

SOUTH AUSTRALIA

**PASSENGER TRANSPORT ACT 1994**

*This Act is reprinted pursuant to the Acts Republication Act 1967 and incorporates all amendments in force as at 17 December 1998.*

*It should be noted that the Act was not revised (for obsolete references, etc.) by the Commissioner of Statute Revision prior to the publication of this reprint.*

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# PASSENGER TRANSPORT ACT 1994

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Passenger Transport Act 1994 No. 30 of 1994  
[Assented to 26 May 1994]<sup>1</sup>

as amended by

Statutes Amendment (Community Titles) Act 1996 No. 38 of 1996 [Assented to 9 May 1996]<sup>2</sup>

**Passenger Transport (Service Contracts) Amendment Act 1998 No. 75 of 1998 [Assented to 17 December 1998]**

<sup>1</sup> Came into operation (except ss. 27-52, 54, 55, 62, 63 and cl. 1(a), 2(a)(v), 2(b)(vii)-(xi), 4-9 of Sched. 4) 1 July 1994: *Gaz.* 30 June 1994, p. 1843; ss. 27, 28, 30-52, 54, 55, 62, 63 and cl. 1(a), 2(a)(v), 2(b)(vii)-(xi), 4-9 of Sched. 4 came into operation 1 August 1994; s. 29 came into operation 1 September 1994: *Gaz.* 28 July 1994, p. 170.

<sup>2</sup> Came into operation 4 November 1996: *Gaz.* 31 October 1996, p. 1460.

N.B. The amendments effected to this Act by the *TransAdelaide (Corporate Structure) Act 1998* had not been brought into operation at the date of, and have not been included in, this reprint.

**NOTE:**

- Asterisks indicate repeal or deletion of text.
- Entries appearing in bold type indicate the amendments incorporated since the last reprint.
- For the legislative history of the Act see Appendix 1.

**An Act to reform public transport services within the State; to repeal the Metropolitan Taxi-Cab Act 1956 and the State Transport Authority Act 1974; to make related amendments to the Local Government Act 1934, the Road Traffic Act 1961, the Superannuation Act 1988, the Tobacco Products Control Act 1986, and the Wrongs Act 1936; and for other purposes.**

The Parliament of South Australia enacts as follows:

**PART 1  
PRELIMINARY**

**Short title**

1. This Act may be cited as the *Passenger Transport Act 1994*.

**Commencement**

2. This Act will come into operation on a day to be fixed by proclamation.

**Objects**

3. The objects of this Act are—

(a) to benefit the public of South Australia through the creation of a passenger transport network that—

- (i) is focussed on serving the customer; and
- (ii) provides accessibility to needed services, especially for the transport disadvantaged; and
- (iii) is safe; and
- (iv) encourages transport choices that minimise harm to the environment; and
- (v) is efficient in its use of physical and financial resources; and
- (vi) promotes social justice; and

(b) to provide a system of accreditation for—

- (i) the operators of passenger transport services; and
- (ii) the drivers of public passenger vehicles; and
- (iii) the providers of centralised booking services within the passenger transport industry,

in order to encourage and facilitate the observance of industry standards for passenger transport within the State; and

(c) to require the licensing of taxi-cabs; and

(d) to provide for a new approach to the provision of passenger transport services by the public sector.

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**Interpretation**

4. (1) In this Act—

"**Board**" means the Passenger Transport Board established under this Act;

"**centralised booking service**" means a service that is subject to accreditation under Division 3 of Part 4;

"**designated taxi-stand**" means an area designated as a taxi-stand—

- (a) by the Board; or
- (b) by a council under the *Local Government Act 1934*;

"**Metropolitan Adelaide**" means the part of the State that is comprised of—

- (a) Metropolitan Adelaide within the meaning of the *Development Act 1993*; and
- (b) any other area included within the ambit of this definition by the regulations,

but does not include an area excluded by the regulations from the ambit of this definition;

"**motor vehicle**" means—

- (a) a vehicle or mobile machine driven or propelled or ordinarily capable of being driven or propelled by an engine, electricity or other form of power, other than human power; or
- (b) a vehicle of a class prescribed by the regulations for the purposes of this definition (if any),

but does not include—

- (c) an aeroplane; or
- (d) a vessel; or
- (e) any other vehicle of a class excluded by the regulations from the ambit of this definition;

"**passenger transport service**" means a service consisting of the carriage of passengers for a fare or other consideration (including under a hire or charter arrangement or for consideration provided by a third party)—

- (a) by motor vehicle; or
- (b) by train or tram; or
- (c) by means of an automated, or semi-automated, vehicular system; or
- (d) by a vehicle drawn by an animal along a public street or road; or

- (e) by any other means prescribed by the regulations for the purposes of this definition,

but does not include a service of a class excluded by the regulations from the ambit of this definition;

**"public passenger vehicle"** means a vehicle used to provide a passenger transport service;

**"regular passenger service"** means—

- (a) a passenger transport service conducted according to regular routes and timetables; or
- (b) any other passenger transport service of a class prescribed by the regulations for the purposes of this definition,

but does not include a service of a class excluded by the regulations from the ambit of this definition;

**"relative"** in relation to a person, means the spouse, parent or remoter linear ancestor, son, daughter or remoter issue or brother or sister of the person;

**"relevant interest"** has the same meaning as in the *Corporations Law*;

**"road maintenance authority"** means an authority responsible for the care, control and maintenance of a street or road;

**"service contract"** means a contract entered into under Part 5;

**"spouse"** includes a putative spouse (whether or not a declaration of the relationship has been made under the *Family Relationships Act 1975*);

**"taxi-meter"** means an instrument or device which—

- (a) is connected to the drive train or speedometer of a vehicle, or otherwise fitted to a vehicle in a manner prescribed by the regulations; and
- (b) is capable of—
- (i) recording a charge for the hire of the vehicle according to the distance travelled or waiting or stationary time, or a combination of both; and
- (ii) displaying that charge in words or figures, or producing a form or statement showing such words or figures; and
- (c) complies with specifications prescribed by the regulations;

**"temporary accreditation"** means an accreditation granted or issued under Part 4 for a period of less than 12 months;

**"temporary licence"** means a licence issued under Part 6 for a period of less than 12 months.

(2) A reference in a provision of this Act to drivers or the driving of vehicles will be taken to include a reference to riders and the riding of vehicles (unless the provision by its express terms indicates that it does not apply to riders or riding).



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- (3) For the purposes of this Act, a person is an associate of another person if—
- (a) the other person is a relative of the person or of the person's spouse; or
  - (b) the other person—
    - (i) is a body corporate; and
    - (ii) the person or a relative of the person or of the person's spouse has, or two or more such persons together have, a relevant interest or relevant interests in shares in the body corporate the nominal value of which is not less than 10 per cent of the nominal value of the issued share capital of the body corporate; or
  - (c) the other person is a trustee of a trust of which the person, a relative of the person or of the person's spouse or a body corporate referred to in paragraph (b) is a beneficiary; or
  - (d) the person is an associate of the other person within the meaning of the regulations.

*Note: For definition of divisional penalties (and divisional expiation fees) see Appendix 2.*

**Application of Act**

5. (1) The regulations may provide that a specified provision of this Act does not apply, or applies with prescribed variations, to a part of the State specified by the regulations and, subject to any condition to which the regulations are expressed to be subject, the operation of this Act is modified accordingly.

(2) The Minister may, by notice in the *Gazette*, confer exemptions from this Act or specified provisions of this Act—

- (a) on specified persons or persons of a specified class; or
- (b) on specified vehicles or vehicles of a specified class; or
- (c) in relation to specified services or services of a specified class.

(3) An exemption under subsection (2) may be granted by the Minister on such conditions as the Minister thinks fit.

(4) The Minister may, at any time, by further notice in the *Gazette*—

- (a) vary or revoke an exemption; or
- (b) vary or revoke a condition of an exemption.

(5) A person who contravenes or fails to comply with a condition imposed under this section is guilty of an offence.

Penalty: Division 5 fine.

**PART 2  
PASSENGER TRANSPORT BOARD**

**DIVISION 1—ESTABLISHMENT OF BOARD**

**Establishment of the Board**

- 6.** (1) The *Passenger Transport Board* is established.
- (2) The Board is a body corporate.
- (3) The Board is an instrumentality of the Crown and holds its property on behalf of the Crown.
- (4) If a document appears to bear the common seal of the Board, it will be presumed, in the absence of proof to the contrary, that the common seal of the Board was duly affixed to the document.

**Ministerial control**

- 7.** (1) Subject to subsection (2), the Board is subject to the control and direction of the Minister.
- (2) No Ministerial direction can be given—
- (a) in relation to the grant (or refusal) of a service contract by the Board; or
- (b) to suppress information or recommendations from a report by the Board under this Act.
- (3) Subsection (2)(a) does not limit a power expressly given to the Minister under Part 5.
- (4) A direction given by the Minister under this section must be in writing.
- (5) If the Minister gives a direction under this section, the Board must cause a statement of the fact that the direction was given to be published in its next annual report.

**DIVISION 2—THE BOARD'S MEMBERSHIP**

**Composition of the Board**

- 8.** (1) The Board consists of five members appointed by the Governor.
- (2) A person appointed as a member of the Board must have such managerial, commercial, transport or other qualifications, and such experience, as are, in the Minister's opinion, necessary to enable the Board to carry out its functions effectively.
- (3) At least one member of the Board must be a woman and at least one member must be a man.
- (4) One member of the Board will be appointed by the Governor to chair meetings of the Board.
- (5) The Governor may appoint a suitable person to be the deputy of a member of the Board and to act as a member of the Board during any period of absence of the member (and a reference in this Act to a member of the Board will be taken to include, unless the contrary intention appears, a reference to a deputy while acting as a member of the Board).

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**Conditions of membership**

**9.** (1) A member of the Board is appointed on conditions determined by the Governor and for a term, not exceeding three years, specified in the instrument of appointment and, at the expiration of a term of appointment, is eligible for reappointment.

(2) The Governor may remove a member of the Board from office—

(a) for breach of, or non-compliance with, a condition of appointment; or

(b) for misconduct; or

(c) for failure or incapacity to carry out official duties satisfactorily; or

(d) if serious irregularities have occurred in the conduct of the Board's affairs, the Board has acted in a manner that is inconsistent with the objects of this Act or the Board has failed to carry out its functions satisfactorily and the Board's membership should, in the opinion of the Governor, be reconstituted for that reason.

(3) The office of a member of the Board becomes vacant if the member—

(a) dies; or

(b) completes a term of office and is not reappointed; or

(c) resigns by written notice to the Minister; or

(d) is convicted of an indictable offence; or

(e) is removed from office under subsection (2).

**Remuneration**

**10.** (1) A member of the Board is entitled to remuneration, allowances and expenses determined by the Governor.

(2) An entitlement under subsection (1) cannot include the private use of a motor vehicle or an allowance associated with the use of a private motor vehicle (but this subsection does not prevent the reimbursement of expenses reasonably incurred in the use of a motor vehicle for official duties).

**Disclosure of interest**

**11.** (1) A member who has a direct or indirect personal or pecuniary interest in a matter under consideration by the Board—

(a) must, as soon as he or she becomes aware of his or her interest, disclose the nature and extent of the interest to the Board; and

(b) must not take part in any deliberations or decision of the Board on the matter and must be absent from the room when any deliberations are taking place or decision is being made.

Penalty: Division 5 fine or division 5 imprisonment.

(2) If a member discloses an interest in a contract or proposed contract and complies with the other requirements of this section—

- (a) the contract is not liable to be avoided by the Board; and
- (b) the member is not liable to account for profits derived from the contract.

(3) If a member fails to make a disclosure of interest or fails to comply with the other requirements of this section in respect of a proposed contract, the contract is liable to be avoided by the Board or by the Minister.

(4) A contract may not be avoided under subsection (3) if a person has acquired an interest in property the subject of the contract in good faith for valuable consideration and without notice of the contravention.

(5) If a member of the Board has or acquires a personal or pecuniary interest, or is or becomes the holder of an office, such that it is reasonably foreseeable that a conflict might arise with his or her duties as a member of the Board, the member must, as soon as reasonably practicable, disclose full and accurate details of the interest or office to the Board.

Penalty: Division 4 fine.

(6) If, in the Minister's opinion, a particular interest is not consistent with the proper discharge of the duties of a member of the Board, the Minister may direct the member either to divest himself or herself of the interest or to resign from the Board (and non-compliance with the direction constitutes misconduct and hence a ground for removal of the member from the Board).

(7) Without limiting the effect of this section, a member of the Board will be taken to have an interest in a matter for the purposes of this section if an associate of the member has an interest in the matter.

(8) A disclosure under this section must be recorded in the minutes of the Board and reported to the Minister.

(9) The annual report must include any disclosure made during the relevant financial year by a member of the Board of an interest in a matter under consideration or decided by the Board.

### **Members' duties of honesty, care and diligence**

**12.** (1) A member of the Board must at all times act honestly in the performance of official functions.

Penalty: Division 4 fine or division 4 imprisonment or both.

(2) A member of the Board must at all times act with reasonable care and diligence in the performance of official functions.

Penalty: Division 4 fine.

(3) A member or former member of the Board must not make improper use of information acquired because of his or her official position to gain, directly or indirectly, a personal advantage for himself, herself or another, or to cause detriment to the Board.

