

[This Bill was formerly Part II of the Transport Safety Bill (125-2) as reported from the Transport Committee.]

[AS REPORTED FROM THE TRANSPORT COMMITTEE]

House of Representatives, 12 November 1992.

Words struck out are shown in italics within bold round brackets, or with black rule at beginning and after last line; words inserted are shown in roman underlined with a single rule, or with single rule before first line and after last line.

[AS REPORTED FROM THE COMMITTEE OF THE WHOLE HOUSE]

House of Representatives, 2 December 1992.

Words struck out are shown in italics within double bold round brackets, or with double black rule at beginning and after last line; words inserted are shown in roman underlined with a double rule, or with double rule before first line and after last line.

Hon. W. Rob Storey

**TRANSPORT SERVICES LICENSING AMENDMENT
(NO. 3)**

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*Transport Services Licensing
Amendment (No. 3)*

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A BILL INTITULED

An Act to amend the Transport Services Licensing Act 1989

BE IT ENACTED by the Parliament of New Zealand as follows:

- 1. Short Title and commencement**—(1) This Act may be cited as the Transport Services Licensing Amendment Act (No. 3) 1992, and shall be read together with and deemed part of the Transport Services Licensing Act 1989 (hereinafter referred to as the principal Act). 5
- (2) Except as provided in subsections (3) and (4) of this section, this Act shall come into force on the 1st day of April 1993. 10
- (3) Sections 47 and 58 of this Act shall come into force on the day on which it receives the Royal assent.
- (4) Section 46 of this Act shall come into force on the 1st day of September 1993. 15

[Part I of the Transport Safety Bill (125-2), as reported from the Transport Committee, is now the Transport

**Amendment Bill (No. 3) (125-3A), as reported from the
Committee of the whole House.]**

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38. Interpretation—(1) Section 2 (1) of the principal Act is
5 hereby amended by inserting, before the definition of the term
“approved taxi organisation”, the following definitions:

“‘Accident’ and ‘incident’, in relation to a rail service,
have the same meanings as in the Transport Accident
Investigation Commission Act 1990:

10 “‘Approved safety system’ means the safety system
approved by the Secretary under **section 6D** of this
Act.”.

(2) Section 2 (1) of the principal Act is hereby further
amended by omitting from the definition of the term “goods
15 service” wherever it occurs the expression “3,500”, and
substituting in each case the expression “6,000”.

(3) Section 2 (1) of the principal Act is hereby further
amended by inserting, after the definition of the term
“Ministry”, the following definition:

20 “‘Motor vehicle’ has the same meaning as in section 2 of
the Transport Act 1962.”.

(4) Section 2 (1) of the principal Act is hereby further
amended by inserting, after the definition of the term
“passenger service vehicle”, the following definitions:

25 “‘Proposed safety system’ means the system required by
section 6A of this Act to accompany any application
under section 6 of this Act for a rail service licence:

“‘Railway’ includes—

30 “(a) All land belonging to the Crown, or forming
part of any public reserve within the meaning of the
Reserves Act 1977, upon which any New Zealand
Railways Corporation railway is constructed, or which
is or is reputed to be held or used in connection with
or for the purposes of the Corporation, and all land
35 which is under the control of the Corporation or
which is held by the Corporation or under lease,
licence, or otherwise for the purposes of the
Corporation; and

40 “(b) All buildings, erections, wharves, jetties, works,
rolling stock, motor vehicles, vessels, plant,

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- machinery, goods, chattels, and other fixed or moveable property of every description or kind capable of being used in respect of a railway, and situated or to be situated on any such land or held or used, or reputed to be held or used in connection with or for the purposes of a railway: 5
- “ ‘Railway line’—
- “ (a) Means one rail or a set of rails having a gauge of 550 mm or greater between them and used by a rail service operator; and 10
- “ (b) Includes any area within 3 metres of a single rail or within 3 metres of a line drawn midway between a set of rails:
- “ ‘Rail service’— 15
- “ (a) Means any service that is available to the public, or crosses any public road or public place, in which vehicles travel on or use one rail or a set of rails having a gauge of 550 mm or greater between them; and 20
- “ (b) Includes any transport service that is for the time being declared by the Governor-General by Order in Council to be a rail service for the purposes of this Act; but
- “ (c) Does not include a railway siding where only the track is provided by the owner of the siding: 25
- “ ‘Rail service operator’—
- “ (a) Means any holder of a rail service licence granted under section 6 of this Act; and
- “ (b) Includes— 30
- “ (i) Any company formed under section 4 of the New Zealand Railways Corporation Restructuring Act 1990 which operates a rail service; and
- “ (ii) Any other body corporate that is, by Order in Council made under section 2 of the New Zealand Railways Corporation Restructuring Act 1990, declared to be a railway operator for the purposes of that Act: 35
- “ ‘Rail service vehicle’— 40

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“(a) Means any vehicle that operates or uses a railway line; and

5 “(b) Includes a locomotive, carriage, railcar, wagon, rolling stock, and any other vehicle used in connection with a rail service; but

“(c) Does not include a vehicle designed to operate both on and off rails, while it is not operating on a rail or rails.”

10 (5) Section 2 (1) of the principal Act is hereby further amended by omitting from paragraph (a) of the definition of the term “rental service” the expression “6 months”, and substituting the expression “28 days”.

15 (6) Section 2 (1) of the principal Act is hereby further amended by inserting, after the definition of the term “small passenger service vehicle”, the following definition:

20 “‘Taxi’ means a small passenger service vehicle that is being operated under a passenger service licence and is not exempt from the provisions of rule 3 (1) of Part I of the Third Schedule to this Act.”

(7) Section 2 (1) of the principal Act is hereby further amended by repealing the definitions of the terms “transport service”, “transport service driver”, “transport service licence”, and “transport service vehicle”, and substituting, respectively, the following definitions:

25 “‘Transport service’—

“(a) Means any goods service, passenger service, rental service, vehicle recovery service, or rail service; but

30 “(b) Does not include any service specified as an exempt service in Part I of the First Schedule to this Act or in regulations referred to in that Part:

35 “‘Transport service driver’ means any person who is or is from time to time, employed or engaged in driving a vehicle being used in a transport service, whether or not that person is licensed or required to hold a licence to drive such a vehicle:

40 “‘Transport service licence’ means any of the following licences granted or deemed to be granted under section 8 or section 9 of this Act:

“(a) A goods service licence:

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- | | |
|--|---|
| “(b) A passenger service licence: | |
| “(c) A rental service licence: | |
| “(d) A vehicle recovery service licence: | |
| “(e) A rail service licence: | 5 |
| “ ‘Transport service vehicle’ means any goods service vehicle, passenger service vehicle, rental service vehicle, vehicle recovery service vehicle, or rail service vehicle:”. | |

New

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| 38. Interpretation —(1) Section 2 (1) of the principal Act is hereby amended by repealing the definitions of the terms “goods service vehicle”, “transport service”, “transport service driver”, “transport service licence”, and “transport service vehicle”, and substituting, <u>((respectively)) in their appropriate alphabetical order</u> , the following definitions: | 15 |
| “ ‘Accident’ means an occurrence that is associated with the operation of a rail service vehicle and results in the death of or a serious injury to any person: | |
| “ ‘Approved safety system’ means the safety system approved by the Secretary under section 6b of this Act: | 20 |
| “ ‘Goods service vehicle’— | |
| “(a) Means a motor vehicle used or capable of being used in a goods service for the carriage of goods; but | 25 |
| “(b) Does not include a vehicle specified as an exempt vehicle in Part II of the First Schedule to this Act or in regulations referred to in that Part: | |
| “ ‘Incident’ means any occurrence, other than an accident, that is associated with the operation of a rail service vehicle, being an occurrence that placed or could have placed a person at significant risk of death or serious injury: | 30 |
| “ ‘Light rail vehicle’— | |
| “(a) Means a rail service vehicle that is designed to run along a road or street among other road vehicles and users; and | 35 |
| “(b) Includes a tram and a tramcar; but | |

