



LAWS OF MALAYSIA

Act 715

LAND PUBLIC TRANSPORT ACT 2010

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| Date of Royal Assent | ... | ... | 2 June 2010 |
| Date of publication in the <i>Gazette</i> | ... | ... | 10 June 2010 |

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Act 715

LAND PUBLIC TRANSPORT ACT 2010

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FIRST SCHEDULE

SECOND SCHEDULE

LAWS OF MALAYSIA**Act 715****LAND PUBLIC TRANSPORT ACT 2010**

An Act to provide for and regulate land public transport and for matters incidental thereto.

[]

ENACTED by the Parliament of Malaysia as follows:

PART I**PRELIMINARY****Short title, commencement and application**

1. (1) This Act may be cited as the Land Public Transport Act 2010.

(2) This Act applies to Peninsular Malaysia.

(3) This Act comes into operation on a date to be appointed by the Minister by notification in the *Gazette*, and the Minister may appoint different dates—

- (a) for the coming into operation of this Act in different parts of Peninsular Malaysia;
- (b) for the coming into operation of different provisions or Parts of this Act; or
- (c) for the coming into operation of different provisions of this Act in different parts of Peninsular Malaysia.

Interpretation

2. In this Act, unless the context otherwise requires—

“this Act” includes any subsidiary legislation made under this Act;

“luggage” means such articles of personal use and convenience as are usually carried by passengers but does not, except in the case of commercial travellers, include articles which are carried for the purpose of business, trade or profit;

“goods” means goods or any burden of any description, but excludes luggage;

“area congestion pricing charge” means any direct charge specifically imposed for the use of roads in connection with any area congestion pricing scheme;

“Government Entity” means—

- (a) the Federal Government, or any State Government, State Authority or local government; and
- (b) any ministry, department, office, agency, authority, commission, committee, board, council or other body, corporate or unincorporate, of the Federal Government, or of any State Government or local government, whether established under written law or otherwise;

“road” has the meaning assigned to it in the Road Transport Act 1987 [Act 333];

“rate” includes any fare, freight, charge or other payment for the transport of any passenger or his luggage, or goods;

“class” includes type or category;

“vehicle” has the meaning assigned to it in the Road Transport Act 1987;

“goods vehicle” means—

- (a) any motor vehicle constructed or adapted for use for the carriage of goods or a trailer so constructed or adapted;
or

- (b) any motor vehicle or a trailer not so constructed or adapted when used for the carriage of goods solely or in addition to passengers;

“motor vehicle” has the meaning assigned to it in the Road Transport Act 1987;

“tourism vehicle” means a motor vehicle categorised under any of the classes described in the Second Schedule;

“public service vehicle” means a motor vehicle categorised under any of the classes described in the First Schedule;

“relevant vehicle” means—

- (a) each public service vehicle of a class of public service vehicles used to operate or provide a public service vehicle service as specified in the operator’s licence issued under Chapter 1 of Part III;
- (b) each goods vehicle of a class of goods vehicles used to operate or provide a goods vehicle service as specified in the operator’s licence issued under Chapter 3 of Part III; and
- (c) each tourism vehicle identified in the licence issued under Chapter 2 of Part III;

“railway” means any kind of railway for the public carriage of passengers or goods or both, or any portion thereof, and includes—

- (a) all rails, beams, cables, sidings, or branches worked over for the purposes of, or in connection with, a railway;
- (b) all rolling-stock used for the purposes of traffic;
- (c) in so far as the context allows, a railway under construction by or for any railway company; and
- (d) any guided system or guided system of a class prescribed to be a railway for purposes of this Act,

but does not include—

- (A) the Penang Hill Railway;

(B) any railway used or, in the case of a railway to be constructed, intended to be used, wholly or mainly for the carriage of passengers within any amusement or recreational premises; and

(C) such other railways as may be prescribed;

“Director General” means the Director General for Road Transport appointed under section 3 of the Road Transport Act 1987, and includes a Deputy Director General, Director or Deputy Director;

“conductor” means—

(a) a person authorized under this Act to act as a conductor of a railway; or

(b) a person licensed under the Road Transport Act 1987 to act as a conductor of a public service vehicle;

“Fund” means the Land Public Transport Fund as established under section 247;

“National Physical Planning Council” has the meaning assigned to it in the Town and Country Planning Act 1976 [*Act 172*];

“parking” means the bringing of a motor vehicle to a stationary position and causing it to wait for any purpose other than that of immediately taking up or setting down persons, goods or luggage;

“prescribe” means to prescribe by way of regulations;

“Minister” means the Prime Minister;

“person” includes an individual person, company, partnership, and any other corporate and unincorporate body of persons;

“appointed officer” means any employee of the Commission or any public officer, other than a police officer and road transport officer, appointed by the Commission pursuant to section 215;

“railway official” means any person employed by or on behalf of any railway company that is a licensed operator, to perform any function in connection with a railway;

“road transport officer” means any person appointed to be a road transport officer under the Road Transport Act 1987;

“police officer” includes an extra police officer, a volunteer reserve police officer or an auxiliary police officer appointed under the Police Act 1967 [*Act 344*];

“tourist” has the meaning assigned to it in the Tourism Industry Act 1992 [*Act 482*];

“customer” means any passenger carried on a public service vehicle, tourism vehicle or railway, and includes the hirer of a goods vehicle service;

“driver” means the person for the time being driving a relevant vehicle or railway, as the case may be, and in the case of a stationary relevant vehicle or railway, includes the person for the time being responsible for the driving of the relevant vehicle or railway;

“tourist guide” has the meaning assigned to it in the Tourism Industry Act 1992;

“licensee” means the holder of a licence issued under Chapter 2 of Part III;

“terminal licensee” means the holder of a licence issued under Chapter 2 of Part II;

“owner”—

- (a) in relation to a motor vehicle registered or deemed to be registered under the Road Transport Act 1987, means the registered owner of such vehicle; and
- (b) in relation to any other motor vehicle, means the person in possession of or using or having the use of the motor vehicle;

“land public transport” means the transport on land by means of land public passenger transport and land public freight transport, and includes land public transport services, terminals, facilities, networks, systems, operations and other services associated with such transport or land public transport services;

“land public freight transport” means the carriage of goods on land by means of a goods vehicle or railway;

“land public passenger transport” means the carriage of passengers, including their luggage, on land by means of a public service vehicle, tourism vehicle or railway;

“licensed operator” means—

- (a) a holder of an operator’s licence issued under Chapter 1 of Part III;
- (b) a holder of an operator’s licence issued under Chapter 3 of Part III; or
- (c) a holder of an operator’s licence issued under Part IV;

“tourism enterprise” has the meaning assigned to in the Tourism Industry Act 1992;

“Administrator” has the same meaning as assigned to “Land Administrator” by section 5 of the National Land Code 1965 [Act 56/1965];

“passenger”—

- (a) in relation to a person carried on a public service vehicle, does not include the driver or conductor or any other employee of the licensed operator duly authorized to examine the payment of fares in pursuance of his duties;
- (b) in relation to a tourist carried on a tourism vehicle, does not include the driver or tourist guide;
- (c) in relation to a person carried on a railway, does not include the driver or conductor or any other employee of the licensed operator duly authorized to examine the payment of fares in pursuance of his duties; or
- (d) in relation to a person carried on a goods vehicle, does not include the driver or any attendant required by law to be carried on the vehicle;

“fare stage”, in relation to a route authorized in an operator’s licence for a public service vehicle service, means any division of such route for the purpose of arranging a schedule of fares;

“goods vehicle service” means the carriage of goods for any third party by means of a goods vehicle for hire or reward or in connection with a trade or business;

“tourism vehicle service” means the carriage of tourists by means of a tourism vehicle in consideration of a payment which has no fare stages;

“public service vehicle service” means the carriage of passengers by means of one or more public service vehicles of the same class or different classes, whether for hire or reward or for any other valuable consideration or money’s worth or otherwise;

“railway service” means the carriage of passengers or goods or both by means of a railway;

“land public transport service” means—

- (a) the carriage of passengers by means of land public passenger transport; and
- (b) the carriage of goods by means of land public freight transport;

“tourism vehicle business” means the business of operating or letting out for hire a tourism vehicle for the conveyance of tourists;

“local authority” has the meaning assigned to it in the Local Government Act 1976 [*Act 171*] and the Federal Territory of Putrajaya (Modification of the Local Government Act 1976) Order 2002 [*P.U. (A) 142/2002*];

“appropriate authority” has the meaning assigned to it in section 67 of the Road Transport Act 1987;

“railway premises” means all premises under the control of or occupied or used by a railway company that is a licensed operator;

“National Physical Plan” has the meaning assigned to it in the Town and Country Planning Act 1976;

“structure plan” has the meaning assigned to it in the Town and Country Planning Act 1976;

“railway reserve” means—

- (a) all lands duly reserved, whether before or after the commencement of the Railways Act 1991 [*Act 463*], for the purposes of the Federated Malay States Railways or the Johore State Railway or Keretapi Tanah Melayu under the provisions of section 62 of the National Land Code 1965 or under the corresponding provisions of any previous land law as defined in the National Land Code 1965; and
- (b) all lands deemed to be railway reserves under the provisions of section 16 or 17 of the repealed Railway Ordinance 1948 [*M.U. Ord. 8/1948*];

“railway scheme” means a scheme for the construction of any railway deposited with the Commission pursuant to Part IV;

“area congestion pricing scheme” means a scheme implemented in a designated area, which aims to reduce traffic congestion or related adverse environmental impact, or both, by imposing a prescribed area congestion pricing charge on the users of roads in such area;

“rolling-stock” includes tenders, motors, coaches, trains, wagons, trucks, trolleys, carriages of any kind and locomotive and other kinds of engine used on a railway;

“Commission” means the Suruhanjaya Pengangkutan Awam Darat established under the Suruhanjaya Pengangkutan Awam Darat Act 2010 [*Act 714*];

“company” has the meaning assigned to it in the Companies Act 1965 [*Act 125*];

“railway company” includes any person or persons, whether incorporated or not, who are the owners or lessees of a railway or parties to an agreement for working a railway;

“fare” includes all sums received or receivable and all sums charged or chargeable for the conveyance of passengers;

“freight” includes all sums received or receivable and all sums charged or chargeable for the transport of goods;

“appointed date” means the date on which this Act or parts of this Act come into operation;

“terminals” mean single or multi-modal stations and transport hubs dedicated to land public transport or the parts or portions thereof relating to land public transport;

“Appeal Tribunal” means the Appeal Tribunal established under section 177;

“land public transport laws” means this Act and the Suruhanjaya Pengangkutan Awam Darat Act 2010, and includes any subsidiary legislation made under these laws.

PART II

LAND PUBLIC TRANSPORT POLICIES, PLANNING AND STRATEGIES

Chapter 1

Policy and planning

Function of Commission in relation to policy and planning for land public transport

3. (1) The Commission shall advise the Minister on all matters relating to policy and planning with respect to land public transport.

(2) The Commission shall propose policies and plans, including schemes and programmes in relation to or affecting land public transport, for the approval of the Minister, and develop strategies in line with the approved policies and plans with a view to achieving a safe, reliable, efficient, responsive, accessible, planned, integrated and sustainable land public transport, while ensuring the provision of affordable services for the carriage of passengers and competitive services for the carriage of goods.

(3) Without prejudice to the generality of its obligations under subsection (2), the Commission shall develop, for the approval of the Minister—

- (a) a twenty year national land public transport masterplan containing macro-level policies and plans, including schemes and programmes for land public transport, such as schemes described in paragraph 253(1)(o); and
- (b) a twenty year regional land public transport masterplans containing policies and plans, including schemes and programmes for land public transport, based on the masterplan described in paragraph (a).

(4) The Commission shall, for the purpose of discharging its obligation under subsection (3), develop separate national and regional land public transport masterplans in respect of land public passenger transport and land public freight transport for the approval of the Minister.

(5) The national land public transport masterplan shall be reviewed by the Commission every ten years.

(6) Notwithstanding subsection (5), any document described in subsection (3) shall be reviewed by the Commission at such intervals or at such time as may be directed by the Minister.

Development of policies and plans

4. In developing the policies and plans, including schemes and programmes described in section 3, the Commission shall—

- (a) consult the State Governments;
- (b) consult other Government Entities, where relevant;
- (c) consult the National Physical Planning Council, where relevant;
- (d) secure that its proposals conform generally to the National Physical Plan;
- (e) secure that its proposals conform generally to the state structure plans under the Town and Country Planning Act 1976 for the time being in force, whether or not it has come into effect; and

(f) have regard—

- (i) to national, regional and state policies; and
- (ii) to any information and other considerations that appear to the Commission to be relevant or as directed by the Minister to be taken into account.

Duties of Government Entities

5. It shall be the duty of every Government Entity to—

(a) take cognisance of—

- (i) such policies and plans, including schemes and programmes described in subsection 3(2) which are approved by the Minister and set out in circulars and guidelines issued by the Commission under this Act; and
- (ii) the contents of the masterplans described in subsection 3(3) which are approved by the Minister; and

(b) give due consideration to policies, plans, strategies, initiatives and other recommendations proposed by the Commission in relation to or affecting land public transport, other than those falling within the scope of paragraph (a).

Chapter 2

Licensing of terminals

Licensing of terminals

6. (1) Subject to sections 194 and 195, no person shall operate any terminal unless he holds a licence issued under this section.

(2) An application for a licence under this section shall be made to the Commission in the form and manner as determined by the Commission and shall be accompanied by the prescribed application fee and such information and documents as may be specified by the Commission.

(3) The applicant shall provide to the Commission complete information of his financial standing to prove his ability to maintain and operate an adequate, satisfactory, safe and efficient terminal.

(4) Subject to this Act, the Commission may, on an application for a licence under this section—

- (a) grant the application in full or in part or with such modifications as the Commission thinks fit, and, upon payment of the prescribed fee, issue a licence to the applicant; or
- (b) refuse the application.

(5) Every licence issued under this section shall set out the duration of the licence and the Commission may attach to the licence conditions that include—

- (a) the extent, hours and general level of service at the terminal;
- (b) the maintenance and operation of the terminal and any equipment therein;
- (c) the safety and security of persons using or engaged in any work at the terminal;
- (d) the maximum prescribed fees payable to the terminal licensee by the licensees and licensed operators for the use of the terminal;
- (e) the conditions and use of the terminal by employees, agents, tenants and contractors of the terminal licensee and members of the public; and
- (f) the standards of performance to be complied with by the terminal licensee in the maintenance and operation of the terminal.

(6) The Commission may, at any time, add, cancel, or vary any of the conditions attached to a licence issued under this section.

(7) The issuance of a licence by the Commission under subsection (4) shall not impose any liability on the Commission for any loss or damage occasioned by any act, omission or default of the terminal licensee.

(8) A person who operates a terminal in contravention of subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding one million ringgit or to imprisonment for a term not exceeding five years or to both.

(9) A terminal licensee who fails to comply with any of the conditions attached to the licence under subsection (5) commits an offence and shall, on conviction, be liable to a fine of not less than one thousand ringgit but not more than five hundred thousand ringgit or to imprisonment for a term not exceeding two years or to both.

Renewal of licence

7. (1) Subject to subsections (2) and (3), the Commission may, on an application by the terminal licensee, renew the licence on such conditions as the Commission thinks fit or refuse the application.

(2) An application for the renewal of a licence under subsection (1) shall be made at least ninety days before the date of expiry of the licence and shall be accompanied by the prescribed renewal fee and such documents as may be specified by the Commission.

(3) If the applicant fails to comply with subsection (2) and offers no reason which the Commission thinks reasonable, the Commission may refuse to proceed with, hear or determine such application.

(4) Where no application for renewal of a licence has been submitted, the terminal licensee shall within fourteen days from the date of expiry of the licence return the licence to the Commission.

Application for variation

8. On an application by a terminal licensee for a variation of the licence or the conditions of the licence, the Commission shall have full power in its discretion—

(a) to grant the application in full or in part;

- (b) to refuse the application; or
- (c) to order any variation of the licence or the conditions of the licence, other than the variation specified in the application.

Revocation or suspension of licence

9. (1) The Commission may, by written notice to the terminal licensee and without any compensation, revoke or suspend any licence issued under section 6—

- (a) if any of the provisions of this Act or any of the conditions of the licence has not been complied with;
- (b) if the issuance of the licence was induced by a false representation of fact by or on behalf of the terminal licensee; or
- (c) in the event of the death, incapacity, bankruptcy or, in the case of a company, liquidation, of the terminal licensee or, where a receiver or manager is appointed in relation to the business of operating the terminal by the terminal licensee:

Provided that the Commission—

- (A) in the case of paragraph (a), may in lieu of revocation or suspension of the licence appoint a third party to rectify the non-compliance and recover the costs of such rectification from the terminal licensee;
- (B) in the case of a breach of any of the conditions of the licence under paragraph (a), shall not revoke or suspend the licence unless it is satisfied, after giving the terminal licensee an opportunity of making any representation in writing he may wish to make, that owing to the frequency of the breach, or to the breach having been committed wilfully or the danger to the public involved in the breach, the licence should be revoked or suspended; or
- (C) in the case of a breach of any of the provisions of this Act under paragraph (a), or paragraph (b) or (c), shall not revoke or suspend the licence unless it is satisfied

that, after giving the terminal licensee an opportunity of making any representation in writing he may wish to make, the licence should be revoked or suspended.