Penalty: Division 4 fine or division 4 imprisonment or both.

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(4) A member of the Board must not make improper use of his or her official position to gain, directly or indirectly, a personal advantage for himself, herself or another, or to cause detriment to the Board.

Penalty: Division 4 fine or division 4 imprisonment or both.

(5) This section—

- (a) operates both inside and outside the State; and
- (b) is in addition to, and does not derogate from, other laws.

(6) This section extends—

- (a) to a person who is a member of a committee established under section 25; or
- (b) to a person—
  - (i) who is a delegate of the Board; or
  - (ii) who is a member of a body that is a delegate of the Board,

with such modifications as may be necessary or appropriate, or as may be prescribed.

**Transactions with member or associates of member**

**13.** (1) Neither a member of the Board nor an associate of a member of the Board may, without the approval of the Minister, be directly or indirectly involved in a transaction with the Board.

(2) A person will be treated as being indirectly involved in a transaction for the purposes of subsection (1)—

- (a) if the person initiates, promotes or takes any part in negotiations or steps leading to the making of the transaction with a view to that person or an associate of that person gaining some financial or other benefit (whether immediately or at a time after the making of the transaction); and
- (b) despite the fact that neither that person nor an agent, nominee or trustee of that person becomes a party to the transaction.

(3) Subsection (1) does not apply to a transaction of a prescribed class.

(4) If a transaction is made with the Board in contravention of subsection (1), the transaction is liable to be avoided by the Board or by the Minister.

(5) A transaction may not be avoided under subsection (4) if a person has acquired an interest in property the subject of the transaction in good faith for valuable consideration and without notice of the contravention.

(6) A member of the Board must not counsel, procure, induce or be in any way (whether by act or omission or directly or indirectly) knowingly concerned in, or party to, a contravention of subsection (1).

Penalty: If an intention to deceive or defraud is proved—Division 4 fine or division 4 imprisonment, or both.

In any other case—Division 6 fine.

**Validity of acts and immunity of members**

**14.** (1) An act or proceeding of the Board is not invalid by reason only of a vacancy in its membership or a defect in the appointment of a member.

(2) A member of the Board incurs no civil liability for an honest act or omission in the performance or exercise, or purported performance or exercise, of the member's or the Board's functions, duties or powers under this Act.

(3) The immunity conferred by subsection (2) does not extend to culpable negligence.

(4) A civil liability that would, but for this section, attach to a member attaches instead to the Crown.

**DIVISION 3—THE BOARD'S PROCEDURES**

**Proceedings**

**15.** (1) The member appointed to chair meetings of the Board will preside at meetings of the Board or, in the absence of that member, a member chosen by those present will preside.

(2) A quorum of the Board consists of three members (and no business may be transacted at a meeting of the Board unless a quorum is present).

(3) A decision carried by a majority of votes cast by members at a meeting is a decision of the Board.

(4) Each member present at a meeting of the Board has one vote on any question arising for decision and, if the votes are equal, the member presiding at the meeting has a second or casting vote.

(5) A resolution of the Board—

(a) of which prior notice was given to all members of the Board in accordance with procedures determined by the Board; and

(b) in which at least three members of the Board expressed their concurrence in writing,

will be taken to be a decision of the Board made at a meeting of the Board.

(6) The Board must have accurate minutes kept of its proceedings.

(7) Subject to this Act, the Board may determine its own procedures.

**DIVISION 4—STAFF OF THE BOARD, ETC.**

**Chief Executive Officer**

**16.** (1) There will be a Chief Executive Officer (CEO) of the Board.

(2) The CEO is, subject to the control and direction of the Board, responsible for—

(a) giving effect to the policies and decisions of the Board; and

(b) managing the staff and resources of the Board.

(3) Subject to subsection (4), the CEO will be appointed by the Board on terms and conditions determined by the Board.

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(4) The Board must obtain the approval of the Minister before it makes an appointment, or determines terms and conditions of appointment, under subsection (3), or before it removes a person from the position of CEO.

**Other staff of the Board**

**17.** (1) There will be such other staff of the Board as the Board thinks necessary for the proper performance of its functions.

(2) Those staff will, unless the Governor otherwise determines, be appointed and hold office subject to, and in accordance with, the *Government Management and Employment Act 1985*.

(3) The Board may, with the approval of the Minister administering an administrative unit of the Public Service, make use of the services of officers of that unit.

**DIVISION 5—ACCOUNTS, AUDIT AND ANNUAL REPORT****Accounts and audit**

**18.** (1) The Board must keep proper accounting records in relation to its financial affairs, and must have annual statements of account prepared in respect of each financial year.

(2) The accounting records and the statements of account must comply with any instructions of the Treasurer under section 41 of the *Public Finance and Audit Act 1987*.

(3) The Auditor-General may at any time audit the accounts of the Board and must audit the annual statements of account.

**Annual report**

**19.** (1) The Board must, on or before 30 September in every year, forward to the Minister a report on the work and operations of the Board for the financial year ending on the preceding 30 June.

(2) The report must—

- (a) incorporate the audited accounts of the Board for the relevant financial year; and
- (b) incorporate the Board's charter as in force at the end of the relevant financial year and assess its operations for that financial year against the Board's charter; and
- (c) include specific reports on the following matters for the relevant financial year:
  - (i) levels of public utilisation of passenger transport services within the State;
  - (ii) issues affecting the accessibility and utilisation of public transport within the State;
  - (iii) the number and nature of complaints, compliments and submissions made to the Board by members of the public;
  - (iv) the general availability of taxis on taxi-stands in Metropolitan Adelaide, and response times to bookings within the taxi industry;
  - (v) other matters prescribed by the regulations; and
- (d) contain any other information required by this Act.

(3) The Minister must, within 12 sitting days after receiving a report under this section, have copies of the report laid before both Houses of Parliament.



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**PART 3  
FUNCTIONS AND POWERS OF THE BOARD**

**DIVISION 1—FUNCTIONS AND CHARTER**

**Functions**

- 20.** (1) The Board has the following functions, to be exercised in the public interest:
- (a) to oversee the creation and maintenance of an integrated network of passenger transport services involving all modes of passenger transport by public passenger vehicles within the State (including, to the extent that may be appropriate, an integrated fare system within that network);
  - (b) to such extent as may be consistent with the objects and provisions of this Act—
    - (i) to determine, monitor and review passenger transport services within the State;
    - (ii) to determine, monitor and review the fares (or scales of fares) payable by members of the public who use passenger transport services (including, in relation to the determination of fares, the setting of maximum or differential fares);
  - (c) to foster and promote efficient and effective passenger transport services, to encourage and assist changes in the transport industry to improve passenger transport services, and to encourage and oversee the provision and use of passenger transport services;
  - (d) to encourage best practices in the provision of passenger transport services and, as it thinks fit, to establish, audit and enforce standards for passenger transport within the State;
  - (e) to accredit the operators of passenger transport services, to accredit drivers of public passenger vehicles, and to administer the provision of various services;
  - (f) to administer a system of fare subsidies and concessions in appropriate cases;
  - (g) to establish, audit and, if necessary, enforce safety, service, equipment and comfort standards for passenger transport within the State;
  - (h) to establish and maintain facilities and various forms of infrastructure for the purposes of the passenger transport network;
  - (i) to facilitate the use of passenger transport services by people with disabilities;
  - (j) to provide information to the public on passenger transport services, to promote the safety, comfort and convenience of members of the public who use those services, and to establish appropriate procedures and mechanisms to enable members of the public to comment on those services;
  - (k) to establish a centralised system for receiving, and dealing with, complaints and compliments from members of the public in relation to the provision of passenger transport services within the State;
  - (l) to initiate, carry out, support or promote projects and programs for the development and improvement of passenger transport services;

- (m) at the request of the Minister, to carry out inquiries in relation to passenger transport within the State;
  - (n) to report to the Minister on the operation of passenger transport services, and on such other matters as the Minister or the Board thinks fit;
  - (o) to provide advice to the Minister as may be appropriate;
  - (p) to carry out other functions assigned to the Board by or under this or any other Act, or by the Minister.
- (2) The Board must not operate a passenger transport service.

**The Board's charter**

**21.** (1) The Board must prepare a charter after consultation with the Minister and the committees established under section 25(1).

(2) The Board may, with the approval of the Minister, amend the charter at any time.

(3) On the charter or an amendment to the charter coming into force, the Minister must, within 12 sitting days, have copies of the charter, or the charter in its amended form, laid before both Houses of Parliament.

**DIVISION 2—POWERS**

**Powers of the Board**

**22.** (1) The Board has the powers necessary or expedient for, or incidental to, the performance of its functions.

(2) The Board may, for example—

- (a) enter into any form of contract or arrangement;
- (b) appoint agents or engage contractors—
  - (i) to assist the Board in the performance of its functions; or
  - (ii) to carry out a function on the Board's behalf;
- (c) engage experts or consultants;
- (d) acquire, hold, deal with and dispose of real and personal property;
- (e) grant leases or licences over property of the Board;
- (f) provide facilities and amenities for the users of passenger transport services;
- (g) establish or specify a ticketing system to be used on passenger transport services (or some of those services) within the State;
- (h) establish places where public passenger vehicles may take up, or set down, passengers;
- (i) enter into joint ventures;
- (j) participate in the formation of a partnership or other body;

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- (k) acquire, hold, deal with and dispose of—
  - (i) an interest in a lot under the *Community Titles Act 1996* or an interest in a unit under the *Strata Titles Act 1988*; or
  - (ii) shares in, or securities issued by, a body corporate.

(3) The Board must not, without the approval of the Minister and the Treasurer—

- (a) exercise a power referred to in subsection (2)(i), (j) or (k); or
- (b) establish or participate in any other form of scheme or arrangement that involves sharing of profits.

(4) If the Board considers that it is desirable to provide a carpark for the convenience of the users of passenger transport services, the Board may construct and operate a carpark, or may arrange for the establishment and operation of a carpark by another person.

(5) If the Board considers that it is desirable to make recreational or refreshment facilities or amenities available for the users of passenger transport services, the Board may provide those facilities or amenities, or may arrange for the provision of those facilities or amenities by another person.

(6) The Board must, in relation to a proposal by it to designate an area as a taxi-stand under this Act—

- (a) inform the person or authority responsible for the relevant area of the proposal at least 28 days before the proposed designation; and
- (b) give that person or authority a reasonable opportunity to consult with the Board in relation to the matter; and
- (c) ensure that proper consideration is given to the views of that person or authority.

(7) If the Board proposes—

- (a) that a regular passenger service be operated along a public street or road under a service contract on a regular basis; or
- (b) that a terminal point or stopping place for a regular passenger service be established on a public street or road,

then the Board must—

- (c) inform the authority responsible for the maintenance of the street or road of the proposal at least 28 days before the proposed commencement of the service or the establishment of the point or place; and
- (d) give that authority a reasonable opportunity to consult with the Board in relation to the matter; and
- (e) ensure that proper consideration is given to the views of that authority.

(8) Subsection (7) is subject to the following qualifications:

- (a) the 28 day period referred to in that subsection may be shortened in a particular case by agreement between the Board and the relevant authority; and
- (b) the Board is not required to comply with that subsection in a case of emergency, or in any other case where the Board considers that it is reasonable to act without giving notice under that subsection, but, in such a case, the Board must provide a report on the matter to the relevant authority within a reasonable time.

#### **Acquisition of land**

**23.** The Board may, subject to and in accordance with the *Land Acquisition Act 1969*, acquire land—

- (a) for the establishment, extension or alteration of any facility or other form of infrastructure reasonably required or warranted for the provision or operation of a passenger transport service; or
- (b) for any other purpose associated with the performance of its functions.

#### **Power to carry out works**

**24.** (1) The Board may carry out such works as it thinks fit in relation to the provision or operation of a passenger transport service.

(2) In the exercise of its powers under this section, the Board may—

- (a) carry out building or structural work; and
- (b) erect, construct, lay down, make, alter or remove buildings, structures, notices or signs,

over, under, along, across, or adjacent to, a public street or road.

(3) The Board must make good any damage to a street or road arising from works carried out under this section.

(4) Subject to subsection (5), the Board must, in relation to a proposal that involves disturbing the surface of a public street or road, or that otherwise relates to a public street or road—

- (a) inform the relevant road maintenance authority of the proposal at least 28 days before the proposed commencement of any work; and
- (b) give the relevant road maintenance authority a reasonable opportunity to consult with the Board in relation to the matter; and
- (c) ensure that proper consideration is given to the views of the road maintenance authority.

(5) In a case of emergency the Board need only comply with subsection (4) to such extent as is practicable in the circumstances.

### **DIVISION 3—COMMITTEES AND DELEGATIONS**

#### **Committees**

**25.** (1) The Board must establish—

- (a) a Passenger Transport Industry Committee; and

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- (b) a Passenger Transport User Committee; and
- (c) such other committees (including advisory committees or subcommittees) as the Minister may require.

(2) The Board may establish such other committees (including advisory committees or subcommittees) as the Board thinks fit.

(3) The functions of a committee established under this section will include—

- (a) in the case of the Passenger Transport Industry Committee—to provide an industry forum to assist the Board as appropriate in the performance of its functions;
- (b) in the case of the Passenger Transport User Committee—to provide advice to the Board on matters of general relevance or importance to the users of passenger transport services;
- (c) in the case of a committee established under subsection (1)(c)—to perform functions determined by the Minister,

and may include such other functions as the Board thinks fit.