New

- 5 “(c) Does not include any—
“(i) Rail service vehicle approaching or on any
level crossing; or
“(ii) Rail service vehicle while it is on a railway
line which is not on a road or street:
“ ‘Motor vehicle’ has the same meaning as in section 2 of
the Transport Act 1962:
10 “ ‘Proposed safety system’ means the system required by
section 6A of this Act to be described in any application
under section 6 of this Act for a rail service licence:
“ ‘Railway line’—
“(a) Means one rail or a set of rails having a gauge
of 550 mm or greater between them and used by a
15 rail service operator; and
“(b) In relation to a set of rails laid in a street or
road for the purposes of operating a light rail vehicle
or vehicles, includes any area between the rails and
extending 500 mm outside the extremity of any light
20 rail vehicle being used on that set of rails; and
“(c) Except as provided in paragraph (b) of this
definition, includes any area within 5 metres of a
single rail or within 5 metres of a line drawn midway
between a set of rails:
25 “ ‘Rail service’—
“(a) Means the provision or operation of vehicles
which travel on or use one rail or a set of rails having
a gauge of 550 mm or greater between them; and
“(b) Includes any transport service declared by
30 regulations made under this Act to be a rail service
for the purposes of this Act; but
“(c) Does not include—
“(i) The mere provision of a railway line or lines
for rail service vehicles to travel on or use;
35 or
“(ii) Any facilities for the repair, maintenance, or
servicing of rail service vehicles that are
contained inside a building; or
“(iii) Any amusement device (as defined by the
40 Machinery Act 1950); or

New

“(iv) Any ((rail)) service specified as an exempt service in Part I of the First Schedule to this Act or in regulations referred to in that Part:	5
“ ‘Rail service operator’—	
“(a) Means any holder of a rail service licence granted under section 6 of this Act; and	
“(b) Includes—	
“(i) Any company formed under section 4 of the New Zealand Railways Corporation Restructuring Act 1990 which operates a rail service; and	10
“(ii) Any other body corporate that is, by Order in Council made under section 2 of the New Zealand Railways Corporation Restructuring Act 1990, declared to be a railway operator for the purposes of that Act:	15
“ ‘Rail service vehicle’—	20
“(a) Means any vehicle that operates on or uses a railway line; and	
“(b) Includes a locomotive, carriage, railcar, tram, tramcar, light rail vehicle, self-propelled rail vehicle, or wagon used on a rail service; but	25
“(c) Does not include a vehicle designed to operate both on and off rails, while it is not operating on a rail or rails:	
“ ‘Taxi’ means a small passenger service vehicle that is being operated under a passenger service licence but is not for the time being exempt from the provisions of ((rule 3 (1))) <u>any of the rules 3 (1), 12 (1), 16 (1), and 19</u> of Part I of the Third Schedule to this Act:	30
“ ‘Transport service’—	
“(a) Means any goods service, passenger service, rail service, rental service, or vehicle recovery service; but	35
“(b) Does not include any service specified as an exempt service in Part I of the First Schedule to this Act or in regulations referred to in that Part:	40

New

5 “Transport service driver’ means any person who is or is
from time to time employed or engaged in driving a
vehicle being used in a transport service, whether or
not that person is licensed or required to hold a
licence to drive such a vehicle:

“Transport service licence’ means any of the following
licences granted or deemed to be granted under
section 8 or section 9 of this Act:

10 “(a) A goods service licence:

“(b) A passenger service licence:

“(c) A rail service licence:

“(d) A rental service licence:

15 “(e) A vehicle recovery service licence:

“Transport service vehicle’ means any goods service
vehicle, passenger service vehicle, rail service vehicle,
rental service vehicle, or vehicle recovery service
vehicle((, or rail service vehicle)):”.

20 (2) Section 2 (1) of the principal Act is hereby further
amended by omitting from the definition of the term “goods
service” wherever it occurs the expression “3,500”, and
substituting in each case the expression “6,000”.

38A. Application of Act to rail service operators—The
principal Act is hereby amended by inserting, after section 3,
25 the following section:

“3A. Nothing in any of sections 15, 16, 17, 31, 33, and 34 of
this Act applies to any rail service operated under a rail service
licence.”

39. Classes of transport service—Section 4 of the
principal Act is hereby amended by adding the following
30 paragraph:

“(e) Rail service.”.

40. Transport services to be licensed—The principal Act
is hereby amended by repealing section 5, and substituting the
35 following section:

“5. (1) Every transport service shall be licensed.

“(2) Every person commits an offence who carries on any transport service otherwise than under the authority of the appropriate licence.

“(3) Every person commits an offence who does any act in any capacity as an agent for any transport service if, at the time the person did the act, the appropriate licence was not in force in respect of the service and the person knew or ought to have known that the appropriate licence was not in force. 5

“(4) If any body corporate commits an offence against this section, every director and every other person concerned in the management of the body corporate may be convicted of the offence if it is proved that the act or omission that constituted the offence occurred with that person’s authority, permission, or consent. 10

“(5) Every person who commits an offence against this section is liable on summary conviction to a fine not exceeding \$10,000. 15

“(6) Every person who is convicted of a second or subsequent offence against this section shall be liable on summary conviction to a fine not exceeding \$25,000, and, unless in the circumstances of the case the Court considers there are special reasons relating to either offence why it should not do so, the Court shall,— 20

“(a) In the case of a transport service that is not a rail service, order that every vehicle used under any such service shall be surrendered to the Secretary and held by the Secretary, at the expense of the convicted person, for a period specified by the Court of not more than 90 days; or 25

“(b) In the case of a rail service, order that every rail service vehicle used under the rail service shall be immobilised by the Secretary, at the expense of the convicted person, until the required rail service licence has been granted or the Court is satisfied that the rail service vehicle will not be used in a rail service.” 30 35

41. New sections inserted—The principal Act is hereby amended by inserting, after section 6, the following sections:

“6A. **Application for rail service licence**—(1) Every application made under section 6 of this Act for a rail service licence shall be accompanied by a description of the proposed 40

safety system which shall contain the matters specified in **section 6B** of this Act.

5 “(2) No rail service licence shall be granted to any person unless the proposed safety system for that rail service has been approved under **section 6B** of this Act.

10 “**6B. Proposed safety system**—(1) Every proposed safety system shall set out in writing a system of standards, practices, and procedures the operator proposes to follow in order to ensure the safety of *(rail passengers and the public generally)* persons likely to be significantly at risk of death or serious injury through the operation of a rail service vehicle.

“~~(2)~~ Every proposed safety system shall contain the following:

15 “(a) Standards *(of safety)* proposed as part of the safety system:

“~~(b)~~ Procedures for ensuring compliance with *(safety)* such standards by the rail service operator and persons for whom the operator is responsible:

New

20 “(ba) Procedures for ensuring compliance with such standards by other rail service operators, using the same railway line:

25 “(c) Reporting systems for recording, reporting, and retaining details of every accident or incident that occurs on the rail service *(and involves any damage (other than normal wear and tear) to any rail, rail service vehicle, or other property or that may affect the safety of rail passengers or the public generally)*:

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30 “(d) The person or group of persons within the rail service operation who will be responsible for implementing and carrying out each part of the safety system:

New

- “(d) The management system or structure responsible for implementing and maintaining the safety system:
 - “(da) The standards of training and experience required by drivers of rail service vehicles: 5
- “(e) The proposed scope of each regular audit under **section 39i** of this Act and the procedures to be followed in auditing the proposed safety system:
- “(f) The name and qualifications of any auditor who is proposed under **section 39g** of this Act: 10
- “(g) Such other matters as may be prescribed by regulations made under section 66 of this Act or as the Secretary from time to time considers appropriate in the interests of safety.
- “**6c. Matters to be taken into account in considering proposed safety system**—(1) In considering a proposed safety system, the Secretary shall have regard to, and give such weight as he or she considers appropriate to, the following matters: 15
 - “(a) The nature of the proposed rail service operation:
 - “(b) The safety system attainable, consistent with the nature of the service, at a reasonable cost: 20

Struck Out

- “(c) The financial ability of the operator to implement and maintain the systems referred to in the proposed safety system: 25

New

- “(c) The relationship between the proposed safety system and comparable safety systems applicable to competing modes of transport:
- “(d) The past history and performance (if any) of the applicant within the transport industry: 30

“(e) Any submissions or representations received from the operator of any railway that the applicant intends to use.