(2) Where a licence—

- (a) has been revoked, it shall have no effect from the date of revocation and the terminal licensee shall within fourteen days from the date of revocation of the licence return the licence to the Commission; or
- (b) has been suspended, it shall have no effect during the period of suspension.

Transfer of licence prohibited

10. (1) Subject to subsection (3), a licence issued under section 6 shall be personal to the terminal licensee thereof, and shall not be transferred or assigned.

(2) A terminal licensee who contravenes subsection (1) commits an offence and shall, on conviction, be liable to a fine of not less than one thousand ringgit but not more than ten thousand ringgit or to imprisonment for a term not exceeding one year or to both.

(3) Notwithstanding paragraph 9(1)(c), the Commission may, in the event of the death, incapacity, bankruptcy or, in the case of a company, liquidation, of the terminal licensee or, where a receiver or manager is appointed in relation to the business of operating the terminal of such terminal licensee or, where for any reason the Commission is satisfied that it would be unjust not to do so, authorize the transfer of such licence.

Duty of terminal licensee to keep records, etc.

11. (1) It shall be the duty of a terminal licensee to keep such accounts and records as required by rules made by the Commission under paragraph 253(1)(mm) in relation to the licence issued to him.

(2) A terminal licensee who fails to comply with subsection (1) commits an offence and shall, on conviction, be liable to a fine

of not less than one thousand ringgit but not more than ten thousand ringgit or to imprisonment for a term not exceeding six months or to both.

Duty of terminal licensee to inform Commission

12. (1) It shall be the duty of every terminal licensee, at all times, to inform the Commission immediately of the following matters:

- (a) any proceedings or claims instituted or made against the terminal licensee which might have an adverse effect on his financial condition or on his ability to perform any condition under the licence;
- (b) any reprimands or fines imposed on the terminal licensee by any Government Entity; and
- (c) any change in control of the terminal licensee.

(2) For the purposes of this section, “control” in relation to a terminal licensee, means having the power, directly or indirectly, to direct the management and policy of the terminal licensee.

(3) A terminal licensee who fails to comply with subsection (1) commits an offence and shall, on conviction, be liable to a fine of not less than one thousand ringgit but not more than ten thousand ringgit or to imprisonment for a term not exceeding six months or to both.

Chapter 3

Area congestion pricing schemes, route planning, etc.

Area congestion pricing schemes

13. (1) Notwithstanding anything in any other written law, the Minister may, by order published in the *Gazette*, prescribe the area congestion pricing charge to be paid by users of roads situated within any designated area, provided that an order in respect of any road situated within the jurisdiction of an appropriate

authority described in paragraphs 67(a), (b), (c) and (e) of the Road Transport Act 1987 shall be made with the concurrence of that appropriate authority.

(2) An order under subsection (1) shall specify—

- (a) the parts of the roads in a designated area in respect of which an area congestion pricing charge may be demanded, collected and retained;
- (b) the person authorized to demand and collect, and the person authorized to retain, the area congestion pricing charge, including the duration of such authorization;
- (c) the duties and obligations of the person or persons authorized under paragraph (b);
- (d) the persons and classes of vehicles in respect of which area congestion pricing charge may be demanded, collected and retained;
- (e) the rate or rates of area congestion pricing charge that may be imposed;
- (f) the time and manner of payment of area congestion pricing charge, including the place or point of collection and the time when such moneys are to be paid;
- (g) the persons or classes of vehicles to be exempted from the payment of area congestion pricing charge for such period as may be prescribed in the order, subject to such conditions as are deemed fit to be imposed in connection therewith; and
- (h) any other circumstances or conditions, not falling within this subsection that relate to the demand, collection and retention of area congestion pricing charge.

(3) A person who fails to pay the area congestion pricing charge in the manner specified in the order under subsection (1) or regulations made under this Act commits an offence and shall, on conviction, be liable to a fine not exceeding two thousand ringgit or to imprisonment for a term not exceeding six months or to both.

(4) Where an area congestion pricing charge is prescribed pursuant to this section in respect of any road situated within the

jurisdiction of an appropriate authority described in paragraphs 67(a), (b), (c) and (e) of the Road Transport Act 1987—

- (a) the responsibility of demanding and collecting the proceeds of such area congestion pricing charge is assigned to such appropriate authority;
- (b) such appropriate authority shall pay or cause to be paid the remaining portion of the proceeds of area congestion pricing charge into the Fund in accordance with subsection (5) after accounting for such amounts as described in paragraphs (c) and (d);
- (c) such appropriate authority shall be entitled to such proportion of the proceeds of area congestion pricing charge as may be prescribed and assigned to it by the Minister from time to time; and
- (d) such appropriate authority shall be reimbursed at actual documented cost for necessary incidental expenses incurred, with the prior written consent of the Minister, in connection with the performance of its responsibility under paragraph (a).

(5) The remaining portion of the proceeds of area congestion pricing charge demanded and collected pursuant to an order under this section shall, after accounting for all amounts due under paragraphs (4)(c) and (d) to the appropriate authority, be paid into and form part of the Fund, in the prescribed manner.

(6) For the purposes of this section—

“collection” shall include recovery at law or otherwise of any area congestion pricing charge or portion thereof;

“point of collection” means the point designated in an order under this section as the point at which area congestion pricing charge shall be payable to and collected by the person authorized in the order to demand and collect the area congestion pricing charge.

(7) Notwithstanding any other written law, no Government Entity may exercise its right to impose, demand, collect and retain any area congestion pricing charge or any proceeds thereof under any other written law or otherwise, without the approval of the Minister.

Prohibition or restriction of use of roads to facilitate the movement of goods vehicles

14. (1) Without prejudice to section 13, the Commission may, by order published in the *Gazette*, prohibit or restrict the use of specified roads by prescribed vehicles within specified times to facilitate the movement of goods vehicles, provided that an order in respect of any road situated within the jurisdiction of an appropriate authority shall be made with the concurrence of that appropriate authority.

(2) A person who contravenes an order made under subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding two thousand ringgit or to imprisonment for a term not exceeding six months or to both and, in the case of a second or subsequent conviction, to a fine not exceeding four thousand ringgit or to imprisonment for a term not exceeding twelve months or to both.

Duty to consult Commission in relation to prescribed actions

15. (1) Subject to subsection (2), it shall be the duty of every Government Entity to consult the Commission before undertaking any of the following actions, as may be authorized under any written law for any reason as may be prescribed therein:

- (a) the prohibition or restriction, not being part of any area congestion pricing scheme or any order made under section 13, of any class or description of motor vehicles, or motor vehicles with a certain number of passengers, whether on a permanent basis or for such period of time as may be specified, from using any specified road situated within the jurisdiction of the relevant Government Entity;
- (b) the diversion of any road as a result of road works, drainage or other public or utility works or accidents not falling within paragraph (a);
- (c) regulating the conditions subject to which, and the times at which, articles of exceptionally heavy weight or exceptionally large dimensions may be carried on roads, except in so far as such power is exercised pursuant to paragraph 88(1)(e) of the Road Transport Act 1987;
- (d) the network planning of federal roads and expressways;

- (e) regulating the conditions subject to which, and the times at which, goods may be loaded onto or unloaded from vehicles or vehicles of any particular class or description on roads, except in so far as such power is exercised pursuant to paragraph 88(1)(g) of the Road Transport Act 1987;
- (f) making rules as to the precedence to be observed as between traffic proceeding in the same direction, or in opposite directions, or when crossing, except in so far as such power is exercised pursuant to paragraph 88(1)(h) of the Road Transport Act 1987; or
- (g) such other action which is likely to cause obstruction to roads, as may be prescribed.

(2) Where it is not reasonably expedient or practicable to consult the Commission prior to the taking of any *ad hoc* action described under subsection (1), except any matter under paragraph (1)(d), whether for purposes of safeguarding public safety, maintenance and preservation of law and order or for the prevention or detection of crime, the relevant Government Entity shall inform the Commission of the action as soon as reasonably practicable after such action has been taken.

(3) Where consulted on any matter described under subsection (1), the Commission shall provide its recommendations as soon as practicable and such Government Entity shall, having regard to its responsibility under section 5, give due consideration to such recommendations.

PART III

PUBLIC SERVICE VEHICLES, TOURISM VEHICLES AND GOODS VEHICLES

Chapter 1

Licensing of operators of public service vehicle services

Requirement for operator's licence

16. (1) Subject to sections 194 and 195, no person shall operate or provide a public service vehicle service using a class of public service vehicles unless he holds an operator's licence issued under this Chapter.

(2) For the purposes of this Chapter, a person is deemed to be operating or providing a public service vehicle service if he—

- (a) uses or drives a public service vehicle of a class of public service vehicles himself; or
- (b) employs one or more persons to use or drive a public service vehicle of a class of public service vehicles,

to operate or provide a public service vehicle service, and—

- (A) he owns the said public service vehicle; or
- (B) he is responsible, under any form of arrangement with the owner or lessor of the said public service vehicle to manage, maintain or operate such public service vehicle.

(3) A person intending to operate or provide a public service vehicle service using more than one class of public service vehicles shall apply for a separate operator's licence under this section to operate or provide a public service vehicle service in respect of each such class of public service vehicle.

(4) Subsection (1) does not apply to the use of any public service vehicle or class of public service vehicles as may be prescribed.

(5) Subject to subsection (4), a person, other than a company or corporation, who contravenes subsection (1) commits an offence and shall, on conviction, be liable to a fine of not less than one thousand ringgit but not more than ten thousand ringgit or to imprisonment for a term not exceeding one year or to both.

(6) Subject to subsection (4), a company or corporation which contravenes subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding one hundred thousand ringgit.

Application for operator's licence

17. (1) An application for an operator's licence under this Chapter shall be made to the Commission in the form and manner as determined by the Commission and shall be accompanied by the prescribed application fee.

(2) The applicant shall give to the Commission the following information in relation to the application:

- (a) complete information on the details of the routes which are related to the application and the proposed frequency of the services to be provided;
- (b) a letter of approval from the relevant local authority regarding the usage of stops or terminal facilities in the area of administration of the local authority where the route is located;
- (c) a justification report for the route;
- (d) the class and maximum number of public service vehicles of that class to be operated by the applicant;
- (e) the proposed fares or fares structure and surcharges, if any, to be imposed on passengers travelling on the public service vehicle; and
- (f) any other information as may be determined by the Commission.

(3) The Commission may refuse to register, proceed with or hear or determine an application, and may require that the application be appropriately amended or completed and resubmitted or that a fresh application be submitted in its place if—

- (a) the application form is not duly completed by reason of any omission or misdescription;
- (b) the application form contains any error or alteration;
- (c) the applicant fails to provide the documents or information required under subsection (2) within the timeframe stipulated in the requirement or any extension of time granted by the Commission; or
- (d) the application does not comply with any other prescribed requirements.

Issuance of operator's licence

18. (1) Subject to this Act, the Commission may, on an application for an operator's licence under this Chapter—

- (a) grant the application in full or in part or with such modifications as the Commission thinks fit, and upon

payment of the prescribed fee, issue an operator's licence to the applicant; or

(b) refuse the application.

(2) The issuance of an operator's licence by the Commission under subsection (1) shall not impose any liability on the Commission for any loss or damage occasioned by any act, omission or default of the licensed operator.

Duration of operator's licence

19. An operator's licence issued under this Chapter shall, unless replaced or revoked, continue in force for such period as may be determined by the Commission, provided that such period shall not exceed seven years.

Short term operator's licence

20. (1) Where an application has been made for an operator's licence under this Chapter, the Commission may, if for administrative reasons or on the ground of the urgency of the matter it thinks it is desirable so to do pending the determination of the application, issue to the applicant a short term operator's licence for such period and subject to such conditions as it thinks fit.

(2) A short term operator's licence shall cease to have effect from the date on which the Commission gives its decision on the application, and in no case shall have effect for more than twelve months.

Temporary change of use of public service vehicle

21. Notwithstanding anything contained in this Act, the Commission may, on an application by a licensed operator, authorize for a period not exceeding three months and subject to such conditions as it thinks fit to impose, the licensed operator of a particular class of public service vehicles to use a public service vehicle of any other class.

Conditions which may be attached to operator's licence

22. (1) Subject to this Act, the Commission may attach to an operator's licence issued under this Chapter such conditions as it may think fit, and in particular—

- (a) that the licensed operator shall, in connection with his operator's licence, only use—
 - (i) public service vehicles of the class of public service vehicles as specified in the operator's licence; and
 - (ii) such number of public service vehicles of that class of public service vehicles as may be determined by the Commission, having regard in particular, to such limitations as may be determined by the Minister pursuant to section 33,

to operate or provide the public service vehicle service as specified in the operator's licence; and

- (b) that the licensed operator shall have such duties, rights, obligations or restrictions as may be imposed by the Commission in respect of the public service vehicle service operated or provided by him and facilities, if any, provided by him, including—
 - (i) the extent, hours, frequency and routes or areas to be serviced;
 - (ii) the performance level of services to be provided to passengers;
 - (iii) the conduct of drivers and conductors of the public service vehicle;
 - (iv) the measures to safeguard the safety of passengers and other road users including—
 - (A) the requirement that passengers shall not be taken up or set down except at the points specified in the operator's licence or shall not be taken up or set down between the specified points; and

- (B) the requirement that passengers in excess of a specified number shall not be carried at any one time in each public service vehicle;
- (v) the type of documents to be carried and information to be displayed on each public service vehicle, such as copies of the operator's licence, timetable and fare table, and which shall be liable for inspection;
- (vi) that the licensed operator shall keep and produce on demand for inspection and verification specified accounts, documents and records, other than the documents mentioned in subparagraph (1)(b)(v); and
- (vii) the requirement that each public service vehicle is kept in a designated place while not in use.

(2) The Commission may, at any time in its discretion, add, cancel or vary any of the conditions attached to an operator's licence under this section.

(3) A licensed operator who fails to comply with any of the conditions attached to the operator's licence commits an offence and shall, on conviction, be liable to a fine of not less than one thousand ringgit but not more than five hundred thousand ringgit or to imprisonment for a term not exceeding two years or to both.

Statutory conditions of operator's licence

23. (1) It shall be a condition of every operator's licence issued under this Chapter—

- (a) that the public service vehicle is maintained in a fit and serviceable condition as determined by the Director General;
- (b) that the licensed operator and his employees driving the public service vehicle accord the utmost priority to the safety of passengers and other road users and shall, in particular, ensure that all the provisions of this Act

and all other written laws with respect to the matters described below are duly complied with in relation to the public service vehicle or in connection with the use or operation thereof:

- (i) speed limits imposed in respect of the public service vehicles or classes thereof;
 - (ii) weight laden and unladen and loading of public service vehicles; and
 - (iii) construction, use and equipment of motor vehicles in general and, of public service vehicles in particular, as the case may be; and
- (c) that the duties of a licensed operator under Chapter 4 of this Part are fully complied with.

(2) A licensed operator who fails to comply with any of the conditions attached to the operator's licence under this section commits an offence and shall, on conviction, be liable to a fine of not less than one thousand ringgit but not more than five hundred thousand ringgit or to imprisonment for a term not exceeding two years or to both.

Renewal of operator's licence

24. (1) Subject to subsection (2), any licensed operator under this Chapter, who satisfies the Commission that since the date of issuance of the operator's licence, he has lawfully and continuously provided in a satisfactory and efficient manner a public service vehicle service in accordance with the terms and conditions of the operator's licence, shall on application to the Commission for renewal of the operator's licence, be given preference over all other applications for an operator's licence to carry on such service or business of operating or providing such service that is substantially the same as that which the licensed operator has been operating or providing.

(2) Subject to subsections (3) and (4), the Commission may, on an application by the licensed operator, renew the operator's licence on such conditions as the Commission thinks fit or refuse the application.

(3) An application for the renewal of an operator's licence under subsection (1) shall be made at least ninety days before the date of expiry of the existing operator's licence and shall be accompanied by the prescribed renewal fee.

(4) If the applicant fails to comply with subsection (3) and offers no reason which the Commission thinks reasonable, the Commission may refuse to proceed with, hear or determine such application.

(5) Where no application for renewal of an operator's licence has been submitted, the licensed operator shall within fourteen days from the date of expiry of the operator's licence return the operator's licence to the Commission.

Documents required for renewal of operator's licence

25. (1) An application for renewal of an operator's licence to operate or provide a public service vehicle service shall be accompanied with the following documents:

- (a) an audited financial statement of the applicant; and
- (b) a performance report of the previous year relating to—
 - (i) the total number of passengers carried;
 - (ii) the total number of operation and revenue mileage;
 - (iii) the total actual number of trips operated and scheduled;
 - (iv) the estimated number of public service vehicles that are required to provide efficient service for a particular route; and
 - (v) evidence of compliance with the condition referred to in paragraph 23(1)(a) and such other relevant approvals or licences as may be granted by the relevant authorities as may be specified by the Commission.

