

# Public Transport Competition Bill

## EXPLANATORY MEMORANDUM

### PART 1—PRELIMINARY

*Clause 1* states the purpose of the Act.

*Clause 2* provides for the commencement of the Act.

*Clause 3* contains definitions and sub-clause (4) enables the Act to become relevant legislation for the purposes of the **Office of the Regulator-General Act 1994**.

*Clause 4* provides that the Act is to bind the Crown.

### PART 2—ACCREDITATION OF ROAD TRANSPORT PASSENGER SERVICES

*Clause 5* requires a person to hold an accreditation under the Act in order to operate a road transport passenger service and to observe any conditions of accreditation.

*Clause 6* describes the purpose of the scheme of accreditation introduced by the Act.

*Clauses 7–9* outline the various procedural matters involved in applying for accreditation and in the consideration of applications.

*Clause 10* provides for an accreditation to be subject to conditions, including a condition that precludes the employment of any driver who does not hold a driver's authority granted under clause 32.

*Clause 11* allows the Secretary to change a condition to which an accreditation is subject or to vary the kind of service to which an accreditation relates.

*Clause 12* provides for the duration of an accreditation.

*Clause 13* requires an accredited person to notify the Secretary when the person has been charged with or found guilty of a disqualifying offence.

*Clause 14* provides for returns of information required from accredited persons.

*Clauses 15–16* make provision for the renewal of accreditations.

*Clause 17* provides that an accreditation is not transferable, but may be surrendered.

*Clause 18* makes it an offence to provide false or misleading information in an application for accreditation.

*Clause 19* makes it clear that the granting of an accreditation by the Secretary does not subject the Secretary to any liability.

*Clauses 20–23* confer on the Secretary various powers to oversight the conduct of accredited persons, including powers to hold an inquiry, and to suspend or take other action in relation to an accreditation.

*Clause 24* confers a right of review by the Administrative Appeals Tribunal of decisions by the Secretary in relation to accreditations.

### PART 3—REGULAR PASSENGER SERVICES

*Clause 25* contains a key feature of the new legislation, requiring a regular passenger service (as defined) to be conducted pursuant to a contract, known as a “service contract”, between a person who holds an appropriate accreditation and the Secretary.

*Clauses 26–27* describe the process for the awarding of service contracts and the contents of service contracts.

*Clause 28* requires a service contract to specify a region or route of operation of a service contract. A service contract will (if appropriate) be able to confer on the holder an exclusive right to operate a regular passenger service within the region, or on or in proximity to, the route of operation. A contract will not be able to affect or limit the operation of a service which is not a regular passenger service and will be subject to any qualifications of general application that may be prescribed.

*Clause 29* sets out the circumstances when new services may be required on or in proximity to those already contracted to operate on a particular route or in a region, and the processes to determine the letting of a contract for such new services.

*Clause 30* describes the circumstances in which a service contract may be varied, suspended or cancelled.

### PART 4—MISCELLANEOUS

*Clause 31* makes it an offence for a person guilty of a disqualifying offence to drive a vehicle that is being operated for the purposes of a road transport passenger service. It also provides that where a driver has been charged with a disqualifying offence he or she must immediately notify the operator. Provision is made for the operator of the service to make a request to the Secretary, when the Secretary may prohibit that person from driving a relevant vehicle until the charge has been finally disposed of. Drivers are provided with a right of review by the Administrative Appeals Tribunal.

*Clause 32* enables the Secretary to grant a driver’s authority to a person who proposes to drive a vehicle for the purposes of a road transport passenger service. An application for an authority may be refused if the applicant has committed a disqualifying offence or is medically unfit to drive. Disqualifying offences will be defined by regulation.

*Clause 33* exempts drivers who hold a driver’s authority granted under clause 32 from the need to have a driver’s certificate under section 156 of the **Transport Act 1983**.

*Clause 34* provides for the charging of fees by the Secretary.

*Clause 35* enables the Secretary, by a written instrument, to delegate the powers of the Secretary under the Act.

*Clause 36* (1) states that no compensation is recoverable in consequence of various decisions of the Secretary made under the Act in relation to accreditations, service contracts, or prohibiting a person from driving. It is similar in scope to the provision in section 90 of the **Transport Act 1983**. *Clause 36* (2) states that no compensation is payable to any person in respect of, nor may such a person bring any proceedings in respect of, the expiry of a contract under clause 39 (6) or requiring a person who holds a commercial passenger vehicle licence under the **Transport Act 1983** to become accredited under Part 2.

*Clause 37* limits the jurisdiction of the Supreme Court as a consequence of *clause 36*.

*Clause 38* enables the Governor in Council to make regulations.

*Clause 39* contains transitional provisions. The effect of sub-clauses (1)–(3) is to allow a person to operate a road transport passenger service for a transitional period (for up to two years) without obtaining accreditation provided the person holds a commercial passenger vehicle licence under the **Transport Act 1983**. Sub-clauses (4)–(6) allow a person with a contract under the **Transport Act 1983** to operate a regular passenger service for a transitional period without obtaining a service contract. Provision is made for contracts which are not due to expire on any particular date to expire after a maximum interval of two years. Sub-clause (7) provides a transitional exemption from the need for a service contract for a person who was operating what the Act defines as a regular passenger service but who did not previously operate under a contract.

### **PART 5—AMENDMENT OF TRANSPORT ACT 1983**

*Clause 40* makes minor machinery amendments to the **Transport Act 1983**.

*Clause 41* expands the maximum size of the Board of the Public Transport Corporation from 4 to 8 members, and *clause 42* expands the Board's power of delegation.

*Clause 43* permits regulations to be made exempting an accredited person who operates a road passenger transport service from the requirement to also have a commercial passenger vehicle licence under the **Transport Act 1983**.

*Clause 44* gives effect to the change made by *clause 33*.

*Clauses 45–48* amend the prosecution and enforcement provisions of the **Transport Act 1983** to enable the provisions of the Public Transport Competition Act, and relevant sections of the Transport Act, to be enforced by persons authorised by the Secretary.