5 “(2) The Secretary shall not approve any proposed safety system unless he or she is satisfied that—

“(a) When the proposed safety system is implemented, it will reasonably protect *(the safety of passengers and the public generally)* persons likely to be significantly at risk of death or serious injury through the operation of a rail service vehicle; and

10 “(b) The operator is capable of establishing and maintaining the proposed safety system; and

“(c) The proposed system will provide a programme of training and supervision which will ensure that all persons for whom the operator is responsible are capable of carrying out their responsibilities within the proposed safety system.

15 “6D. **Approval of safety system**—(1) The Secretary shall, as soon as practicable, consider each proposed safety system and, after consultation with the chief executive of the Department of Labour, shall either—

20 “(a) Approve the proposed system; or

“(b) Refuse to approve the proposed system until it conforms with this Part of this Act, in which case the Secretary shall approve it only when satisfied that it does conform with this Part of this Act.

25 “(2) The Secretary shall notify each applicant in writing of the Secretary’s decision under subsection (1) of this section.

New

30 “(3) Where the Secretary refuses to approve a proposed safety system, the notification under subsection (2) of this section shall state reasons for the refusal.

35 “6E. **Application by operator to vary approved safety system**—(1) Any rail service operator may at any time apply to the Secretary for approval of any variation of the operator’s approved safety system.

“(2) Every application under subsection (1) of this section shall be made in writing and shall include the reasons the operator is requesting the variation.

“(3) The proposed variation shall be considered by the Secretary as if the operator were proposing a new safety system, and **section 6c** of this Act shall apply as if it were a fresh application for approval.

“(4) The prescribed fees and charges payable in respect of the consideration of any application under this section shall be paid by the operator in respect of whom the application is made. 5

“**6F. Variation of safety system by Secretary**—(1) The Secretary may at any time require a variation of any approved safety system, if he or she considers it necessary in the interests of *(safety)* avoiding a significant risk of death or serious injury. 10

“(2) Where any variation is required under **subsection (1)** of this section, the Secretary shall by notice in writing—

“(a) Inform the operator of the reasons for the requirement; 15
and

“(b) Inform the operator that the operator may, within such reasonable time as is specified in the notice, make submissions regarding the changes the Secretary requires. 20

“(3) Nothing in this section shall derogate from or affect any power of the Secretary under this Act or any other Act to take any other action in respect of any licence or any person involved in any rail service.

“**6G. Procedure for variation of safety systems**—(1) As soon as practicable after any application under **section 6E** of this Act or any requirement for variation under **section 6F** of this Act has been made, the Secretary shall consider any submissions made on the matter by the operator. 25

“(2) As soon as practicable after considering the submission (if any), the Secretary shall decide whether to approve the variation requested or confirm the variation required, as the case may be, and shall notify the operator in writing of the Secretary’s decision. 30

“(3) A variation requested under **section 6E** of this Act or required under **section 6F** of this Act shall not have effect unless and until its approval or confirmation has been notified under **subsection (2)** of this section. 35

New

5 “6GA. **Relationship between this Act and Health and Safety in Employment Act 1992**—If a rail service operator or any other person complies with the provisions of this Act or of the operator’s approved safety system then, in respect of the matters governed by those provisions, such compliance shall be deemed to be compliance with the provisions of the Health and Safety in Employment Act 1992.

10 “6H. **Notice to be given to applicant**—Where the Secretary has refused to approve a safety system under **section 6D** of this Act or to vary any safety system under **section 6E** of this Act, or has required a variation of a safety system under **section 6F** of this Act, the Secretary shall by notice in writing to the applicant—

- 15 “(a) Inform the applicant in writing of the grounds for the refusal or requirement; and
“(b) Notify the applicant of the right of appeal under section 42 of this Act.”

20 **42. Public notice to be given of application for certain licences**—Section 7 (1) of the principal Act is hereby amended by omitting the words “or a vehicle recovery service licence”, and substituting the words “, a vehicle recovery service licence, or a rail service licence”.

25 **43. Grant of licence**—(1) Section 8 (1) of the principal Act is hereby amended by adding the expression “; and”, and the following paragraph:

- “(d) In the case of a rail service licence, the proposed safety system has been approved under **section 6D** of this Act.”

30 *Struck Out*

(2) Section 8 of the principal Act is hereby further amended by adding the following subsection:

- “(3) Notwithstanding subsections (1) and (2) of this section, where the Secretary—

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<p>“(a) Is not satisfied that the applicant is a fit and proper person to operate a goods service under the licence sought; but</p> <p>“(b) Is satisfied that—</p> <p style="padding-left: 40px;">“(i) The applicant is a fit and proper person to operate a goods service under a conditional licence to carry the applicant’s own goods; and</p> <p style="padding-left: 40px;">“(ii) The grant of such a licence is not contrary to the public interest,—</p> <p>the Secretary may grant the licence on such conditions as the Secretary thinks are necessary in the public interest.”</p>	<p>5</p> <p>10</p>
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New

<p>(2) Section 8 of the principal Act is hereby further amended by adding the following subsections:</p> <p>“(3) Notwithstanding subsections (1) and (2) of this section, where the applicant applies for a goods service licence and the Secretary—</p> <p>“(a) Is not satisfied that the applicant is a fit and proper person to operate a goods service under the licence sought; but</p> <p>“(b) Is satisfied that—</p> <p style="padding-left: 40px;">“(i) The applicant is a fit and proper person to operate a goods service under a licence to carry the applicant’s own goods, if specified conditions are imposed; and</p> <p style="padding-left: 40px;">“(ii) The grant of such a licence is not contrary to the public interest,—</p> <p>the Secretary may specify on the licence or in writing to the holder.</p> <p>“(4) Every holder of a goods service licence commits an offence and is liable on summary conviction to a fine not exceeding \$10,000 who fails to comply with or contravenes any condition imposed in respect of the holder’s licence under subsection (3) of this section.”</p>	<p>15</p> <p>20</p> <p>25</p> <p>30</p> <p>35</p>
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44. Rights of existing rail service operators—The principal Act is hereby amended by inserting, after section 9, the following section:

5 “9A. (1) Any person who, immediately before the **(1st day of June 1992)** commencement of this section, is operating a rail service that is required to be licensed under this Act shall, not later than 3 months after that date, notify the Secretary of the following particulars of that rail service:

“(a) The name of the operator:

10 *Struck Out*

“(b) The names of the persons holding management positions in relation to the service:

New

15 “(b) The names of the principal management officers having control of the service:

“(c) The location, length, and gauge of the track to be used:

“(d) The *(principal)* types of motive power to be used.

20 “(2) Subject to **subsection (3)** of this section, every existing rail service operator who complies with **subsection (1)** of this section is deemed to be the holder of a rail service licence.

“(3) Subject to **subsection (4)** of this section, a rail service licence deemed to have been granted under **subsection (2)** of this section shall be current only for a period of 3 years commencing on the day on which this section comes into force if a safety system in respect of that service is not approved by the Secretary before the expiration of that period.

30 “(4) If the Secretary is satisfied that reasonable progress is being made towards approval of a safety system, the Secretary may extend the currency of the deemed licence by such further period not exceeding 12 months as the Secretary considers reasonable.

35 “(5) Any licence deemed by **subsection (2)** of this section to have been granted under this Act may be revoked, suspended, or otherwise dealt with in accordance with the provisions of this Act.”

45. Refusal to grant transport service licence—

(1) Section 10 (1) of the principal Act is hereby amended by omitting the word “may”, and substituting the word “shall”.

(2) Section 10 (1) of the principal Act is hereby further amended by adding the expression “; or”, and the following paragraph: 5

“(c) In the case of a rail service licence, the proposed safety system required under **section 6A** of this Act has not been approved by the Secretary.”

