

TRANSPORT (AMENDMENT) ACT 1987 No. 296

NEW SOUTH WALES



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TRANSPORT (AMENDMENT) ACT 1987 No. 296

NEW SOUTH WALES



Act No. 296, 1987

An Act to amend the Transport Act 1930 with respect to the granting of service licences and the conditions to which those licences are subject.
[Assented to 16 December 1987]

See also State Transport (Co-ordination) Amendment Act 1987; Transport (Division of Functions) Amendment Act 1987.

Transport (Amendment) 1987

The Legislature of New South Wales enacts:**Short title**

1. This Act may be cited as the Transport (Amendment) Act 1987.

Amendment of Act No. 18, 1930

2. The Transport Act 1930 is amended as set out in Schedules 1 and 2.
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SCHEDULE 1—AMENDMENTS RELATING TO SERVICE LICENCES

(Sec. 2)

(1) Section 4 (Definitions)—**(a) Section 4 (1), definition of “Public vehicle”—**

Omit the definition, insert instead:

“Public vehicle” means a motor vehicle—

(a) used or let or intended to be used or let; or

(b) plying or travelling or standing in a public street,

for the conveyance of passengers for hire or for any consideration or in the course of any trade or business, but does not include a vehicle used or let as referred to in subsection (3) or a vehicle of any prescribed class or description.

(b) Section 4 (3)—

After section 4 (2), insert:

(3) A vehicle which is used or let for hire or for any consideration for the conveyance of goods or for some other purpose is not, for the purposes of this Act, a public vehicle merely because, incidentally to the purpose for which it is used or let, it is used to convey any passenger.

(2) Section 12 (Supervision and regulation of road transport and bus services)—

Section 12 (2)—

Omit the subsection.

(3) Section 136 (Bus services)—

Section 136 (4)—

After “licence” where firstly and secondly occurring, insert “or provisional service licence”.

SCHEDULE 1—AMENDMENTS RELATING TO SERVICE
LICENCES—*continued*

(4) Section 137 (**Service licence**)—

(a) Section 137 (3), (4)—

Omit the subsections, insert instead:

(3) In determining whether or not any application for a service licence should be granted, the Commissioner shall have regard primarily to the extent to which the service is necessary or desirable in the public interest, but shall also take into consideration (where applicable)—

- (a) the suitability of the route on which a service may be provided under the licence;
- (b) the extent, if any, to which the needs of the locality are already adequately served;
- (c) the need to avoid unnecessary or wasteful competition or overlapping of services;
- (d) the needs of the locality as a whole in relation to traffic and the co-ordination of all forms of transport, including transport by means other than by road;
- (e) the condition and suitability of the roads to be traversed with regard to their capacity to carry the omnibuses involved in the service—
 - (i) without unreasonable damage to those roads;
 - (ii) without creating or intensifying conditions endangering the safety of persons or vehicles using those roads; and
 - (iii) without creating or intensifying conditions which interfere with the reasonable use of those roads by other traffic;
- (f) the character, suitability and fitness of the applicant to hold the licence applied for;
- (g) any directions given under section 38 of the Transport Authorities Act 1980; and
- (h) any prescribed matters and any other matters the Commissioner considers relevant.

(4) The Commissioner—

- (a) may refuse to grant a service licence pursuant to an application for such a licence if the Commissioner is of the opinion—
 - (i) that, having regard to such of the matters referred to in subsection (3) as appear relevant in relation to the application, a service licence should not be granted;

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- (ii) that, in the public interest, a service licence in respect of the same or a similar route should be granted to another applicant; or
 - (iii) that, in the circumstances of the case, the application does not warrant investigation; or
- (b) may grant the applicant a provisional licence referred to in section 142, if for any reason the Commissioner is not satisfied that a service licence should be granted pursuant to the application.
- (b) Section 137 (5)—
Omit “undue”, insert instead “unnecessary or wasteful”.
- (c) Section 137 (6)—
Omit the subsection.
- (5) Sections 138, 138A—
Omit section 138, insert instead:
Conditions of licence
138. (1) A service licence shall specify—
 - (a) the route to be traversed;
 - (b) the time-table to be observed;
 - (c) any fares to be charged or other arrangements for remuneration to be made; and
 - (d) such other conditions as may be prescribed or as the Commissioner thinks fit to impose in the circumstances of the case.

(2) For the purpose of determining the fares to be charged, the Commissioner may divide a route into 2 or more sections and may, in the Commissioner’s discretion, determine through or minimum fares for the whole or any part of the journey.

(3) For the purposes of subsection (1) (c), the Commissioner—

 - (a) may, instead of or in addition to determining fares, approve of an arrangement for the remuneration of the licensee, by passengers or by some person on their behalf, on a contractual basis that provides for—
 - (i) a single payment in respect of the provision of a motor omnibus service to those passengers over a period or periods defined by the contract; or
 - (ii) periodic payments in respect of a service so provided; and

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LICENCES—*continued***

- (b) may, if the Commissioner considers it to be in the public interest, be a party to such a contract with the licensee.
- (4) The fares to be charged, or other arrangements for remuneration to be made, in respect of a route shall be determined by the Commissioner having regard to—
 - (a) the public interest;
 - (b) the operator's profitability in respect of the service and any other services in the same ownership; and
 - (c) the general level of fares or other rates of remuneration applying to motor omnibus services.
- (5) A service licence authorises traversal of the route specified in it and of—
 - (a) such extensions of or deviations from the route so specified; and
 - (b) such special journeys by any other route,
 as may be authorised from time to time by the Commissioner and notified in writing to the licensee.