(4) Subject to any direction of the Minister, the membership of a committee will be determined by the Board and may, but need not, consist of, or include, members of the Board.

(5) The procedures to be observed in relation to the conduct of the business of a committee will be—

- (a) as determined by the Minister or the Board;
- (b) insofar as the procedure is not determined under paragraph (a)—as determined by the relevant committee.

**Delegations**

**26.** (1) The Board may delegate a function or power conferred on or vested in the Board under this Act.

(2) A delegation—

- (a) may be made—
  - (i) to a particular person or body; or
  - (ii) to the person for the time being occupying a particular office or position; and
- (b) must, if the regulations so provide, be made in prescribed circumstances; and
- (c) may be made subject to conditions and limitations specified in the instrument of delegation; and
- (d) subject to the regulations, is revocable at will and does not derogate from the power of the Board to act in a matter.

(3) Notice of a delegation under this section must, in prescribed circumstances, be given in the *Gazette*.

**PART 4  
ACCREDITATION**

**DIVISION 1—GENERAL PASSENGER SERVICES**

**Accreditation of operators**

**27.** (1) A person must not operate a passenger transport service within (or partly within) the State unless the person holds an appropriate accreditation for that service under this Division.

Penalty: Division 4 fine.

(2) The purpose of accreditation under this Division is—

(a) to attest—

(i) that the accredited person (or, in the case of an accredited body corporate, each director, manager or other person who is in a position to control or influence substantially the affairs of the body corporate) is considered to be of good repute and in all other respects fit and proper to be responsible for the operation of a passenger transport service to which the accreditation relates; and

(ii) that the accredited person is considered to have the capacity to meet prescribed standards relating to—

(A) the ability to provide passenger transport services; and

(B) safety of passengers and the public; and

(C) service to passengers; and

(D) vehicles and equipment (including their design, service, maintenance and condition); and

(E) any other matter prescribed by the regulations,

to the degree and in the manner required in respect of services of the kind specified in the accreditation; and

(b) to provide a scheme to facilitate—

(i) the provision of an efficient and effective network of passenger transport services within the State; and

(ii) the observance of appropriate standards by the operators of passenger transport services; and

(c) to provide for any other matter prescribed by the regulations for the purposes of this section.

(3) Standards for the purposes of subsection (2)—

(a) may be prescribed by the regulations; or

(b) to the extent that they are not so prescribed, may be determined by the Board.

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(4) The Board must ensure that a standard determined by the Board under subsection (3)(b) is widely published and made reasonably available to interested persons.

(5) An accreditation must specify the kind or kinds of services for which it is appropriate.

**DIVISION 2—DRIVERS**

**Accreditation of drivers**

**28.** (1) A person must not drive a public passenger vehicle for the purposes of a passenger transport service unless the person holds an appropriate accreditation under this Division.

Penalty: Division 6 fine.

(2) The purpose of accreditation under this Division is—

(a) to attest—

(i) that the accredited person is considered to be of good repute and in all other respects a fit and proper person to be the driver of a public passenger vehicle to which the accreditation relates; and

(ii) that the accredited person is considered to have sufficient responsibility, skills and aptitude to drive the vehicle or vehicles to which the accreditation relates—

(A) in accordance with the conditions under which a passenger transport service is operated; and

(B) in accordance with law; and

(b) to provide a scheme to facilitate the observance of appropriate standards by the drivers of public passenger vehicles; and

(c) to provide for any other matter prescribed by the regulations for the purposes of this section.

(3) The accreditation must specify the kind or kinds of vehicles and services for which it is appropriate.

**DIVISION 3—CENTRALISED BOOKING SERVICES**

**Accreditation of centralised booking services**

**29.** (1) For the purposes of this section, a person operates a centralised booking service if the person operates a service where—

(a) bookings for taxi services, or any other passenger service of a prescribed class, are accepted from members of the public; and

(b) the bookings are assigned to drivers; and

(c) the number of passenger transport vehicles participating in the service is not less than the prescribed number.

(2) A person must not operate a centralised booking service unless the person holds an accreditation for that service under this Division.

Penalty: Division 5 fine.

(3) The purpose of accreditation under this Division is—

(a) to attest—

(i) that the accredited person (or, in the case of an accredited body corporate, each director, manager or other person who is in a position to control or influence substantially the affairs of the body corporate) is considered to be of good repute and in all other respects fit and proper to be responsible for the operation of a centralised booking service; and

(ii) that the centralised booking service complies with the prescribed standards relating to—

(A) the ability to provide a centralised booking service; and

(B) operational practices and procedures; and

(C) service to users; and

(D) equipment; and

(E) any other matter prescribed by the regulations; and

(b) to provide a scheme to facilitate the observance of various standards by the operators of centralised booking services; and

(c) to provide for any other matter prescribed by the regulations for the purposes of this section.

(4) Standards for the purposes of subsection (3)—

(a) may be prescribed by the regulations; or

(b) to the extent that they are not so prescribed, may be determined by the Board.

(5) The Board must ensure that a standard determined by the Board under subsection (4)(b) is widely published and made reasonably available to interested persons.

(6) In this section—

"**the prescribed number**" is two, or such greater number as may be prescribed by the regulations.

#### DIVISION 4—GENERAL PROVISIONS RELATING TO ACCREDITATION

##### Procedure

**30.** (1) An application for accreditation must be made to the Board in a manner and form determined by the Board.



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(2) The Board may require an applicant for accreditation—

- (a) to furnish further information specified by the Board; or
- (b) to verify, by statutory declaration, information furnished for the purposes of the application.

(3) An applicant for accreditation must meet any requirement, standard, criteria, qualification or condition set out in the regulations and must satisfy the Board as to any matter the Board considers relevant.

(4) If the Board refuses an application for accreditation, the Board must notify the applicant in writing of—

- (a) the refusal; and
- (b) the reasons for the refusal; and
- (c) any appeal rights that the applicant may have under this Act.

(5) The prescribed fee is payable to the Board in respect of an application for accreditation.

**Conditions**

**31.** (1) An accreditation will be subject to—

- (a) the condition that the accredited person will observe the relevant code of practice under this Act; and
- (b) other conditions (if any)—
  - (i) imposed by the Board in relation to the accreditation; or
  - (ii) prescribed by the regulations or otherwise imposed under this Act.

(2) The Board may, for example, in relation to an accreditation under Division 1, give the accreditation subject to a condition that makes provision for or with respect to—

- (a) the area of operation of the passenger transport service; or
- (b) the periods within which vehicles may, or may not, be operated; or
- (c) the timetables to which vehicles are to be operated; or
- (d) the fares to be charged or other arrangements for remuneration to be made (including the use of vouchers and fare subsidy schemes); or
- (e) the manner in which the passenger transport service may, or may not, be operated; or
- (f) the class of persons who may be transported on public transport vehicles operated for the purposes of that service.

(3) The Board may, if it considers it appropriate to do so, by notice in writing to an accredited person, vary a condition to which the accreditation is subject.

(4) An accredited person may, on application made to the Board in writing, request the variation of a condition to which the accreditation is subject, and the Board may, as it thinks fit—

- (a) grant the variation; or
- (b) refuse to grant the variation.

(5) The conditions of an accreditation may be varied by the addition, substitution or deletion of one or more conditions.

(6) A determination by the Board under this section as to an area for the operation of a passenger transport service by an accredited person does not confer on the person an exclusive right to operate a passenger transport service within that area.

(7) A person must not contravene or fail to comply with a condition of an accreditation.

- Penalty:
- (a) In the case of an accreditation under Division 1—Division 4 fine;
  - (b) In the case of an accreditation under Division 2—Division 6 fine;
  - (c) In the case of an accreditation under Division 3—Division 5 fine.

#### **Duration and categories of accreditation**

**32.** (1) Subject to this Act, an accreditation continues in force (unless sooner revoked or surrendered) for a period prescribed by the regulations or determined by the Board and specified in the instrument of accreditation.

(2) The Board may, if it thinks fit, grant a temporary accreditation for a period of less than 12 months.

(3) The Board may establish various classes of accreditation within the various forms of accreditation created by this Part, and assign an accreditation to a class for the purposes of this Act.

(4) The Board may, from time to time, after consultation with the Minister—

- (a) determine the maximum number of accreditations of a particular class to be issued in a given period;
- (b) determine the maximum number of accreditations of a particular class to be in force in a given period;
- (c) determine that no further accreditations of a particular class are to be issued for the time being.

#### **Periodical fees and returns**

**33.** (1) A person who holds an accreditation (other than a temporary accreditation) must, for each period prescribed by the regulations that the accreditation remains in force, not later than the relevant day for that accreditation determined in accordance with the regulations—

- (a) lodge with the Board a return containing the prescribed information; and
- (b) pay to the Board the prescribed fee.

(2) If an accredited person fails to comply with subsection (1), the Board may, by notice in writing to the accredited person, require him or her to make good the default and, in addition, to pay to the Board the amount prescribed as a penalty for default.

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(3) If an accredited person fails to comply with a notice under subsection (2) within 14 days after service of the notice, the accreditation is, by force of this subsection, suspended until the accredited person complies with the notice.

(4) If an accredited person fails to comply with a notice under subsection (2) within six months after service of the notice, the accreditation is, by force of this subsection, revoked.

**Renewals**

**34.** (1) An application for the renewal of an accreditation must be made in writing to the Board in a manner and form determined by the Board.

(2) The prescribed fee is payable to the Board in respect of an application for the renewal of an accreditation.

(3) An application for renewal must be made not later than the prescribed number of days before the date of expiry of the accreditation.

(4) The Board may, in the Board's absolute discretion, determine a late application for renewal provided that the applicant pays the prescribed late application fee.

(5) The Board may refuse to consider an application for renewal if the application is made earlier than a day fixed under the regulations.

(6) A temporary accreditation is not renewable.

**Related matters**

**35.** (1) The holder of an accreditation must not transfer, assign, lease or otherwise deal with the accreditation.

Penalty: Division 5 fine.

(2) A purported dealing in contravention of subsection (1) is void.

(3) An accredited person may, with the consent of the Board, surrender the accreditation.

(4) The Board may, on the application of the accredited person or in accordance with procedures set out in the regulations, vary a person's accreditation from one class of accreditation to another.

(5) No liability attaches to the Board by virtue of the fact that it has awarded an accreditation to a particular person under this Act.

**DIVISION 5—DISCIPLINARY POWERS**

**Disciplinary powers**

**36.** (1) The Board may hold an inquiry for the purpose of determining whether proper cause exists for disciplinary action against a person who is, or has been, an accredited person under this Act.

(2) There is proper cause for disciplinary action against a respondent if—

(a) the respondent is found guilty of an offence against this or any other Act or law; or

- (b) the respondent holds an accreditation under Division 1 and has—
  - (i) in the course of operating a passenger transport service, acted negligently or fraudulently; or
  - (ii) failed to meet any standard that relates to the accreditation; or
- (c) the respondent holds an accreditation under Division 2 and has ceased to have sufficient responsibility or aptitude to drive a vehicle to which the accreditation relates; or
- (d) the respondent holds an accreditation under Division 3 and has failed to meet a standard that relates to the accreditation; or
- (e) the respondent—
  - (i) obtained his or her accreditation improperly; or
  - (ii) has ceased to be a person of good repute, or in any other respect has ceased to be a fit and proper person to hold an accreditation under this Act or, in the case of a body corporate, a person who has gained or is in a position to control or influence substantially the affairs of the respondent is not, or has ceased to be, a person of good repute, or in any other respect is not, or has ceased to be a fit and proper person to exercise such control or influence in respect of a body corporate that is the holder of an accreditation under this Act; or
  - (iii) has ceased to be eligible for any other reason to hold an accreditation under this Act; or
  - (iv) has breached, or failed to comply with, a code of practice under this Act, or otherwise has breached, or failed to comply with, a condition to which his or her accreditation is subject; or
  - (v) has breached, or failed to comply with, a provision of this Act; or
  - (vi) has breached, or failed to comply with or satisfy, any other requirement, standard, criteria, qualification or condition prescribed by the regulations for the purposes of this provision.

(3) If, after conducting an inquiry under this section, the Board is satisfied that proper cause exists for disciplinary action, the Board may exercise one or more of the following powers:

- (a) it may reprimand the respondent;
- (b) it may require the respondent to pay to the Board a fine not exceeding \$5 000 (recoverable by the Board as a debt);
- (c) if the respondent is an accredited person, it may—
  - (i) attach conditions to the accreditation;
  - (ii) shorten the period of accreditation, or issue a temporary accreditation, and warn the respondent that if further grounds for disciplinary action arise, the respondent will be liable to be disqualified from holding an accreditation under this Act;

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- (iii) suspend the accreditation for a specified period, until the fulfilment of specified conditions, or until further order;
- (iv) revoke the accreditation;
- (d) it may disqualify the respondent from holding an accreditation under this Act—
  - (i) permanently; or
  - (ii) for a specified period; or
  - (iii) until the fulfilment of specified conditions; or
  - (iv) until further order.

(4) The powers conferred by this section may be exercised in relation to conduct occurring before or after the commencement of this Act.