New

10

45A. Certificate of knowledge of law and practice required for transport service operations—Section 18 (2) of the principal Act is hereby amended by inserting, after paragraph (ab) (as inserted by section 2 (2) of the Transport Services Licensing Amendment Act 1990), the following paragraph: 15

“(ac) The licence concerned is a rail service licence; or”.

46. Area knowledge certificate required by taxi drivers—(1) The principal Act is hereby amended by inserting, after section 18, the following section: 20

“18A. (1) No person shall drive a taxi or cause or permit another person to drive a taxi unless the driver holds an area knowledge certificate issued by the Secretary, or by a person or organisation approved under **subsection (2) (b)** of this section, in respect of that person. 25

New

“(1A) No person driving a taxi shall ~~((ply for))~~ accept a hire in any area unless the person holds an area knowledge certificate applicable to that area.

“(1B) Every approved taxi organisation shall notify the Secretary in writing of its operating area by reference to local authority boundaries. 30

“(2) An area knowledge certificate—

“(a) Shall be in a form prescribed by the Secretary:

“(b) May be issued by a person or organisation approved by the Secretary: 35

“(c) Shall not be issued unless the applicant has passed a test prescribed by or under regulations made under section 66 of this Act, which test shall be conducted in English:

5 “(d) Shall relate specifically to the operating area (as notified to the appropriate regional council under Part II of this Act) of the approved taxi organisation for which the applicant will be driving.

10 “(3) The Secretary may revoke any approval given under subsection (2) (b) of this section, if the Secretary considers that the holder of the approval has failed to maintain a standard of competency the Secretary considers appropriate.

Struck Out

15 “(4) Every person commits an offence and is liable on conviction to a fine not exceeding \$5,000 who contravenes subsection (1) of this section.”

New

20 “(4) Every person commits an offence and is liable on summary conviction to a fine not exceeding \$2,000 who—
“(a) Drives a taxi without holding an area knowledge certificate under this section; or
“(b) Causes or permits to drive a taxi another person who does not hold an area knowledge certificate under this section; or
25 “(c) While driving a taxi, ~~((plies for))~~ accepts a hire in any area without holding an area knowledge certificate under this section that is applicable to that area.”

Struck Out

30 (2) Notwithstanding subsection (1) of this section, a taxi driver who obtained a Class C licence before the 1st day of November 1989 shall not be required to hold an area knowledge certificate issued under ~~section 18A~~ of the principal Act (as inserted by that subsection), so long as—

Struck Out

- (a) He or she drives in the same operating area in which he or she last operated before the 1st day of November 1989; and
- (b) No significant change occurs in the operating area of his or her taxi organisation. 5
- (3) Notwithstanding **subsection (1)** of this section, a taxi driver who obtained a Class C licence on or after the 1st day of November 1989 and before the commencement of this Act shall not be required to hold an area knowledge certificate issued under **section 18A** of the principal Act (as so inserted) until 6 months after the commencement of that section, so long as— 10
- (a) He or she drives in the same operating area in which he or she last operated before the commencement of this Act; and 15
- (b) No significant change occurs in the operating area of his or her taxi organisation.

New

- (2) Notwithstanding **subsection (1)** of this section, every person who, at the commencement of this section, holds a Class C licence shall be deemed to be the holder of an area knowledge certificate issued under **section 18A** of the principal Act (as inserted by **subsection (1)** of this section) in respect of the areas in which the holder's taxi organisation is operating unless and until— 20
- (a) The holder ~~((plies for))~~ accepts a hire in any other area; or 25
- (b) The approved taxi organisation alters its operating area.

Struck Out

- (3) This section shall come into force on the 1st day of September 1993. 30

47. Drivers of small passenger vehicles and vehicle recovery service vehicles to hold photographic driver identification card—(1) Section 19 (2) (c) of the principal Act

is hereby amended by inserting, before the word “identifier”, the word “driver”.

5 (2) Section 19 (2) (e) of the principal Act is hereby amended by omitting the expression “12 months”, and substituting the expression “5 years”.

48. Ambulance drivers—The principal Act is hereby amended by inserting, after section 19, the following section:

10 “19A. (1) Any ambulance operator approved for the purpose by the Secretary may issue driver identification cards to ambulance drivers employed by the operator.

“(2) A driver identification card under this section—

“(a) Shall contain such information as is required by the Secretary; and

“(b) Shall bear a photograph of the driver; and

15 “(c) Shall either—

“(i) Display a unique driver identifier made up of any combinations of characters or numbers, or both, approved by the Secretary; or

20 “(ii) Display the full name of the holder; and
“(d) Shall be current for such period not exceeding 5 years as may be specified on the card.

“(3) Nothing in section 19 of this Act shall apply to any person who holds a current driver identification card under this section, so long as that person produces it on being requested to do so by an enforcement officer who is in uniform or produces evidence of identity as an enforcement officer.”

30 **49. Operator of small passenger service vehicle to be member of approved taxi organisation**—Section 20 of the principal Act is hereby amended by adding the following subsection:

“(4) For the purposes of this section,—

“(a) Every approved taxi organisation that holds a passenger service licence; and

35 “(b) Every operator who holds a passenger service licence and operates under a contract with an approved taxi organisation—

shall be deemed to be a member of that taxi organisation.”

50. Approved taxi organisations—

New

(1A) Section 21 (2) of the principal Act is hereby amended by inserting, after paragraph (c), the following paragraph: 5
 “(ca) Be accompanied by a copy of the applicant’s proposed operating rules; and”.

(1) Section 21 (3) of the principal Act is hereby amended by inserting, after paragraph (b), the following paragraphs: 10
 “(ba) The operating rules, rosters, and other internal operating procedures of the proposed organisation are likely to give it adequate control over its ~~(member)~~ members and their drivers; and 10
 “(bc) The ~~(member)~~ members and drivers within the proposed organisation have the ability to meet the requirements of Part I of the Third Schedule to this Act; and” 15

Struck Out

(2) Section 21 of the principal Act is hereby further amended by inserting, after subsection (3) (as amended by subsection (1) of this section), the following subsection: 20
 “(3A) Any information as to the matters referred to in **paragraph (ba)** or **paragraph (bc)** of subsection (3) of this section that is required by the Secretary under subsection (2) (c) of this section shall be furnished to the Secretary within 3 months after the requirement is made.” 25

New

(2) Section 21 of the principal Act is hereby further amended by inserting, after subsection (3), the following subsection: 30
 “(3A) The approval under this section of an organisation or person as an approved taxi organisation shall be deemed to include approval of the proposed operating rules of the organisation or person.”

51. Requirements relating to approved taxi organisations—(1) Section 22 of the principal Act is hereby 35

amended by repealing subsection (1), and substituting the following subsection:

“(1) Every approved taxi organisation shall—

Struck Out

5 “(a) Ensure that it has sufficient taxis operated by its
members to provide an on the road service to the
public 24 hours a day and 7 days a week within its
operating area (as notified to the appropriate
10 regional council under Part II of this Act) or for such
lesser period or in such other manner as may be
specified by a regional council as the condition of an
exemption granted under subsection (2) of this
section; and

15 “(b) Ensure, through a telephone communications system on
which bookings can be made, that the service
referred to in **paragraph (a)** of this subsection can be
provided promptly and that there is an effective
means of communicating with drivers on the road;
and

20 *New*

25 “(a) Ensure, through a telephone communications system on
which bookings can be made, that the services of its
members who operate small passenger service
vehicles are available to the public 24 hours a day
and 7 days a week, or for such lesser period or in
such other manner as may be specified by a regional
council as the condition of an exemption granted
under subsection (2) of this section; and

New

30 “(ba) Assign unique fleet numbers to member vehicles; and

“(c) Maintain a register of licence holders who are members
of the organisation, their drivers, the unique fleet

- numbers assigned by the organisation and the number of vehicles operated by each member; and
- “(d) Maintain the register of complaints referred to in rule 11 of Part I of the Third Schedule to this Act, and comply with the provisions of that rule; and 5
- “(e) Notify the Secretary of the granting, revocation, or modification of any exemption under this section, and the conditions of any such exemption, not later than 14 days after the exemption, revocation, or modification was notified to the organisation; and 10
- “(f) Ensure that its members and their drivers hold appropriate current area knowledge certificates where required by **section 18A** of this Act, and an appropriate ability to communicate in the English language; and 15
- “(g) Ensure that its members and their drivers maintain an adequate knowledge of the organisation’s current operating area (as so notified); and
- “(h) Notify the Secretary of any change in its responsible officers; and 20

New

“(i) Make the register of licence holders available at reasonable times during normal business hours for inspection by any enforcement officer.”

