce any license, permit, certificate of approval, authority, or other certificate, or book, notice, record, document, or writing which he is required under this Act by an authorised officer to produce, or fail to allow an authorised officer to take a copy of or extract from any such license, permit, certificate, book, notice, record, document, or writing; or
- (g) directly or indirectly prevent any person from appearing before or being questioned by an authorised officer, or attempt so to do; or
- (h) use any threat or any abusive or insulting language to any authorised officer or to any other person with respect to any inspection or examination or questioning.

Penalty: One hundred pounds.

Service of determinations, notices, order, and directions of the Commissioner.

73. (1.) Every determination, notice, order or direction made or given by the Commissioner under this Act, or notice of rescission by the Commissioner of any such determination, notice, order or direction, may be published in the *Gazette*, and upon such publication shall be judicially noticed and shall be and be deemed to be sufficiently served upon or notified to all persons affected by such determination, notice, order or direction, or rescission thereof.

(2.) Every determination, notice, order or direction made or given under this Act not published in the *Gazette*, affecting a person or persons individually, or notice of the rescission of such determination, notice, order or direction, shall be sufficiently served if a copy of such determination, notice, order or direction or notice of such rescission is delivered to such person or, if more persons than one are affected, to each such person.

(3.) The foregoing provisions of this section shall not apply with respect to determinations by the Commissioner of any provision, term or condition of a license or permit, where such provision, term or condition is set out in that license or permit.

(4.) The Commissioner may rescind any determination, notice, order or direction made or given by him under this Act, or may by a further determination, notice, order or direction modify any such determination, notice, order or direction.

74. (1.) The Governor in Council may from time to time make regulations, not inconsistent with this Act, prescribing all matters or things which by this Act are required or permitted to be prescribed (except any matter or thing required by this Act to be prescribed otherwise than by regulation) or which are in his opinion necessary or convenient to be prescribed for carrying out or giving effect to the provisions of this Act, and in particular for all or any of the purposes set out in the Schedule to this Act. Regulations.

(2.) 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.

(3.) The power to make any regulation under this Act shall include power to make that regulation so that it shall be limited in its application—

- (a) to, or to any part of, any prescribed district or road;
- (b) to persons included in any prescribed class of persons;
- (c) to all persons save persons included in any prescribed class of persons;
- (d) to vehicles included in any prescribed class or description of vehicles;
- (e) to all vehicles save vehicles included in any prescribed class or description thereof; or
- (f) otherwise as to time, place or circumstance as is prescribed.

(4.) The power to make regulations hereunder shall include power to make different regulations in respect of different districts or roads or different parts thereof.

(5.) The power to make a regulation controlling or regulating any act, matter or thing shall include power to make a regulation prohibiting that act, matter or thing either absolutely or in respect of any prescribed locality or road, or part thereof, or any prescribed time or circumstance.

(6.) The power to make regulations under this Act shall include power to repeal, amend or otherwise modify any regulation in force at the commencement of this Act and continued in force by virtue of any provision of this Act.

(7.) Regulations may be made under this Act at any time after the passing hereof.

Publication
of Orders in
Council, &c.

75. (1.) Every Proclamation, Order in Council, or regulation made under this Act shall—

- (i.) Be published in the *Gazette* ;
- (ii.) Upon its publication in the *Gazette*, be judicially noticed and such publication shall be conclusive evidence of the matters contained therein ;
- (iii.) Take effect from the date of such publication unless, in the case of any regulation, a later date is specified in that or any other regulation for its commencement when in such event it shall take effect from that later date ; and
- (iv.) Be laid before Parliament within fourteen sitting days after such publication, if Parliament is in session, and if not, then within fourteen sitting days after the commencement of the next session.