(5) The Board must not revoke or suspend the accreditation of a person who is the holder of a service contract under Part 5 except with the concurrence of the Minister.

(6) The Minister is not obliged to conduct a hearing or invite submissions for the purpose of deciding whether or not to give his or her concurrence under subsection (5).

(7) A person who has had his or her accreditation suspended is not an accredited person during the period of suspension.

(8) Where the Board revokes an accreditation under this section, the Board may stipulate that the revocation is to have effect at a future time specified by the Board and impose conditions as to the conduct of any activity under that accreditation until that time.

(9) If a condition is imposed by the Board under this section, the respondent must not contravene or fail to comply with the condition.

Penalty: Division 4 fine.

**Related matters**

**37.** (1) In the exercise of powers under this Division, the Board—

- (a) must act according to equity, good conscience and the substantial merits of the case without regard to technicalities and legal forms; and
- (b) is not bound by the rules of evidence, but may inform itself on any matter in such manner as it thinks fit.

(2) The Board may, for the purpose of any proceedings under this Division—

- (a) by summons signed by a member of the Board, require the attendance of any person, or require the production of any document, object or material; and
- (b) require any person who appears in connection with the proceedings to answer any relevant question; and
- (c) require any person to make an oath or affirmation to answer truthfully any question put by the Board.

- (3) If a person—
- (a) who has been served with a summons fails without reasonable excuse to attend in obedience to the summons; or
  - (b) who has been served with a summons to produce any document, object or material, fails without reasonable excuse to comply with the summons; or
  - (c) misbehaves during any proceedings, or interrupts any proceedings; or
  - (d) refuses to answer any relevant question when required to do so under this section; or
  - (e) refuses to be sworn or to affirm,

that person is guilty of an offence.

Penalty: Division 5 fine.

- (4) A person is not obliged—
- (a) to answer a question under this section if the answer would tend to incriminate that person of an offence, or to produce a document, object or material if it or its contents would tend to incriminate that person of an offence; or
  - (b) to provide information under this section that is privileged on the ground of legal professional privilege.

(5) Except as provided by this section, proceedings under this Division may be conducted in such manner as the Board determines.

(6) The Board must prepare and publish information to assist persons who may be the subject of proceedings under this Division.

## **DIVISION 6—APPEALS**

### **Appeals from decisions of the Board**

- 38.** (1) A person—
- (a) whose application for accreditation under this Part has been refused; or
  - (b) who is an accredited person and is aggrieved by a decision of the Board with respect to—
    - (i) the conditions imposed with respect to the accreditation, or a variation or proposed variation of them; or
    - (ii) the variation of the accreditation; or
  - (c) who is (or has been) an accredited person and is aggrieved by a decision of the Board under Division 5,

may appeal to the Administrative Appeals Court.

(2) A right of appeal does not lie against a decision of the Board to suspend or revoke a temporary accreditation.

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- (3) The Court will, in exercising its jurisdiction under this Act, be constituted of a Magistrate.
- (4) An appeal must be instituted within one month of the making of the decision appealed against or such longer period as the Court may allow.
- (5) The Board must, if so required by a person affected by a decision made by it, state in writing the reasons for its decision.
- (6) If the reasons of the Board are not given in writing at the time of making a decision and the person affected by the decision requires (within one month of the making of the decision) the Board to state its reasons in writing, the time for instituting an appeal runs from the time at which the person receives the written statement of those reasons.
- (7) Subject to subsection (8), the operation of any decision appealed against will continue pending the determination of the appeal.
- (8) The Court or the Board may, if it thinks fit, make an interim order suspending the operation of a decision.
- (9) Except as determined by the Court, an appeal is to be conducted by way of a fresh hearing and for that purpose the Court may receive evidence given orally or, if the Court so determines, by affidavit.
- (10) The Court may, on the hearing of the appeal, do one or more of the following, according to the nature of the case:
- (a) after having regard to this Act and the regulations, any relevant policy of the Board that has been made known to the Court, and such other matters as the Court considers relevant—affirm, vary or quash the decision appealed against or substitute, or make in addition, any decision that the Court thinks appropriate;
  - (b) remit the subject matter of the appeal to the Board for further consideration;
  - (c) refer any matter to the Board for determination, or redetermination;
  - (d) make any further or other order as to any other matter that the case requires.

**PART 5  
REGULAR PASSENGER SERVICES**

**Service contracts**

**39.** (1) The terms and conditions on which a regular passenger service is to be operated within, or partly within, the State are to be set out in a contract (a "service contract") entered into between a person who holds an appropriate accreditation under this Act and the Board (on behalf of the Crown).

(2) The Board may invite contracts by tender or in such other manner as the Board thinks fit.

(3) The Board, in awarding service contracts under this Part—

(a) in any case involving a contract or contracts for the provision of regular passenger services as part of the operation of the public transport system within Metropolitan Adelaide—must take into account the following principles (and may take into account other principles):

(i) service contracts should not be awarded so as to allow a single operator to obtain a monopoly, or a market share that is close to a monopoly, in the provision of regular passenger services within Metropolitan Adelaide;

(ii) sustainable competition in the provision of regular passenger services should be developed and maintained;

(iii) the integration of passenger transport services should be encouraged and enhanced;

(iv) service contracts should support the efficient operation of passenger transport services and promote innovation in the provision of services to meet the needs of customers;

(b) in any other case—may take into account principles determined by the Board and made known to interested persons.

(3a) Subsection (3) is an expression of policy and does not give rise to rights or liabilities (whether of a substantive, procedural or other nature).

(3b) The Board must, within 14 days after awarding a service contract to which subsection (3)(a) applies, forward to the Minister a report which—

(a) sets out the full name of the person to whom the contract has been awarded; and

(b) provides information on the term of the contract; and

(c) identifies the region or routes of operation under the contract; and

(d) provides information on the amount or amounts that will be payable by the Board under the contract; and

(e) provides information on how the principles under subsection (3)(a) have been applied in the circumstances of the particular case; and

(f) contains such other information as may be required by the regulations or as the Board thinks fit.



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(3c) The Board is not required to disclose in a report under subsection (3b)—

- (a) specific amounts payable under a contract; or
- (b) other information of a commercial value the disclosure of which would diminish its value or unfairly advantage a person or persons in future dealings with the Board.

(3d) The Minister must, within six sitting days after receiving a report under subsection (3b), have copies of the report laid before both Houses of Parliament.

(4) A person who operates a regular passenger service otherwise than under the authority of a service contract under this Act is guilty of an offence.

Penalty: Division 4 fine.

**Nature of contracts**

**40.** (1) A service contract must make provision with respect to—

- (a) the period for which it operates; and
- (b) the manner in which it may be terminated; and
- (c) standards relating to the provision of services under the contract; and
- (d) a scale of service levels (determined according to such things as the periods of time during which services are to be operated, the extent of operation of services, and the frequency of operation of services during specified periods); and
- (e) the fares to be charged; and
- (f) the manner in which the holder of the service contract will be remunerated or gain revenue from the provision of services under the contract (including arrangements as to any subsidy); and
- (g) other matters required by this Act or the regulations to be specified in a service contract.

(2) A service contract may make provision for or with respect to—

- (a) reviewing or altering the fares or fare system in circumstances specified in the contract; and
- (b) monetary or other penalties for breaches of the contract and the recovery of monetary penalties; and
- (c) bonds for the performance of the obligations, or specified obligations, under the contract; and
- (d) the variation of the contract; and
- (e) the renewal of the contract; and
- (f) such other matters as the parties think fit to include in the circumstances of the case.

(3) The contract may provide for the periodic review, in a manner and at such periods as the contract may specify, of any matter for the time being determined by or under it.

(4) The Board must, for the purposes of subsection (1)(c), establish various standards that will apply to all service contracts of the same kind with a view to ensuring that standards relating to the provision of services are, so far as is reasonably practicable and appropriate, maintained at the highest possible levels.

(5) The Board must, in relation to the fares payable by passengers on regular passenger services within Metropolitan Adelaide, ensure—

- (a) that the standard adult fare allows for unlimited travel on regular passenger services provided within a specified zone or zones (subject to those services being available and stopping within that zone or those zones), for a specified period, or until the expiration of a specified period; and
- (b) that concession fares do not exceed 60 per cent of the standard adult fare for the same service (if provided at the same time), subject to the qualification that this paragraph does not apply to special fares that are payable during a particular part of the day, that are set for special events or purposes, or that are excluded from the ambit of this paragraph by the regulations.

(6) An alteration to the fares or fare system under a service contract may only be undertaken as part of an across the board alteration of the fares or fare systems under all service contracts of the same kind that relate to Metropolitan Adelaide.

(7) A service contract cannot be entered into or renewed for a term exceeding five years except with the approval of the Minister.

(8) If the Minister gives an approval under subsection (7), the Board must include a report on the matter in its next annual report.

### **Regions or routes of operation**

**41.** (1) A service contract must specify a region or route of operation.

(2) A service contract may—

- (a) confer on the holder of the contract an exclusive right to operate a regular passenger service of the relevant kind within the specified region, or on, or in proximity to, the specified route (or part of that region or route); and
- (b) provide for other matters relevant to the operation of passenger transport services (including new services) within the specified region, or on, or in proximity to, the specified route.

(3) A right conferred on the holder of a contract—

- (a) cannot affect or limit the ability of another person to operate a service of a kind specified by the regulations (or specified in the contract itself) during the term of the contract; and
- (b) will be subject to such other qualifications as may be prescribed by the regulations (or specified in the contract itself) during the term of contract.

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**Assignment of rights under a contract**

**42.** (1) The holder of a service contract must not transfer, assign, subcontract or otherwise deal with a right, power or duty under the contract except with the consent of the Board.

Penalty: Division 4 fine.

(2) The Board must not consent to the transfer, assignment, subcontracting or other dealing unless it is satisfied—

- (a) that adequate provision will be made for the operation of the relevant service; and
- (b) as to any other matter the Board considers relevant.

(3) A person to whom a right, power or duty under a service contract is transferred, assigned or subcontracted must, according to the extent and nature of the particular dealing, perform the obligations of the contract holder under the contract (and, unless otherwise determined by the Board, will be taken to be a party to the contract).

(4) A purported dealing in contravention of subsection (1) is void.

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

**43.** (1) A service contract may be varied, suspended or cancelled by the Board if—

- (a) there has been a serious or frequent failure to observe the terms and conditions of the contract; or
- (b) the holder is convicted of an offence against this Act or the regulations.

(2) A person who is the holder of a service contract and is aggrieved by a decision of the Board under subsection (1) may appeal to the Administrative Appeals Court.

(3) Division 6 of Part 4 will apply with respect to the appeal with such modifications or variations as may be necessary or appropriate, or as may be prescribed.

(4) A service contract is automatically cancelled if the holder of the contract ceases to be an accredited person or ceases to be an accredited person of an appropriate kind.

(5) Nothing in this Act prevents the Board from making such arrangements as the Board thinks fit for the provision, by an accredited person, of temporary services (for a period not exceeding 12 months) in place of a regular passenger service for the time being discontinued by a variation, suspension or cancellation under this section.

**Fees**

**44.** (1) In addition to any other fee payable under this Act (including any fee payable pursuant to a tender), the Board may require the payment of—

- (a) a fee for lodging a tender under this Part; and
- (b) a fee for administering a service contract under this Part (which fee may vary from contract to contract, and may be payable from time to time during the term of the contract).

(2) The Board may determine the amount of such a fee, subject to any limits prescribed by the regulations.

**PART 6**  
**TAXIS**

**Requirement for a licence**

**45.** (1) A person must not—

- (a) operate a passenger transport service by means of a vehicle that displays the word "TAXI", or any other word or combination of words that are determined by the Board, by notice in the Gazette, to be subject to regulation under this provision; or
- (b) cause or permit a vehicle used for the purposes of a passenger transport service operated by the person to ply for hire or stand at a designated taxi-stand; or
- (c) except as authorised by the Board or the regulations, cause or permit a vehicle used for the purposes of a passenger transport service operated by the person to ply for hire in a public street, road or place; or
- (d) except as authorised by the Board or the regulations, operate a passenger transport service by means of a vehicle that is fitted with a taxi-meter,

unless the person holds a licence for that vehicle under this Part.

(2) A licence under this Part is not required for a vehicle if—

- (a) the vehicle is licensed by a council, or any other authority prescribed by the regulations, for the purposes of a taxi service operated in an area outside Metropolitan Adelaide; and
- (b) the area in which the vehicle is licensed to operate does not include an area (if any) prescribed by the regulations as an area for which a licence under this Part is required even though the area is outside Metropolitan Adelaide; and
- (c) the vehicle—
  - (i) is not used to provide a passenger transport service within Metropolitan Adelaide; or
  - (ii) is only used to provide a passenger transport service within Metropolitan Adelaide by virtue of the fact that the vehicle carries a passenger who is travelling between a place within Metropolitan Adelaide and a place outside Metropolitan Adelaide (whether the journey is to or from Metropolitan Adelaide).

(3) An applicant for a licence must meet any requirement, standard, criteria, qualification or condition set out in the regulations and must satisfy the Board as to any matter the Board considers relevant.