(2) Notwithstanding subsection (1), the Commission may require any additional documents to be submitted by the applicant for the renewal of the operator's licence.

Application for variation

26. Subject to this Act, on an application by the licensed operator for a variation of the operator's licence or the conditions of the operator's licence, the Commission shall have full power in its discretion—

- (a) to grant the application in full or in part;
- (b) to refuse the application; or
- (c) to order any variation of the operator's licence or the conditions of the operator's licence other than the variation specified in the application.

Revocation or suspension of operator's licence

27. (1) The Commission may, by written notice to the licensed operator and without any compensation, revoke or suspend an operator's licence issued under this Chapter—

- (a) if any of the provisions of this Act or any of the conditions of the operator's licence has not been complied with;
- (b) if the issuance of the operator's licence was induced by a false representation of fact by or on behalf of the licensed operator;
- (c) in the event of the death, incapacity, bankruptcy or, in the case of a company, liquidation, of the licensed operator or, where a receiver or manager is appointed in relation to the business of operating or providing the public service vehicle service of such licensed operator; or
- (d) if it is satisfied that the public service vehicle used in connection with the operator's licence to operate or provide the public service vehicle service issued under this Chapter has been or is intended to be used for an unlawful purpose or that the original purpose for which the operator's licence was issued no longer exists:

Provided that the Commission—

- (A) in the case of a breach of any of the conditions of the operator's licence under paragraph (a), shall not revoke or suspend the operator's licence unless it is satisfied, after giving the licensed operator an opportunity of making

any representation in writing he may wish to make, that owing to the frequency of the breach, or to the breach having been committed wilfully or the danger to the public involved in the breach, the operator's licence should be revoked or suspended; or

- (B) in the case of a breach of any of the provisions of this Act under paragraph (a), or paragraph (b), (c) or (d), shall not revoke or suspend the operator's licence unless it is satisfied that, after giving the licensed operator an opportunity of making any representation in writing he may wish to make, the operator's licence should be revoked or suspended.

(2) For the purposes of subsection (1), a breach of any of the conditions specified in paragraph 23(1)(a) or (b) shall be deemed to be a breach which constitutes danger to the public.

(3) Where an operator's licence—

- (a) has been revoked, it shall have no effect from the date of revocation and the licensed operator shall within fourteen days from the date of revocation of the operator's licence return the operator's licence to the Commission; or
- (b) has been suspended, it shall have no effect during the period of suspension.

Prohibition in relation to suspended operator's licence

28. (1) A licensed operator whose operator's licence has been suspended under section 27 shall not, during the period of suspension, operate or provide the public service vehicle service authorized by such operator's licence or otherwise use, or cause or permit the use of any public service vehicle authorized to be used under the terms of such operator's licence.

(2) A licensed operator who contravenes subsection (1) commits an offence and shall, on conviction, be liable to a fine of not less than one thousand ringgit but not more than ten thousand ringgit or to imprisonment for a term not exceeding one year or to both.

Power of Commission to replace operator's licence

29. (1) The Commission shall, in the exercise of its discretion, have the power to replace an operator's licence to operate or provide a public service vehicle service using a class of public service vehicles with an operator's licence to operate or provide a public service vehicle service using a different class of public service vehicles, if the Commission is satisfied that there is a need for the carriage of passengers by a class of public service vehicles that is different from the class of public service vehicles specified in the operator's licence issued under this Chapter for the purpose of—

- (a) reorganizing or consolidating the public service vehicle services operated or provided by licensed operators of different classes of public service vehicles; or
- (b) reorganizing or consolidating the public service vehicle services operated or provided by licensed operators of the same class of public service vehicles.

(2) Before replacing an operator's licence under subsection (1), the Commission shall issue a written notice not less than one year before the proposed date of replacement to the licensed operator stating the intention of the Commission to replace the operator's licence.

(3) An operator's licence replacing any operator's licence under subsection (1) shall be effective from the date of replacement.

(4) Upon the coming into effect of the replacement operator's licence, the operator's licence which is replaced under subsection (1) shall be void and shall be surrendered to the Commission within fourteen days from the replacement operator's licence coming into effect.

Other transport interests to be disclosed by applicant

30. (1) Without prejudice to section 17 or 26, any person who applies for an operator's licence or for a variation of an operator's licence or any of the conditions thereof shall disclose or furnish in the application form as determined by the Commission—

- (a) any other licence or operator's licence that has been issued to him under this Act;

- (b) any financial interest whatsoever which he has in the business of any other person who provides services or facilities for land public transport within Peninsular Malaysia; and
- (c) any such interest or right which any other person has in his business and, in the case of an applicant being a company, any right which that other person has to nominate any director of the company.

(2) Where the applicant for an operator's licence under this Chapter fails to disclose the information required under subsection (1), he commits an offence and shall, on conviction, be liable to a fine of not less than one thousand ringgit but not more than ten thousand ringgit or to imprisonment for a term not exceeding six months or to both.

Transfer of operator's licence prohibited

31. (1) Subject to subsection (3), an operator's licence issued under this Chapter shall be personal to the licensed operator thereof, and shall not be transferred or assigned.

(2) A licensed operator who contravenes subsection (1) commits an offence and shall, on conviction, be liable to a fine of not less than one thousand ringgit but not more than ten thousand ringgit or to imprisonment for a term not exceeding one year or to both.

(3) Notwithstanding paragraph 27(1)(c), the Commission may, in the event of the death, incapacity, bankruptcy or, in the case of a company, liquidation, of the licensed operator or, where a receiver or manager is appointed in relation to the business of operating or providing public service vehicle services of such licensed operator or, where for any reason the Commission is satisfied that it would be unjust not to do so, authorize the transfer of such operator's licence.

Reservation of operator's licences

32. (1) Notwithstanding anything contained in this Act, the Yang di-Pertuan Agong may from time to time by order, give directions to the Commission as may be required for the reservation of

operator's licences for Malays and natives in such proportion of the operator's licences to be issued to operators of public service vehicle services under this Chapter as the Yang di-Pertuan Agong may deem reasonable, and the Commission shall comply with such directions.

(2) An operator's licence issued to a Malay or native by the Commission in pursuance of directions given by the Yang di-Pertuan Agong under subsection (1) shall bear an endorsement as follows:

“Granted in pursuance of directions given under subsection 32(1) of the Land Public Transport Act 2010.”.

(3) The endorsement in subsection (2) shall be conclusive evidence that such operator's licence was issued in pursuance of such directions.

(4) The Commission may, in respect of any operator's licence issued in pursuance of directions given under subsection (1), attach to such operator's licence such conditions as it thinks fit in addition to the conditions referred to in section 22.

(5) For the purposes of this section, “Malays” or “natives” shall include a company, an association or a body of persons, whether corporate or unincorporate, a majority part of whose capital is owned by and the management and employees are made up of Malays or natives.

(6) This section shall not apply to licensed operators of public service vehicle services involving the use of any employees buses.

Limitation on number of specified classes of public service vehicles

33. The Minister shall, from time to time as appears to him necessary or desirable and after consultation with the Minister responsible for transport and the State Government or the Minister responsible for the Federal Territory, as the case may be, fix the number of any class of public service vehicles which he considers should be authorized to be used to meet the reasonable needs of persons requiring the use of such vehicles in any particular area.

Classification and numbering of bus routes

34. The Commission may classify and number, in such manner as may be convenient, the routes in respect of which operator's licences to operate express buses, mini buses and stage buses are issued under this Chapter, and may publish a list of the routes so classified and numbered.

Protection of public interest

35. Save as otherwise expressly provided, nothing in this Chapter shall be deemed to confer on the licensed operator any right to the continuance of any benefits arising from the provisions of this Chapter, or from any operator's licence issued or deemed to be issued thereunder or from any of the conditions attached to any such operator's licence.

Chapter 2

Licensing of tourism vehicles

Requirement for licence

36. (1) Subject to sections 194 and 195, no person shall carry out or hold himself out as carrying on a tourism vehicle business except a company which is licensed as a tourism enterprise under the Tourism Industry Act 1992 and which holds a valid licence issued by the Commission under this Chapter in respect of each tourism vehicle used in such tourism vehicle business.

(2) A person may be the holder of two or more licences issued under this Chapter.

(3) Subsection (1) does not apply to the use of any tourism vehicle or class of tourism vehicles as may be prescribed.

(4) Subject to subsection (3), a person who contravenes subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding ten thousand ringgit or to imprisonment for a term not exceeding five years or to both, and in the case of a continuing offence shall, in addition, be liable to a daily fine not exceeding five hundred ringgit for each day during which the offence continues to be committed.

Application for licence

37. (1) An application for a licence under this Chapter shall be made to the Commission in the form and manner as determined by the Commission and shall be accompanied by the prescribed application fee.

(2) Every application under subsection (1) shall be accompanied by such documents or information as may be determined by the Commission and the Commission may, orally or in writing at any time after receiving the application and before it is determined, require the applicant to provide such additional documents or information as may be considered necessary by the Commission for the purposes of determining the suitability of the applicant for the licence.

(3) The Commission may refuse to register, proceed with or hear or determine an application, and may require that the application be appropriately amended or completed and resubmitted or that a fresh application be submitted in its place if—

- (a) the application form is not duly completed by reason of any omission or misdescription;
- (b) the application form contains any error or alteration;
- (c) the applicant fails to provide additional documents or information required under subsection (2) within the timeframe stipulated in the requirement or any extension of time granted by the Commission; or
- (d) the application does not comply with any other prescribed requirements.

Issuance of licence

38. (1) Subject to this Act, the Commission may, upon an application for a licence under this Chapter—

- (a) grant the application in full or in part or with such modifications as the Commission thinks fit, and upon payment of the prescribed fee, issue a licence to the applicant; or
- (b) refuse the application.

(2) The issuance of a licence by the Commission under subsection (1) shall not impose any liability on the Commission for any loss or damage occasioned by any act, omission or default of the licensee.

Duration of licence

39. A licence issued under this Chapter shall, unless replaced or revoked, continue in force for such period as may be determined by the Commission, provided that such period shall not exceed three years.

Short term licence

40. (1) Where an application has been made for a licence under this Chapter, the Commission may, if for administrative reasons or on the ground of the urgency of the matter it thinks it is desirable so to do pending the determination of the application, issue to the applicant a short term licence for such period and subject to such conditions as it thinks fit.

(2) A short term licence shall cease to have effect from the date on which the Commission gives its decision on the application, and in no case shall have effect for more than six months.

Conditions which may be attached to licence

41. (1) Subject to this Act, the Commission may attach to a licence issued under this Chapter such conditions as it may think fit, and in particular—

- (a) that the licensee shall, in connection with its licence, only use, cause or permit the use of the tourism vehicle specified in the licence; and
- (b) that the licensee shall have such duties, rights, obligations or restrictions as may be imposed by the Commission in respect of the use of the tourism vehicle including—
 - (i) the conduct of the drivers of the tourism vehicle;

- (ii) the measures to safeguard the safety of passengers and other road users, including the maximum number of passengers which can be carried on the tourism vehicle;
- (iii) the type of documents and information as specified by the Commission to be carried or displayed on each tourism vehicle, and which may be liable for inspection; and
- (iv) the requirement that the licensee shall keep and produce on demand for inspection and verification specified accounts, documents and records, other than the documents mentioned in subparagraph (1)(b)(iii).

(2) The Commission may, at any time in its discretion, add, cancel or vary any of the conditions attached to a licence under this section.

(3) A licensee who fails to comply with any of the conditions attached to the licence under this section commits an offence and shall, on conviction, be liable to a fine not exceeding five hundred thousand ringgit or to imprisonment for a term not exceeding two years or to both.

Statutory conditions of licence

42. (1) It shall be a condition of every licence issued under this Chapter—

- (a) that the tourism vehicle is maintained in a fit and serviceable condition as determined by the Director General;
- (b) that the licensee and its employees driving the tourism vehicle accord the utmost priority to the safety of passengers, tourist guides on board the tourism vehicle and other road users and shall, in particular, ensure that all the provisions of this Act and all other written laws with respect to the matters described below are duly complied with in relation to the tourism vehicle or in connection with the use or operation thereof:
 - (i) speed limits imposed in respect of tourism vehicles or classes thereof, as applicable;

- (ii) weight laden and unladen of tourism vehicles;
and
 - (iii) construction, use and equipment of motor vehicles
in general and, of tourism vehicles in particular,
as the case may be; and
- (c) that the duties of a licensee under Chapter 4 of this Part
are fully complied with.

(2) A licensee who fails to comply with any of the conditions attached to the licence under this section commits an offence and shall, on conviction, be liable to a fine not exceeding five hundred thousand ringgit or to imprisonment for a term not exceeding two years or to both.

Renewal of licence

43. (1) Subject to subsection (2), any licensee under this Chapter who satisfies the Commission that since the date of issuance of the licence, it has lawfully and continuously provided in a satisfactory and efficient manner a tourism vehicle service in accordance with the terms and conditions of the licence, shall on application to the Commission for renewal of the licence, be given preference over all other applications for a licence to carry on such service or business of providing such service that is substantially the same as that which the licensee has been providing.

(2) Subject to subsections (3) and (4), the Commission may, on application of the licensee, renew the licence on such conditions as the Commission thinks fit or refuse the application.

(3) An application for renewal of a licence under subsection (1) shall be made at least ninety days before the date of expiry of the existing licence and shall be accompanied by the prescribed renewal fee and such documents as may be specified by the Commission.

(4) If the applicant fails to comply with subsection (3) and offers no reason which the Commission thinks reasonable, the Commission may refuse to proceed with, hear or determine such application.

(5) Where no application for renewal of a licence has been submitted, the licensee shall within fourteen days from the date of expiry of the licence return the licence to the Commission.

Application for variation

44. Subject to this Act, on an application by the licensee for a variation of the licence or the conditions of the licence, the Commission shall have full power in its discretion—

- (a) to grant the application in full or in part;
- (b) to refuse the application; or
- (c) to order any variation of the licence or conditions of the licence other than the variation specified in the application.

Revocation or suspension of licence

45. (1) The Commission may, by written notice to the licensee and without any compensation, revoke or suspend a licence issued under this Chapter—

- (a) if any of the provisions of this Act or any of the conditions of the licence has not been complied with;
- (b) if the issuance of the licence was induced by a false representation of fact by or on behalf of the licensee;
- (c) in the event of liquidation of the licensee or, where a receiver or manager is appointed in relation to the business of providing a tourism vehicle service of such licensee; or
- (d) if it is satisfied that the tourism vehicle in respect of which a licence has been issued under this Chapter has been or is intended to be used for an unlawful purpose or that the original purpose for which the licence was issued no longer exists:

Provided that the Commission—

- (A) in the case of a breach of any of the conditions of the licence under paragraph (a), shall not revoke or suspend the licence unless it is satisfied, after giving the licensee an opportunity of making any representation in writing it may wish to make, that owing to the frequency of the breach, or to the breach having been committed wilfully or the danger to the public involved in the breach, the licence should be revoked or suspended; or

(B) in the case of a breach of any of the provisions of this Act under paragraph (a), or paragraph (b), (c) or (d), shall not revoke or suspend the licence unless it is satisfied that, after giving the licensee an opportunity of making any representation in writing it may wish to make, the licence should be revoked or suspended.

(2) For the purposes of subsection (1), a breach of any of the conditions specified in paragraph 42(1)(a) or (b) shall be deemed to be a breach which constitutes danger to the public.

(3) Notwithstanding subsection (1), in the event that the licensee ceases to be licensed as a tourism enterprise under the Tourism Industry Act 1992, the licence issued under this Chapter shall be deemed to be revoked with effect from the date the licensee ceases to be licensed as a tourism enterprise.

(4) It shall be the duty of each licensee to inform the Commission, not later than two days after the occurrence of the event specified in subsection (3), of the occurrence of that event and the effective date of that event, and return the licence issued under this Chapter to the Commission in accordance with subsection (5).

(5) Where a licence—

(a) has been revoked, it shall have no effect from the date of revocation and the licensee shall within fourteen days from the date of revocation of the licence return the licence to the Commission; or

(b) has been suspended, it shall have no effect during the period of suspension.

(6) A licensee who contravenes subsection (4) commits an offence and shall, on conviction, be liable to a fine not exceeding five thousand ringgit or to imprisonment for a term not exceeding one year or to both.

Prohibition in relation to suspended licence

46. (1) A licensee whose licence has been suspended under section 45 shall not, during the period of suspension, use, or cause or permit the use of the tourism vehicle to which the licence relates.

(2) A licensee who contravenes subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding five thousand ringgit or to imprisonment for a term not exceeding one year or to both.

Prohibition of use of unlicensed tourism vehicle

47. (1) No person shall use a motor vehicle or cause or permit a motor vehicle to be used as a tourism vehicle unless there is in force in respect of such vehicle a licence issued under this Chapter authorizing such use, or otherwise than in accordance with such licence and any conditions attached thereto.

