



ANALYSIS

- | | |
|---|---|
| 1. Short Title and Commencement | 18. Matters to be considered before determining applications for rental-service licences |
| 2. Interpretation
<u>TRANSPORT LICENSING AUTHORITY</u> | 18A. Authority to have regard to policies of Government |
| 3. Transport Licensing Authority | 19. Grant or refusal of licence |
| 4. Disqualification for appointment as member of Licensing Authority | 20. Classification of licences |
| 5. Deputy Registrar of Motor Vehicles may act | 21. Licensing Authority to prescribe terms and conditions of licence |
| 6. Term of office and vacancies of appointed members | 22. Form and effect of transport licence |
| 7. Deputies for appointed members | 23. Temporary licences |
| 8. Proceedings of Licensing Authority | 24. Issue of licences |
| 9. Temporary Licence | 25. Abandonment or curtailment of service |
| 10. Licensing Authority may administer oaths
<u>TRANSPORT LICENCES</u> | 26. Suspension or curtailment of transport services |
| 11. Passenger services, taxicab services, and rental services to be licensed | 27. Transfer of licences |
| 12. Exemption from transport licences | 28. Amendment of licences |
| 13. Minister may declare certain services to be passenger services or rental services | 29. Procedure on applications for transfer, amendment, suspension, or abandonment of licences |
| 14. Application for licence to be forwarded to Licensing Authority | 30. Public inquiry into conduct of transport service |
| 15. Licensing Authority to advertise receipt of application and hold public sitting | 31. Review of licences |
| 16. Matters to be considered before determining applications for passenger-service licences | 32. Reissue of licences |
| 17. Matters to be considered before determining applications for taxicab-service licences | 33. Alteration and duplication of licences |
| | <u>MISCELLANEOUS</u> |
| | 34. Inspection after accidents |
| | 35. Offences and penalties |
| | 36. Registers of licences |
| | 37. Information for offences |
| | 38. Fees |
| | 39. Evidence and proof |
| | 40. Application of fees and fines, and expenses of administration |
| | 41. Service of notices |
| | 42. Annual report |
| | 43. Regulations |
| | Schedule |

An Act to provide for a system of licensing transport services

BE IT ENACTED by the Legislative Assembly of the Cook Islands in Session assembled, and by the authority of the same, as follows:

1. Short Title and Commencement - (1) This Act may be cited as the Transport Licensing Act 1967.

(2) This Act shall come into force on the first day of April 1968.

2. Interpretation - In this Act, unless the context otherwise requires -

"Contract", in relation to the carriage of passengers or the letting of motor vehicles on hire by any transport service, means a contract for the carriage of any passenger or the letting of a motor vehicle on hire (otherwise than under a hire-purchase agreement) on a specified occasion or during a specified period:

"Contract vehicle" means a motor vehicle carrying passengers for hire or reward under a contract expressed or implied for the use of the vehicle as a whole:

"Minister" means the Minister of Police:

"Motor vehicle" means a vehicle drawn or propelled by mechanical power; and includes a trailer; but does not include -

- (a) A vehicle running on rails; or
- (b) An invalid carriage; or
- (c) A trailer that is designed exclusively as part of the armament of any of Her Majesty's Forces; or
- (d) A vehicle normally propelled by mechanical power while it is being temporarily towed without the use of its own power; or
- (e) A pedestrian controlled grass cutter:

"Passenger service" means the carriage of passengers for hire or reward by means of a motor vehicle; and includes the letting on hire of a motor vehicle by a person who himself drives the vehicle or provides a driver therefor if during the hiring the vehicle is used for the carriage of passengers:

"Rental service" means a service for the letting of a motor vehicle on hire (otherwise than under a hire-purchase agreement or under a bailment that is for a period exceeding six months) for the carriage of passengers (including the driver) to a person who himself drives the vehicle or provides a driver therefor:

"Taxicab" means a motor vehicle -

- (a) Designed exclusively or principally for the carriage of persons not exceeding eight in number, inclusive of the driver; and
- (b) Used for hire or reward for the carriage of passengers otherwise than on defined routes; and
- (c) Available for hire to any member of the public:

"Taxicab service" means a passenger service carried on by means of a taxicab or taxicabs used on such.

"Transport licence" means a passenger-service licence, a taxicab-service licence, or a rental-service licence, as the case may require.

TRANSPORT LICENSING AUTHORITY

3. Transport Licensing Authority - (1) There is hereby established for the purposes of this Act a Transport Licensing

Authority, hereinafter in this Act referred to as the Licensing Authority.