(4) If a licence is issued for a vehicle under this Part—

- (a) the vehicle must display the word "TAXI" in accordance with the regulations; and
- (b) the fares to be charged or other arrangements for remuneration must comply with the regulations; and
- (c) the vehicle must be fitted with a taxi-meter that complies with the regulations.

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(5) The licence will be subject to such other conditions as the Board thinks fit to impose in the circumstances of the particular case, or as the regulations may provide.

(6) The Board may, if it considers it appropriate to do so, by notice in writing to the holder of the licence, vary the conditions imposed by the Board.

(7) The conditions of a licence may be varied by the addition, substitution or deletion of one or more conditions.

(8) A person who—

(a) contravenes subsection (1); or

(b) being the holder of a licence—

(i) contravenes or fails to comply with a requirement of subsection (4); or

(ii) contravenes or fails to comply with a condition of the licence,

is guilty of an offence.

Penalty: Division 4 fine.

**Applications for licences or renewals**

**46.** (1) An application for a licence, or the renewal of a licence, under this Part must be made to the Board in a form and manner determined by the Board.

(2) The prescribed fee is payable to the Board in respect of an application under this Part.

(3) The applicant must be an accredited person of an appropriate kind.

**Issue and term of licences**

**47.** (1) The Board may, on due application but subject to this Act and the regulations, issue or renew a licence under this Part.

(2) A licence continues in force (unless sooner cancelled or surrendered) for a period determined by the Board and specified in the licence.

(3) The Board may, if it thinks fit, grant a temporary licence for a period of less than 12 months.

(4) A temporary licence is not renewable.

(5) A licence may, if the regulations so provide, be of a prescribed kind or grade.

(6) The Board may, from time to time, after consultation with the Minister—

(a) determine the maximum number of licences to be issued in a given period;

(b) determine the maximum number of licences of a particular kind or grade to be issued in a given period;

(c) determine the maximum number of licences of a particular kind or grade to be in force in a given period;

- (d) determine that no further licences of a particular kind or grade are to be issued for the time being;
- (e) determine that licences of a particular kind or grade will be issued according to an allocation procedure specified in the regulations;
- (f) determine that a particular licence, or licences of a particular kind or grade, cannot be transferred, assigned, leased or otherwise dealt with by the holder of the licence;
- (g) determine that a particular licence, or licences of a particular kind or grade, are not renewable.

(7) Despite any other provision, the Board must not issue more than 50 general licences under this Part in a particular year.

(8) A general licence is any licence, other than—

- (a) a temporary licence;
- (b) a special licence for a passenger transport vehicle suitable to carry persons who are confined to wheelchairs;
- (c) a standby licence within the meaning of the regulations.

(9) The Board must develop, publish and periodically review principles to be applied with respect to the issue, limitation or other regulation of licences under this section that relate to Metropolitan Adelaide.

(10) Those principles must address issues relating to changes in the population and development of Metropolitan Adelaide and may take into account other matters determined by the Board.

#### **Ability of Board to determine fees**

**48.** (1) The Board may determine, in respect of licences of a specified kind or grade, that, in addition to the application fee, a fee is payable—

- (a) on the issue of a licence of that kind or grade; or
- (b) on a periodical basis during the term of a licence of that kind or grade; or
- (c) on a transfer, lease or other dealing with a licence of that kind or grade.

(2) The fee will be determined by the Board, or calculated in a manner determined by the Board, and is payable to the Board in a manner determined by the Board.

(3) The Board must consult with the Minister before it makes a determination under subsection (1) or (2).

(4) If a person fails to pay a fee in accordance with a determination of the Board, the Board may, by notice in writing to the person, require him or her to make good the default and, in addition, to pay to the Board the amount prescribed as a penalty for default.

(5) If a person fails to comply with a notice under subsection (4) within seven days after service of the notice, the relevant licence is, by force of this subsection, suspended until the person complies with the notice.

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(6) If a person fails to comply with a notice under subsection (4) within one month after service of the notice, the relevant licence is, by force of this subsection, cancelled.

**Transfer of licences**

**49.** (1) The holder of a licence must not transfer, assign, lease or otherwise deal with the licence except with the consent of the Board.

Penalty: Division 4 fine.

(2) Subject to subsection (3), the Board may, subject to the regulations, consent to the transfer, assignment, lease or some other dealing with a licence, but the consent is subject to—

- (a) conditions (if any) prescribed by the regulations; and
- (b) conditions (if any) determined by the Board.

(3) A licence cannot be transferred, assigned, leased or otherwise dealt with if to do so would be contrary to a determination of the Board under this Part.

(4) A temporary licence is not transferable.

(5) A purported dealing in contravention of this section is void.

**Suspension or revocation of licences**

**50.** (1) A licence may be suspended or cancelled by the Board if—

- (a) the holder's accreditation is suspended or revoked under this Act; or
- (b) the holder, or an agent or employee of the holder, contravenes or fails to comply with section 45(4), or with a condition of the licence; or
- (c) the holder, or an agent or employee of the holder, contravenes or fails to comply with or satisfy, any requirement, standard, criteria, qualification or condition prescribed by the regulations for the purposes of this provision.

(2) The procedures set out in the regulations must be observed before the Board suspends or cancels a licence under this section.

**Appeals**

**51.** (1) A person—

- (a) whose application for a licence under this Part has been refused; or
- (b) who is the holder of a licence and is aggrieved by a decision of the Board with respect to the conditions imposed with respect to the licence, or a variation or proposed variation of them; or
- (c) who is the holder of a licence and is aggrieved by a decision of the Board under section 49; or
- (d) who is (or has been) the holder of a licence and is aggrieved by a decision of the Board under section 50,

may appeal to the Administrative Appeals Court.

(2) A right of appeal does not lie against a decision of the Board to suspend or cancel a temporary licence.

(3) Division 6 of Part 4 will apply with respect to the appeal with such modifications or variations as may be necessary or appropriate, or as may be prescribed.

**False advertising**

**52.** (1) A person who does not hold a licence under this Part must not—

- (a) hold himself or herself out as a person who can provide a taxi service for the transport of passengers; or
- (b) use the word "TAXI", or any other word or combination of words that are determined by the Board, by notice in the Gazette, to be subject to regulation under this provision, so as to imply, or lead persons reasonably to believe, that he or she can provide a taxi service for the transport of passengers.

Penalty: Division 6 fine.

(2) Subsection (1) does not apply—

- (a) to an employee or agent of the holder of a licence who is acting in the course of his or her employment or agency; or
- (b) to a person who is not required to hold a licence under this Part by virtue of section 45(2); or
- (c) in any circumstance prescribed by the regulations.



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**PART 7  
MISCELLANEOUS**

**Authorised officers**

**53.** (1) The Minister may appoint suitable persons to be authorised officers under this Act.

(2) An appointment under this section may be subject to any condition or limitation specified by the Minister.

(3) A person appointed under this section must be issued with an identity card—

(a) containing a photograph of the person; and

(b) stating any limitations on the authorised officer's authority.

(4) An authorised officer must, at the request of a person in relation to whom the authorised officer intends to exercise a power under this Act, produce for the inspection of the person his or her identity card.

(5) An authorised officer may, as may reasonably be required in connection with the administration, operation or enforcement of this Act—

(a) at any time, enter and inspect premises where there is, or where the authorised officer suspects on reasonable grounds that there is, a vehicle that is, or is to be, used for the purposes of a passenger transport service;

(b) at any time, enter and inspect a vehicle that is, or that the authorised officer suspects on reasonable grounds is, a vehicle that is, or is to be, used for the purposes of a passenger transport service, and for that purpose require a vehicle to stop, or to be presented for inspection at a place and time specified by the authorised officer;

(c) carry out, or cause to be carried out, an examination or test of a vehicle;

(d) require a person to produce documents (which may include a written record reproducing in an understandable form information stored by computer, microfilm or other process);

(e) examine, copy or take extracts from a document or information so produced or require a person to provide a copy of any such document or information;

(f) require a person to produce evidence of an accreditation or licence required under this Act, or a certificate or other authorisation required for the purposes of this Act;

(g) require a person to answer questions;

(h) require a person who is the owner of a vehicle, or apparently in charge of a vehicle, to answer questions put by the authorised officer for the purpose of obtaining information which may lead to the identification of the person who was driving the vehicle on any occasion;

(i) give directions reasonably required in connection with the exercise of a power conferred by any of the above paragraphs or otherwise in connection with the administration, operation or enforcement of this Act;

(j) exercise other prescribed powers.

(6) An authorised officer must not exercise the powers conferred by subsection (5)(a) in respect of premises that are domestic premises, or that are not the premises of the holder of an accreditation under this Act, except on the authority of a warrant issued by a magistrate unless the authorised officer believes, on reasonable grounds, that the circumstances require immediate action to be taken.

(7) In the exercise of powers under this section an authorised officer may be assisted by such persons as may be necessary or desirable in the circumstances.

(8) An occupier of premises must give to an authorised officer or a person assisting an authorised officer such assistance as is reasonably required for the effective exercise of a power conferred by this section.

Penalty: Division 6 fine.

(9) Subject to subsections (10) and (11), a person who—

- (a) without reasonable excuse, hinders or obstructs an authorised officer, or a person assisting an authorised officer, in the exercise of powers under this Act; or
- (b) uses abusive, threatening or insulting language to an authorised officer, or a person assisting an authorised officer; or
- (c) without reasonable excuse, fails to obey a requirement or direction of an authorised officer under this Act; or
- (d) without reasonable excuse, fails to answer, to the best of the person's knowledge, information and belief, a question put by an authorised officer; or
- (e) falsely represents, by words or conduct, that he or she is an authorised officer,

is guilty of an offence.

Penalty: Division 6 fine.

(10) A person is not obliged to answer a question or to produce, or provide a copy of, a document or information as required under this section that to do so might tend to incriminate the person or make the person liable to a penalty.

(11) A person is not obliged to provide information under this section that is privileged on the ground of legal professional privilege.

(12) An authorised officer, or a person assisting an authorised officer, who, in the course of exercising powers under this Act—

- (a) addresses offensive language to any other person; or
- (b) without lawful authority, hinders or obstructs or uses or threatens to use force in relation to any other person,

is guilty of an offence.

Penalty: Division 6 fine.

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**Inspections**

**54.** (1) In this section—

**"approved vehicle inspector"** means—

- (a) a person who is accredited by the Board as an approved vehicle inspector for the purposes of this section; or
- (b) an authorised officer who is approved by the Board to act as an approved vehicle inspector for the purposes of this section;

**"operator"** in relation to a vehicle to which this section applies (see subsection (2)) means the person who operates the passenger transport service for which the vehicle is used;

**"prescribed requirements or standards"** includes requirements or standards determined and published by the Board and made available to interested persons;

**"relevant fee"** means—

- (a) in relation to an inspection carried out by an approved vehicle inspector who is an authorised officer—the prescribed fee;
- (b) in any other case—a fee determined by agreement between the owner of the relevant vehicle and the approved vehicle inspector.

(2) Subject to subsection (3), this section applies to any public passenger vehicle.

(3) The Board may, by instrument in writing or by notice published in the Gazette—

- (a) exempt a specified vehicle or vehicles of a specified class from this section (or from specified parts of this section);
- (b) vary or revoke an exemption under paragraph (a).

(4) An exemption under subsection (3) is subject to conditions and limitations (if any) determined by the Board and specified in the instrument or notice of exemption.

(5) The operator of a vehicle to which this section applies must cause that vehicle to be inspected by an approved vehicle inspector at least once within each prescribed period or as the Board may direct in a particular case.

(6) Subject to this section, an approved vehicle inspector must, after inspection of a vehicle and on payment of the relevant fee, issue a certificate of inspection in the prescribed form in respect of that vehicle and, subject to this Act, that certificate remains in force until the expiration of the next period, specified in the certificate, within which the vehicle must be again inspected.

(7) Subject to subsection (9), an approved vehicle inspector must not issue a certificate of inspection unless satisfied, to such extent as may be reasonable in the circumstances—

- (a) that the vehicle does not have a mechanical defect or inadequacy that may render the vehicle unsafe; or
- (b) that the vehicle provides reasonable comfort to passengers; or

- (c) that the interior or exterior of the vehicle is reasonably clean and in good order or appearance; or
- (d) that there is not a deficiency in a sign, meter or other equipment required to be fitted to the vehicle under this Act; or
- (e) that the vehicle complies with prescribed requirements or standards relating to its safety, design, service, maintenance or condition,

(and for the purposes of this subsection the inspector may rely on evidence of a prescribed kind).

(8) Subject to subsection (9), an approved vehicle inspector may refuse a certificate of inspection where, in his or her opinion, the vehicle has not, since a certificate was last issued, been maintained in accordance with a prescribed scheme of maintenance that applies to the vehicle.

(9) An approved vehicle inspector may, instead of taking action under subsection (7) or (8), require that the vehicle be repaired or altered, or that other specified action be taken to rectify the vehicle, and then be resubmitted for inspection within a stated period and, pending that resubmission, may issue a temporary certificate.

(10) If a vehicle is not resubmitted in accordance with a requirement under subsection (9) or, on inspection, a vehicle that is subject to a requirement under subsection (9) is found to be unsatisfactory, the temporary certificate is, by force of this provision, revoked.

(11) An approved vehicle inspector may, when issuing a certificate under this section, attach such conditions to the certificate as he or she thinks fit.