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

76. No misnomer, inaccurate description, or omission in or from any Proclamation, Order in Council, regulation, license, permit, order, notice, or other act of authority under this Act shall in any wise prevent or abridge the operation of this Act with respect to the subject matter of that misnomer, inaccurate description, or omission provided the same is designated so as to be understood. ^{Inaccurate descriptions, &c.}

77. No action or legal proceedings whatsoever shall be brought by any person against the Crown, the Minister, the Commissioner, the Deputy Commissioner, the secretary, or any officer or employee of the Commissioner on account of the Commissioner issuing or granting or refusing to issue or grant or cancelling or suspending, or renewing or refusing to renew, or consenting or refusing to consent to the transfer of any license, approval, permit, authority, or certificate whatsoever under any provision of this Act or on account of the Commissioner imposing any term or condition in respect of the issue or renewal of any such document, or varying any term or condition of any such document upon its renewal or at any time during its currency; 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. ^{Indemnity.}

78. (1.) The amount of all licensing fees, fees in respect of permits, fines and other fees and moneys collected under this Act shall be paid into and form part of the Consolidated Revenue Fund. ^{Revenue and expenditure.}

(2.) The costs, charges and expenses of administering this Act shall be paid out of moneys appropriated by Parliament from time to time.

79. The Commissioner shall, as soon as practicable after the termination of each financial year, make to the Minister a report concerning the administration of this Act during such year and any matters relating to transport in the State as the Commissioner deems advisable. A copy of each such report shall be laid before the Legislative Assembly if Parliament is sitting when the report is presented or if Parliament is not then sitting within one month after Parliament again commences to sit. ^{Annual report.}

[s. 74.]

SCHEDULE.

Subject-matters for Regulations.

Classifica-
tion of
approved
vehicles.

1. The classification of vehicles to which this Act applies ; prescribing conditions (including conditions designed to secure the safety of the public), to which vehicles must conform before being approved for use in carrying on any licensed passenger service, 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, width, and overhang, the description of its wheels and its motive power ; prohibition of the issue of certificates of approval in respect of and the cancellation of certificates of approval in respect of vehicles which do not conform to the prescribed conditions.

Identifica-
tion of
approved
vehicles.

2. Providing for the identification of vehicles approved for use in carrying on any licensed passenger service, and in particular providing for, regulating, and controlling the size, shape, and character of identification marks to be fixed to such vehicles and the mode in which they are to be fixed.

Safety and
maintenance
of vehicles.

3. Prescribing conditions (including conditions designed to secure the safety of the public) to which vehicles approved for use in carrying on any licensed passenger service must conform.

Providing that licensees shall at all times maintain such vehicles in good mechanical order, safe condition, and reasonably good appearance, shall provide for the safety and comfort of passengers carried in or on such vehicles, and providing that the Commissioner may issue orders directing licensees to effect repairs to or recondition such vehicles, and where it is considered expedient so to do directing that such vehicles be not used until such repairs or reconditioning are or is effected, and providing that licensees shall obey such orders.

Illumination.

4. Providing for the proper illumination at night time of identification marks or numbers of vehicles approved for use in carrying on any licensed passenger service.

Dangerous
goods.

5. Providing for, regulating, and controlling the carriage of dangerous goods.

Tranship-
ment.

6. Prohibiting or regulating the transshipment of goods or passengers in transit.

Weighing.

7. Prescribing, providing for regulating and controlling the weighing of vehicles carrying goods on any road or goods carried on any vehicle on any road, the powers of authorised officers and the duties of operators of vehicles and other persons with respect to such weighing.

Manner of
loading.

8. Requiring that goods, or any specified class or classes of goods, or goods except any specified class or classes of goods, carried by road on a vehicle shall be loaded and, at all times during which they are being carried on such vehicle, kept loaded so that the brands or other identification marks on or attached to such of the bales, bags, cases, cartons or other containers whatsoever in which such goods are

contained as comprise any external layer of the load (and whether on the top or any side thereof) are capable of being read without in any way disturbing the loading, and prescribing the persons who shall be liable for compliance with such requirements.