- (2) The Licensing Authority shall consist of:-
- (a) The Registrar of Motor Vehicles, who shall be Chairman:
 - (b) Two other members appointed by the Minister, hereinafter in this Act referred to as appointed members.
- (3) With respect to every appointed member of the Licensing Authority the following provisions shall apply:
- (a) He shall not by virtue of that appointment become an officer or employee of the Public Service and nothing in the Public Service Act 1965 shall apply to that appointment:
 - (b) He shall be paid out of money appropriated by the Legislative Assembly for the purpose such remuneration by way of salary or fees and such allowances as may be determined by the Minister, with the concurrence of the Minister of Finance.

4. Disqualification for appointment as member of Licensing Authority - No person who is financially interested, directly or indirectly, in the business of carrying passengers by means of any passenger service, or the letting of motor vehicles on hire by means of any rental service shall be capable of holding office as a member of the Licensing Authority.

5. Deputy Registrar of Motor Vehicles may act - Any Deputy Registrar of Motor Vehicles, or any officer of the Department of Police who is for the time being authorised for the purpose by the Registrar of Motor Vehicles, shall have and may exercise all the powers, duties and functions of the Registrar of Motor Vehicles under this Act. The fact that any Deputy Registrar of Motor Vehicles or any officer of the Department of Police exercises any such power, duty, or function as aforesaid shall be conclusive evidence of his authority to do so.

6. Term of office and vacancies of appointed members -
- (1) Every appointed member of the Licensing Authority shall be appointed for a term not exceeding five years, but shall be eligible for reappointment unless disqualified under section 4 of this Act.
 - (2) The Minister may at any time remove any appointed member from office for disability, neglect of duty or misconduct.
 - (3) Any appointed member may at any time resign his office by writing addressed to the Minister.
 - (4) If any appointed member dies, resigns, becomes disqualified, or is removed from office, his office shall become vacant, and shall be filled in the manner in which the appointment to the vacant office was originally made.
 - (5) The publication in the Gazette of a notice of the appointment of any appointed member signed by the Minister shall be conclusive evidence that the appointment has been duly made, and the like publication of a notice of the vacation of the office shall be conclusive evidence that he has duly vacated his office in accordance with the terms of the notice.
 - (6) No act or proceeding of any person acting as an appointed member shall be invalidated by reason of the fact that he had vacated his office, or was at the time of his appointment disqualified under section 4 of this Act.
 - (7) Every person commits an offence who does any act as an appointed member if at the time of his doing that act he has

vacated his office or become disqualified under section 4 of this Act from holding his office, or if at the time of his appointment he was disqualified under that section.

7. Deputies for appointed members - (1) In any case where the Minister is satisfied that any appointed member of the Licensing Authority is incapacitated by illness, absence, or other sufficient cause from performing the duties of his office, the Minister may appoint any qualified person to be a deputy to act for him during his incapacity and any deputy so appointed shall, while he acts as such be deemed to be an appointed member of the Licensing Authority.

(2) No appointment of a deputy under subsection (1) of this section and no acts of any deputy so appointed shall in any proceedings be questioned on the ground that the occasion for his appointment had not arisen or had ceased.

(3) The provisions of section 4 and subsections (2) to (7) of section 6 of this Act shall, as far as they are applicable and with the necessary modifications, apply with respect to deputies appointed under subsection (1) of this section.

8. Proceedings of Licensing Authority - (1) Subject to the provisions of this Act and of any regulations made thereunder, the Licensing Authority may regulate its own procedure.

(2) Any suitable officer of the Public Service may from time to time be appointed under the provisions of the Public Service Act 1965 to be the Secretary of the Licensing Authority.

(3) Subject to the provisions of this Act, the Licensing Authority shall hold sittings for the transaction of business at such times and places as the Chairman determines.

(4) At all meetings of the Licensing Authority two members, of whom one shall be the Chairman, shall constitute a quorum.

(5) At any meeting of the Licensing Authority the Chairman shall have a deliberative vote and in the case of an equality of votes he shall have a casting vote.

(6) All questions before the Licensing Authority shall be decided by a majority of the valid votes recorded thereon.

(7) The Licensing Authority may in its proceedings act upon such evidence and representations as are received by it at a public sitting, whether the evidence or representations would be legally admissible in judicial proceedings or not.

(8) Any person may be represented at the proceedings by any counsel, solicitor, or other agent.

(9) The Licensing Authority may require any person to transcribe or summarise in writing any evidence in chief or representations given or made by that person during the proceedings.

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

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

(12) Any person may on payment of the prescribed fee obtain a copy certified as aforesaid of any entry in the minute book.