(12) An authorised officer who is authorised by the Board to exercise the powers under this subsection may at any time, by notice given to an owner or operator of a vehicle to which this section applies, direct that the vehicle be presented for inspection under this section at such place and time as is specified in the notice.

(13) The Board may cancel a certificate if it is satisfied—

- (a) that the vehicle to which the certificate relates does not comply with any standard or other requirement that applies under subsection (7); or
- (b) that since the certificate was issued, there has been a failure to maintain the vehicle in accordance with a prescribed scheme of maintenance that applies to the vehicle; or
- (c) that a condition of the certificate has been contravened or has not been complied with; or
- (d) that a person has failed to comply with a notice given under subsection (12).

(14) If a vehicle to which this section applies is used to carry passengers (other than the driver) and the vehicle is not the subject of a current certificate under this section, the driver of the vehicle and any person by whom the driver is employed to drive the vehicle are each guilty of an offence.

Penalty: Division 5 fine.

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(15) A person who, without reasonable excuse—

- (a) contravenes or fails to comply with a condition under subsection (4) or (11); or
- (b) fails to comply with subsection (5); or
- (c) fails to comply with a notice under subsection (12),

is guilty of an offence.

Penalty: Division 5 fine.

(16) An authorised officer or a member of the police force may require the driver of a vehicle to which this section applies to stop the vehicle for the purpose of permitting that officer or member of the police force to inspect the certificate of inspection required under this section.

(17) The Board may, for the purposes of this section—

- (a) establish a scheme for the accreditation of persons as approved vehicle inspectors;
- (b) establish a code of practice to be observed by approved vehicle inspectors;
- (c) revoke a person's accreditation as an approved vehicle inspector in prescribed circumstances.

(18) A person who contravenes a code of practice established under subsection (17) is guilty of an offence.

Penalty: Division 6 fine.

(19) The Board may recognise a certificate of inspection issued in respect of a vehicle under the law of another State or a Territory if the Board is satisfied that the issuing body observes standards of safety comparable to those required under this Act or that it is otherwise appropriate to recognise the certificate for the purpose of this section.

(20) A certificate of inspection recognised by the Board under subsection (19) will be taken to be a certificate issued under this section.

(21) A person who, as an approved vehicle inspector or authorised officer, performs an act in pursuance or purported pursuance of this section or omits to exercise a power conferred under this section, incurs no civil or criminal liability in respect of that act or omission if the person acted, or omitted to act, in good faith and with reasonable care.

**False information**

**55.** (1) A person who—

- (a) by a false statement or misrepresentation, obtains or attempts to obtain an accreditation or licence under this Act or procures or attempts to procure a service contract; or
- (b) forges or fraudulently alters or uses such an accreditation or licence; or
- (c) fraudulently allows such an accreditation or licence to be used by another person,

is guilty of an offence.

Penalty: Division 4 fine.

(2) A person who, in furnishing information required under this Act, makes a statement that is false or misleading in a material particular is guilty of an offence.

Penalty: Division 5 fine.

### General offences

**56.** (1) A person must not—

- (a) throw or place an object that might impede the free passage of a vehicle operated for the purposes of a passenger transport service; or
- (b) interfere with any structure, equipment, sign or notice necessary for the safe operation of a passenger transport service; or
- (c) otherwise obstruct or impede the proper operation of a passenger transport service.

Penalty: Division 4 fine.

(2) If an object may impede the free passage of a vehicle operated for the purposes of a passenger transport service, an employee of the person operating the service may take reasonable action to have the object removed.

(3) A person must not, without lawful authority, damage or deface a public passenger vehicle, or any structure, equipment, materials, sign or notice used for the purpose of, or in connection with, a passenger transport service.

Penalty: Division 6 fine.

(4) Upon conviction of a person for an offence against subsection (3), the court may order the convicted person to pay to the operator of the passenger transport service such amount as the court thinks just to compensate the operator for loss arising from the commission of the offence.

(5) A person must not behave in a disorderly or offensive manner while in or on a public passenger vehicle.

Penalty: Division 8 fine.

(6) An employee of the operator of a public passenger vehicle who has reason to believe that a person has committed an offence against subsection (5) may require that person to alight from the vehicle.

(7) A person must comply with a requirement under subsection (6).

Penalty: Division 8 fine.

(8) If a person who has been required to alight from a vehicle under subsection (6) fails to do so in accordance with that requirement, a member of the police force or a person who is authorised by the Board to exercise powers under this subsection may exercise reasonable force to remove the person from the vehicle.

### Offenders to state name and address

**57.** (1) A person reasonably suspected by a member of the police force or a prescribed officer to be committing or to have committed an offence against this Act may be required to state his or her full name and usual place of residence, and to produce evidence of his or her identity.

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(2) A person who—

- (a) fails or refuses to comply with a requirement made by a member of the police force or a prescribed officer under this section; or
- (b) in purported compliance with such a requirement, states a name that is not his or her name or an address that is not his or her usual place of residence,

is guilty of an offence.

Penalty: Division 6 fine.

(3) A person is not guilty of an offence under this section unless it is established that the member of the police force or prescribed officer—

- (a) warned the person that a failure or refusal to comply with the requirement is an offence; and
- (b) produced an official identity card for inspection by the person.

(4) In this section—

"**prescribed officer**" means a person who is authorised by the Board to exercise powers under this section.

**Liability of operators for acts or omissions of employees or agents**

**58.** For the purposes of this Act, an act or omission of an employee or agent of a person who operates a passenger transport service will be taken to be an act or omission of that operator unless he or she proves that the employee or agent was not acting in the course of employment or agency.

**General provisions relating to offences**

**59.** (1) If a body corporate is guilty of an offence against this Act, each director and manager of the body corporate is guilty of an offence and liable to the same penalty as may be imposed for the principal offence unless it is proved that the principal offence did not result from failure on his or her part to take reasonable and practicable measures to prevent the commission of the offence.

(2) A prosecution for an offence against this Act may be commenced at any time within two years after the date of the alleged commission of the offence or, with the authorisation of the Attorney-General, at a later time within three years after the date of the alleged commission of the offence.

(3) An apparently genuine document purporting to be signed by the Attorney-General and to authorise the commencement of proceedings for an offence against this Act will be accepted in any legal proceedings, in the absence of proof to the contrary, as proof of the authorisation.

(4) The Board may—

- (a) lay a charge for an offence against this Act; or
- (b) prosecute any offence against this Act.

(5) The Board may—

- (a) lay a charge for an offence against another law of the State; or
- (b) prosecute any offence against another law of the State,

but only if the Minister has certified that, in the Minister's opinion, it is appropriate for the Board to do so.

(6) An apparently genuine document purporting to be a certificate of the Minister under subsection (5) will be accepted in any legal proceedings, in absence of proof to the contrary, as proof that the Minister has given a certificate for the purposes of that subsection.

(7) The Board is a responsible authority for the purposes of the *Expiation of Offences Act 1987*.

(8) Notwithstanding the *Expiation of Offences Act 1987*, an expiation notice may be given to a child who has attained the age of 15 years.

#### **Application of fines**

**60.** A fine recovered for an offence against this Act will be payable to the Board.

#### **Evidentiary provision**

**61.** In proceedings, a certificate purporting to be executed by a member of the Board certifying as to a matter relating to—

- (a) a delegation or authority under this Act; or
- (b) an accreditation or licence, or lack of an accreditation or licence under this Act; or
- (c) a notice, requirement or direction of the Board under this Act; or
- (d) the receipt or non-receipt by the Board of a notification, record or information required to be given, furnished or provided to the Board under this Act,

constitutes proof, in the absence of proof to the contrary, of the matters so certified.

#### **Fund**

**62.** (1) The Metropolitan Taxi-Cab Industry Research and Development Fund continues in existence subject to the following terms and conditions:

- (a) the Minister is responsible for the administration of the Fund in consultation with the Board;
- (b) the Fund consists of—
  - (i) amounts payable into the Fund in accordance with the regulations; and
  - (ii) income paid to the Fund under this section;
- (c) the Fund must be kept in a separate account at the Treasury;



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- (d) the Fund may be applied by the Minister in consultation with the Board—
  - (i) for the purpose of carrying out research into the taxi-cab industry; or
  - (ii) for the purpose of promoting the taxi-cab industry; or
  - (iii) for any other purpose considered by the Minister and the Board to be beneficial to the travelling public, in the interests of the passenger transport industry, and an appropriate application of money standing to the credit of the Fund;
- (e) the Minister may, with the concurrence of the Board, by notice in the Gazette, change the name of the Fund;
- (f) any money standing to the credit of the Fund that is not for the time being required for the purposes of the Fund may be invested by the Treasurer;
- (g) income from investment of the fund must, in accordance with the directions of the Treasurer, be paid into the Fund.

(2) An instrument that includes a regulation made for the purposes of subsection (1)(b)(i) must not regulate any other matter.

**Registration of prescribed passenger vehicles**

**63.** (1) In this section—

"**number**" means—

- (a) a figure or combination of figures; or
- (b) a combination of letters of the alphabet; or
- (c) a combination of figures and letters of the alphabet;

"**prescribed vehicle**" means a public passenger vehicle of a prescribed class;

"**Registrar**" means the Registrar of Motor Vehicles (or any person acting on behalf of the Registrar of Motor Vehicles).

(2) Despite the *Motor Vehicles Act 1956*, the following provisions apply in relation to prescribed vehicles:

- (a) the Registrar must for the purposes of this section register a prescribed vehicle for a period fixed by the Registrar with the approval of the Board;
- (b) the plates bearing the registered number assigned to a prescribed vehicle, and the number on those plates, must be of a colour approved by the Registrar and the Board, and must bear any additional design, letters or figures determined by the Board after consultation with the Registrar;
- (c) the Board may issue registration plates for a prescribed vehicle (or arrange for the Registrar to issue the plates on behalf of the Board), and those plates will remain the property of the Board;
- (d) a fee determined by the Board is payable on the issue of plates under paragraph (c);

- (e) if a prescribed vehicle ceases to be a public passenger vehicle (whether by reason of the cancellation or suspension of an accreditation or licence under this Act, or for some other reason), the vehicle ceases to be entitled to bear the plates issued under this section;
- (f) unless satisfied that the applicant is the holder of a current and operative accreditation or licence in respect of a prescribed vehicle, the Registrar must not transfer the registration or issue a duplicate registration card in respect of a prescribed vehicle;
- (g) on an application for registration of a vehicle which has been, but has ceased to be, a prescribed vehicle, the Registrar must refuse to assign to the vehicle the registered number which the vehicle bore while it was a prescribed vehicle;
- (h) the registered owner of a prescribed vehicle may, at any time, on delivering to the Registrar the current registration label issued for the vehicle, or destroying it in accordance with the regulations under the *Motor Vehicles Act 1959*, apply to the Registrar for cancellation of the registration of the vehicle and payment of the prescribed refund;
- (i) if such an application is made and the registration label is delivered or destroyed as mentioned in paragraph (h), the Registrar must (subject to this section) cancel the registration and pay to the applicant an amount in respect of the period of registration unexpired calculated in accordance with the provisions of section 55 of the *Motor Vehicles Act 1959*;
- (j) the Registrar must not deduct from any such refund the cancellation fee mentioned in section 55(2) of the *Motor Vehicles Act 1959*—
  - (i) if the registered owner of a motor vehicle applies for cancellation of its registration and at the same time applies for registration of the same vehicle as a prescribed vehicle; or
  - (ii) if the registered owner of a prescribed vehicle applies for cancellation of its registration and at the same time applies for registration of the same vehicle as a motor vehicle.

### Regulations

**64.** (1) The Governor may make regulations as contemplated by this Act, or as necessary or expedient for the purposes of this Act, including regulations that make provision for or in relation to any of the matters specified in schedule 1.

- (2) The regulations may—
  - (a) refer to or incorporate, wholly or partially and with or without modification, a code, standard or other document prepared or published by a prescribed body, either as in force at the time the regulations are made or as in force from time to time; and
  - (b) be of general or limited application; and
  - (c) make different provision according to the persons, things or circumstances to which they are expressed to apply; and
  - (d) provide that a specified provision of this Act does not apply, or applies with prescribed variations, in any circumstance or situation (or circumstance or situation of a prescribed class) specified by the regulations, subject to any condition to which the regulations are expressed to be subject; and

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- (e) provide that any matter or thing is to be determined, dispensed with, regulated or prohibited according to the discretion of the Minister, the Board or another prescribed authority; and
- (f) in relation to fees, prescribe differential fees or provide for fees to be determined according to prescribed factors.

(3) Where the regulations refer to or incorporate a code, standard or other document prepared or published by a prescribed body—

- (a) a copy of the code, standard or other document must be kept available for inspection by members of the public, without charge and during normal office hours, at an office or offices specified in the regulations; and
- (b) in legal proceedings, evidence of the contents of the code, standard or other document may be given by production of a document purporting to be certified by or on behalf of the Minister as a true copy of the code, standard or other document; and
- (c) the code, standard or other document has effect as if it were a regulation made under this Act.

(4) The regulations may provide that provisions of the *Liquor Licensing Act 1985* will apply, with such modifications as may be prescribed to or in relation to the sale, supply or consumption of liquor at places at which the Board, or any other prescribed body, sells or supplies liquor.