Variation of conditions

- 138A. (1) If the Commissioner considers it to be in the public interest, the Commissioner may, by notice in writing to the licensee, vary the conditions of a service licence at any time during its currency.
- (2) A licensee may, on application made in writing and accompanied by the determined fee (if any), request a variation of the conditions of the service licence, and the Commissioner—
- (a) may grant the variation and may endorse the licence accordingly; or
 - (b) may refuse to grant the variation.
- (3) The Commissioner shall not vary the conditions of a service licence in accordance with subsection (1) unless the Commissioner has afforded the licensee an opportunity to be heard as to any objection the licensee may have to the variation.
- (4) The Commissioner shall not vary the conditions of a service licence in accordance with subsection (2) unless the Commissioner has first considered such of the matters referred to in section 137 (3) and (5) as may appear relevant.
- (5) The conditions of a service licence may, for the purposes of this section, be varied by the addition, substitution or deletion of one or more conditions.

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LICENCES—*continued*

- (6) Section 142 (**Provisional licences**)—
 Section 142 (1)—
 Omit “six”, insert instead “12”.
- (7) Section 164 (**Inspection of plant etc.**)—
 Section 164 (2)—
 After “prescribed,”, insert “in respect of all services provided or intended to be provided by the licensee or applicant (or, if the Commissioner so requires, in respect of any particular service)”.
- (8) Section 168 (**Appeals from certain decisions of Commissioner**)—
 Section 168 (1)—
 Omit the subsection, insert instead:
 (1) A licensee or an applicant for a licence who is aggrieved by any decision of the Commissioner with respect to—
 (a) the issue, transfer, suspension, refusal, cancellation or revocation of a service licence;
 (b) the amount of any annual service licence fee; or
 (c) the conditions (other than any prescribed conditions) attached to a service licence, or any variation or proposed variation of them,
 may appeal to the Transport Appeal Court.
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SCHEDULE 2—AMENDMENTS BY WAY OF STATUTE LAW REVISION

(Sec. 2)

- (1) Section 133 (2)—
 Omit “Trust”, insert instead “Urban Transit Authority”.
- (2) Section 134—
 (a) Omit “A Trust constituted by or under this Act”, insert instead “The Commissioner”.
 (b) Omit “the district of the Trust”, insert instead “any district”.
 (c) Omit “the Trust” where secondly and thirdly occurring, insert instead “the Commissioner”.
 (d) Omit “it”, insert instead “the Commissioner”.
- (3) Section 136—
 (a) Section 136 (2)—
 Omit “Trust”, insert instead “Commissioner”.

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continued

- (b) Section 136 (4)—
Omit “Except to the extent provided in section 158, nothing”, insert instead “Nothing”.
- (4) Section 137—
 - (a) Section 137 (2), (5)—
Omit “Trust” wherever occurring, insert instead “Commissioner”.
 - (b) Section 137 (5)—
Omit “Railway Commissioners and/or the Board, as the case may be”, insert instead “State Rail Authority or the Urban Transit Authority, as the case requires”.
- (5) Sections 139–143, 145, 146—
Omit “Trust” wherever occurring, insert instead “Commissioner”.
- (6) Section 142 (1)—
Omit “its”, insert instead “the Commissioner’s”.
- (7) Section 144—
Omit “the district of a Trust”, insert instead “any district”.
- (8) Section 152—
 - (a) Section 152 (1), (3), (6), (8), (11), (13)—
Omit “Trust” wherever occurring, insert instead “Commissioner”.
 - (b) Section 152 (5)—
Omit “a Trust”, insert instead “the Commissioner”.
 - (c) Section 152 (5)—
Omit “the district of the Trust”, insert instead “any district”.
 - (d) Section 152 (6)—
Omit “it”, insert instead “the Commissioner”.
- (9) Part XIII, Division 5 (sections 157–163)—
Omit the Division.
- (10) Section 164—
 - (a) Section 164 (1)—
Omit “A Trust, or any member thereof”, insert instead “The Commissioner”.
 - (b) Section 164 (1)—
Omit “the district of the Trust”, insert instead “any district”.
 - (c) Section 164 (1)—
Omit “the Trust” where secondly and thirdly occurring, insert instead “the Commissioner”.
 - (d) Section 164 (2)—
Omit “A Trust”, insert instead “The Commissioner”.
 - (e) Section 164 (2)—
Omit “its”, insert instead “the Commissioner’s”.

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- (f) Section 164 (2)—
Omit “the Trust” wherever occurring, insert instead “the Commissioner”.
- (11) Section 165—
 - (a) Omit “it”, insert instead “the Commissioner”.
 - (b) Omit “a Trust”, insert instead “the Commissioner”.
 - (c) Omit “the Trust”, insert instead “the Commissioner”.
- (12) Section 166—
 - (a) Section 166 (1)—
Omit “A Trust”, insert instead “The Commissioner”.
 - (b) Section 166 (1)—
Omit “its”, insert instead “a”.
- (13) Section 168 (5)—
Omit “Trust”, insert instead “Commissioner”.