9. Temporary licence - The Chairman of the Licensing Authority or such other person, being a member of the Cook Islands Public Service as the Chairman shall appoint for the purpose, may, in any case of urgency, grant on behalf of the Licensing Authority any temporary transport licence, but shall report the grant at the next meeting of the Licensing Authority.

10. Licensing Authority may administer oaths - For the purposes of every public sitting of a Licensing Authority the Chairman shall have the authority and privileges of a Judge of the High Court in respect of the administration of oaths, the hearing of evidence, the conduct of proceedings, and the maintenance of order at the sitting. Every witness giving evidence in person at any public sitting shall first be duly sworn.

TRANSPORT LICENCES

11. Passenger services, taxicab services, and rental services to be licensed - (1) Except as otherwise provided in this Act, it shall not be lawful for any person to carry on any passenger service, or taxicab service, or rental service otherwise than pursuant to the authority and in conformity with the terms of a passenger-service licence, or a taxicab-service licence, or a rental-service licence as the case may be granted under this Act.

(2) Every person commits an offence who does any act in any capacity as agent for any transport service that may be lawfully carried on only pursuant to a licence under this Act, if at the time of his doing that act such a licence is not in force in respect of the service.

(3) Every person who commits an offence against this section is liable to a fine not exceeding two hundred dollars.

12. Exemption from transport licences - (1) A licence shall not be required under this Act in the case of -

(a) The carriage to and from school of school children and their teachers in a passenger-service vehicle, unless other persons are at the same time carried for hire or reward in the vehicle:

(b) The carriage to and from work of workmen engaged on work being carried out by the Government or by a public body, if the vehicle used is not designed principally for the carriage of persons and if the service is for the time being approved by the Registrar of Motor Vehicles or Chief Officer of Police in writing for the purpose of this paragraph:

(c) A rental service carried on exclusively for the purpose of the letting of agricultural tractors on hire (including any trailers drawn by any such tractors):

(d) A passenger service, or rental service exempted from licensing by the High Commissioner by Order in Executive Council under subsection (2) of this section.

(2) The High Commissioner may from time to time, by Order in Executive Council, exempt from licensing under this Act any specified passenger service or rental service or any specified class of such services, and may in like manner vary or revoke such Order in Executive Council.

13. Minister may declare certain services to be passenger services or rental services - (1) If the Minister is of the opinion that it is necessary or desirable in the public interest so to do, he may from time to time, by notice published in the Gazette, declare that any service by motor vehicle for the carriage of passengers (whether for hire or reward or not) or any service for the letting on hire of a motor vehicle shall be deemed for the purposes of this Act to be a passenger service or rental service as the case may be, within the meaning of this Act.

(2) If any question arises as to whether or not the carriage of any passengers by motor vehicle or the letting on hire of a motor vehicle constitutes a service for the purposes of this section, it shall be determined by the Minister, whose decision shall be final.

(3) For the purposes of this section a service may be defined in such manner as the Minister thinks fit. In particular without limiting the general authority conferred by this section, a service may be defined by reference to all or any of the following matters - namely, the points between which it is carried on, the nature or length of the route, the localities served, the motor vehicle or motor vehicles used, the passengers or goods carried, and the nature of any transaction that may be involved in the service.

(4) In any notice under this section in respect of any service or services the Minister may declare that any specified person or specified class of persons shall be deemed for the purposes of this Act to be carrying on the service, whether or not that person is or those persons are the owner or owners or the bailee or bailees of the motor vehicle or motor vehicles used in the service.

(5) Unless and until any notice under this section is varied or revoked, it shall continue in force according to its tenor. Every notice under this section shall come into force on the date of its publication in the Gazette, or on such later date as may be specified in that behalf in the notice.

(6) Any notice under this section may be at any time in like manner varied or revoked.

14. Application for licence to be forwarded to Licensing Authority - Every application for a transport licence shall be in the prescribed form and shall be forwarded to the Licensing Authority accompanied by the prescribed fee.

15. Licensing Authority to advertise receipt of application and hold public sitting - (1) On receiving an application for a transport licence not being an application for a temporary licence, the Licensing Authority shall give not less than fourteen clear days' public notice of the receipt of the application specifying in the notice a time and place at which it will hold a public sitting for the purpose of receiving evidence and representations in favour of or against the granting of the application by persons who, in the opinion of the Licensing Authority, are directly interested, and shall also give to the applicant not less than fourteen clear days' notice of the time and place so specified.

(2) The Licensing Authority shall hold the public sitting in such place as it deems most convenient, having regard to the nature of the business.