Struck Out

(2) Section 22 of the principal Act is hereby amended by inserting, after subsection (4), the following subsection:

“(4A) Every approved taxi organisation commits an offence and is liable on conviction to a fine not exceeding \$10,000, if the organisation contravenes any of the requirements of section 22 (1) of this Act.” 30

New

(2) Section 22 of the principal Act is hereby further amended by inserting, after subsection (4), the following subsections:

New

5 “(4A) Every organisation or person being an approved taxi organisation immediately before the commencement of this subsection shall, within 3 months after being so required by the Secretary, furnish the Secretary with a copy of the organisation’s operating rules.

“(4B) Every approved taxi organisation shall submit to the Secretary, for the Secretary’s approval, a copy of every amendment to the organisation’s approved operating rules.

10 “(4C) The Secretary shall approve rules and alterations furnished or submitted under subsection (4A) or subsection (4B) of this section if satisfied that the rules or amended rules, as the case may be, are likely to give the organisation adequate control over its members and their drivers.

15 “(4D) Every approved taxi organisation shall ensure that its members and their drivers comply with the organisation’s approved operating rules.

20 “(4E) Every approved taxi organisation who contravenes or fails to comply with any of subsections (4A) to (4D) of this section commits an offence and is liable on summary conviction to a fine not exceeding \$2,000.”

52. Revocation of approval of approved taxi organisation—Section 23 (1) of the principal Act is hereby amended by adding the expression “; or” and the following paragraphs:

Struck Out

30 “(d) The Secretary is satisfied that contraventions of this Act and other enactments by the members and drivers within the organisation demonstrates that the organisation cannot adequately maintain proper control over their activities; or

New

“(d) The Secretary is satisfied that the organisation cannot adequately maintain proper control over the activities of its members and their drivers; or

“(e) The Secretary is satisfied that, by reason of the failure of operators and drivers within the organisation to maintain area knowledge or an appropriate ability to communicate in the English language, the organisation is not a fit and proper person to have control of a taxi organisation(~~(; or)~~)).”

Struck Out

“(f) The Secretary has revoked the organisation’s approval to issue area knowledge certificates under **section 18A** of this Act.”

New

52A. Licence holder to notify changes to Secretary—Section 30 of the principal Act is hereby amended by inserting, after subsection (3), the following subsection:

“(3A) References in this section to a person or persons having control of a service or business or body corporate shall, in relation to any holder of a transport service licence, be read as including a person or persons holding a principal management position in the employ of the licence holder, but shall not be read as including persons employed in lower positions.”

53. Goods service licence holder to display identification on vehicles—Section 35 of the principal Act is hereby amended by inserting, after subsection (1), the following subsections:

“(1A) In the case of a goods service vehicle,—
“(a) It shall be sufficient compliance with subsection (1) of this section if the name and business location of the holder is displayed in positions (other than on the

outside of both forward doors) approved by the Secretary:

5 “(b) The Secretary may exempt the vehicle from the requirements of subsection (1) of this section if it is a vintage or classic vehicle.

“(1B) The Secretary may give an approval under **subsection (1A) (b)** of this section only if compliance with subsection (1) of this section would detract from the appearance of the vehicle.”

10 **54. New sections inserted**—The principal Act is hereby amended by inserting, after section 39, the following heading and sections:

“Requirements of Rail Service Participants

15 **“39A. Operator’s duty to report accidents and incidents**—(1) The operator of any rail service shall notify the Secretary, or such other person as the Secretary may from time to time designate for this purpose, of any accident or incident that—

“(a) Is known to the operator; and

20 “(b) Occurs on a rail service under the operator’s management; *and*).

Struck Out

“(c) Causes death or serious personal injury to any person.

25 “(2) Every report under this section shall be made (*within 48 hours of*) as soon as practicable after the occurrence of the accident and may be made by telephone, facsimile, or any other available method.

30 “(3) Every rail service operator commits an offence and is liable on summary conviction to a fine not exceeding \$2,000 who, without reasonable excuse, fails to comply with any requirement of this section.

“39B. Functions and duties of Secretary—The functions and duties of the Secretary under this Part of this Act in relation to rail services shall be—

35 “(a) To exercise control over the approval of safety systems under **section 6c** of this Act and the granting of rail service licences under section 8 of this Act:

- “(b) To monitor compliance with approved safety systems (and general safety standards) by the introduction of safety system audits:
- “(c) To control compliance with approved safety systems (and general safety standards) through— 5
- “(i) The imposition of conditions or suspensions; or
- “(ii) The revocation of rail service licences; or
- “(iii) The removal from the operation of the service of any person who does not comply with the safety system approved for that person or with this Act or regulations made under this Act: 10
- “(d) To notify accidents and incidents to the Transport Accident Investigation Commission in accordance with section 39c of this Act. 15

Struck Out

“39c. **Duty of Secretary to notify accidents and incidents to Transport Accident Investigation Commission**—As soon as practicable after any accident or incident is notified to the Secretary under section 39A of this Act, the Secretary shall notify the Transport Accident Investigation Commission that he or she has been notified of the accident or incident, if it is of any of the following kinds: 20

“(a) An accident involving death or serious injury to a rail service passenger: 25

“(b) An accident or incident involving any rail service vehicle operated for hire or reward, and principally used for the transport of passengers or goods:

“(c) An accident involving serious damage to any rail service vehicle: 30

“(d) An accident involving more than one rail service vehicle, where—

“(i) At least one of the vehicles is principally used for the transport for hire or reward of passengers or goods; and 35

“(ii) In the opinion of at least one of the drivers, a collision was only narrowly avoided.

New

5 “39C. **Duty of Secretary to notify accidents and incidents to Transport Accident Investigation Commission**—As soon as practicable after any accident or incident is notified to the Secretary under section 39A of this Act,—

“*(a)* In the case of an accident, the Secretary shall notify the Transport Accident Investigation Commission that he or she has been notified of the accident:

10 “*(b)* In the case of an incident, the Secretary shall notify the Commission that he or she has been notified of the incident if he or she considers that the incident should be investigated by the Commission.

15 “39D. **Power of Secretary to impose conditions or suspend rail service licence**—(1) The Secretary may impose conditions in respect of any rail service licence or suspend any such licence, if he or she considers such action (*necessary in the interests of safety*) is reasonably necessary to avoid a significant risk of death or serious injury, and if he or she—

20 “*(a)* Considers such action necessary to ensure compliance with this Act or regulations made under this Act; or

“*(b)* Is satisfied that the operator has given false information for the purpose of obtaining the rail service licence; or

25 “*(c)* Is satisfied that the operator has failed to comply with the operator’s approved safety system or with any conditions of the operator’s rail service licence; or

Struck Out

30 “*(d)* Is satisfied that there has been a significant change in the circumstances of the operator that adversely affects the safety of rail service passengers; or

35 “*(e)* Considers that the functions for which the rail service licence has been granted are not being carried out or are being carried out by the operator in a careless or incompetent manner.

New

<p>“(d) Is satisfied that there has been a significant change in the circumstances of the operator, and that—</p> <p style="padding-left: 40px;">“(i) The operator’s approved safety system does not make adequate provision to deal with such changed circumstances; and</p> <p style="padding-left: 40px;">“(ii) There could be a significant risk of death or serious injury as a result of the changed circumstances.</p>	5
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“(2) Before imposing conditions or suspending any rail service licence under this section, the Secretary shall— 10

“(a) Notify the licence holder of the Secretary’s intention to impose conditions or to suspend the licence; and

“(b) Specify the grounds for the proposed conditions or suspension; and 15

“(c) Afford a reasonable opportunity for submissions to be made on the matter; and

“(d) Notify the licence holder of the right of appeal under section 42 of this Act.