**Review of Act**

**65.** (1) The Minister must, as soon as practicable after 1 January 1998, appoint an independent person to prepare a report on—

- (a) the work of the Board to 1 January 1998; and
- (b) the operation of this Act to 1 January 1998 and the extent to which the objects of this Act have been attained; and
- (c) other matters determined by the Minister to be relevant to a review of this Act.

(2) The person must present the report to the Minister within six months after his or her appointment.

(3) The Minister must, within 12 sitting days after receiving the report under this section, have copies of the report laid before both Houses of Parliament.

**SCHEDULE 1**

*Regulations*

1. The prescription of codes of practice to be observed by various persons for the purposes of this Act.
2. Accreditations, service contracts and licences under this Act, including—
  - (a) matters to which they may relate, and requirements (including requirements for driver training), standards, criteria, qualifications or conditions that must be satisfied in order for an accreditation, service contract or licence to be granted or renewed; and
  - (b) requirements as to their form, and the terms, conditions and particulars applying under or with respect to them; and
  - (c) the forms and conditions to be observed when submitting applications or tenders for them; and
  - (d) other matters relating to their award, refusal, variation, transfer, suspension, revocation, cancellation or surrender; and
  - (e) conditions of service applicable to school bus services or in other special circumstances.
3. The records and accounts to be kept by an accredited person, the holder of a service contract or the holder of a licence, the manner of keeping them and their inspection.
4. The records, certificates and documents to be kept by the drivers and operators of public passenger vehicles, the manner of keeping those records, and their inspection.
5. The furnishing of returns and other information (including business or commercial information), verified as prescribed.
6. Fixing fees or charges to be paid in respect of any matter under this Act and the regulation of the payment, recovery, waiving or reduction of such fees or charges, or empowering the Board to fix such fees or charges.
7. The adjustment of payments and refunds in connection with contract and other fees.
8. The prohibition or restriction of the use of public passenger vehicles on any specified public street, road or place, or any portion of a public street, road or place, or within any specified area, either generally or within certain hours.
9. The sections, terminal points and stopping-places on any passenger transport route.
10. The compilation, publication and observance of time-tables.
11. The more effective checking of time-tables and ensuring that vehicles are not withdrawn from an ordinary route without the approval of the Board.
12. The safety, design, equipment, fittings (internal or external) and condition of public passenger vehicles and the prescription of various standards to which public passenger vehicles must conform.
13. The maximum age of vehicles that may be used as public passenger vehicles.
14. Empowering the Board to require that public passenger vehicles display or be fitted with such notices, signs, equipment or other devices or fittings as the Board thinks fit.
15. The regulation or prohibition of the use of certain words, notices or signs in or on public passenger vehicles.
16. The regulation or prohibition of advertisements within or on the outside of public passenger vehicles.

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**17.** The declaration of the speed not to be exceeded by public passenger vehicles whether generally or in a specified locality or on a specified public street, road or place or part of a public street, road or place.

**18.** The erection and display of notices and signs for the guidance of the drivers of public passenger vehicles and the public.

**19.** The number of public passenger vehicles of any class or description which may ply for hire or stand in a public street, road or place.

**20.** The methods that may be adopted by the drivers of public passenger vehicles plying for hire in a public street, road or place and the regulation or prohibition of plying for hire in a particular street, road or place or part of a street, road or place.

**21.** The use and control of taxi stands (including the power to prohibit the use of taxi stands by prescribed classes of vehicles or in prescribed circumstances).

**22.** Providing for the substitution of another vehicle, with the consent of the Board, for a vehicle to which a licence under Part 6 relates, and making provision for the assignment of registration plates.

**23.** The method by which public passenger vehicles may be hailed or engaged.

**24.** The means to identify public passenger vehicles operated under this Act and the holders of accreditations, contracts, licences or authorities under this Act, and the use or withdrawal of distinctive signs, notices or plates.

**25.** The wearing of badges by drivers of public passenger vehicles, and by other personnel, and the regulation of the form and description, and the issue, wearing and return, of those badges.

**26.** The dress to be worn by the drivers of public passenger vehicles, and by other personnel.

**27.** The powers and duties of drivers or conductors of public passenger vehicles, and of authorised officers and other authorised persons.

**28.** The conduct of passengers, drivers, conductors and other persons in or on public passenger vehicles, or on land or premises associated with a passenger transport service.

**29.** The regulation or prohibition of the carriage of passengers standing in or on a public passenger vehicle.

**30.** The regulation or prohibition of the carriage of passengers' luggage or other goods, and animals, on public passenger vehicles.

**31.** The regulation or prohibition of eating, drinking, smoking or other activities in public passenger vehicles.

**32.** The determination of rates of fares, charges or other arrangements for remuneration (including the mode of computing fares, charges or other rates of remuneration), and the collection of fares, charges or other remuneration, payable for the carriage of passengers, or of luggage or other goods, or empowering the Board to determine those rates and provide for the collection of fares, charges or other remuneration, and providing that any fare, charge or other remuneration may be recovered by summary procedure in a court of summary jurisdiction.

**33.** The publication of fares, charges or other arrangements for remuneration that must be paid or complied with by passengers on public passenger vehicles.

**34.** The sale of tickets and the conditions under which tickets must be sold.

**35.** The granting of free or concession passes on public passenger vehicles.

**36.** The imposition of penalties for the failure, neglect or refusal by a passenger to pay any fare or charge or for quitting the public passenger vehicle before paying the fare or any other charge.

**37.** The authority of drivers or other personnel, and of authorised officers or other authorised persons, to eject persons who are acting, or who appear to be acting, in contravention of a regulation from public passenger vehicles.

**38.** The removal of luggage or goods left or abandoned on vehicles, land or premises associated with a passenger transport service, and the disposal of unclaimed luggage or goods.

**39.** Generally, the regulation and control of public passenger vehicles, their drivers and passengers, and fixing conditions of travel to be observed by any person who uses a public passenger vehicle.

**40.** The implementation of a scheme of maintenance work for public passenger vehicles.

**41.** The examination and testing of public passenger vehicles, and of devices, equipment and fittings fitted to such vehicles.

**42.** The ability of the Board or an authorised person to require that a vehicle that does not comply with any standard or requirement under this Act not be used as a public passenger vehicle until it is brought up to standard.

**43.** The procedures to be followed when a public passenger vehicle is transferred from one person to another.

**44.** The procedures associated with any process under this Act.

**45.** The recovery of amounts payable under this Act.

**46.** Default charges to be paid if an amount payable under this Act is not paid within a time prescribed by the regulations.

**47.** The form and service of notices under this Act.

**48.** The provision of a notice to a person in prescribed circumstances.

**49.** Evidence in proceedings for an offence against the regulations.

**50.** The imposition of penalties, not exceeding a division 6 fine, for a contravention of, or failure to comply with, a regulation.

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**SCHEDULE 2**

*TransAdelaide*

**Establishment of TransAdelaide**

1. (1) The State Transport Authority is continued in existence as *TransAdelaide*.
- (2) TransAdelaide is a body corporate.
- (3) TransAdelaide is an instrumentality of the Crown and holds its property on behalf of the Crown.
- (4) TransAdelaide is subject to the control and direction of the Minister.
- (5) A direction given by the Minister under this clause must be in writing.
- (6) If the Minister gives a direction under this clause, TransAdelaide must cause a statement of the fact that the direction was given to be published in its next annual report.
- (7) If a document appears to bear the common seal of TransAdelaide, it will be presumed, in the absence of proof to the contrary, that the common seal of TransAdelaide was duly affixed to the document.

**Constitution of TransAdelaide**

2. (1) TransAdelaide will be constituted by a person appointed from time to time by the Governor for the purpose.
- (2) The person appointed under subclause (1) will be appointed for a term of office, and on terms and conditions, determined by the Governor.
- (3) The Governor may appoint a suitable person to be a deputy of the person appointed under subclause (1), and a person so appointed may act as TransAdelaide in appropriate cases.
- (4) A person appointed under this clause incurs no civil liability for an honest act or omission in the performance or exercise, or purported performance or exercise, of TransAdelaide's functions, duties or powers.
- (5) A civil liability that would, but for subclause (4), attach to a person attaches instead to the Crown.

**Functions and powers of TransAdelaide**

3. (1) TransAdelaide may—
  - (a) operate passenger transport services;
  - (b) enter into service contracts with the Board under Part 5;
  - (c) carry out other functions assigned to it by or under this Act, or by the Minister.
- (2) TransAdelaide has the powers necessary or incidental to the performance of its functions.
- (3) TransAdelaide may, for example—
  - (a) enter into any form of contract or arrangement;
  - (b) appoint agents or engage contractors;
  - (c) engage experts or consultants;
  - (d) acquire, hold, deal with and dispose of real and personal property;
  - (e) provide facilities and amenities for the users of passenger transport services;
  - (f) grant leases or licences over property of TransAdelaide;

- (g) enter into joint ventures;
- (h) participate in the formation of a partnership or other body;
- (i) acquire, hold, deal with and dispose of—
  - (i) an interest in a lot under the *Community Titles Act 1996* or an interest in a unit under the *Strata Titles Act 1988*; or
  - (ii) shares in, or securities issued by, a body corporate.

(4) TransAdelaide must not, without the approval of the Minister and the Treasurer—

- (a) exercise a power under subclause (3)(g), (h) or (i); or
- (b) establish or participate in any other form of scheme or arrangement that involves sharing of profits.

(5) TransAdelaide may carry out such works as are necessary for the establishment, maintenance, extension, alteration or discontinuance of any passenger transport service carried on by it.

(6) TransAdelaide may carry out its functions and exercise its powers under this Act through the instrumentality of—

- (a) its staff; or
- (b) with the approval of the relevant Minister—the employees of an administrative unit of the Public Service; or
- (c) any other person.

(7) TransAdelaide may delegate any function or power conferred on or vested in TransAdelaide under this Act.

(8) A delegation—

- (a) may be made—
  - (i) to a particular person or body; or
  - (ii) to the person for the time being occupying a particular office or position; and
- (b) may be made subject to such conditions and limitations specified in the instrument of delegation; and
- (c) is revocable at will and does not derogate from the power of TransAdelaide to act in a matter.

(9) A function or power delegated under this section may, if the instrument of delegation so provides, be further delegated.

(10) TransAdelaide will have such staff as may be determined by TransAdelaide after consultation with the Minister.

(11) A member of the staff of TransAdelaide is not a public service employee.

#### **Financial provisions and annual report**

4. (1) TransAdelaide must keep proper accounting records in relation to its financial affairs, and must have annual statements of account prepared in respect of each financial year.

(2) The accounting records and the statements of account must comply with any instructions of the Treasurer under section 41 of the *Public Finance and Audit Act 1987*.



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(3) The Auditor-General may at any time audit the accounts of TransAdelaide and must audit the annual statements of account.

(4) The Treasurer may, out of money provided by Parliament, make grants to TransAdelaide for the purpose of enabling or assisting it to carry out its functions.

(5) TransAdelaide must, on or before 30 September in every year, forward to the Minister a report on the work and operations of TransAdelaide for the financial year ending on the preceding 30 June.

(6) The report must include the audited accounts of TransAdelaide for the relevant financial year.

(7) The Minister must, within 12 sitting days after receiving a report under this section, have copies of the report laid before both Houses of Parliament.

**Protection of name**

5. (1) The Crown has a proprietary interest in the name *TransAdelaide*.

(2) A person (other than TransAdelaide) who, without the consent of the Minister, in the course of a trade or business, uses "*TransAdelaide*" for the purpose of promoting a business or service is guilty of an offence.

Penalty: Division 6 fine.

(3) A consent under subclause (2) may be given with or without conditions.

(4) A person who contravenes or fails to comply with a condition is guilty of an offence.

Penalty: Division 6 fine.

(5) The Supreme Court may, on the application of the Minister, grant an injunction to restrain a breach of this clause.

(6) Subclause (5) does not derogate from any civil remedy that may be available apart from that subclause.

**SCHEDULE 3**

*Public transport infrastructure*

1. If it is proposed to sell to a private sector body any property of a kind prescribed by clause 4 that, immediately before the commencement of this Act—

- (a) is held by or on behalf of the Crown; and
- (b) is used for the purposes of a passenger transport service,

then—

- (c) the Minister must, at least two months before the proposed sale, give notice of the proposal in the *Gazette*, and in a newspaper circulating generally throughout the State; and
- (d) if the sale proceeds it will be taken to be subject to the condition that the private sector body grant to the Minister an option to repurchase the property in the event of a proposed sale or other disposal of the property by the private sector body (being an option that prevails over any other option that may exist in relation to the property).

2. An option under clause 1 must provide as follows:

- (a) if the private sector body proposes to sell or otherwise dispose of the property, the body will first give the Minister at least three months notice, in writing, of its proposal;
- (b) the Minister will then have that three month period to decide whether or not to exercise the option;
- (c) if the Minister decides to exercise the option, the value of the property will be taken to be the market value of the property assuming that the property will be used for passenger transport purposes;
- (d) if the Minister decides not to exercise the option, the body may proceed to sell or otherwise dispose of the property on the open market,

(and an option may include such other matters as the parties think fit).

3. However, clause 1 does not apply if the Minister has, by notice in the *Gazette*, declared that, in the Minister's opinion, the property is no longer reasonably required for passenger transport purposes (whether within the public sector or the private sector).