(3) At the public sitting the Licensing Authority shall hear all evidence tendered (whether or not it is admissible in a Court of law) and representations made that it deems relevant to the subject matter of the application, but at any time during the sitting it may decide not to receive further evidence or representations.

(4) Any public sitting may, in the discretion of the Licensing Authority, be adjourned from time to time and from place to place.

16. Matters to be considered before determining applications for passenger-service licences - In considering any application for a passenger-service licence, (not being a taxicab-service licence) the Licensing Authority shall generally have regard to -

- (a) The extent to which the proposed service is necessary or desirable in the public interest:
- (b) The extent to which an improved standard of transport service is necessary or desirable in the public interest:
- (c) The transport services of any kind already provided in respect of the proposed routes or the localities to be served:
- (d) The financial ability of the applicant to carry on the proposed service:
- (e) The desirability of providing and maintaining a reasonable standard of living and satisfactory working conditions in the transport industry:
- (f) The likelihood of the applicant carrying on the proposed service satisfactorily and, in the case of an existing licence or a person who has previously held a licence of the kind to which the application relates, the manner in which the service has been carried on:
- (g) The time tables or frequency of the proposed service, if it is intended to be of a regular nature:
- (h) The vehicles to be used in connection with the service:
- (i) Any evidence and representations received by it at the public sitting on behalf of the Government, or Island Council, or any District Council, or Village Committee, and any representations contained in any petition presented at the public sitting signed by at least twenty-five adult residents of any locality proposed to be served: and
- (j) Any other matters that the Licensing Authority considers relevant to the application.

17. Matters to be considered before determining applications for taxicab-service licences - (1) In considering any application for a taxicab-service licence, the Licensing Authority shall generally have regard to -

- (a) The extent to which the proposed service is necessary or desirable in the public interest:
- (b) The extent to which an improved standard of taxicab service is necessary or desirable in the public interest:
- (c) The provision of an adequate supply of taxicabs to meet the reasonable public demand:
- (d) Any increase or decrease in the population of the area to be served:
- (e) The extent to which existing taxicab services are being utilised:
- (f) The extent to which the existing licensed taxicabs in the area are available for public use:
- (g) The desirability of providing and maintaining a reasonable standard of living and satisfactory working conditions in the taxicab industry:

- (h) The special needs of the area in respect of the travelling public:
 - (i) The vehicles to be used in connection with the service:
 - (j) Any evidence and representations made at a public sitting by or on behalf of the Government, or Island Council, or any District Council, or Village Committee, or the licensee of a passenger service operating over a defined route:
 - (k) Any representations contained in any petition presented at a public sitting signed by at least twenty-five adult residents of any locality proposed to be served: and
 - (1) Any other matters that the Licensing Authority considers relevant to the application.
- (2) If after having regard to the matters mentioned in subsection (1) of this section the Licensing Authority proposes to give further consideration to the application, it shall take into account -
- (a) The personal character of the applicant and his prospective ability to carry on the service satisfactorily:
 - (b) In the case of an applicant who is or has been employed as a taxicab driver, the manner in which he has performed his duties as such a driver:
 - (c) In the case of an application by an existing licensee or a person who has previously held a taxicab-service licence, the manner in which the service has previously been carried on: and
 - (d) The financial ability of the applicant to carry on the service satisfactorily.

18. Matters to be considered before determining applications for rental-service licences - (1) In considering any application for a rental-service licence, the Licensing Authority shall generally have regard to -

- (a) Whether or not the applicant is a fit and proper person to carry on such a service:
 - (b) The financial ability of the applicant to carry on the proposed service:
 - (c) The vehicles to be used in connection with the service:
 - (d) Whether or not the applicant is able to provide or arrange satisfactory facilities for the proper maintenance and upkeep of the vehicles to be used in connection with the proposed service: and
 - (e) The ability of the applicant to ensure and maintain that the vehicles used in connection with the service are operated with due regard to road safety.
- (2) If the applicant satisfies the Licensing Authority that he is able to comply with the matters mentioned in subsection (1) of this section, the Licensing Authority shall grant the application, unless it is satisfied that -
- (a) The existing rental services are adequate to meet the reasonable public demand:
 - (b) The grant of the application would injure materially the economic stability of an existing rental-service licensee who is carrying on his service in an efficient manner.

181. Authority to have regard to policies of Government -
In considering any application for a passenger-service licence, taxicab service licence or rental service licence the Authority shall have regard to any representations that may be made by the Minister and shall give effect to any general policy of the Government conveyed to the Authority in writing by the Minister.