9. Providing that every passenger about to be or being conveyed in or on a vehicle approved or permitted for use in carrying on a licensed passenger service shall produce and allow to be inspected the ticket entitling that passenger to that conveyance upon demand made by any one of the following persons—namely, an authorised officer, the operator of or a conductor employed upon that vehicle the licensee or any other person acting under the authority of the licensee. Inspection and obtaining of tickets, &c.

Providing for, regulating, and controlling the obtaining by passengers of tickets entitling them to conveyance upon a vehicle approved or permitted for use in carrying on a licensed passenger service, the times during which passengers shall keep in possession their respective aforesaid tickets, and the destruction or delivery up of those tickets upon the completion of the journey thereby authorised.

10. Controlling and regulating the obtaining, printing, supplying, and use of tickets, consignment notes, waybills, and other documents required to be used by holders of passenger service licenses or permits; prohibiting any such tickets, consignment notes, waybills, or other documents from being obtained, printed, supplied, or used otherwise than in accordance with such regulations; and the form and manner of the keeping by licensees, permittees and other persons specified in the regulations of records of all such tickets, stamps, consignment notes, waybills, and other documents and of the obtaining, printing, supplying, and use thereof. Tickets, stamps, &c.

11. The returns and information to be furnished to the Commissioner; the form in which any such return or information is to be so furnished, and the persons by whom and the times at which any such return or information is to be so furnished. Returns.

12. The records to be kept by owners and operators of vehicles having an unladen weight in excess of two tons, the form of such records, the carriage and retention thereof, the exemption of any persons or of persons included in any class of persons from the requirement to keep or carry such records, and the powers of authorised officers with respect to the inspection of such records. Tare weight in excess of two tons.

13. Providing for payment to be made to the Commissioner in respect of the supply by him to holders of passenger service licenses or permits and holders of permits under this Act of attachment to vehicles, or of books, forms, and other stationery, for the purpose of making, keeping, or furnishing any prescribed notice, application, record, return, book, account, or document. Payment for plates, &c.

14. Forms under and for the purposes of this Act, and the respective purposes for which such forms, or forms to the like effect, shall be used. Forms.

Licenses to hire.

15. Prescribing all matters and things which are necessary or convenient to be prescribed for carrying out or giving effect to Part III., and in particular—

(a) Prescribing kinds of licenses to hire ;

(b) Requiring every driver (other than the licensee) of any vehicle licensed under Part III. to apply for, obtain and maintain in force a license herein called a " hire driver's license " ;

(c) Providing for, regulating and controlling—

- (i.) applications for licenses to hire or hire driver's licenses or for such licenses of a particular kind ;
- (ii.) the information and particulars to be contained in or to accompany every such application and the verification of all such information and particulars ;
- (iii.) the granting, issue, refusal to grant or issue, assignment or transfer, or letting or leasing, surrender, cancellation or suspension of a license to hire or a hire driver's license, or of such a license of any particular kind ;
- (iv.) applications for the renewal, or approval by the Commissioner of the assignment or transfer, or letting or leasing, of licenses to hire or hire drivers' licenses or such licenses of any particular kind, the information to be contained in or to accompany such applications, the verification of all such information and particulars, and the grant or refusal to grant such renewals or approval of such letting or leasing, assignments or transfers ;
- (v.) duplicates for lost, destroyed or mutilated licenses to hire or hire driver's licenses or such licenses of any particular kind, applications for such duplicates, the information to be contained in or to accompany such applications, the verification of such information and particulars, and the grant or issue, or refusal to grant or issue such duplicates ;
- (vi.) the conditions, terms, grounds, restrictions or circumstances under, upon, or subject to which licenses to hire or hire drivers' licenses or such licenses of any particular kind may be granted, issued, refused, renewed, transferred, let or leased, encumbered, cancelled, suspended or surrendered and the variation from time to time of the terms and conditions of any such license ;
- (vii.) the delivery to prescribed persons of licenses to hire or hire drivers' licenses or such licenses of any particular kind upon expiration, upon the disqualification of the licensee from holding that particular kind of license, or upon the conviction of the licensee, or upon the cancellation, suspension or surrender of the license, or upon the expiration by effluxion of time of the license, or upon the happening of any other prescribed event ;
- (viii.) endorsements of licenses to hire or hire drivers' licenses or such licenses of any particular kind (including endorsements of convictions of holders of any such licenses for offences or prescribed offences against this Act or