(2) A person who contravenes subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding fifty thousand ringgit or to imprisonment for a term not exceeding five years or to both.

Other transport interests to be disclosed by applicant

48. (1) Without prejudice to section 37 or 44, any person who applies for a licence or for a variation of a licence or any of the conditions thereof shall disclose or furnish in the application form as determined by the Commission—

- (a) any other licence or operator's licence that has been issued to it under this Act;
- (b) any financial interest whatsoever which it has in the business of any other person who provides services or facilities for land public transport within Peninsular Malaysia; and
- (c) any such interest or right which any other person has in its business and any right which that other person has to nominate any director of the company of the applicant.

(2) Where the applicant for a licence under this Chapter fails to disclose the information required under subsection (1), he commits an offence and shall, on conviction, be liable to a fine not exceeding five thousand ringgit or to imprisonment for a term not exceeding one year or to both.

Transfer of licence prohibited

49. (1) Subject to subsection (3), a licence issued under this Chapter shall be personal to the licensee thereof, and shall not be transferred or assigned.

(2) A licensee who contravenes subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding five thousand ringgit or to imprisonment for a term not exceeding one year or to both.

(3) Notwithstanding paragraph 45(1)(c), the Commission may, in the event of liquidation of the licensee or, where a receiver or manager is appointed in relation to the business of providing a tourism vehicle service of such licensee or, where for any reason the Commission is satisfied that it would be unjust not to do so, authorize the transfer of such licence.

Protection of public interest

50. Save as otherwise expressly provided, nothing in this Chapter shall be deemed to confer on the licensee any right to the continuance of any benefits arising from this Chapter, or from any licence issued or deemed to be issued thereunder or from any of the conditions attached to any such licence.

Chapter 3

Licensing of operators of goods vehicle services

Requirement for operator's licence

51. (1) Subject to sections 194 and 195, no person shall operate or provide a goods vehicle service using a class of goods vehicles for the carriage of goods—

(a) for hire or reward; or

(b) for or in connection with any trade or business,

unless he holds an operator's licence issued under this Chapter.

(2) For the purposes of this Chapter, a person is deemed to be operating or providing a goods vehicle service if he—

- (a) uses or drives a goods vehicle of a class of goods vehicles himself; or
- (b) employs one or more persons to use or drive a goods vehicle of a class of goods vehicles,

to operate or provide a goods vehicle service, and—

- (A) he owns the said goods vehicle; or
- (B) he is responsible, under any form of arrangement with the owner or lessor of the said goods vehicle to manage, maintain or operate such goods vehicle.

(3) An operator's licence issued under this Chapter shall only entitle the holder of the operator's licence to operate or use one class of goods vehicle.

(4) A person may hold one or more operator's licences issued under this Chapter.

(5) Subsection (1) does not apply to the use of any goods vehicle or class of goods vehicles as may be prescribed.

(6) A person, other than a company or corporation, who contravenes subsection (1) commits an offence and shall, on conviction, be liable to a fine of not less than two thousand ringgit but not more than ten thousand ringgit or to imprisonment for a term not exceeding one year or to both.

(7) A company or corporation which contravenes subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding two hundred thousand ringgit.

Application for operator's licence

52. (1) An application for an operator's licence under this Chapter shall be made to the Commission in the form and manner as determined by the Commission and shall be accompanied by the prescribed application fee.

(2) The applicant shall give to the Commission the following information in relation to the application:

- (a) complete information on the details of the routes which are related to the application;
- (b) a letter of approval from the relevant local authority regarding the usage of stands or terminal facilities in the area of administration of the local authority where the route is located;
- (c) a justification report for the route;
- (d) the class and maximum number of goods vehicles of that class to be operated by the applicant;
- (e) the proposed rates or rates structure and surcharges, if any, to be imposed for the carriage of goods by the goods vehicle; and
- (f) any other information as may be determined by the Commission.

(3) The Commission may refuse to register, proceed with or hear or determine an application, and may require that the application be appropriately amended or completed and resubmitted or that a fresh application be submitted in its place if—

- (a) the application form is not duly completed by reason of any omission or misdescription;
- (b) the application form contains any error or alteration;
- (c) the applicant fails to provide the documents or information required under subsection (2) within the timeframe stipulated in the requirement or any extension of time granted by the Commission; or
- (d) the application does not comply with any other prescribed requirements.

Issuance of operator's licence

53. (1) Subject to this Act, the Commission may, upon an application for an operator's licence under this Chapter—

- (a) grant the application in full or in part or with such modifications as the Commission thinks fit, and upon payment of the prescribed fee, issue an operator's licence to the applicant; or
- (b) refuse the application.

(2) The issuance of an operator's licence by the Commission under subsection (1) shall not impose any liability on the Commission for any loss or damage occasioned by any act, omission or default of the licensed operator.

Duration of operator's licence

54. An operator's licence issued under this Chapter shall, unless replaced or revoked, continue in force for such period as may be determined by the Commission, provided that such period shall not exceed seven years.

Short term operator's licence

55. (1) Where an application has been made for an operator's licence under this Chapter, the Commission may, if for administrative reasons or on the ground of the urgency of the matter it thinks it is desirable so to do pending the determination of the application, issue to the applicant a short term operator's licence for such period and subject to such conditions as it thinks fit.

(2) A short term operator's licence shall cease to have effect from the date on which the Commission gives its decision on the application, and in no case shall have effect for more than twelve months.

Temporary change of use of goods vehicle

56. Notwithstanding anything contained in this Act, the Commission may, on an application by a licensed operator, authorize for a period not exceeding three months and subject to such conditions as it thinks fit to impose, the licensed operator of a particular class of goods vehicles to use a goods vehicle of any other class.

Conditions which may be attached to operator's licence

57. (1) Subject to this Act, the Commission may attach to an operator's licence issued under this Chapter such conditions as it may think fit, and in particular—

- (a) that the licensed operator shall, in connection with his operator's licence, only use the goods vehicles of the

class of goods vehicles specified in the operator's licence to operate or provide the goods vehicle service specified in the operator's licence; and

- (b) that the licensed operator shall have such duties, rights, obligations or restrictions as may be imposed by the Commission, including—
- (i) that the goods vehicle shall or shall not be used in specified areas or between specified places or during specified times;
 - (ii) that the goods vehicle shall or shall not be operated in areas other than the areas for which the operator's licence was issued;
 - (iii) that certain classes or description of goods only shall or shall not be carried;
 - (iv) that goods shall or shall not be carried for specified persons;
 - (v) that the labour charges for the loading and unloading of the goods vehicle and the charges for the demurrage of the goods vehicle shall be as determined by the Commission;
 - (vi) that the laden weight of any goods vehicle shall not exceed a specified maximum;
 - (vii) that dangerous goods or goods which give off an offensive smell shall be carried in a specified manner and that specified precautions shall be taken in relation to the carriage of such goods;
 - (viii) the conduct of drivers and attendants of the goods vehicle;
 - (ix) whether there is, and if so, the maximum number of passengers that may be carried on each goods vehicle;
 - (x) the measures to safeguard the safety of passengers on the goods vehicles and other road users including, the manner and timing of loading and unloading of goods on roads;

- (xi) the type of documents to be carried and information to be displayed on each goods vehicle, such as copies of the operator's licence, timetable and fare table, and which shall be liable for inspection;
- (xii) that the licensed operator shall keep and produce on demand for inspection and verification specified accounts, documents and records, other than the documents mentioned in subparagraph (1)(b)(xi); and
- (xiii) the requirement that each goods vehicle is kept in a designated place while not in use.

(2) The Commission may, at any time in its discretion, add, cancel or vary any of the conditions attached to an operator's licence under this section.

(3) A licensed operator who fails to comply with any of the conditions attached to the operator's licence under this section commits an offence and shall, on conviction, be liable to a fine of not less than one thousand ringgit but not more than five hundred thousand ringgit or to imprisonment for a term not exceeding two years or to both.

(4) No person shall use a goods vehicle or cause or permit a goods vehicle to be used for the carriage of passengers, unless there is in force an operator's licence issued under this Chapter authorizing such use and it shall be in accordance with any conditions attached thereto.

(5) A person who contravenes subsection (4) commits an offence and shall, on conviction, be liable to a fine of not less than one thousand ringgit but not more than five hundred thousand ringgit or to imprisonment for a term not exceeding one year or to both.

Statutory conditions of operator's licence

58. (1) It shall be a condition of every operator's licence issued under this Chapter—

- (a) that the goods vehicle is maintained in a fit and serviceable condition as determined by the Director General;

- (b) that the licensed operator and his employee driving the goods vehicle accord the utmost priority to the safety of passengers on board the goods vehicle, if applicable, and other road users and shall, in particular, ensure that all the provisions of this Act and all other written laws with respect to the matters described below are duly complied with in relation to the goods vehicle or in connection with the use or operation thereof:
 - (i) speed limits imposed in respect of the goods vehicles or classes thereof;
 - (ii) weight laden and unladen and, loading and unloading, of the goods vehicles; and
 - (iii) construction, use and equipment of motor vehicles in general and, of goods vehicles in particular, as the case may be; and

- (c) that the duties of a licensed operator under Chapter 4 of this Part are fully complied with.

(2) A licensed operator who fails to comply with any of the conditions attached to the operator's licence under this section commits an offence and shall, on conviction, be liable to a fine of not less than one thousand ringgit but not more than five hundred thousand ringgit or to imprisonment for a term not exceeding two years or to both.

Renewal of operator's licence

59. (1) Subject to subsection (2), any licensed operator under this Chapter, who satisfies the Commission that since the date of issuance of the operator's licence, he has lawfully and continuously provided in a satisfactory and efficient manner a goods vehicle service in accordance with the terms and conditions of the operator's licence, shall on application to the Commission for renewal of the operator's licence, be given preference over all other applications for an operator's licence to carry on such service or business of operating or providing such service that is substantially the same as that which the licensed operator has been operating or providing.

(2) Subject to subsections (3) and (4), the Commission may, on an application by the licensed operator, renew the operator's licence on such conditions as the Commission thinks fit or refuse the application.

(3) An application for renewal of an operator's licence under subsection (1) shall be made at least ninety days before the date of expiry of the existing operator's licence and shall be accompanied by the prescribed renewal fee.

(4) If the applicant fails to comply with subsection (3) and offers no reason which the Commission thinks reasonable, the Commission may refuse to proceed with, hear or determine such application.

(5) Where no application for renewal of an operator's licence has been submitted, the licensed operator shall within fourteen days from the date of expiry of the operator's licence return the operator's licence to the Commission.

Documents required for renewal of operator's licence

60. (1) An application for renewal of an operator's licence shall be accompanied with the following documents:

- (a) an audited financial statement of the applicant; and
- (b) a performance report of the previous year relating to—
 - (i) the total volume of goods carried;
 - (ii) the total number of goods vehicle in operation and freight revenue;
 - (iii) the total actual number of trips operated and scheduled;
 - (iv) the estimated number of goods vehicles that are required to provide efficient service for a particular route; and
 - (v) evidence of compliance with the condition referred to in paragraph 58(1)(a) and such other relevant approvals or licences as may be granted by the relevant authorities as may be specified by the Commission.

(2) Notwithstanding subsection (1), the Commission may require any additional documents to be submitted by the applicant for the renewal of the operator's licence.

Application for variation

61. Subject to this Act, on an application by the licensed operator for a variation of the operator's licence or the conditions of the operator's licence, the Commission shall have full power in its discretion—

- (a) to grant the application in full or in part;
- (b) to refuse the application; or
- (c) to order any variation of the operator's licence or the conditions of the operator's licence other than the variation specified in the application.

Revocation or suspension of operator's licence

62. (1) The Commission may, by written notice to the licensed operator and without any compensation, revoke or suspend an operator's licence issued under this Chapter—

- (a) if any of the provisions of this Act or any of the conditions of the operator's licence has not been complied with;
- (b) if the issuance of the operator's licence was induced by a false representation of fact by or on behalf of the licensed operator;
- (c) in the event of the death, incapacity, bankruptcy or, in the case of a company, liquidation, of the licensed operator or, where a receiver or manager is appointed in relation to the business of operating or providing the goods vehicle service of such licensed operator; or
- (d) if it is satisfied that the goods vehicle used in connection with the operator's licence issued under this Chapter has been or is intended to be used for an unlawful purpose or that the original purpose for which the operator's licence was issued no longer exists:

Provided that the Commission—

- (A) in the case of a breach of any of the conditions of the operator's licence under paragraph (a), shall not revoke or suspend the operator's licence unless it is satisfied, after giving the licensed operator an opportunity of making any representation in writing he may wish to make, that owing to the frequency of the breach, or to the breach having been committed wilfully or the danger to the public involved in the breach, the operator's licence should be revoked or suspended; or
- (B) in the case of a breach of any of the provisions of this Act under paragraph (a), or paragraph (b), (c) or (d), shall not revoke or suspend the operator's licence unless it is satisfied that, after giving the licensed operator an opportunity of making any representation in writing he may wish to make, the operator's licence should be revoked or suspended.

(2) For the purposes of subsection (1), a breach of any of the conditions specified in paragraph 58(1)(a) or (b) shall be deemed to be a breach which constitutes danger to the public.

(3) Where an operator's licence—

- (a) has been revoked, it shall have no effect from the date of revocation and the licensed operator shall within fourteen days from the date of revocation of the operator's licence return the operator's licence to the Commission; or
- (b) has been suspended, it shall have no effect during the period of suspension.

Prohibition in relation to suspended operator's licence

63. (1) A licensed operator whose operator's licence has been suspended under section 62 shall not, during the period of suspension, operate or provide the goods vehicle service authorized by such operator's licence or otherwise use, or cause or permit the use of any goods vehicle authorized to be used under the terms of such operator's licence.

(2) A licensed operator who contravenes subsection (1) commits an offence and shall, on conviction, be liable to a fine of not less than one thousand ringgit but not more than ten thousand ringgit or to imprisonment for a term not exceeding one year or to both.

Power of Commission to replace operator's licence

64. (1) The Commission shall, in the exercise of its discretion, have the power to replace an operator's licence to operate or provide a goods vehicle service using a class of goods vehicles with an operator's licence to operate or provide a goods vehicle service using a different class of goods vehicles, if the Commission is satisfied that there is a need for the carriage of goods by a class of goods vehicles that is different from the class of goods vehicles authorized to be used under the operator's licence issued under this Chapter for the purpose of—

- (a) reorganizing or consolidating the goods vehicle services operated or provided by the licensed operators of different classes of goods vehicles; or
- (b) reorganizing or consolidating the goods vehicle services operated or provided by the licensed operators of the same class of goods vehicles.

(2) Before replacing an operator's licence under subsection (1), the Commission shall issue a written notice not less than one year before the proposed date of replacement to the licensed operator stating the intention of the Commission to replace the operator's licence.

(3) An operator's licence replacing any operator's licence under subsection (1) shall be effective from the date of replacement.

(4) Upon the coming into effect of the replacement operator's licence, the operator's licence which is replaced under subsection (1) shall be void and shall be surrendered to the Commission within fourteen days from the replacement operator's licence taking effect.

Other transport interests to be disclosed by applicant

65. (1) Without prejudice to section 52 or 61, any person who applies for an operator's licence or for a variation of an operator's licence or any of the conditions thereof shall disclose or furnish in the application form as determined by the Commission—

- (a) any other licence or operator's licence that has been issued to him under this Act;
- (b) any financial interest whatsoever which he has in the business of any other person who provides services or facilities for land public transport within Peninsular Malaysia; and
- (c) any such interest or right which any other person has in his business and, in the case of an applicant being a company, any right which that other person has to nominate any director of the company.

(2) Where the applicant for an operator's licence under this Chapter fails to disclose the information required under subsection (1), he commits an offence and shall, on conviction, be liable to a fine of not less than one thousand ringgit but not more than ten thousand ringgit or to imprisonment for a term not exceeding six months or to both.

Transfer of operator's licence prohibited

66. (1) Subject to subsection (3), an operator's licence issued under this Chapter shall be personal to the licensed operator thereof, and shall not be transferred or assigned.

(2) A licensed operator who contravenes subsection (1) commits an offence and shall, on conviction, be liable to a fine of not less than one thousand ringgit but not more than ten thousand ringgit or to imprisonment for a term not exceeding one year or to both.

(3) Notwithstanding paragraph 62(1)(c), the Commission may, in the event of the death, incapacity, bankruptcy or, in the case of a company, liquidation, of the licensed operator or, where a receiver or manager is appointed in relation to the business of

operating or providing the goods vehicle service of such licensed operator or, where for any reason the Commission is satisfied that it would be unjust not to do so, authorize the transfer of the operator's licence.

Reservation of operator's licences

67. (1) Notwithstanding anything contained in this Act, the Yang di-Pertuan Agong may, from time to time by order, give directions to the Commission as may be required for the reservation of operator's licences for Malays and natives in such proportion of the operator's licences to be issued under this Chapter to persons carrying on as their principal business, a business of carriage of goods for any third party for hire or reward by means of a goods vehicle as the Yang di-Pertuan Agong may deem reasonable, and the Commission shall comply with such directions.