[Added Act 1973-74/34]

19. Grant or refusal of licence - Subject to the provisions of this Act, the Licensing Authority may, after duly considering an application therefor, grant or refuse a licence for any transport service.

20. Classification of licences - Every transport licence shall be -

- (a) A continuous licence, meaning thereby a licence in respect of a service to be carried on throughout the year (whether daily or on specified days of every week or otherwise) or a licence in respect of special events recurring at intervals during the year; or
- (b) A seasonal licence, meaning thereby a licence in respect of a service to be carried on only during a period or periods of a year specified in the licence; or
- (c) A temporary licence, meaning thereby a licence for a service to be carried on for a specified period of not more than fourteen days.

21. Licensing Authority to prescribe terms and conditions of licence - (1) In granting any transport licence, the Licensing Authority shall prescribe such matters and conditions as may be prescribed by regulations made under this Act.

(2) Subject to any regulations made under this Act and without limiting the powers to make regulations, the Licensing Authority may also, if it thinks fit, prescribe -

- (a) The class of licence (whether continuous, seasonal, or temporary) and the period of the licence;
- (b) A date on which the service may or shall be commenced;
- (c) The class and number of motor vehicles to be used in connection with the service;
- (d) The localities to be served or the route or routes to be traversed;
- (e) The timetables or frequency of service to be observed, either definitely or sufficiently to show the nature of the service permitted;
- (f) The insurance or other security to be provided by the licensee against his liability in respect of the death of or injury to any passenger;
- (g) Any other matters and conditions that the Licensing Authority thinks proper.

(3) In granting any licence for a taxicab service, the Licensing Authority may, in addition to the matters which it is required to or may prescribe under the provisions of subsection (1) or subsection (2) of this section, prescribe any conditions which it considers necessary for the control of the service in the interests of efficiency or the giving of service to the public or generally desirable in the public interest.

22. Form and effect of transport licence - Every transport licence shall be in the prescribed form, and shall take effect according to its tenor to authorise the licensee, but no other person, to carry on a passenger service, taxicab service, or rental service as the case may be, in accordance with the terms and conditions of the licence during the duration thereof.

23. Temporary licences - (1) Every application for a temporary licence shall be made orally or in writing to the Secretary of the Licensing Authority and the provisions of section 35 of this Act shall apply in respect of every such oral or written application.

(2) The application for a temporary licence shall be made at least seven days before the date on which, if the application be granted, the applicant proposes to commence the service to which the application relates:

Provided that the Licensing Authority may dispense with this requirement and deal with any application for a temporary licence at any time it thinks fit.

(3) If the application is granted, a separate licence shall be issued in respect of every vehicle which it is proposed to use.

(4) A temporary licence shall be in the form provided for the purpose by the Licensing Authority.

(5) The prescribed fee shall be payable before the delivery to the applicant or his agent of any temporary licence.

(6) The licensee under any temporary licence shall cause the appropriate licence to be carried on any vehicle used under the terms of that licence.

24. Issue of licences - For the purpose of this Act a licence shall be deemed to be issued on the day specified therein as the date of issue, which may be earlier or later than the day on which it is in fact signed or issued.

25. Abandonment or curtailment of service - (1) It shall be a condition of every transport licence (whether inserted therein or not), that the licensee will not abandon or curtail the authorised service for any period exceeding one month without the consent of the Licensing Authority. Subject to the provisions of section 29 of this Act, the Licensing Authority may refuse its consent under this section to any abandonment or curtailment, or may grant its consent either unconditionally or upon or subject to such conditions as it thinks fit.

(2) If any licensee abandons or curtails any service in breach of this section, the Licensing Authority may, in its discretion, revoke the licence for that service and all other licences held by the licensee, or any of them.

26. Suspension or curtailment of transport services - (1) The Licensing Authority may, on the application of the licensee, authorise the licensee to suspend or curtail any service in respect of which the licensee is the holder of a licence, for such period, and subject to such conditions as the Licensing Authority thinks fit.

(2) Where any service is suspended under this section, the licensee shall not be entitled to carry on the service, and no fees under this Act shall accrue or be payable in respect of the licence (except fees which have become due before the commencement of the period of suspension), but the licence shall continue in force throughout the period of suspension.

(3) The suspension or curtailment of any service under this section shall not -

(a) Constitute a breach of the terms and conditions of the licence:

(b) In any way affect the right of the licensee to any protection to which he would be entitled under this Act or any other Act if he had continued to carry on the service in accordance with the terms and conditions of his licence:

(c) Be grounds upon which the licence may be revoked or suspended or amended or reviewed under section 30 or section 31 of this Act.