“(3) The imposition of conditions in respect of any rail service licence or the suspension of any such licence shall remain in force until the Secretary has determined, after due investigation, the action to be taken in respect of the causes requiring the imposition of conditions or the suspension; but the duration of any such conditions or suspension shall not exceed 14 days unless the Secretary directs that a further specified period is necessary for the purposes of the investigation. 20 25

“(4) If, after investigation, the Secretary considers such action to be warranted, he or she may impose further conditions in respect of the licence or suspend the licence for a further period. 30

“39E. Power of Secretary to impose prohibition or conditions or to detain or immobilise rail service vehicles—(1) Where the Secretary believes on reasonable grounds that the operation or use of any rail service vehicle or any class of rail service vehicle may *(endanger persons or property)* place any person at a significant risk of death or serious injury, the Secretary may, if authorised by a warrant given by a judicial officer on written application on oath, detain or 35 40

immobilise the rail service vehicle or any rail service vehicle of that class.

5 “(2) Where the Secretary believes on reasonable grounds that the operation or use of any rail service vehicle or any class of rail service vehicle may (*endanger persons or property*) place any person at a significant risk of death or serious injury and that prompt action is necessary to prevent the danger, the Secretary may, without the authority of a warrant referred to in **subsection (1)** of this section, do any of the following:

10 “(a) Prohibit or impose conditions on the operation of the rail service vehicle or class of rail service vehicle:

“(b) Detain or immobilise a particular rail service vehicle or class of rail service vehicle where necessary in order to prevent its operation or use.

15 “(3) Where any power is exercised under **subsection (1)** or **subsection (2)** of this section in respect of any rail service vehicle, the Secretary shall, by notice in writing to the operator or other person in charge of the vehicle, inform the operator or that other person of—

20 “(a) The reasons for the action taken; and

“(b) The right of appeal under section 42 of this Act.

Struck Out

25 “(4) Any detention or immobilisation under **subsection (1)** or **subsection (2)** of this section shall be maintained for only such time as is necessary in the interests of safety; but, if a rail service vehicle or any parts thereof are required for the purpose of evidence in any prosecution under this Act, that rail service vehicle or those parts thereof may be retained by the Secretary for such period as the Secretary considers necessary for that purpose.

New

35 “(4) Where a rail service vehicle is detained or immobilised under **subsection (1)** or **subsection (2)** of this section, the following provisions shall apply:

“(a) The detention or immobilisation shall be effected in such manner and imposed for such duration as will cause only as much disruption to the rail service as is

New

reasonably necessary to avoid a significant risk of death or serious injury:

“(b) If a rail service vehicle or any parts thereof are required for the purpose of evidence in any prosecution or investigation under this Act or any other Act, the Secretary may retain the vehicle or parts thereof for such period as the Secretary considers necessary for that purpose: 5

“(c) The rail service operator shall have access to the vehicle for the purpose of obtaining evidence in any prosecution or investigation. 10

“**39F. Regular audit of safety system**—(1) The Secretary shall, at such times as are specified in each approved safety system, arrange for an audit of that safety system. 15

“(2) Every safety audit under **subsection (1)** of this section shall be conducted by one or more safety auditors appointed by the Secretary under **section 39G** of this Act.

“(3) Every safety audit under **subsection (1)** of this section shall follow the procedures and cover the matters specified in the approved safety system of the relevant rail service operator. 20

“(4) The cost of every safety audit carried out under this section shall be paid by the relevant rail service operator.

“**39G. Appointment of safety auditors**—(1) The Secretary may from time to time appoint one or more persons to conduct an audit of the whole or any part of the safety system of any rail service operation, and that appointment may be— 25

“(a) A general appointment, authorising the appointed person to audit any safety system of any rail service operation as may from time to time be required; or 30

“(b) A specific appointment, applying to any one or more specified rail service operations.

“(2) Any rail service operator may propose to the Secretary the appointment of a specified safety auditor to carry out the regular audit of that operator’s rail service under **section 39F** of this Act. 35

“(3) If the Secretary is satisfied as to the competence and independence of any auditor proposed under **subsection (2)** of this section, the Secretary shall approve the appointment in relation to the operator requesting the appointment. 40

“39H. Functions and duties of safety auditors—

(1) Except where the Secretary otherwise directs, the functions and duties of safety auditors appointed under **section 39G** of this Act shall be—

5 “(a) To carry out such audits of safety systems or parts of safety systems as may be requested by the Secretary from time to time under **section 39F** of this Act:

10 “(b) To carry out such ~~((special audits of the safety system))~~ special safety audits of any rail service operation as may from time to time be requested by the Secretary under **section 39N** of this Act:

“(c) To prepare audit reports of safety systems and rail service operations in accordance with **sections 39I** and **39O** of this Act:

15 *Struck Out*

“~~(d) To make such recommendations concerning the safety of any rail service operator as the safety auditor considers appropriate:~~

New

20 “(d) To identify and report non-compliance with safety systems:

“~~(e) To carry out supplementary audits of any rail service operator under **section 39L** of this Act:~~

25 “(f) To perform such other functions and duties as may from time to time be prescribed by regulations made under this Act.

30 “(2) Before making any *(recommendation)* report in relation to any safety audit carried out under this Part of this Act, a safety auditor shall consult the operator concerned and give the operator an opportunity to comment on the auditor’s proposed *(recommendations)* draft report.

35 “**39I. Regular safety audit report—**(1) Every safety auditor shall, after making any audit of a safety system under **section 39F** of this Act, submit to the Secretary a report in writing covering the matters set out in **section 39J** of this Act.

“(2) All costs relating to the preparation of any safety audit report required by this section shall be paid by the rail service operator to whom the audit relates.

“**39J. Matters to be included in regular safety audit report**—(1) In every regular safety audit report, the safety auditor shall consider and comment on such of the matters specified in the approved safety system as are required to be audited by that auditor under the terms of his or her appointment under **section 39G** of this Act. 5

“(2) In addition to the matters referred to in **subsection (1)** of this section, every safety auditor shall consider and comment on whether or not the safety standards and operating procedures set out in the approved safety system have been complied with. 10

“(3) Any safety auditor may, if he or she considers it necessary *(in the interests of safety, make such recommendations)* ² propose such solutions or suggestions as he or she considers may improve the safety of the rail service operation. 15

“(4) The safety auditor shall furnish the Secretary and the relevant rail operator with a copy of the safety audit report. 20

“**39K. Notification of requirement for improvements**—(1) As soon as practicable after receipt of an audit report on a safety system, the Secretary shall notify the rail service operator in writing that, in the opinion of the Secretary,— 25

“(a) The approved safety system of the operator is being satisfactorily complied with; or

Struck Out

“(b) Improvements or repairs are necessary to the rail service in order to comply with the approved safety system and to ensure the continued safety of rail service passengers and the public generally; or 30

New

“(b) Remedial action to the rail service is necessary in order to comply with the approved safety system; or

“(c) A variation to the safety system is required *(to ensure the continued safety of rail service passengers)*.

5 “(2) If *(improvements or repairs are)* remedial action is required under subsection (1) of this section, the Secretary shall notify the operator in writing of—

Struck Out

“(a) The improvements or repairs required; and

New

10 “(a) The area or areas in which remedial action is required; and

“(b) The time limit during which the *(improvements or repairs are)* remedial action is to be effected; and

15 “(c) The restrictions or limitations (if any) imposed on the rail service until such *(improvements or repairs have)* remedial action has been completed; and

“(d) The right of appeal under section 42 of this Act.

New

20 “(2A) Where the Secretary notifies a rail service operator of any non-compliance with the operator’s approved safety system, the Secretary may specify interim requirements to be implemented by the operator and complied with until such time as the operator’s actual operations comply with the approved safety system; and the operator shall implement and comply with such interim requirements.