any other Act) defining what shall constitute and be the effect of an endorsement of a license, providing that any endorsement of a license by a person duly authorised to make that endorsement shall be deemed to be a part of that license ;

(d) The production of licenses to hire and hire drivers' licenses for inspection when required or called upon by prescribed persons ;

(e) Providing for, regulating and controlling the qualifications of, and the tests or examinations, or tests and examinations, to be passed by applicants for licenses to hire or hire drivers' licenses or lessees, assignees or transferees of licenses to hire (which qualifications, tests or examination, or any of them, may differ in respect of such licenses of different kinds) and providing for the submission by any applicant for, or proposed lessee, assignee or transferee of, such a license of any particular kind of character references or of a medical certificate or other evidence of health, or requiring him to supply any personal particulars ;

(f) Providing for, regulating and controlling the transshipment in transit of passengers or goods carried by vehicles licensed under Part III.;

(g) Prescribing conditions or specifications (including conditions or specifications designed to secure the safety of the public and their goods) to which vehicles licensed under Part III. generally or any particular class or description of such vehicles, or vehicles licensed under any particular kind of license under Part III. must conform, including amongst any other matters or things deemed desirable or convenient the construction of the vehicle, its form, equipment, weight, maximum load or carrying capacity, height, length, width and overhang, the description of its wheels, its motor or animal power and its steering ;

Providing for, regulating and controlling the construction and maintenance of vehicles so licensed in accordance with the conditions or specifications prescribed therefor ;

Prohibiting the use of any vehicle so licensed which is not constructed or maintained in accordance with the conditions or specifications prescribed therefor ;

Prohibiting the licensing under Part III. of any vehicle which is not constructed or maintained in accordance with the conditions or specifications prescribed therefor ;

Providing for, regulating and controlling the cancellation of the license for any vehicle licensed under Part III. which is not constructed or maintained in accordance with the conditions or specifications prescribed therefor ;

Providing for, regulating and controlling the maintenance by licensees of vehicles licensed under Part III. in good mechanical order, safe condition and good appearance, and the provision to be made by such licensees for the safety and comfort of passengers in or upon such vehicles ;

Providing that licensees of vehicles licensed under Part III. shall ensure that the brakes thereof are in safe condition at all times ;

Providing for, regulating and controlling the issue by the Commissioner of orders directing licensees of vehicles licensed under Part III. to repair or recondition, or repair and recondition, such vehicles as directed by such orders ; authorising the Commissioner to prohibit by such order or by a further order the use of a vehicle in respect of which he has issued an order as aforesaid until that vehicle has been repaired or reconditioned, or repaired and reconditioned in accordance with the order ; and generally providing for, regulating and controlling all such matters and things as are necessary or convenient to secure or enforce obedience by licensees to orders as aforesaid ;

(*h*) Defining what shall be deemed to be misconduct or obnoxious or disorderly conduct by drivers of or passengers upon vehicles licensed under Part III. ; the prevention of or punishment for any such misconduct or obnoxious or disorderly conduct ; the prohibition of touting, calling out or otherwise importuning for or to hire any vehicle licensed under Part III. ; the enforcement of cleanliness of vehicles licensed under Part III. and of drivers thereof ;