(2) An operator's licence issued to a Malay or native by the Commission in pursuance of directions given by the Yang di-Pertuan Agong under subsection (1) shall bear an endorsement as follows:

“Granted in pursuance of directions given under subsection 67(1) of the Land Public Transport Act 2010.”

(3) The endorsement in subsection (2) shall be conclusive evidence that such operator's licence was issued in pursuance of such directions.

(4) The Commission may, in respect of any operator's licence issued in pursuance of directions given under subsection (1), attach to such operator's licence such conditions as it thinks fit in addition to the conditions referred to in section 57.

(5) For the purposes of this section, “Malays” or “natives” shall include a company, an association or a body of persons, whether corporate or unincorporate, a majority part of whose capital is owned by and the management and employees are made up of Malays or natives.

Protection of public interest

68. Save as otherwise expressly provided, nothing in this Chapter shall be deemed to confer on the licensed operator any right to the continuance of any benefits arising from the provisions of this Chapter, or from any operator's licence issued or deemed to be issued thereunder or from any of the conditions attached to any such operator's licence.

Chapter 4

*Duties of licensee and licensed operator***Standards of performance for licensed operator**

69. (1) It shall be the duty of a licensed operator under this Part to operate or provide public service vehicle services or goods vehicle services, as the case may be, authorized in his operator's licence to meet the relevant standards of performance for such public service vehicle service or goods vehicle service provided by him.

(2) The Commission may make rules on the standards of performance in connection with the operation or provision of public service vehicle services or goods vehicle services, as the case may be, as in its opinion ought to be achieved by a licensed operator.

(3) Without prejudice to the generality of subsection (2), rules made under that subsection may—

- (a) make provisions for procedures to be followed for the enforcement of the standards of performance; and
- (b) provide circumstances in which a licensed operator may be exempted from complying with the standards of performance.

Application by licensed operator for approval to participate in business or agreement

70. (1) If a licensed operator operating or providing a public service vehicle service or goods vehicle service is a company,

partnership or firm that intends to participate in any business or agreement that would cause—

- (a) any change in the equity structure; or
- (b) any change in the members of the board of directors of the company, or the partners of the partnership or firm, as the case may be,

the licensed operator shall obtain the approval of the Commission before participating in the business or agreement.

(2) The Commission may, upon receipt of the application under subsection (1), approve or reject the application and, if the Commission approves the application, it may impose any condition as it thinks fit.

(3) A licensed operator operating or providing a public service vehicle service or goods vehicle service, as the case may be, who fails to comply with this section commits an offence and shall, on conviction, be liable to a fine of not less than one thousand ringgit but not more than ten thousand ringgit or to imprisonment for a term not exceeding one year or to both.

(4) For the purpose of this section—

“goods vehicle service” means a goods vehicle service provided by any person carrying on as his principal business, a business of carriage of goods for any third party for hire or reward by means of a goods vehicle;

“public service vehicle service” does not include a public service vehicle service involving the use of any employees buses.

Duty of licensee and licensed operator to keep records, etc.

71. (1) It shall be the duty of every licensee and licensed operator under this Part to keep such—

- (a) accounts and records as required by rules made by the Commission under paragraph 253(1)(mm) in relation to the licence or operator’s licence issued to it or him; and
- (b) records in relation to the use of relevant vehicles as may be required by rules made by the Commission under paragraph 253(1)(mm).

(2) A licensee who fails to comply with subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding five thousand ringgit or to imprisonment for a term not exceeding one year or to both.

(3) A licensed operator who fails to comply with subsection (1) commits an offence and shall, on conviction, be liable to a fine of not less than one thousand ringgit but not more than ten thousand ringgit or to imprisonment for a term not exceeding six months or to both.

Duty of licensee and licensed operator to inform Commission

72. (1) It shall be the duty of every licensee and licensed operator under this Part, at all times, to inform the Commission immediately of the following matters:

- (a) any proceedings or claims instituted or made against the licensee or licensed operator which might have an adverse effect on its or his financial condition or on its or his ability to perform any condition under the licence or operator's licence; and
- (b) any reprimands or fines imposed on the licensee or licensed operator by any Government Entity.

(2) It shall further be the duty of every licensee and licensed operator under this Part to supply when so requested by the Commission, within a period of time as shall be determined by the Commission, particulars—

- (a) of any agreement or arrangement affecting in any material respect the provision of facilities for the conveyance of tourists, carriage of goods or transport of passengers, as the case may be, made by the licensee or licensed operator with any other person by whom such facilities are provided, whether within or outside Peninsular Malaysia;
- (b) of any financial interest whatsoever which any other person has in the business of the licensee or licensed operator, and in the case of the licensee or licensed operator being a company, of any right which that other person has to nominate any director of the company; and

- (c) of any interest or right which the licensee or licensed operator has in the business of any other person who provides facilities for the conveyance of tourists, carriage of goods or transport of passengers, as the case may be, within Peninsular Malaysia.

(3) It shall be the duty of every licensee and licensed operator, at all times, to inform the Commission immediately of the following matters:

- (a) any change in the control of the licensee or licensed operator; and
- (b) any industrial dispute between the licensee or licensed operator and its or his employees.

(4) For the purposes of subsection (3)—

“control”, in relation to a licensee or licensed operator, means having the power, directly or indirectly, to direct the management and policy of the licensee or licensed operator;

“goods vehicle service” means a goods vehicle service provided by any person carrying on as his principal business, a business of carriage of goods for any third party for hire or reward by means of a goods vehicle;

“public service vehicle service” does not include a public service vehicle service involving the use of any employees buses.

(5) A licensee who fails to comply with subsection (1), (2) or (3) or all of these subsections commits an offence and shall, on conviction, be liable to a fine not exceeding five thousand ringgit or to imprisonment for a term not exceeding one year or to both.

(6) A licensed operator who fails to comply with subsection (1), (2) or (3) or all of these subsections commits an offence and shall, on conviction, be liable to a fine of not less than one thousand ringgit but not more than ten thousand ringgit or to imprisonment for a term not exceeding six months or to both.

Alteration of relevant vehicle

73. (1) A licensee and licensed operator, and its or his employees, shall not make any alteration, other than by way of replacement of parts, to the structure or fixed equipment of a relevant vehicle without the approval of the Director General.

(2) A licensee or its employee who fails to comply with subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding five thousand ringgit or to imprisonment for a term not exceeding one year or to both.

(3) A licensed operator or his employee who fails to comply with subsection (1) commits an offence and shall, on conviction, be liable to a fine of not less than one thousand ringgit but not more than ten thousand ringgit or to imprisonment for a term not exceeding six months or to both.

Submission of reports, accounts, etc.

74. (1) Without prejudice to section 207, every licensee and licensed operator shall, within three months after the end of each financial year of the licensee and licensed operator or such longer period as the Commission may allow, furnish the Commission with all such information relating to any matter which—

(a) is connected with the carrying out by the licensee or licensed operator of their respective licensed activities;
or

(b) is material to the carrying out by the Commission of any of its powers under this Act,

as the Commission may require or as may be set out in rules made by the Commission under paragraph 253(1)(n).

(2) Without prejudice to subsection (1), a licensee and licensed operator shall, subject to any exemption as may be set out in rules made by the Commission under paragraph 253(1)(n), furnish to the Commission—

(a) a report of its or his operations during that financial year containing such information as is necessary to enable the Commission to assess the level of the licensee's or

licensed operator's compliance with performance and regulatory standards as well as satisfactory evidence of compliance with the conditions of the licence or operator's licence;

- (b) its or his audited annual balance sheet, profit and loss account, together with any notice thereon, and the reports of its or his auditor and, where applicable, its directors;
- (c) a return of all accidents involving the relevant vehicle, whether attended with death or personal injury or not, occurring during the period as specified by the Commission; and
- (d) a return tabulating such information as may be required by the Commission in respect of offences committed by the licensee or licensed operator and its or his respective employees, involving the relevant vehicle during the period specified by the Commission including—
 - (i) all convictions in respect of each such offence; and
 - (ii) all offences compounded by such persons and the composition sums paid in respect of such offences.

(3) Without prejudice to subsection (1), the Commission may require a licensee and licensed operator to submit to it in respect of any period specified by the Commission—

- (a) any statistical information relating to the operations of the licensee or licensed operator;
- (b) its or his passenger forecast during such period and in such form as may be determined by the Commission; and
- (c) future development plans relating to any service or facility which the licensee or licensed operator is bound to provide under the conditions of the licence or operator's licence.

(4) The information required under this section shall be furnished in such form and manner, at such interval and shall be accompanied or supplemented by such explanations and supporting documents as the Commission may require or as may be set out in rules made by the Commission under paragraph 253(1)(n).

(5) The information which a licensee or licensed operator is required to furnish to the Commission under this section may include information which, although the information is not in the possession of the licensee or licensed operator, or would not otherwise come into the possession of the licensee or licensed operator, is information that the licensee or licensed operator can reasonably be required to obtain or compile.

(6) The Commission may require a licensee or licensed operator to appoint, at the licensee's or licensed operator's cost, an independent expert with qualifications as may be specified by the Commission to conduct an audit of or review any of the information which the licensee or licensed operator is required to furnish to the Commission under this section, but such appointment and report of such an independent expert shall not relieve or derogate in any way the licensee's or licensed operator's liability under this section.

(7) The Commission or its appointed officers may at any time, as it deems necessary, conduct, at the Commission's cost, an audit on the business and activities of the licensee or licensed operator, and the licensee or licensed operator shall take all necessary steps, at its own cost, to assist and facilitate the Commission or its appointed officers in conducting the audit, including to grant them access to its or his premises and documentation and information.

(8) A licensee or licensed operator who—

- (a) fails to furnish any information as may be required by the Commission under this section; or
- (b) refuses to assist or facilitate, or obstructs, the Commission or its appointed officers in conducting an audit under this section,

commits an offence and shall, on conviction, be liable to a fine not exceeding two hundred thousand ringgit or to imprisonment for a term not exceeding two years or to both.

Chapter 5

Fares and freight

Fares

75. (1) Subject to subsections (2), (3) and (9), no person may demand, collect and retain such fares in relation to a public service

vehicle service in excess of such rates of fares as prescribed under this Act.

(2) The Minister may, on the recommendation of the Commission, exempt any person from the payment of any fares in relation to a public service vehicle service, subject to such conditions as he thinks fit.

(3) Nothing in this section shall prevent a licensed operator of a public service vehicle service from exempting any person, other than persons exempted by the Minister under subsection (2), from paying any fares for any period, if an application for such exemption is made by the licensed operator and such application is approved by the Commission in writing, subject to such conditions as it may deem fit.

(4) A person who demands, collects or retains or attempts to demand, collect or retain fares in contravention of subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding fifty thousand ringgit or to imprisonment for a term not exceeding three years or to both.

(5) Every person travelling on a public service vehicle shall, when required to do so, show proof of payment of the fare to a licensed operator of a public service vehicle service or his employee duly authorized to examine the payment of fares.

(6) For the purposes of this section, “proof of payment of the fare” shall include tickets and electronic cards issued for the purpose of payment of fares or any other satisfactory evidence of payment of fares as may be set out in rules made by the Commission under paragraph 253(1)(aa).

(7) A person who refuses, when lawfully demanded, to pay the appropriate fare for the distance which he has travelled, commits an offence and shall, on conviction, be liable to a fine not exceeding one thousand ringgit or to imprisonment for a term not exceeding three months or to both.

(8) If any dispute arises as to the fare calculated according to distance, the dispute may be referred—

- (a) in the first instance, to the officer of the licensed operator of a public service vehicle service duly authorized to determine the dispute;

- (b) upon appeal from the decision of the duly authorized officer of the licensed operator of a public service vehicle service under paragraph (a), to the officer of the Commission duly authorized to determine the dispute, whose decision shall be final,

and any certificate issued by the duly authorized officer of the licensed operator of a public service vehicle service or the duly authorized officer of the Commission, shall be admissible in evidence.

(9) This section shall not apply to a hire and drive car for tourists or any public service vehicle used for the carriage of passengers without hire or reward.

Freight

76. (1) Subject to subsections (2) and (3), no person may demand, collect and retain such freight in connection with a goods vehicle service in excess of such rates of freight as prescribed under this Act.

(2) The Minister may, on the recommendation of the Commission, exempt any person from the payment of any freight in relation to a goods vehicle service, subject to such terms and conditions as he thinks fit.

(3) Nothing in this section shall prevent a licensed operator of a goods vehicle service from exempting any person, other than persons exempted by the Minister under subsection (2), from paying any freight for any period, if an application for such exemption is made by the licensed operator of a goods vehicle service and such application is approved by the Commission in writing, subject to such conditions as it may deem fit.

(4) A person who demands, collects or retains or attempts to demand, collect or retain any freight in contravention of subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding one hundred thousand ringgit or to imprisonment for a term not exceeding five years or to both.

Chapter 6

Miscellaneous: specific enforcement provisions

Stopping, detaining and inspecting relevant vehicles

77. (1) If any police officer in uniform, road transport officer in uniform or appointed officer in uniform has reasonable cause to believe that the provisions of this Act or any conditions of a licence or operator's licence issued under this Act have not been complied with in respect of any relevant vehicle, he may require such vehicle to be stopped and may require the driver of such vehicle to drive it to some other place, and the vehicle may, if necessary, be detained by any police officer not below the rank of Sergeant or any police officer in charge of a police station for the purpose of inspection by a police officer, road transport officer or appointed officer to ascertain whether the provisions of this Act or the conditions of such licence or operator's licence have been complied with.

(2) No relevant vehicle shall be detained under this section for a period exceeding forty-eight hours.

(3) If on inspection of such relevant vehicle, it is found that the licensee or licensed operator has contravened the provisions of this Act or any conditions of a licence or operator's licence issued under this Act, the Commission may order such vehicle to be discontinued from use or to be used on such conditions as the Commission considers necessary to be in compliance with this Act or any conditions of the licence or operator's licence issued under this Act.

(4) A person who in contravention of subsection (1) fails to stop his relevant vehicle commits an offence and shall, on conviction, be liable to a fine not exceeding five thousand ringgit or to imprisonment for a term not exceeding six months or to both.

(5) A person who continues to use such relevant vehicle in contravention of subsection (3) commits an offence and shall, on conviction, be liable to a fine not exceeding one thousand ringgit or to imprisonment for a term not exceeding three years or to both.

Power to set up roadblocks

78. (1) Notwithstanding anything contained in any other written law, any police officer in uniform authorized in writing by a senior police officer of the rank of Inspector and above, including a probationary Inspector, any road transport officer in uniform authorized in writing by the Director for Road Transport or any appointed officer in uniform authorized in writing by the Commission, may, if he considers it necessary so to do for the enforcement of this Act, erect or place or cause to be erected or placed any barrier on or across any road in such manner as he may think fit; and any such officer may take all reasonable measures to prevent any relevant vehicle from being driven past any such barrier, including any measure to pursue and stop any such vehicle where, having regard to the attendant circumstances at a given moment of time, it is apparent that if such measure is not taken the escape of such vehicle to avoid detection or otherwise is likely to be imminent.

(2) A person who fails to comply with any reasonable signal of a police officer in uniform, road transport officer in uniform or appointed officer in uniform requiring such person or vehicle to stop before reaching any such barrier or attempts to cross or knock any such barrier, commits an offence and shall, on conviction, be liable to a fine not exceeding two thousand ringgit or to imprisonment for a term not exceeding six months or to both.

(3) No officer shall be liable for any loss, injury or damage caused to any person or property consequent upon him taking the steps as mentioned in subsection (1).

Power to seize documents, etc.

79. (1) If any police officer, road transport officer or appointed officer has reasonable cause to believe that a document carried on a relevant vehicle, or any licence, operator's licence, record or other document produced to him pursuant to this Act by the driver or person in charge of a relevant vehicle is a document, a licence, an operator's licence or a record in relation to which an offence under this Act has been committed, he may seize or detach the document, licence, operator's licence or record from the relevant vehicle.

(2) If the licence or operator's licence seized under subsection (1) is a licence or operator's licence which has been suspended under this Act, the licence or operator's licence shall be returned to the licensee or licensed operator, respectively, upon the expiry of the period of suspension.

(3) For the purposes of this section—

“document” includes a badge;

“seize” includes the power to detach from the relevant vehicle.

Power to seize relevant vehicle for certain offences

80. (1) Any relevant vehicle in respect of which there has been or there is reasonable cause to suspect that there has been committed any offence against section 16, 28, 36, 46, 51 or 63, subsection 22(3), 41(3) or 57(3), or paragraph 23(1)(b), 42(1)(b) or 58(1)(b) may be seized by any police officer not below the rank of Inspector, road transport officer or appointed officer, at any place.

(2) When a relevant vehicle has been seized under subsection (1), a police officer not below the rank of Inspector, a road transport officer or an appointed officer, may, at his discretion, temporarily return such vehicle to the owner of the same, on security being furnished to the satisfaction of such officer that the vehicle shall be surrendered to him on demand.