25 “(3) If a variation to the safety system is required, the Secretary shall proceed under the provisions of ~~section 6F~~ of this Act.

30 “(4) Except where an appeal is pending under section 42 of this Act or where an extension of time has been granted under section 39M of this Act, every rail service operator commits an offence and is liable on summary conviction to a fine not exceeding \$2,000, and to a further fine not exceeding \$2,000 for every day or part of a day during which the order is not complied with, who fails to comply with any requirement for
35 *(improvements or repairs)* remedial action under this section

within the time limit specified in **subsection (2)** of this section or fails to comply with any restrictions or limitations imposed under that subsection.

“(5) Nothing in this section prevents the Secretary from taking such further action, such as the suspension or revocation of any rail service licence, as he or she considers appropriate in the interests of (the safety of rail service passengers and the public generally) persons likely to be at a significant risk of death or serious injury through the operation of a rail service vehicle. 5

“39L. **Supplementary audit of rail service**—(1) At the expiry of any time limit imposed under **section 39k** of this Act or sooner if requested by the rail service operator, the safety auditor shall furnish the Secretary with a supplementary safety audit advising whether or not the (improvements or repairs) remedial action required under section 39k of this Act ((have)) has been completed. 10 15

“(2) If the required (improvements and repairs) remedial action ((have)) has not been satisfactorily completed, it shall not be lawful for the rail service to be operated unless a further extension of time is given by the Secretary under section 39m of this Act. 20

“39M. **Extension of time to effect improvements and repairs**—(1) If the Secretary is satisfied that reasonable progress is being made towards completing the (improvements or repairs) remedial action required under section 39k of this Act and that adequate interim provisions have been made to ensure the (continued safety of rail service users and other persons) safety of persons likely through the operation of a rail service vehicle to be at a significant risk of death or serious injury, he or she may grant an extension of time to enable ((those improvements or repairs)) that remedial action to be completed. 25 30

“(2) Any extension of time granted under this section may include such conditions or restrictions on the rail service licence as the Secretary considers (necessary in the interests of safety) reasonably necessary to avoid a significant risk of death or serious injury. 35

“39N. **Special safety audits**—(1) If the Secretary has reasonable grounds to believe that (the safety of rail service passengers or other rail service users is at risk) any person is likely to be put at a significant risk of death or serious injury by a situation that is not addressed in the approved safety system, he or she may request a special safety audit of the whole or any part of any rail service operation. 40

“(2) Any special audit under **subsection (1)** of this section may be carried out at such time as the Secretary considers appropriate (*in the interests of safety*).

5 “(3) Any special audit under **subsection (1)** of this section shall be carried out by (*an independent safety auditor*) one or more safety auditors appointed by the Secretary under **section 39G** of this Act.

“(4) The cost of every special safety audit carried out under this section shall be paid by the relevant rail service operator.

10 “39O. **Special audit report**—(1) Every safety auditor shall, after making any special audit of a (*safety system*) rail service operation under **section 39N** of this Act, furnish the Secretary with a report in writing covering such matters as the Secretary has requested.

15 “(2) A copy of every report furnished under **subsection (1)** of this section shall be furnished to the relevant rail service operator.

Struck Out

20 “(3) As soon as practicable after receipt of a special audit report on a safety system, the Secretary shall notify the rail service operator in the manner set out in **section 39K(1)** of this Act.

New

25 “(3) Where a special audit report on a rail service operation is received, **sections 6F and 39K** of this Act shall apply as if the rail service operation were an approved safety system.

30 “(4) Nothing in this section prevents the Secretary from taking such further action under this Act as he or she may consider appropriate in the interests of (*the safety of rail service passengers or the public generally*) protecting persons likely to be at a significant risk of death or serious injury through the operation of a rail service vehicle.

35 “39P. **Power of entry of safety auditor carrying out special safety audit**—(1) For the purpose of carrying out a special safety audit requested by the Secretary under **section 39N** of this Act, every safety auditor duly authorised by the

Secretary shall have right of access at any reasonable time to the following:

“(a) Any vehicle, building, or place belonging to or used by a rail service:

“(b) Any document or record in respect of any rail service or rail service vehicle that is in the possession or under the control of the person who holds the licence for that rail service. 5

“(2) Without limiting the power conferred by **subsection (1)** of this section, every safety auditor duly authorised by the Secretary who has reasonable grounds to believe that— 10

“(a) Any breach of this Act or of regulations made under this Act is being or is about to be committed; or

“(b) The conditions of any rail service licence or safety *(agreement) system* are not being complied with; or 15

“(c) A situation exists within any rail service or is about to exist that constitutes a *(danger to persons or property) significant risk of death or serious injury*—

may at any reasonable time enter any vehicle, building, or place belonging to or used by a rail service and carry out an inspection to determine whether or not a matter referred to in **paragraphs (a) to (c)** of this subsection exists. 20

“(3) Nothing in **subsection (1)** or **subsection (2)** of this section shall confer on any person the power to enter any house, home unit, or apartment buildings, or any marae or building associated with a marae, unless the entry is authorised by a warrant given by a judicial officer on written application on oath, which shall not be granted unless the judicial officer is satisfied that such entry is essential in the interests of the safety of the rail service operation. 25 30

“(4) Every warrant issued under **subsection (3)** of this section shall be directed to a named person and shall be valid for a period of 1 month from the date of its issue or such lesser period as the judicial officer considers appropriate; and the period of validity shall be shown in the warrant. 35

“(5) Every person exercising the power of entry conferred by **subsection (1)** or **subsection (2)** of this section shall carry a warrant of authority issued by the Secretary specifying—

“(a) The name of that person and the office or offices held by that person; and 40

“(b) That the person is authorised by the Secretary to exercise the power conferred by **subsections (1) and (2)** of this section to enter vehicles, buildings, and places

belonging to or used by any rail service and to carry out such an inspection.

5 “(6) Every person exercising the power of entry conferred by subsection (1) or subsection (2) of this section shall give reasonable notice of the intended entry (unless the giving of such notice is likely to defeat the purpose of the entry) and shall produce the warrant of authority and evidence of identity—

“(a) On first entering the vehicle, building, or place; and

“(b) Whenever subsequently reasonably required to do so.”

10 **55. Appeal to District Court**—(1) The principal Act is hereby amended by repealing section 42, and substituting the following section:

15 “42. (1) Any person who is dissatisfied with any decision relating to that person and made by the Secretary under any of sections 6D, 6E, ~~6F~~, 10, 11, 14, 15, 16, 19, 21, 23, ~~((39E, 39K))~~ (or section) ~~((and 39M))~~ 39D, 39E, and 39K of this Act may appeal to a District Court against that decision.

20 “(2) It is hereby declared that the exercise of any power conferred on the Secretary by any provision referred to in subsection (1) of this section is a decision within the meaning of that subsection.”

25 (2) Nothing in subsection (1) of this section affects any right of appeal that was exercisable under the principal Act immediately before the commencement of this Act.

56. Operation of unregistered service, etc.—(1) Section 51 of the principal Act is hereby amended by omitting the words “holder of a passenger service licence”, and substituting the word “person”.

30

New

(2) Section 51 (a) of the principal Act is hereby amended by inserting, before the word “service”, the word “passenger”.

35 **57. Evidence and proof**—Section 63 (a) of the principal Act is hereby amended by inserting, after the words “motor vehicle” in both places where they occur, the words “or rail service vehicle”.