(*j*) Providing for, regulating and controlling—

- (i.) the identification of vehicles licensed under Part III. and in particular the size, shape and character of identification marks, signs or numbers to be affixed to or displayed upon such vehicles and the mode or manner in which they are to be so affixed or displayed ;
- (ii.) the proper illumination at night time of identification marks, signs or numbers carried or displayed on vehicles licensed under Part III. ;
- (iii.) the carriage upon a vehicle licensed under Part III. of the license or of a true copy authenticated as prescribed of the license therefor ;

(*k*) Providing for prescribing, regulating and controlling fares, freights and rates, or the maximum or minimum, or maximum and minimum fares, freights and rates for the carriage of passengers or goods in or upon vehicles licensed under Part III., or licensed under any particular kind of license under Part III. ;

(*l*) Providing for, regulating and controlling the maximum load or weight of goods (including as respects vehicles carrying passengers, or both passengers and goods, luggage of passengers) or the maximum number of passengers to be carried in or on any vehicle licensed under Part III. ;

Prescribing the persons liable for contravention of or failure to comply with any regulation made under the foregoing provisions of this paragraph (*l*) ;

(*m*) Authorising checking of the weights of vehicles licensed under Part III. and of the loads carried on such vehicles ;

Providing for, prescribing, regulating and controlling the use of instruments for the purpose of such check weighing ;

Requiring owners and persons in charge of any vehicle licensed under Part III. to permit and aid in the inspection, weighing and measuring of such vehicle, the inspection, weighing and measuring of any goods therein or thereon, the checking of the number of passengers therein or thereon, the inspection and checking of books, documents and records therein or thereon or relating thereto or to any passengers or goods therein or thereon ;

Requiring owners and persons in charge of any vehicle licensed under Part III. to answer questions put by authorised officers acting in the execution of any regulations made under the foregoing provisions of this clause, and to furnish to such authorised officers such information and particulars with respect to any vehicle or any goods or passengers therein or thereon as may be required by such officers in the course of and for the purposes of the execution of any duty or function conferred or imposed upon authorised officers by the regulations made under the provisions of this paragraph (m) ;

Requiring owners and persons in charge as aforesaid to state, when thereunto required by an authorised officer, their respective names and addresses, and on demand by an authorised officer to produce to him any license under " *The Traffic Acts, 1949 to 1959,*" or this Act held either in person or in respect of the vehicle concerned ;

(n) Providing for, prescribing, regulating and controlling the registration or licensing by the Commissioner and identification of vehicles used by warehousemen or wholesalers for the carriage of goods in the course or for the purpose of their respective businesses ;

(o) Prescribing fees payable for licenses to hire and for hire drivers' licenses or for the renewal of such licenses, or for duplicate copies of such licenses, or in respect of endorsement on such licenses of any approvals by the Commissioner of the assignment or transfer, or letting or leasing of such licenses, or any other matter or thing prescribed to be endorsed thereon, (any of which fees may be prescribed to be different amounts in respect of licenses to hire and hire drivers' licenses respectively or different kinds of such licenses or in respect of different localities wherein the licenses are of force and effect, or both) ; and prescribing the manner in which, the time and place when and where, and the person to whom such fees or any class thereof shall be paid ; and

(p) Authorising or requiring the making or furnishing of reports or copies of reports by members of the Police Force and authorised officers to the Commissioner concerning or in relation to the qualifications, fitness, antecedents, character and conduct of any applicant for, or for the renewal or assignment or transfer of, a license to hire or hire driver's license, or any such license, and indemnifying members of the Police Force and authorised officers against liability at law in respect of reports or copies of reports made or furnished as aforesaid.

16. Applications for and issue of permits, the terms and conditions thereof ; the cancellation and suspension of permits and the procedure in relation thereto ; restricted goods ; returns and information to be furnished by permittees ; the time and mode of payment of fees for permits and security for such payment. Permits, &c.

Proof.

17. 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; the admissibility of evidence in proceedings under this Act for the recovery of penalties; 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.

Penalties.

18. Penalties for offences against the regulations but not exceeding one hundred pounds or in the case of a daily penalty ten pounds per day.