(3) An order for the forfeiture or for the release of any relevant vehicle seized under subsection (1) shall be made by the court before which the prosecution with regard thereto has been held.

(4) An order for the forfeiture of a relevant vehicle under subsection (3) shall be made if it is proved to the satisfaction of the court that an offence against any of the provisions referred to under subsection (1) has been committed and that the vehicle was the subject matter of the offence, notwithstanding that no person may have been convicted of such an offence.

(5) If there is no prosecution with regard to any relevant vehicle seized under subsection (1), such vehicle shall be released at the expiration of one calendar month from the date of seizure unless it has sooner been released.

Power to seize relevant vehicle to stop continuance of offences, etc.

81. (1) When any person is found or is reasonably believed to be using a relevant vehicle in contravention of this Act or any order, prohibition or restriction made thereunder, or in contravention of the terms of the licence or operator's licence for such relevant vehicle, any police officer, any road transport officer authorized in writing in that behalf by the Director General or any appointed officer authorized in writing in that behalf by the Commission may, whenever it appears that such relevant vehicle or its driver cannot be sufficiently identified or that such action is necessary to cause a discontinuance of the offence, take or cause to be taken or require the person in charge of the relevant vehicle to take such relevant vehicle to a place of safety, there to be kept until released by order of a Magistrate, Chief Police Officer, Director for Road Transport or Commission, provided and subject to subsection (3), such relevant vehicle shall not be detained longer than is necessary to ascertain the identity of the driver or to secure the discontinuance of the offence, and if any person refuses or neglects to comply with any such requirement, he commits an offence and shall be liable in the case of a first conviction, to a fine not exceeding two thousand ringgit or to imprisonment for a term not exceeding six months and, in the case of a second or subsequent conviction, to a fine not exceeding four thousand ringgit or to imprisonment for a term not exceeding twelve months or to both.

(2) An unauthorized person removing or causing to be removed such relevant vehicle from the place of safety commits an offence and shall be liable in the case of a first conviction, to a fine not exceeding two thousand ringgit or to imprisonment for a term not exceeding six months and, in the case of a second or subsequent conviction, to a fine not exceeding four thousand ringgit or to imprisonment for a term not exceeding twelve months or to both.

(3) Any relevant vehicle which has been removed in accordance with subsection (1), may be detained in some suitable place and there to remain at the risk of the owner until any fees as may be prescribed for such removal and detention are paid.

(4) When any relevant vehicle is detained under this section, the officer detaining the same shall with all reasonable despatch, give notice in writing of such detention to the owner of the relevant vehicle if the name and address of such owner is known to him, and if such relevant vehicle is not claimed by its owner within three months from the date of its detention, that officer may, after giving one month's notice in the *Gazette* of his intention so to do, sell by public auction or otherwise dispose of such relevant vehicle and its load (if any), provided that no such notice need be given in the case of any load of a perishable nature.

(5) The proceeds, if any, from the sale or disposal of the relevant vehicle and its load under subsection (4) shall be applied in payment of any fees which may be due in respect of the licence or operator's licence for such relevant vehicle and of any charges incurred in carrying out this section, and the surplus, if any, shall be paid to the owner of the relevant vehicle or if not claimed by such person within twelve months after the date of such sale or disposal, shall be forfeited to the Federal Government.

Determination of relevant vehicle's weight

82. (1) It shall be lawful for any police officer authorized in writing in that behalf by the Chief Police Officer, any road transport officer authorized in writing in that behalf by the Director General or any appointed officer authorized in writing in that behalf by the Commission to require the person in charge of any relevant vehicle to allow the relevant vehicle to be weighed by such officer, either laden or unladen, and for the weight transmitted to the road by any part of the relevant vehicle in contact with the road to be tested, and for that purpose may require the driver of such vehicle to immediately drive it to some other place to be weighed.

(2) Upon request by the person in charge of the relevant vehicle, the police officer authorized in writing in that behalf by the Chief Police Officer, the road transport officer authorized in writing in that behalf by the Director General or the appointed

officer authorized in writing in that behalf by the Commission shall, after the completion of the weighing of such vehicle, issue a duplicate or copy of a certificate in respect of the weighing to the person.

(3) A person in charge of any relevant vehicle who refuses or fails to comply with the requirement under subsection (1), or removes its load or any part of it before the relevant vehicle is duly weighed, commits an offence and shall be liable in the case of a first conviction, to a fine not exceeding one thousand ringgit or to imprisonment for a term not exceeding three months and, in the case of a second or subsequent conviction, to a fine not exceeding one thousand ringgit or to imprisonment for a term not exceeding six months or to both.

(4) It shall not be lawful for any police officer authorized in writing in that behalf by the Chief Police Officer, any road transport officer authorized in writing in that behalf by the Director General or any appointed officer authorized in writing in that behalf by the Commission to require the person in charge of the relevant vehicle to unload the relevant vehicle for the purpose of having it weighed unladen.

PART IV

RAILWAYS

Chapter 1

Railway scheme

Railway scheme

83. (1) No railway shall be constructed without the approval of the Minister, acting on the recommendation of the Commission.

(2) Any person intending to construct a railway shall submit a written application to and deposit with the Commission a railway scheme, which shall contain the following information:

- (a) the type and system of the proposed railway, including the proposed type or types and quantity of rolling-stock to be used on the railway, the proposed fare collection system and whether the railway will be used for the carriage of passengers or goods or both;

- (b) the proposed routes and terminal points of the proposed railway system;
- (c) the proposed location of terminals, associated buildings, workshops, depots and yards;
- (d) the safety aspects of the proposed railway system, including the signalling systems and communications systems;
- (e) the proposed structure for rates as may be applicable and other proposed conditions of carriage;
- (f) the proposed integration with other existing or proposed railways;
- (g) the scheduled completion and proposed date of opening of the railway;
- (h) the proposed licensed operator of the railway to be constructed, if different from the person intending to construct the railway;
- (i) the description of proposed related, peripheral or ancillary activities to be undertaken in connection with the provision of railway services;
- (j) the proposed universal accessibility in all relevant parts of the railway to cater to the needs of disabled persons; and
- (k) such other matters as may be prescribed that will enable the Minister to evaluate the railway scheme.

(3) Every railway scheme deposited under subsection (2) shall be accompanied with a map showing the proposed routes for the railway.

(4) The Commission may require the applicant to submit such further or additional information as the Commission deems necessary with reference to any information contained in the railway scheme, and such further or additional information shall be submitted within such period and in such manner as the Commission may require.

(5) The Commission shall, within any such period as set out in rules made by the Commission under paragraph 253(1)(nn), submit a written recommendation to the Minister on the application.

(6) The written recommendation of the Commission shall specify—

- (a) the reasons for its recommendation; and
- (b) any conditions which the applicant should be subject to if the Commission recommends to the Minister to grant the approval.

(7) A person who contravenes subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding five hundred thousand ringgit or to imprisonment for a term not exceeding three years or to both.

Approval of railway scheme and deposit of plans, sections, etc.

84. (1) The Minister may, after having due regard to the recommendation of the Commission under section 83, reject or grant conditional approval to a railway scheme.

(2) Where the Minister grants conditional approval to the railway scheme under subsection (1), the applicant shall deposit in the office of the Commission for public inspection—

- (a) plans and sections on a scale as specified by the Commission or as set out in rules made by the Commission under paragraph 253(1)(oo) showing the lines and levels of the proposed railway and also—
 - (i) any intended alteration in the water level of any canal or in the level or rate of inclination of any road or railway which will be crossed by the proposed railway;
 - (ii) any intended diversion, widening or narrowing of any road, navigable river, canal or railway;
 - (iii) any intended laying of any part of the proposed railway along any road; and
 - (iv) any intended crossing of the tracks of the proposed railway over any road, navigable river, canal or railway; and

(b) a book of reference containing the names of the proprietors and lessees of the lands which may be required for the purposes of the proposed railway.

(3) The Commission may require the applicant to submit such further or additional information as the Commission deems necessary in respect of the plans and sections and book of reference referred to in subsection (2).

(4) The applicant shall give notice of the deposit of such plans and sections and book of reference by advertisement in at least three successive issues of at least two national newspapers, one of which shall be in the national language, calling on all persons having any objection to the plans and sections and book of reference to send in a statement of their objections in writing to the Commission within three months from the date of the last notice in the newspapers.

(5) At the expiration of the period of three months, the Commission shall present the plans and sections and book of reference referred to in subsection (2) together with any objections thereto and its recommendations to the Minister for final approval.

(6) The Minister may, after considering the plans and sections and book of reference and any objections thereto and having due regard to the recommendations of the Commission—

(a) give final approval to or reject the railway scheme; or

(b) where he considers that the plans and sections should be amended, direct the applicant to reconsider such plans and sections and report to the Commission within such period as the Commission may require.

(7) In the case where paragraph (6)(b) applies, the Minister may, after considering the amendments made to the plans and sections and having due regard to the objections made under subsection (4) and the recommendations of the Commission, give final approval to or reject the railway scheme.

(8) The plans and sections, if approved by the Minister, whether under paragraph (6)(a) or subsection (7), shall be deemed to be deposited plans referred to in this Act.

(9) The Minister may, in approving any railway scheme, impose any requirement or condition as it considers appropriate, having due regard to the recommendations of the Commission.

(10) The decision of the Minister to grant or not to grant the approval under this section shall be communicated to the applicant by the Commission by written notice as soon as practicable.

(11) The written notice by the Commission under subsection (10) shall specify—

- (a) in the case where the approval is granted, the fact of such grant and the requirements or conditions imposed under subsection (9); and
- (b) in the case of a refusal to grant the approval, the fact of such refusal and the reasons for the refusal.

(12) A person who contravenes any requirement or condition imposed under subsection (9) commits an offence and shall, on conviction, be liable to a fine not exceeding five hundred thousand ringgit or to imprisonment for a term not exceeding three years or to both.

Chapter 2

Prescribed modification, change or extension of approved railway schemes

Prescribed modification, change or extension of approved railway schemes

85. (1) No person may undertake any prescribed modification, change or extension of a railway scheme approved in accordance with section 84—

- (a) without the approval of the Minister, acting on the recommendation of the Commission; and
- (b) save in accordance with the requirements and procedures set out in subsection (2) and such regulations as may be made under this Act for the purposes of this section.

(2) Any person intending to undertake any prescribed modification, change or extension of an approved railway scheme shall submit a written application to and deposit with the Commission such information and documents, including plans, as may be requested by the Commission and, within such period and in such manner as the Commission may require, in order to enable the Minister to evaluate such application.

(3) A person who contravenes subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding five hundred thousand ringgit or to imprisonment for a term not exceeding three years or to both.

Approval of prescribed modification, change or extension of approved railway schemes and deposit of plans, information and other documents

86. (1) The Minister may, after having due regard to the recommendation of the Commission, reject or grant conditional approval in respect of an application made under section 85.

(2) Where the Minister grants conditional approval in respect of the application under subsection (1), the applicant shall deposit in the office of the Commission for public inspection such documents as may be specified by the Commission.

(3) The Commission shall provide its recommendations on the application under subsection (1) to the Minister and for this purpose subsections 84(4) and (5) shall apply *mutatis mutandis*.

(4) The Minister may, after considering the plans and sections and book of reference and any other documents as specified by the Commission, and any objections thereto and having due regard to the recommendations of the Commission—

- (a) give final approval to or reject the application under subsection (1); or
- (b) where he considers that the plans and sections should be amended, direct the applicant to reconsider such plans and sections and report to the Commission within such period as the Commission may require.

(5) In the case where paragraph (4)(b) applies, the Minister may, after considering the amendments made to the plans and sections and having due regard to the objections made thereto and the recommendations of the Commission, give final approval to or reject the application under subsection (1).

(6) The plans and sections, if approved by the Minister, whether under paragraph (4)(a) or subsection (5), shall be deemed to be deposited plans referred to in this Act.

(7) The Minister may, in approving any application under subsection (1), impose any requirement or condition as he considers appropriate, having due regard to the recommendations of the Commission.

(8) The decision of the Minister to grant or not to grant the approval under this section shall be communicated to the applicant by the Commission by written notice as soon as practicable.

(9) The written notice by the Commission under subsection (8) shall specify—

- (a) in the case where the approval is granted, the fact of such grant and the requirements or conditions imposed under subsection (7); and
- (b) in the case of a refusal to grant the approval, the fact of such refusal and the reasons for the refusal.

(10) A person who contravenes any requirement or condition imposed under subsection (7) commits an offence and shall, on conviction, be liable to a fine not exceeding five hundred thousand ringgit or to imprisonment for a term not exceeding three years or to both.

Chapter 3

Construction and works

Railway to be constructed according to approved plans

87. (1) Any railway constructed under this Act shall be made and maintained according to the lines and levels shown on the deposited plans with all proper bridges, viaducts, stations, sidings, approaches, junctions, roads, buildings, yards, works and conveniences connected therewith and incidental thereto.

(2) A railway route may deviate from the line of railway shown on the deposited plans, but no such deviation shall extend beyond the limits of deviation shown on the plans.

Private land may be acquired for railway

88. (1) Such of the lands as are required for the purpose of constructing a railway and shown on the plans and sections and mentioned in the book of reference deposited under paragraph 84(2)(b) and if applicable, section 86, shall be deemed to be lands required for a public purpose within the meaning of the Land Acquisition Act 1960 [Act 486].

(2) Proceedings under the Land Acquisition Act 1960 shall be taken separately in respect of each land shown on the plans and sections and mentioned in the book of reference.

(3) Nothing in this section shall prevent the acquisition of lands for the purpose of constructing a railway by agreement between the railway company and the proprietors of such lands.

Power of railway company to execute all necessary works

89. (1) Subject to this Act, whenever it is necessary so to do, a railway company may, for the purpose of constructing a railway or the accommodation or other works connected therewith—

(a) make or construct in, upon, across, under or over any land or river, such temporary works or structures, including roads, bridges, rails, ways, conduits and drains, as the railway company thinks proper; and

(b) alter temporarily the course of any roads, streets or ways as the railway company thinks proper.

(2) In exercising the powers conferred by subsection (1), the railway company shall be subject to any direction that may be given by the Commission.

(3) A railway company shall, before exercising the powers conferred by subsection (1), give notice to the proprietor or occupier of the land, and simultaneously provide a copy of the notice to the Commission, of its intention to enter the land.

(4) The notice mentioned in subsection (3) shall state as fully and accurately as possible the nature and extent of the acts intended to be done.

(5) The Commission may determine the form of the notice mentioned in subsection (3) and the manner in which such notice may be served on a proprietor or occupier of the land.

Power of Commission in case of accident

90. (1) The Commission may, in the case of any accident happening or being apprehended to any cutting, embankment or other works under the control of a railway company, authorize the railway company to enter upon any land adjoining its railway for the purpose of carrying out repairs or preventing an accident and to do all such works as are necessary for that purpose.

(2) Notwithstanding subsection (1), a railway company may, in cases of necessity, enter upon any land for the purpose of carrying out repairs or preventing an accident without having the prior authorization from the Commission, but in such a case the railway company shall, within twenty-four hours after such entry, make a report to the Commission specifying the nature of the accident or apprehended accident and of the works necessary to be done.

(3) If after considering the report under subsection (2), the Commission is of the opinion that there is no danger or apprehended danger to the public, the railway company shall immediately cease work on such lands, if such works are still being carried out.

Payment of compensation

91. (1) In exercising the powers under sections 89 and 90, a railway company shall cause as little damage as possible to the lands and adequate compensation shall be paid for any damage caused by the exercise of such powers.

(2) Any person claiming compensation from a railway company may lodge his claim with the Administrator who shall forward such claim to the railway company.

(3) Where there is a dispute as to the amount of compensation, the Administrator shall determine the amount, as far as may be, in accordance with the procedures prescribed by the law relating to the acquisition of land for public purposes in force in the State concerned.

(4) Nothing in this section shall prevent the settling by agreement of the amount of compensation to be paid in respect of lands damaged or injuriously affected by the exercise of the powers conferred by this section.

Accommodation works

92. (1) Every railway company shall, subject to subsections (3) and (4), construct and maintain for the accommodation of the proprietors and occupiers of the lands adjoining any railway—

(a) such and so many convenient crossings, bridges, arches, culverts and passages over, under or by the sides of or leading to or from the railway, as are in the opinion of the Commission necessary for the purpose of making good any interruptions caused to the use of the lands by the construction of the railway;

(b) all necessary arches, tunnels, culverts, drains, water-courses or other passages over, under or by the sides of the railway of such dimensions as may, in the opinion of the Commission, be sufficient at all times to convey water from or to the lands adjoining or lying near or by the railway as freely as before the construction of the railway or as nearly so as may be.

(2) Subject to this Act, the works as specified in paragraphs (1)(a) and (b) shall be made during or immediately after the laying out or formation of the railway over the lands traversed by it, and in such manner as to cause as little damage, injury or inconvenience as possible to persons interested in the lands or affected by the works, as the case may be; and if there is damage or injury to the lands the railway company shall pay adequate compensation to the persons interested therein.