New

57A. Power to inspect records—The principal Act is hereby amended by inserting, after section 63, the following section:

“63A. (1) For the purpose of ascertaining whether the provisions of this Act have been or are being complied with by any person to whom this Act applies, any enforcement officer may require that person to produce for inspection any books or records in that person’s possession or over which that person has control, including (but not limited to) logbooks, records associated with logbooks, financial records relating to expenditure on fuel, invoices, vehicle maintenance records, depreciation records for vehicles, time and wage records, and waybills. 5 10

“(2) The enforcement officer may take extracts from or make copies of any books or records so produced.” 15

58. Regulations—Section 66 of the principal Act is hereby amended by inserting, after paragraph (c), the following paragraphs:

“(ca) Prescribing any service or class or category of service as a rail service for the purposes of this Act: 20

“(cb) Prescribing any vehicle or class or category of vehicle as a rail service vehicle for the purposes of this Act:

“(cc) Prescribing matters to be included in any safety system under **section 6B (2)** of this Act: 25

New

“(cd) Empowering the Secretary to prescribe tests for the purpose of the issue of an area knowledge certificate under **section 18A** of this Act; and authorising the Secretary, in such circumstances as may be specified in the regulations, to require an applicant for or the holder of an area knowledge certificate to undergo such prescribed tests as the Secretary may specify in writing, including (but not limited to) a second or subsequent test.”. 30 35

59. First Schedule amended—(1) Part I of the First Schedule to the principal Act is hereby amended by repealing

item 3, and substituting the following item:

“3. Transport services—

5 “(a) Carried on exclusively for the purpose of providing relief
or assistance during a state of national emergency, a
state of national civil defence emergency, or a state
of local civil defence emergency (as defined in the
Civil Defence Act 1983) where—

10 “(i) The service has been requested or ordered by
the appropriate civil defence controller; and

“(ii) The service is under the control of that
controller;

15 “(b) Carried on exclusively for the purpose of performing any
public service or providing assistance to the civil
power in time of emergency within the meaning of
section 9 of the Defence Act 1990;

“(c) Carried on by any part or member of the Armed Forces
on active service within the meaning of section 44 of
the Defence Act 1990;

20 “(d) Carried on exclusively for the purpose of undertaking a
class 3 search and rescue operation where—

“(i) The service has been requested by a Rescue
Co-ordination Centre; and

25 “(ii) The service is under the control of that
Centre;

“(e) Carried on exclusively for the purpose of providing relief
or assistance during a pollution emergency that is
being dealt with under the Marine Pollution Act
1974.”

30 (2) The First Schedule to the principal Act is hereby amended
by inserting in Part I, after item 4, the following item:

Struck Out

“4A. Any passenger service where—

35 “(a) The vehicle used is a large passenger service vehicle
hired from a person who holds a rental service
licence; and

“(b) The only payments made in respect of the provision of
the passenger service are payments reimbursing that
person for the costs of operating the service.”

New

<p>“4A. Any passenger service where—</p> <p>“(a) The vehicle used is a large passenger service vehicle hired from a person who holds both a passenger service licence and a rental service licence; and</p> <p>“(b) The only payments made in respect of the hire of the large passenger service vehicle to the person who hires the vehicle are payments reimbursing that person for the costs of hiring and operating the vehicle.</p> <p>“Where a large passenger service vehicle is used in such circumstances, the vehicle shall be deemed to be operating under the licensee’s passenger service licence.”</p>	<p>5</p> <p>10</p>
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60. Second Schedule amended—The Second Schedule to the principal Act is hereby amended by inserting in the columns opposite the item relating to the Road User Charges Act 1977, in ~~((its))~~ their appropriate numerical order, the following *(item)* items:

Struck Out

<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="padding: 5px;">“23 (1) (a) Contravening section 5 by operating vehicle without distance recorder 100 100”</td> </tr> </table>	“23 (1) (a) Contravening section 5 by operating vehicle without distance recorder 100 100”	<p>20</p>
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New

<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="padding: 5px;">“18A (4) Driving without appropriate area knowledge certificate, etc. .. 25 25</td> </tr> <tr> <td style="padding: 5px;">“23 (1) (a) Contravening section 5 by operating vehicle without distance recorder .. 50 50”</td> </tr> </table>	“18A (4) Driving without appropriate area knowledge certificate, etc. .. 25 25	“23 (1) (a) Contravening section 5 by operating vehicle without distance recorder .. 50 50”	<p>25</p> <p>25</p>
“18A (4) Driving without appropriate area knowledge certificate, etc. .. 25 25			
“23 (1) (a) Contravening section 5 by operating vehicle without distance recorder .. 50 50”			

61. Third Schedule amended—(1) Part I of the Third Schedule to the principal Act is hereby amended by repealing subclause (1) of rule 9, and substituting the following subclauses:

“(1) Every holder of a passenger service licence shall ensure that there is clearly displayed on both the inside and outside of every small passenger service vehicle used under the licence,—

5 “(a) In the case of a member of an approved taxi organisation, the name, business location, and telephone number of the approved taxi organisation to which the licensee belongs, together with a unique fleet number assigned by the organisation to that vehicle:

“(b) In any other case, the name, business location, and telephone number of the operator, together with the unique fleet number for that vehicle.

10 “(1A) The information required by subclause (1) of this rule to be displayed on the inside of the vehicle shall be positioned at the front of the vehicle, and the unique fleet number and name of the organisation shall be positioned on the inside at the rear of the vehicle.”

15 (2) Rule 10 of Part I of the Third Schedule to the principal Act is hereby amended by repealing subclause (2).

(3) Part I of the Third Schedule to the principal Act is further amended by adding to rule 10 the following subclause:

20 “(4) Nothing in subclause (1) of this rule shall apply to the holder of a driver identification card issued under **section 19A** of this Act.”

Struck Out

(4) Part I of the Third Schedule to the principal regulations is hereby amended by inserting, after rule 10, the following rule:

25 “10A. **Log of hires and fares**—Every driver of a small passenger service vehicle shall maintain a logbook of hires *(and fares)* which shall be in such form and contain such information as may be prescribed or provided for by regulations made under section 66 of this Act.”

30 (5) Rule 11 of Part I of the Third Schedule to the principal Act is hereby amended by repealing subclauses (1) and (2), and substituting the following subclauses:

35 “(1) Every approved taxi organisation shall ensure that there is maintained a single register of complaints received in respect of—

“(a) The operation of all small passenger service vehicles operated by holders of passenger service licences who are members of the organisation:

“(b) The services operated:

“(c) The persons involved in operating the services.

“(2) Every holder of a passenger service licence under which one or more small passenger service vehicles are operated, being a licence holder who is not a member of an approved organisation, shall ensure that there is maintained a single register of complaints received in respect of— 5

“(a) The operation of all small passenger service vehicles operated by that holder:

“(b) The services operated:

“(c) The persons involved in operating the services.” 10

New

(5A) Rule 12 (1) of Part I of the Third Schedule to the principal Act is hereby amended by adding the following paragraph:

“(e) The driver may refuse to accept a hire in any area where the driver does not hold an area knowledge certificate that applies to ~~((the area for which the hire is requested))~~ that area.” 15

(6) Rule 16 (6) of Part I of the Third Schedule to the principal Act is hereby amended by inserting, after paragraph (c), the following paragraph: 20

“(ca) Whenever the seal of the meter is broken or not in place, ensure that the vehicle ceases plying for hire (unless authorised by any enforcement officer):”.

(7) Clause 10 of the Annex to Part III of the Third Schedule to the principal Act is hereby amended— 25

(a) By omitting the expression “\$250,000 [or substitute greater sum or specify ‘without limit’]”, and substituting the expression “\$..... [insert sum or specify ‘without limit’]”: 30

(b) By omitting the expression “not exceeding \$750”.

(8) Clause 18 of the Annex to Part III of the Third Schedule to the principal Act is hereby amended by repealing paragraph (e).

[Part III of the Transport Safety Bill (125-2), as reported from the Transport Committee, is now the Transport (Vehicle and Driver Registration and 35

Licensing) Amendment Bill (125-3c), as reported from the Committee of the whole House.

5 **[Part IV of, and the Schedules to, the Transport Safety Bill (125-2), as reported, are now the Railway Safety and Corridor Management Bill (125-3D), as reported.**

[Part V of the Transport Safety Bill (125-2), as reported, is now the Transport Accident Investigation Commission Amendment Bill (125-3E), as reported.

10 **[Part VI of the Transport Safety Bill (125-2), as reported, is now the Local Government Amendment Bill (No. 6) (125-3F), as reported.**

[Part VII of the Transport Safety Bill (125-2), as reported, is now the Road User Charges Amendment Bill (125-3G), as reported.]