(4) The Licensing Authority may, on the application of the licensee, at any time cancel the period of the suspension or curtailment of any licence authorised under this section, or amend the licence in respect of any service which has been suspended or curtailed under this section by altering the terms or conditions of the licence or by adding any new terms or conditions.

27. Transfer of licences - (1) Subject to the provisions of this section, any transport licence may be transferred to any person.

(2) Application for the transfer of any transport licence shall be made in the prescribed form, and the provisions of section 14 of this Act shall, with the necessary modifications, apply with respect to every such application as if it were an application for a new licence.

(3) Subject to the provisions of section 29 of this Act, the Licensing Authority, after duly considering the application and any objections thereto, may grant the transfer either unconditionally or upon or subject to such conditions as it thinks fit, but it shall not in any case grant a transfer unless it is satisfied that the proposed transferee is financially able to carry on the service and is likely to carry it on satisfactorily.

(4) If a transfer of a licence is granted, the transfer shall be evidenced by the issue of a licence in the appropriate form in the name of the transferee.

28. Amendment of licences - (1) During the currency of any transport licence, the Licensing Authority may, of its own motion or on the application of the licensee, amend the licence by altering or revoking any of the terms or conditions of the licence or by adding any new terms or conditions that in its opinion are necessary in the public interest.

(2) Every application by the licensee under subsection (1) of this section for the amendment or revocation of any of the terms or conditions of a licence shall be in a form provided for the purpose by the Licensing Authority.

(3) In the exercising of its powers under subsection (1) of this section, the Licensing Authority may in particular require the licensee to effect such improvements in the service to which the licence relates, whether by way of extension or amendment of the routes authorised, the improvement of the timetable or frequency of the service, or in any other manner, as the Licensing Authority considers desirable in the public interest.

(4) Where the Licensing Authority intends of its own motion to amend any licence under this section, the provisions of section 29 of this Act shall, with the necessary modifications apply as if the Licensing Authority had received an application for the proposed amendment. In any such case a copy of any public notice given under that section shall be given to the licensee not less than fourteen clear days before the expiry of the time specified in the public notice for the receipt of written representations against the proposed amendment.

29. Procedure on applications for transfer, amendment, suspension, or abandonment of licences - (1) On receiving an application in accordance with the foregoing provisions of this Act for the transfer or amendment of a transport licence, or for consent to the abandonment or suspension or curtailment of a transport service, the Licensing Authority may, if it thinks fit, give public notice of the receipt of the application, specifying in the notice a time, being not less than fourteen clear days

from the date of the notice, within which it will receive written representations against the granting of the application.

(2) The public notice shall specify the address to which representations are forwarded, and shall contain a statement to the effect that if no written representations against the granting of the application are received within the specified time the application may be granted without further notice and without holding a public sitting of the Licensing Authority.

(3) If no written representations against the granting of the application are received by the Licensing Authority within the time specified in the public notice, the Licensing Authority may, if it thinks fit, without giving any further notice or holding a public sitting, grant the application in accordance with the terms thereof, without substantial alteration.

(4) If any written representation against the granting of the application is received by the Licensing Authority within the time specified in the public notice, or if in any other case, after giving the public notice, the Licensing Authority decides not to grant the application under subsection (3) of this section or if the Licensing Authority decides not to give a public notice under this section, the provisions of section 15 of this Act shall, with the necessary modifications, apply with respect to the application as if it were an application for a new licence.

(5) The holder of any licence which is lawfully revoked, suspended, transferred or amended, or which has lapsed or expired, or of any licence for a transport service authorised to be discontinued, shall, upon request by the Secretary of the Licensing Authority return the licence to him within three days of that request. If the licence is amended, a new licence incorporating the amendment shall be issued or the original licence with the amendment endorsed on it and duly signed, and shall be returned as soon as possible to the licensee.

(6) When a service has been abandoned by the licensee with the permission of the Licensing Authority duly obtained under section 25 of this Act, the relative licence may be revoked by the Licensing Authority at any time after that permission has been given.

30. Public inquiry into conduct of transport service -

(1) The Licensing Authority may at any time, and if so directed by the Minister shall, hold a public inquiry as to whether or not any transport service authorised by a licence under this Act is being carried on in conformity with the terms and conditions of the licence.

(2) Notice in writing of the intention to hold the inquiry shall be given to the licensee and to all other persons who in the opinion of the Licensing Authority are interested. The notice shall contain particulars of the time and place fixed for the inquiry and of the matters proposed to be inquired into. The notice to the licensee shall be given not later than fourteen clear days before the day fixed for the inquiry.