(3) A railway company shall not be required—

(a) to make any accommodation works in such a manner as would prevent or obstruct the working or use of a railway; or

- (b) to make any accommodation works with respect to which the proprietors and occupiers of the land have agreed to receive and have been paid compensation in consideration of their not requiring the works to be made.

(4) Where a railway company has provided a suitable crossing for a road or stream, and the road or stream is afterwards diverted by the act or neglect of the person having control over such road or stream, the railway company shall not be required to provide any other crossing for the road or stream.

Additional works

93. If—

- (a) a proprietor or occupier of any lands adjoining a railway considers that the accommodation works made under section 92 are insufficient for the commodious use of the land; or
- (b) any Government Entity desires to construct a road or other works across, over or under a railway,

the proprietor or occupier of the land, or Government Entity may, at his or its own expense, cause to be made such further accommodation works as the proprietor or occupier of the land, or Government Entity considers necessary and if agreed to by the railway company or, in the case of a difference of opinion between the proprietor or occupier of the land, or Government Entity and the railway company, such further accommodation works as authorized by the Commission.

Fences, boundary marks or screens

94. (1) The Commission may, within a time to be specified in the requisition or within such further time as it may specify, require a railway company—

- (a) to provide or renew, as the case may be, fences or boundary marks for its railway and any road constructed in connection therewith; or

- (b) to provide or renew, as the case may be, any works in the nature of a screen near to or adjoining the side of any road constructed before the making of the railway for the purpose of preventing danger to the public using the road.

(2) A railway company which fails to comply with any requisition made under this section commits an offence and shall, on conviction, be liable to a fine not exceeding one thousand ringgit or to imprisonment for a term not exceeding three months or to both.

Graded crossings

95. Where a railway company has constructed a railway track across an existing road on the level, the Commission may, if it appears to the Commission that it is necessary for public safety and convenience, at any time, require the railway company, within such time as it thinks fit—

- (a) to carry the road either under or over the railway track by means of a bridge or arch with convenient ascents and descents and other convenient approaches instead of crossing the road on the level; or
- (b) to execute such other works as in the circumstances of the case appear to the Commission to be best adapted for removing or diminishing the danger arising from the level crossing and for meeting the convenience of the public.

Road crossings

96. (1) Wherever a railway company has constructed a railway track across an existing road on the level (such crossing not being an “occupation crossing” within the meaning of section 98), the railway company shall cause good and efficient gates or barriers to be erected and maintained at the point where the railway track crosses the road, and shall employ proper persons to open and shut such gates or barriers, where such gates or barriers shall be kept closed against the road when rolling-stock is crossing the road.

(2) The Commission may, at any time, declare that subsection (1) shall not apply to such crossings as are specified in the declaration, and thereupon the railway company shall be relieved of the obligations imposed by subsection (1) in respect of the said crossings.

(3) Where any such declaration has been made under subsection (2), the railway company shall erect warning boards alongside the road and whistle-signals alongside the railway track at suitable distances from such level crossing, and the driver of every engine or other motive vehicle shall sound the whistle of his engine or other motive vehicle in accordance with such signals before the engine or other motive vehicle crosses the road.

(4) The railway company shall not be liable for any damage caused to any person or property by the passage of any engine, other motive vehicle or any other rolling-stock attached to it across the road at any crossing specified in a declaration under subsection (2), unless it is proved that the driver of the engine, other motive vehicle or rolling-stock did not sound the whistle of his engine, other motive vehicle or rolling-stock in accordance with the signals.

(5) Where a Government Entity constructs a road across an existing railway track, the Government Entity responsible for the maintenance of such road shall be liable to pay to the railway company the cost of the construction of any gate or barrier erected by the railway company at the point where the road crosses the railway track and an annual rent for the maintenance thereof.

Private crossings

97. (1) A railway company may, at its discretion, on a request made by any person, construct and open private crossings at any place on a railway track, and may impose conditions regarding the use of the private crossing.

(2) The cost of the construction of a private crossing and an annual rent for the maintenance of the private crossing shall be paid by the person for whom such crossing has been constructed.

(3) The railway company may, in the event of failure by the person for whom the private crossing has been constructed to comply with the conditions imposed, or if it is expedient so to do in the interests of the railway, close any private crossing.

(4) The Commission may make rules under paragraph 253(1) (*pp*) in respect of the construction, opening and closing and conditions of use of private crossings.

Occupation crossings

98. (1) The Minister may, at any time on the recommendation of the Commission, by notification in the *Gazette* declare any road or path which a railway track crosses to be an “occupation crossing”.

(2) When a declaration has been made under subsection (1), the railway company shall provide at that occupation crossing, gates or barriers across the road or path, which—

- (a) shall not be capable of closing across the railway track; and
- (b) shall be kept locked when not in use, where the keys of the gates or barriers shall be kept by a railway official.

(3) Notwithstanding subsection (2), duplicates of the keys of the gates or barriers of any occupation crossing may be entrusted by the railway official to any person having frequent occasion to use such occupation crossing, and such keys shall be retained and used by that person for such period and subject to such conditions as the railway company may determine.

(4) The railway company may, from time to time, define the hours suitable for the opening of the gates and barriers of any occupation crossing, and the gates or barriers shall only be opened by the railway official with whom the keys of such gates or barriers are kept at the times so determined by the railway company.

(5) A person, not being a person to whom the keys of the gates or barriers are entrusted under subsection (3), who intends to use an occupation crossing outside the hours defined under subsection (4), shall give to the railway official with whom the keys of the gates or barriers are kept, notice of his intention to do so.

Removal of trees dangerous to or obstructing the working of railway

99. (1) Where in the opinion of the Commission there is at any time danger or suspected danger that any tree standing on land, other than the railway land, may—

- (a) fall on to a railway, or on the route of any telegraph, telephone, signal, electric light or electric power wire the working of which is wholly or partially controlled by a railway company; or
- (b) obstruct, interfere with, or cause damage to the construction or proper working of a railway or of any such telegraph, telephone, signal, electric light or electric power wire or to any post, other structure or fitting supporting the same or appurtenant thereto,

the railway company may cause the tree to be cut down or dealt with in such other manner as may, in the opinion of the Commission, avert the danger or remove the obstruction, as the case may be.

(2) Where a tree obstructs or interferes with the view of any fixed signal, a railway company may cause the tree to be cut down or dealt with in such other manner as will remove the obstruction or interference, as the case may be.

(3) When the tree referred to in subsections (1) and (2) was in existence before the railway was constructed, or the telegraph, telephone, signal, electric light or electric power wire was laid, or the post, structure or fitting was erected or installed, or the signal was fixed, adequate compensation shall be paid by the railway company to the proprietor or occupier of the land where the tree is on.

(4) For the purposes of this section, “tree” includes the undergrowth.

Notice of felling or clearing of trees or jungle adjacent to railway

100. (1) The proprietor or occupier of any lands shall, before felling or clearing any tree or jungle adjacent to a railway, give seven days’ prior written notice to the railway company of his

intention to do so and shall take all reasonable precautions for the protection of the railway or any telegraph or telephone post erected thereon.

(2) Where any damage is caused to the railway or any telegraph or telephone post erected thereon, the railway company may, in default of an agreement, recover compensation from the proprietor or occupier of the land by action at law.

Chapter 4

Licence to operate railway and opening of railway

Application for operator's licence

101. (1) Subject to sections 194 and 195, no person shall operate any railway unless he holds an operator's licence issued under this Chapter.

(2) An application for an operator's licence under this section shall be made to the Commission in the form and manner as determined by the Commission and shall be accompanied by the prescribed application fee and such information and documents as may be specified by the Commission.

(3) The Commission shall, within such period as set out in rules made by the Commission under paragraph 253(1)(nn), submit a written recommendation to the Minister on the application.

(4) The written recommendation of the Commission shall specify—

(a) the reasons for its recommendation; and

(b) any conditions which the applicant should be subject to if the Commission recommends to the Minister to issue the operator's licence.

(5) The Minister may after having due regard to the recommendations of the Commission—

(a) approve the application and issue an operator's licence to the applicant upon payment of the prescribed fee; or

(b) refuse the application.

(6) Notwithstanding subsection (5), where a railway scheme has been approved in accordance with this Part, the railway company which submitted the railway scheme shall, subject to any condition or requirement imposed by the Minister on such approval, be deemed to be a qualified and suitable applicant for the purpose of operating the railway approved under the railway scheme, and the Minister shall, on an application by the railway company under subsection (2), approve the application and issue an operator's licence to such railway company upon payment of the prescribed fee.

(7) Every operator's licence issued under this section shall set out the duration of the operator's licence and the following conditions may be attached to the operator's licence:

- (a) the type of railway system and railway services and related, peripheral or ancillary activities to be operated or provided by a licensed operator;
- (b) the annual licence fee payable by a licensed operator;
- (c) the fares which a licensed operator may impose on passengers;
- (d) the freight which a licensed operator may impose in respect of the carriage of goods;
- (e) the particular duties of a licensed operator in respect of the railway services operated or facilities provided by it; and
- (f) such other matters or conditions as the Minister thinks fit.

(8) The Minister may, on the recommendation of the Commission, at any time, add, cancel or vary any of the conditions attached to an operator's licence issued under this section.

(9) The issuance of an operator's licence to the applicant by the Minister under this section shall not impose any liability on the Commission or the Government for any loss or damage occasioned by any act, omission or default of the applicant.

(10) A person who contravenes subsection (1) or any condition attached to an operator's licence issued under this section commits an offence and shall, on conviction, be liable to a fine not exceeding five hundred thousand ringgit or to imprisonment for a term not exceeding three years or to both.

Notice of intended opening of railway

102. (1) Subject to subsection (2), a licensed operator shall, at least three months before the intended date of opening of a railway, give to the Commission a written notice of its intention to open the railway.

(2) The Commission may, if it thinks fit or on the application of a licensed operator, reduce the period within which the notice under subsection (1) is to be given or dispense with such notice.

Minister to approve opening of railway

103. (1) No railway shall be opened without the approval of the Minister, on the recommendation of the Commission.

(2) The Minister shall only give his approval to the opening of a railway after he has received a written report from an engineer appointed by the Commission that—

- (a) he has made a careful inspection of the railway;
- (b) the weight of rails, strength of bridges, general structural character of the works, and the size of and maximum gross load upon the axles of any rolling-stock are such as have been prescribed;
- (c) the railway is sufficiently supplied with rolling-stock and otherwise complies with the railway scheme approved under section 84 or 86, and conditions or requirements imposed in connection therewith; and
- (d) in his opinion the opening of the railway will not cause any danger to the passengers or any damage to the goods to be carried thereon.

(3) This section shall apply *mutatis mutandis*—

- (a) to any addition or modification forming part of or directly connected to a railway constructed after the inspection which preceded the first opening of the railway;
- (b) to any reconstruction materially affecting the structural character of any railway; and

- (c) to any other prescribed modification, change or extension made to the railway scheme approved under section 86, which is prescribed to be applicable for the purposes of this section.

(4) A person who contravenes subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding five hundred thousand ringgit or to imprisonment for a term not exceeding three years or to both.

Revocation or suspension of operator's licence

104. (1) Where the Commission is satisfied that a licensed operator is contravening, or has contravened and is likely again to contravene, any of the conditions of its operator's licence or any provision of this Part or subsidiary legislation made in connection therewith which imposes an obligation, duty or responsibility on it, the Commission may give a written notice to the licensed operator requiring it to comply with that condition or provision within the period stated in the notice.

(2) If on the expiry of the period stated in such notice the licensed operator fails to comply with the condition or provision mentioned therein, the Commission shall submit to the Minister a report of such failure by the licensed operator together with any recommendations by the Commission and the report shall be in such form as the Commission considers appropriate.

(3) Where, after considering the report from the Commission and its recommendations, the Minister is satisfied that the contravention or apprehended contravention is of a serious nature or has affected or is likely to affect public interest or safety, and the licensed operator has refused to take or has not taken all such steps as appear necessary to the Commission for the purpose of securing compliance with the condition or provision in question, the Minister may authorize the Commission to give to the licensed operator a written notice stating that it proposes to revoke or suspend, as the case may be, its operator's licence and such notice shall also set out or specify—

- (a) the condition of the operator's licence or provision which the licensed operator has contravened and the acts or omissions which constitute such contravention; and

- (b) the period, not being less than thirty days from the date of the notice, within which the licensed operator may make representations with respect to the proposed revocation or suspension, as the case may be.

(4) After the expiry of the period specified in the notice and considering any representations made by the licensed operator and any recommendations made by the Commission, the Minister shall decide whether to proceed with the proposed action or to take no further action.

(5) A notice shall be given by the Commission to the licensed operator of the decision of the Minister and the decision shall take effect from the date on which the notice is served on the licensed operator.

(6) In addition to his powers under the preceding subsections, the Minister may, by written notice, revoke or suspend an operator's licence issued under this Chapter—

- (a) if the issuance of the operator's licence was induced by a false representation of fact by or on behalf of the licensed operator;
- (b) in the event of the death, incapacity, bankruptcy or, in the case of a company, liquidation, of the licensed operator or, where a receiver or manager is appointed in relation to the business of operating railway services of such licensed operator; or
- (c) if it is satisfied that the railway used in connection with the operator's licence issued under this Chapter, has been or is intended to be used for an unlawful purpose or that the original purpose for which the operator's licence was issued no longer exists:

Provided that the Commission shall not revoke or suspend the operator's licence unless it is satisfied that, after giving the licensed operator an opportunity of making any representation in writing it may wish to make, the operator's licence should be revoked or suspended.

(7) The decision of the Minister under this section shall be final and conclusive and no compensation shall be payable to the licensed operator in respect of any action lawfully taken against it under this section.

(8) Where an operator's licence—

- (a) has been revoked, it shall have no effect from the date of revocation and the licensed operator shall within fourteen days from the date of revocation of the operator's licence return the operator's licence to the Commission; or
- (b) has been suspended, it shall have no effect during the period of suspension.

(9) A licensed operator whose operator's licence has been suspended under this section shall not, during the period of suspension, operate the railway authorized by such operator's licence.

(10) A licensed operator who contravenes subsection (8) or (9) commits an offence and shall, on conviction, be liable to a fine not exceeding five hundred thousand ringgit or to imprisonment for a term not exceeding three years or to both.

Inspection

105. After a railway has been opened, the railway shall be inspected by an engineer appointed by the Commission in such manner and at such intervals as may be set out in rules made by the Commission under paragraph 253(1)(*qq*).

Power to close railway when opened

106. (1) If after the inspection of a railway, the engineer appointed by the Commission is of the opinion that the use of the railway may cause danger to the public or damage to the goods carried on the railway, he shall inform the Commission of his opinion together with the grounds for his opinion.

(2) The Commission may thereupon order the railway to be closed, or in the case of a rolling-stock, order the rolling-stock to be discontinued from use or the railway be used only on such conditions as the Commission considers necessary for the safety of the public or goods carried on the railway.

Reopening of railway after closure

107. (1) A railway which has been ordered to be closed shall not be reopened until it has been inspected by an engineer appointed by the Commission and its reopening has been approved by the Minister.

(2) A rolling-stock which has been ordered to be discontinued from use under section 106 shall not be used until it has been inspected and certified to be fit for use by an engineer appointed by the Commission and the Minister has approved its use.

Reopening of railway track after temporary suspension

108. When an accident has occurred on a railway or a railway track resulting in a temporary suspension of traffic, and either the original railway track and works have been rapidly restored to their original standard or a temporary diversion has been laid for the purpose of restoring communication, the original railway track and works so restored may be reopened or the temporary diversion opened, as the case may be, subject to the following conditions:

- (a) that the railway official in charge of the works undertaken by reason of the accident has certified in writing that the reopening of the restored railway track and works or the opening of the temporary diversion will not, in his opinion, cause any danger to the public or damage to the goods carried on the railway track; and
- (b) that written notice of the reopening of the railway track and works or the opening of the temporary diversion has been sent to the Commission.

General penalty for failure to comply with Chapter 4 of Part IV

109. A licensed operator who contravenes any of the provisions of this Chapter commits an offence and, if no special penalty is expressly provided in this Chapter, shall, on conviction, be liable to a fine not exceeding one hundred thousand ringgit or to imprisonment for a term not exceeding five years or to both and, in the case of a continuing offence shall, in addition, be liable

to a daily fine not exceeding ten thousand ringgit for each day during which the offence continues to be committed after a written notice by the Commission requiring it to cease the act specified in the notice has been served upon the licensed operator.

Chapter 5

Duties of licensed operator

Duties of licensed operator

110. It shall be the duty of every licensed operator—

- (a) to provide railway services and facilities as specified in its operator licence to such extent as is necessary for the licensed operator to meet any prescribed standards of performance; and
- (b) to develop and maintain an efficient railway system.

Standards of performance

111. (1) The Commission may make rules on standards of performance in connection with the provision of railway services and facilities as, in its opinion, ought to be achieved by a licensed operator.