4. The following property is prescribed:

- (a) transport depots and interchanges (including any associated land);
- (b) railways, including all land, railway lines, bridges, culverts, structures, depot and servicing facilities, signalling, road protection and communication facilities, and other similar forms of works and facilities that are essential and integral to any railway system;
- (c) the track commonly known as the O-Bahn Busway (from the Adelaide to Modbury), and all land, bridges, culverts, structures, depot and servicing facilities, signalling, road protection and communication facilities, and other similar forms of works and facilities that are essential and integral to that track;
- (d) the tram track from Victoria Square (Adelaide) to Glenelg, and all land, bridges, culverts, structures, depot and servicing facilities, signalling, road protection and communication facilities, and other similar forms of works and facilities that are essential and integral to that track;
- (e) the *Operations Control Centre* situated on the northern side of North Terrace, Adelaide.

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**SCHEDULE 4**

*Repeals, Amendments and Transitional Provisions*

**Repeal**

1. The following Acts are repealed:

- (a) the *Metropolitan Taxi-Cab Act 1956*;
- (b) the *State Transport Authority Act 1974*.

**Amendments**

2. The following amendments are made:

- (a) the *Local Government Act 1934* is amended—
  - (i) by striking out paragraph (b) of section 338(4) and substituting the following paragraph:
    - (b) the Passenger Transport Board.;
  - (ii) by striking out paragraph (b) of section 339(5) and substituting the following paragraph:
    - (b) the Passenger Transport Board.;
  - (iii) by striking out from paragraph 7 XXVI of section 667 "*State Transport Authority Act, 1974*" and substituting "*Passenger Transport Act 1994*";
  - (iv) by striking out subparagraph XIII of paragraph 9 of section 667;
  - (v) by inserting in section 667 after its present contents (as amended by this provision and now to be designated as subsection (1)) the following subsection:
    - (2) A by-law made under subsection (1) 3 XX to XLII applies only to the extent that it makes provision for matters—
      - (a) that are not dealt with by or under the *Passenger Transport Act 1994* or an instrument under that Act; or
      - (b) that are the subject of an exemption under that Act.;
  - (vi) by striking out subsection (5) of section 871F and substituting the following subsection:
    - (5) This section does not apply to anything done by the Passenger Transport Board.;
  - (vii) by striking out from section 871G "the State Transport Authority" wherever it occurs and substituting, in each case "the Passenger Transport Board";
  - (viii) by striking out from section 871I(1) "State Transport Authority" twice occurring and substituting, in each case "Passenger Transport Board";
  - (ix) by striking out from section 871I(2) "the Authority" and substituting "the Passenger Transport Board";
- (b) the *Road Traffic Act 1961* is amended—
  - (i) by striking out paragraph (c) of the definition of "Authority" in section 16(1) and substituting the following paragraph:
    - (c) the Passenger Transport Board.;

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- (ii) by striking out from section 43(3aa) "the State Transport Authority" and substituting "TransAdelaide";
  - (iii) by striking out from section 43(3aa) "the Authority" twice occurring and substituting, in each case "TransAdelaide";
  - (iv) by striking out from section 80(b) "or an employee of the State Transport Authority";
  - (v) by striking out from section 89(2)(b) "or an employee of the State Transport Authority";
  - (vi) by striking out from section 106(2) "the State Transport Authority" and substituting "the Passenger Transport Board";
  - (vii) by striking out from section 163A(1) "and Part 4B";
  - (viii) by striking out from section 163B(1) "and Part 4B";
  - (ix) by striking out subsections (1) and (1a) of section 163C and substituting the following subsections:
    - (1) This Part applies to vehicles of a prescribed class.
    - (1a) The Minister may, by notice in writing—
      - (a) exempt a specified vehicle from this Part or from specified provisions of this Part;
      - or
      - (b) vary or revoke an exemption under paragraph (a).;
  - (x) by striking out from section 163C(1b) "or notice";
  - (xi) by striking out Part 4B (and the heading to that Part);
- (c) the *Superannuation Act 1988* is amended—
- (i) by striking out from subparagraph (iii) of paragraph (b) of the definition of "employee" in section 4(1) "the State Transport Authority" and substituting "the Passenger Transport Board or TransAdelaide";
  - (ii) by striking out from clause 1(2)(b) of schedule 1a "the State Transport Authority" and substituting "the Passenger Transport Board, TransAdelaide";
- (d) the *Tobacco Products Control Act 1986* is amended by striking out paragraph (a) of section 12(2);
- (e) the *Wrongs Act 1936* is amended by striking out subparagraph (i) of paragraph (b) of the definition of "motor vehicle" in section 35A(6) and substituting the following subparagraph:
- (i) a person under or pursuant to a contract, licence or authority under the *Passenger Transport Act 1994*;

**Transitional provisions—State Transport Authority**

**3. (1) The Governor may, by proclamation—**

- (a) transfer real or personal property of the State Transport Authority (in the case of a transfer effected before the commencement of schedule 2) or of TransAdelaide (in the case of a transfer effected after that commencement) to—

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- (i) the Passenger Transport Board; or
  - (ii) a Minister of the Crown, or an agency or instrumentality of the Crown;
- (b) transfer the employment of a person who is employed by the State Transport Authority (in the case of a transfer effected before the commencement of schedule 2) or by TransAdelaide (in the case of a transfer effected after that commencement) to—
- (i) the Passenger Transport Board; or
  - (ii) an administrative unit of the Public Service, or an agency or instrumentality of the Crown.

(2) The Governor may, by proclamation, vest any rights or liabilities (whether vested or contingent) of the State Transport Authority (in the case of a transfer effected before the commencement of schedule 2) or of TransAdelaide (in the case of a transfer effected after that commencement) in—

- (a) the Passenger Transport Board; or
- (b) a Minister of the Crown, or an agency or instrumentality of the Crown.

(3) The Governor may, by further proclamation, vary or revoke a proclamation under subclause (1) or (2).

(4) A proclamation under subclause (3) will, if the proclamation so provides, be taken to have had effect from the making of the original proclamation under subclause (1) or (2).

(5) The transfer of the employment of a person by a proclamation under this clause will be effected without reduction in salary and without loss of accrued or accruing rights in respect of employment.

(6) Subclause (5) does not affect any process commenced for variation of a person's rights in respect of employment.

(7) A reference in an instrument to the State Transport Authority will, according to its context, and subject to this Act, be construed as a reference—

- (a) to the Passenger Transport Board; or
- (b) to TransAdelaide; or
- (c) to a Minister of the Crown, or an agency or instrumentality of the Crown,

as the case may require.

**Transitional provisions—Metropolitan Taxi-Cab Board**

4. (1) The real and personal property of the Metropolitan Taxi-Cab Board becomes, on the commencement of this provision, the property of the Passenger Transport Board.

(2) A person employed by the Metropolitan Taxi-Cab Board immediately before the commencement of this provision will, on that commencement, become an employee of the Passenger Transport Board.

(3) The transfer of the employment of a person under subclause (2) is effected without reduction in salary and without loss of accrued or accruing rights in respect of employment.

(4) Subclause (3) does not affect any process commenced for variation of a person's rights in respect of employment.

(5) All rights and liabilities of the Metropolitan Taxi-Cab Board (whether vested or contingent) become, on the commencement of this provision, rights and liabilities of the Passenger Transport Board.

(6) A reference in an instrument to the Metropolitan Taxi-Cab Board will be construed as a reference to the Passenger Transport Board.

**Transitional provisions—Accreditations**

5. (1) A person who, immediately before the commencement of this provision, was licensed under an Act to operate a vehicle of a particular kind for the purposes of transporting passengers for hire will, on that commencement, be taken as holding an accreditation under this Act—

- (a) that is appropriate to that kind of vehicle; and
- (b) that is subject to the same conditions as were attached to the licence; and
- (c) that will, subject to this Act, endure for the balance of the term of the licence.

(2) Subclause (1) does not apply to persons, or persons of a prescribed class, with respect to the transport of passengers within an area prescribed by the regulations.

(3) If the licence held by a person to whom subclause (1) applies was issued under a council by-law, the licence is, as a result of accreditation under that subclause, void and of no effect, but if the person is subsequently exempted from the requirement to hold an accreditation under this Act, the licence will, if the exemption so provides, be taken to have been reinstated.

(4) The Board may, by notice published in the Gazette after the expiration of a prescribed period, determine—

- (a) a day on which all accreditations under subclause (1); or
- (b) various days on which various classes of those accreditations,

will cease to apply (and such a notice has effect according to its terms).

(5) TransAdelaide will be taken to hold an accreditation under this Act appropriate to the passenger transport services operated by it from time to time.

**Transitional provisions—Service contracts**

6. (1) A person who, immediately before the commencement of Part 5, was licensed under an Act to operate a regular passenger service may continue do so without a service contract under this Act authorising operation of the service, until—

- (a) the person enters into such a contract with the Board; or
- (b) the Board enters into a service contract with another person for the operation of that service and terminates the person's right to operate the service; or
- (c) the Board terminates the person's right to operate the service in accordance with procedures set out in the regulations,

(whichever first occurs).

(2) TransAdelaide may, until 1 March 1995, continue to operate a regular passenger service without the authority of a service contract under this Act and, until that date, tenders cannot be called for a contract to operate a regular passenger service provided by the State Transport Authority immediately before the commencement of this Act (unless the State Transport Authority (before the commencement of schedule 2) or TransAdelaide (after the commencement of schedule 2) relinquishes or discontinues the service between the commencement of this Act and that date).

(3) TransAdelaide may, from 1 March 1995, continue to operate a particular regular passenger service without the authority of a service contract under this Act until—

- (a) it enters into a service contract with the Board for the operation of that service; or
- (b) the Board enters into a service contract with another person for the operation of that service and terminates TransAdelaide's right to operate the service; or

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- (c) the Board terminates TransAdelaide's right to operate the service,

(whichever first occurs).

**Transitional provisions—Drivers**

7. (1) The regulations will set out criteria for the purposes of this provision, and a person who satisfies those criteria will be taken as holding an accreditation under Division 2 of Part 4.

(2) The Board may, by notice published in the Gazette, after the expiration of a prescribed period, determine—

- (a) a day on which all accreditations under subclause (1); or  
(b) various days on which various classes of those accreditations,

will cease to apply (and such a notice has effect according to its terms).

**Transitional provisions—Taxi-cab licences**

8. (1) A taxi-cab licence in force, immediately before the commencement of this provision, under the *Metropolitan Taxi-Cab Act 1956*, other than one designated under that Act as a hire car licence, will, on that commencement, be taken to be a licence issued under Part 6, conferring the same authority on its holder, as if this Act had been in force when the licence was issued.

(2) The regulations may provide for the designation of a licence under subclause (1) as a licence of a particular kind or grade.

**Centralised booking service membership**

9. A person who, immediately before 19 April 1994—

- (a) was licensed under another Act to operate a passenger transport service; and  
(b) was not a member of a booking service involving the use of a radio communication network,

cannot be required to be a member of a centralised booking service under this Act.

**Transitional provisions—General**

10. (1) The regulations may contain other provisions of a saving or transitional nature consequent on the enactment of this Act.

(2) The regulations may, for example, make provision for or with respect to the transitional application of any regulation imposing a limit on the age of a vehicle that may be used as a public passenger vehicle.

(3) A regulation made under this schedule may, if the regulation so provides, take effect from the date of assent to this Act or any later date.

(4) To the extent to which a regulation takes effect earlier than the day on which it is made, the regulation does not operate so as to—

- (a) affect, in a manner prejudicial to any person (other than the Crown or an agency or instrumentality of the Crown), the rights of that person existing before that day; or  
(b) impose liabilities on any person (other than the Crown or an agency or instrumentality of the Crown) in respect of anything done or omitted to be done before that day.

(5) No fees or stamp duty are payable in respect of the vesting of property under this schedule, or in respect of any instrument evidencing or giving effect to such a vesting.

(6) The *Acts Interpretation Act 1915* applies, except to the extent of any inconsistency with the provisions of this Act, to any repeal or amendment effected by this Act.

## APPENDIX 1

### LEGISLATIVE HISTORY

*(entries in bold type indicate amendments incorporated since the last reprint)*

Section 22(2):	amended by 38, 1996, s. 22
<b>Section 39(3):</b>	<b>substituted by 75, 1998, s. 2</b>
<b>Section 39(3a) - (3d):</b>	<b>inserted by 75, 1998, s. 2</b>
Schedule 2	
Clause 3(3):	amended by 38, 1996, s. 23



**Passenger Transport Act 1994****APPENDIX 2****DIVISIONAL PENALTIES AND EXPIATION FEES**

At the date of publication of this reprint divisional penalties and expiation fees are, as provided by section 28A of the *Acts Interpretation Act 1915*, as follows:

Division	Maximum imprisonment	Maximum fine	Expiation fee
1	15 years	\$60 000	—
2	10 years	\$40 000	—
3	7 years	\$30 000	—
4	4 years	\$15 000	—
5	2 years	\$8 000	—
6	1 year	\$4 000	\$300
7	6 months	\$2 000	\$200
8	3 months	\$1 000	\$150
9	-	\$500	\$100
10	-	\$200	\$75
11	-	\$100	\$50
12	-	\$50	\$25

*Note: This appendix is provided for convenience of reference only.*