(3) For the purposes of the inquiry the provisions of the Commissions of Inquiry Act 1966 shall, as far as they are applicable and with the necessary modifications, apply as if the Licensing Authority were a Commission of Inquiry appointed under that Act.

(4) If as a result of the inquiry the Licensing Authority is satisfied that the licensee is not carrying on the service in all respects in conformity with the licence, the Licensing Authority, in its discretion, may revoke the licence, or may suspend the licence for such period as it thinks fit, or may amend the licence by altering or revoking any of its terms or conditions or by adding new terms or conditions.

(5) In any case where the Licensing Authority is satisfied that the licensee has wilfully committed a breach of any of the terms or conditions of his licence, it may, without holding any inquiry as aforesaid, suspend the licence for such period as it thinks fit.

(6) If the service authorised by any transport licence is not commenced on the date specified in that behalf in the licence, the Licensing Authority may revoke the licence without holding any inquiry as aforesaid.

31. Review of licences - (1) If the Licensing Authority is at any time of opinion that the circumstances under which any transport licence was granted have changed materially since the licence was granted the Licensing Authority may notify the licensee that it intends to review the licence under this section.

(2) If at any time the Minister so directs, the Licensing Authority shall notify the holder of any transport licence that it intends to review the licence under this section.

(3) Not less than fourteen clear days after the giving of a notification under subsection (1) or subsection (2) of this section, the Licensing Authority shall hold a public sitting for the purpose of reviewing the licence.

(4) For the purposes of review of the licence under this section, the provisions of section 15 and also of section 16 or section 17 or section 18 of this Act, as the case may require, shall, with the necessary modifications, apply as if the licensee were an applicant for the licence.

(5) If, after reviewing the licence in accordance with the foregoing provisions of this section and having regard to the circumstances existing at the time of the public sitting, the Licensing Authority is of opinion that it is necessary or desirable in the public interest so to do, it shall revoke the licence, or amend the licence by altering or revoking any of the terms or conditions of the licence or by adding new terms or conditions, or may suspend the licence for such period as it thinks fit.

32. Reissue of licences - (1) The Licensing Authority may from time to time issue a licence to replace any licence.

(2) Where any licence has been amended by -

(a) The revocation or omission of any words or figures; or

(b) The substituting of any words or figures for any revoked or omitted words or figures; or

(c) The insertion of any words or figures, -

any licence issued by the Licensing Authority pursuant to subsection (1) of this section shall be issued as so amended.

(3) Every licence so issued shall have the word "Replacement" written or printed thereon, and shall be verified by the signature of the person authorised by the Licensing Authority for this purpose, and the production of such a licence shall be of the same effect as the production of the original licence.

(4) Upon the issue of a licence under this section, the original licence shall become void and of no effect and shall be returned by the licensee upon the request of the Licensing Authority.

(5) Every person commits an offence who produces with intent to deceive any licence replaced under this section.

33. Alteration and duplication of licences - (1) No person shall -

(a) Save by direction of the Licensing Authority, alter or deface any licence, and any licence so altered or defaced shall be void; or

(b) Without authority of the Licensing Authority, lend or part with any licence issued to him.

(2) Upon the return of any licence rendered illegible or spoilt by weather or such other cause, or upon proof to the satisfaction of the Licensing Authority that a licence has been destroyed, stolen or lost, the Licensing Authority may, upon application of the person to whom the licence was issued, and upon payment of the prescribed fee, issue a duplicate of the licence. Every duplicate so issued shall have the word "Duplicate" written or printed thereon and be verified by the signature of the person authorised by the Licensing Authority for this purpose, and the production of the duplicate licence shall be of the same effect as the production of the original licence.

(3) If a duplicate licence is issued in place of one declared to be stolen or lost and the original licence is subsequently found by the licensee, he shall forward that original licence forthwith to the Licensing Authority.

(4) Upon the issue of a duplicate of a licence declared to be destroyed, stolen, or lost, the original document shall become void and of no effect, and every person commits an offence who produces with intent to deceive any such original licence.

MISCELLANEOUS

34. Inspection after accidents - (1) No person shall use a vehicle for the purposes of any transport service after the happening thereto of any accident of such a nature as to cause or to be likely to cause any structural damage thereto, unless and until it has been resubmitted to an approved testing authority under section 79 of the Transport Act 1966.

(2) The licensee shall forthwith give to the Secretary of the Licensing Authority notice of every accident of such a nature as to cause or be likely to cause structural damage to any vehicle used in any transport service.

35. Offences and penalties - (1) Every person commits an offence against this Act who -

- (a) Knowingly supplies any false or misleading information for the purpose of this Act or in or concerning any application made under this Act or any regulations made pursuant to this Act; or
- (b) Omits or refuses to supply any information required under or pursuant to this Act or any regulations made pursuant to this Act; or
- (c) Fails to comply with any condition, duty, or obligation imposed in any licence under this Act; or
- (d) Being the servant or agent of a licensee, does or omits any matter or thing within the scope of his duties as such servant or agent whereby there is or may be or is likely to be a failure on the part of the licensee to comply with any condition, duty, or obligation expressly or by implication or operation of law imposed in or made part of any licence under this Act; or
- (e) Without lawful excuse, acts in contravention or fails to comply with any provision of this Act, or causes or permits or suffers a breach of any provision of this Act to be committed.

(2) Every person who commits an offence against this Act for which no penalty is provided elsewhere than in this section is liable to a fine not exceeding one hundred dollars.

36. Registers of licence - (1) The Licensing Authority shall keep registers of transport licences, and such other registers as may be prescribed or as it deems necessary.

(2) Any of the contents of any register kept by the Licensing Authority may be proved in any proceedings by a certificate purporting to be signed by the Chairman of the Licensing Authority, and every such certificate shall, until the contrary is proved be sufficient evidence of the matters stated therein.

(3) A certificate purporting to be signed by the Chairman of the Licensing Authority that on a date specified in the certificate the name of any person did not appear in any register as the holder of a licence under this Act shall, until the contrary is proved, be sufficient evidence that that person was not the holder of such a licence on that date.

37. Information for offences - (1) Except in the case of offences against subsection (7) of section 6 of this Act, every information for an offence against this Act shall be laid by the Registrar of Motor Vehicles or an officer of the Department of Police appointed in that behalf by the Registrar of Motor Vehicles.

(2) No person appointed by the Registrar of Motor Vehicles under this section shall be called upon to prove that he has been so appointed.

38. Fees - The fees payable under this Act shall be those specified in the Schedule hereto.

39. Evidence and proof - In any proceedings for an offence against this Act -

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

(b) Any licence issued under this Act may be proved by the production of a copy thereof certified to be correct and purporting to be signed by the person authorised for that purpose by the Licensing Authority, and every such person shall, until the contrary is proved, be presumed to be duly authorised to sign it:

(c) Judicial notice shall be taken of the signature of the Minister, the Registrar of Motor Vehicles, and of the Chairman and every other member of the Licensing Authority.

40. Application of fees and fines, and expenses of administration - All fees, fines and other money received or recovered under this Act shall be paid into the Cook Islands Government account, and all expenses incurred in the carrying out of the provisions of this Act shall be paid out of money to be from time to time appropriated by the Legislative Assembly.

41. Service of notices - (1) Any notice required to be given to any person for the purposes of this Act, may be given or made by causing it to be delivered to that person, or to be left at his usual or last known place of business or at the address specified by him in any application or other document under this Act, or to be posted in a letter addressed to him at that place of residence or business or address.

(2) If any such notice is sent to any person by registered letter, then, unless the contrary is shown, it shall be deemed to have been delivered to him when it would have been delivered in the ordinary course of post, and in proving the delivery it shall be sufficient to prove that the letter was properly addressed and posted.

42. Annual report - The Licensing Authority shall in the month of April in each year furnish to the Minister an annual report containing such particulars with respect to matters dealt with by it during the preceding twelve months as the Minister from time to time directs.

43. Regulations - (1) The High Commissioner may from time to time by Order in Executive Council make such regulations as may be deemed necessary or expedient for the purpose of giving full effect to the provisions of this Act and for the due administration thereof.

(2) Regulations made under this section may prescribe for offences against the regulations punishable by a fine not exceeding one hundred dollars.

(3) All regulations made under this section shall be laid before the Legislative Assembly within twenty-eight days after the date of making thereof if the Legislative Assembly is in session and if not in session shall be laid before the Legislative Assembly within twenty-eight days after the date of the commencement of the next ensuing session.

SCHEDULE

	<u>FEES</u>	<u>Section 38</u>
1.	Accompanying every application for a passenger-service licence (other than a temporary licence)	\$ 4
2.	Accompanying every application for a taxicab-service licence (other than a temporary licence)	\$10
3.	Accompanying every application for a rental-service licence (other than a temporary licence)	\$ 4
4.	On the issue of every temporary licence	\$ 1
5.	Accompanying every application for a transfer of a transport licence	\$ 2
6.	For a duplicate of every licence	50c.
7.	For every copy of the Licensing Authority's entry in the minute book under section 8 (12) of this Act	50c.