(2) Without prejudice to the generality of subsection (1), rules made under subsection (1) may—

- (a) make provisions for procedures to be followed for the enforcement of the standards of performance; and
- (b) provide circumstances in which a licensed operator may be exempted from complying with the standards of performance.

Submission of reports, accounts, etc.

112. (1) Without prejudice to section 207, a licensed operator shall furnish the Commission with all such information relating to any matter which—

- (a) is connected with the carrying out by the licensed operator of its licensed activities; or

- (b) is material to the carrying out by the Commission of any of its powers under this Act,

as the Commission may require or as may be set out in rules made by the Commission under paragraph 253(1)(n).

(2) Without prejudice to subsection (1), a licensed operator shall, within three months after the end of the financial year of the licensed operator or such longer period as the Commission may allow, furnish to the Commission—

- (a) a report of its operation during that financial year containing such information as is necessary to enable the Commission to assess the level of the licensed operator's compliance with performance and regulatory standards as well as satisfactory evidence of compliance with the conditions of the operator's licence;
- (b) its audited annual balance sheet, profit and loss account, together with any notice thereon, and the reports of its auditor and, where applicable, its directors; and
- (c) a return tabulating such information as may be required by the Commission in respect of offences committed by the licensed operator and its employees and members of the public in connection with or relating to the operations of the railway.

(3) Without prejudice to subsection (1), the Commission may require a licensed operator to submit to it in respect of any period specified by the Commission—

- (a) such information relating to the maintenance by the licensed operator of the terminals in the possession or under the control of the licensed operator as the Commission may require or as set out in rules made by the Commission under subparagraph 253(1)(b)(i), including frequency of maintenance of the same;
- (b) any statistical information relating to the operations of the licensed operator;
- (c) its passenger or goods forecast during such period and in such form as may be determined by the Commission; and

- (d) future development plans relating to any service or facility which the licensed operator is bound to provide under the conditions of the operator's licence.

(4) The information required under this section shall be furnished in such form and manner, at such interval and shall be accompanied or supplemented by such explanations and supporting documents as the Commission may require or as may be set out in rules made by the Commission under paragraph 253(1)(n).

(5) The information which a licensed operator is required to furnish to the Commission under this section may include information which, although the information is not in the possession of the licensed operator or would not otherwise come into the possession of the licensed operator, is information that the licensed operator can reasonably be required to obtain or compile.

(6) The Commission may require a licensed operator to appoint, at the licensed operator's cost, an independent expert with qualifications as may be specified by the Commission, to conduct an audit or review any of the information which a licensed operator is required to furnish to the Commission under this section, but such appointment and report of the independent expert shall not relieve or derogate in any way the licensed operator's liability under this section.

(7) The Commission or its appointed officers may, at any time, as it deems necessary, conduct, at the Commission's cost, an audit on the business and activities of the licensed operator and the licensed operator shall take all necessary steps, at its own cost, to assist and facilitate the Commission or its appointed officers in conducting the audit, including to grant them access to its premises and documentation and information.

(8) A licensed operator who—

- (a) fails to furnish any information as may be required by the Commission under this section; or
- (b) refuses to assist or facilitate, or obstructs, the Commission or its appointed officers in conducting an audit under this section,

commits an offence and shall, on conviction, be liable to a fine not exceeding two hundred thousand ringgit or to imprisonment for a term not exceeding two years or to both.

Commission to be informed of any change in control of licensed operator, etc.

113. (1) It shall be the duty of every licensed operator, at all times, to inform the Commission immediately of the following matters:

- (a) any change in the control of the licensed operator;
- (b) any industrial dispute between the licensed operator and its employees;
- (c) any occurrence of fire within its premises;
- (d) any natural catastrophes affecting it;
- (e) any reprimands or fines imposed on the licensed operator by any Government Entity; and
- (f) any proceedings or claims instituted or made against the licensed operator which might have an adverse effect on its financial condition or on its ability to perform any condition under the operator's licence.

(2) For the purposes of paragraph (1)(a), "control" in relation to a licensed operator, means having the power, directly or indirectly, to direct the management and policy of the licensed operator.

(3) A licensed operator who fails to comply with this section commits an offence and shall, on conviction, be liable to a fine not exceeding ten thousand ringgit and, in the case of a continuing offence shall, in addition, be liable to a daily fine not exceeding one thousand ringgit for each day during which the offence continues to be committed from the date the licensed operator is required to submit the information under subsection (1).

Traffic facilities

114. Every licensed operator shall afford all reasonable facilities for the receiving, forwarding and delivery of traffic on the railway.

Chapter 6

*Vocational licence***Vocational licences for railway train drivers**

115. (1) No person shall drive a railway train unless he holds a vocational licence issued under this section.

(2) The Commission may, subject to regulations made under this Act, attach such conditions as it thinks fit to any vocational licence issued under this section and the holder of any vocational licence shall comply with all such conditions.

(3) A vocational licence may at any time be revoked or suspended by the Commission upon the ground that, by reason of his conduct or physical disability, the holder is not a fit and proper person to hold such a licence or in the event of a breach of any condition of the vocational licence:

Provided that the Commission—

- (a) shall not revoke or suspend the vocational licence on the ground of breach of any of the conditions of the vocational licence unless it is satisfied, after giving the holder of the vocational licence an opportunity of making any representation in writing he may wish to make, that owing to the frequency of the breach, or to the breach having been committed wilfully or the danger to the public involved in the breach, the vocational licence should be revoked or suspended; or
- (b) shall not revoke or suspend the vocational licence on grounds other than the ground specified in paragraph (a), unless it is satisfied that, after giving the holder of the vocational licence an opportunity of making any representation in writing he may wish to make, the vocational licence should be revoked or suspended.

(4) A person who contravenes subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding two thousand ringgit or to imprisonment for a term not exceeding six months or to both.

Licensed operator to employ persons with vocational licences

116. (1) No licensed operator under this Part shall employ or permit any person who does not hold a vocational licence issued under section 115 to drive a railway train.

(2) A licensed operator who contravenes subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding two thousand ringgit or to imprisonment for a term not exceeding six months or to both.

Chapter 7

Fares and freight

Fares

117. (1) Subject to subsections (2) and (3), no person may demand, collect and retain such fares in relation to railway services in excess of such rates of fares as the Minister may approve under section 84, 86, 101 or 120.

(2) The Minister may, on the recommendation of the Commission, exempt any person from the payment of any fares in relation to railway services, subject to such terms and conditions as he thinks fit.

(3) Nothing in this section shall prevent a licensed operator from exempting any person, other than persons exempted by the Minister under subsection (2), from paying any fares for any period, if an application for such exemption is made by the licensed operator and such application is approved by the Commission in writing, subject to such conditions as it may deem fit.

(4) A person who demands, collects or retains or attempts to demand, collect or retain any fare in contravention of subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding one hundred thousand ringgit or to imprisonment for a term not exceeding three years or to both.

(5) No person shall travel on a railway without first having paid his fare and obtaining a ticket.

(6) Every person intending to travel on a railway shall, upon payment of his fare, be furnished with a ticket specifying the class of railway coach or accommodation for, the station or place from, and the station or place to, which the fare has been paid.

(7) Every person travelling on a railway shall, when required to do so, show the proof of payment of the fare to a licensed operator or railway official duly authorized to examine the payment of fares.

(8) For the purposes of this section, “proof of payment of the fare” shall include tickets and electronic cards issued for the purpose of payment of fares or any other satisfactory evidence of payment of fares as may be set out in rules made by the Commission under paragraph 253(1)(aa).

(9) Where a licensed operator or railway official duly authorized to examine the payment of fares is satisfied that any person has made use of a railway without paying the appropriate fare for the distance travelled or where any person fails to produce or deliver up proof of payment of the fare in contravention of subsection (7), he may require such person to pay—

- (a) the fare for the distance travelled; and
- (b) a special charge, not exceeding such sum as may be prescribed.

(10) Such fare and special charge shall be paid on demand to the railway official duly authorized to examine the payment of fares or collect tickets, and if not so paid, payment thereof may be recovered by the licensed operator by action at law.

(11) If any dispute arises as to the fare calculated according to distance, the dispute may be referred—

- (a) in the first instance, to the railway official duly authorized to determine the dispute;
- (b) upon appeal from the decision of the railway official, to an officer of the Commission duly authorized to determine the dispute, whose decision shall be final,

and any certificate issued by such duly authorized railway official or such duly authorized officer of the Commission, shall be admissible in evidence.

Freight

118. (1) Subject to subsections (2) and (3), no person may demand, collect and retain such freight in relation to railway services in excess of such rates of freight as the Minister may approve under section 84, 86, 101 or 120.

(2) The Minister may, on the recommendation of the Commission, exempt any person from the payment of any freight in relation to railway services, subject to such terms and conditions as he thinks fit.

(3) Nothing in this section shall prevent a licensed operator from exempting any person, other than persons exempted by the Minister under subsection (2), from paying any freight for any period, if an application for such exemption is made by the licensed operator and such application is approved by the Commission in writing, subject to such conditions as it may deem fit.

(4) A person who demands, collects or retains or attempts to demand, collect or retain freight in contravention of subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding one hundred thousand ringgit or to imprisonment for a term not exceeding three years or to both.

Timetables and lists of fares to be posted up at railway stations

119. Every licensed operator shall keep at every railway station a copy of the timetables for the time being in force on the railway and a list of the general fares chargeable for travelling from the railway station, where the lists are posted at every place where tickets are ordinarily issued to passengers at that railway station, and the licensed operator shall allow all persons to inspect the timetable or list of general fares free of charge at all reasonable hours.

Submission of memorandum for any change in existing structure of fares, etc.

120. (1) A licensed operator shall prepare and submit to the Commission a memorandum for any change in the existing structure of fares, freight or charges approved under section 84, 86 or 101, for the approval of the Minister, on the recommendation of the Commission.

(2) Upon the new structure of fares, freight or charges being approved by the Minister under subsection (1), the licensed operator shall within such time not being less than thirty days before the new fares, freight or charges come into effect—

- (a) publish the new structure of fares, freight or charges in not less than two national newspapers, one of which shall be in the national language; and
- (b) ensure that the new structure of fares, freight or charges are posted for the attention of the public in accordance with section 119.

(3) The Commission shall, as soon as practicable, make necessary notification in the *Gazette* in respect of the change in the existing structure of fares, freight or charges.

Chapter 8

Specific offences relating to railways

Intoxication or breach of duty by railway official

121. Any railway official who—

- (a) is in a state of intoxication while discharging any duty;
or
- (b) refuses or neglects to perform his duty or performs his duty in an improper manner,

where the duty is such that the intoxication or refusal, neglect or improper performance of the duty, as the case may be, is likely to endanger the safety of any person or goods carried on the railway, commits an offence and shall, on conviction, be liable to a fine not exceeding three thousand ringgit or to imprisonment for a term not exceeding one year or to both.

Improper use of emergency signal apparatus

122. Any person who makes improper use of the emergency signal apparatus provided by a licensed operator in any railway coach or on any railway train for the use of passengers to stop

the railway train in case of emergency commits an offence and shall, on conviction, be liable to a fine not exceeding one thousand ringgit or to imprisonment for a term not exceeding three months or to both.

Removing, etc., stakes, pegs or other marks

123. Any person who removes, defaces or in any way interferes with any stakes, pegs or other marks placed by or for the purposes of a licensed operator along a railway track or contiguous thereto commits an offence and shall, on conviction, be liable to a fine not exceeding one thousand ringgit or to imprisonment for a term not exceeding three months or to both.

Entering or leaving railway coach irregularly

124. Any person who—

- (a) at any time enters or leaves or attempts to enter or leave any railway coach otherwise than by the door provided for the purpose on the side of the railway coach adjacent to the platform or other similar place appointed by the licensed operator as a place for persons to enter or leave a railway coach; or
- (b) opens any outer door of any such railway coach while it is in motion,

commits an offence and shall, on conviction, be liable to a fine not exceeding one thousand ringgit.

Resisting entry, and entering and refusing to leave full train

125. Any passenger who—

- (a) resists the lawful entry of another passenger into a railway coach or a portion of a railway coach not reserved by the licensed operator for the use of the passenger resisting;

- (b) after having been refused admission onto a railway train by a railway official, on account of the railway train being full, nevertheless persists in entering or attempting to enter the railway train; or
- (c) having gone on board a railway train at any place and having been requested by a railway official, on account of the railway train being full, to leave the railway train before it has quit that place, does not comply with that request,

commits an offence and shall, on conviction, be liable to a fine not exceeding one thousand ringgit and, in addition, may be removed from the railway train by any railway official.

Trespass upon railway or railway premises

126. Any person who trespasses upon a railway or any railway premises commits an offence and shall, on conviction, be liable to a fine not exceeding five hundred ringgit and, if any such person refuses to leave the railway or railway premises on being requested to do so by a railway official, he commits an offence and shall, on conviction, be liable to a fine not exceeding one thousand ringgit, and may be immediately removed therefrom.

Driving any vehicle or animal upon or across a railway track

127. Any person who wilfully rides, leads, or drives upon or across a railway track any vehicle or animal, except when directly crossing the railway track at any road or place appointed for that purpose at a time at which he may lawfully do so, commits an offence and shall, on conviction, be liable to a fine not exceeding five hundred ringgit for each offence.

Damage, whether wilful or negligent, etc.

128. (1) Any person who—

- (a) wilfully or negligently damages any railway, railway premises or any property belonging to a licensed operator;

- (b) removes sand, stone, earth or any other matter or thing from banks, bridges, culverts, retaining walls, railway tracks or any other property belonging to a licensed operator; or
- (c) fells timber in a manner likely to endanger the safety of passing railway trains or any person or goods in or upon such trains, or to cause damage to the railway track,

commits an offence and shall, on conviction, be liable to a fine not exceeding five thousand ringgit or to imprisonment for a term not exceeding three years or to both.

(2) Any person who ties up the wires of wire fencing appertaining to a railway, breaks down or destroys any fencing or hedges appertaining to a railway, or does or causes to be done any act that damages or is likely to damage such fencing or hedges commits an offence and shall, on conviction, be liable to a fine not exceeding one thousand ringgit or to imprisonment for a term not exceeding three months or to both.

(3) Any person who, wilfully or negligently, diverts any stream or drain or, by any means causes water to flow on to a railway or, causes damage to a railway in any manner by water, commits an offence and shall, on conviction, be liable to a fine not exceeding five thousand ringgit or to imprisonment for a term not exceeding three years or to both.

(4) Any person who, having any contract for the supply to a licensed operator of bricks, ballast, timber, fuel, or any other material, or being employed in connection with the supply to the licensed operator of such material, negligently places or stacks the said material in an unsafe or careless manner or at less than such distance from the railway tracks as stipulated in rules made by the Commission under subparagraph 253(1)(b)(ii), so that the safety of passing railway trains or any person or goods in or upon such trains is endangered, commits an offence and shall, on conviction, be liable to a fine not exceeding two thousand ringgit or to imprisonment for a term not exceeding six months or to both.

Opening or not properly shutting gates**129.** If—

- (a) any person, without the permission or knowledge of a railway official, opens or attempts to open any gate set up on either side of any railway track across a road, or passes or attempts to pass, or drives or takes or attempts to drive or take, any vehicle, animal or other thing across the railway tracks; or
- (b) any person who in pursuance of subsection 98(3) omits to shut and fasten and, where necessary, to lock such a gate as aforesaid as soon as he and any vehicle, animal or other thing under his charge has passed through the gate,

he commits an offence and shall, on conviction, be liable to a fine not exceeding one thousand ringgit or to imprisonment for a term not exceeding three months or to both.

Maliciously obstructing or attempting to obstruct a railway**130.** If any person unlawfully—

- (a) puts, throws or causes to fall against, upon or across a railway any wood, stone or other matter or thing;
- (b) takes up, removes, loosens, or displaces any rail, sleeper or other matter or thing appertaining to a railway;
- (c) turns, moves, unlocks or diverts any railway points or other machinery appertaining to a railway;
- (d) moves any part of the rolling-stock on a railway track or leaves the same on any part of a railway track;
- (e) makes, shows, hides or removes any signal or light upon or near a railway; or
- (f) does or causes to be done or attempts to do any other act or thing in relation to a railway,

with intent, or with the knowledge that he is likely, to obstruct the working of the railway, or to endanger the safety of any person travelling or being upon the railway or goods carried on the

railway, he commits an offence and shall, on conviction, be liable to a fine not exceeding fifty thousand ringgit or to imprisonment for a term not exceeding twenty years or to both.

Gestures or signals causing railway to stop

131. If any person not being a railway official, without reasonable excuse, by making any gesture or exhibiting any signal or otherwise, causes a moving railway to be brought to a standstill, he commits an offence and shall, on conviction, be liable to a fine not exceeding one thousand ringgit or to imprisonment for a term not exceeding three months or to both.

Maliciously hurting or attempting to hurt persons, etc., travelling by railway

132. If any person unlawfully throws or causes to fall or strike at, against, into, or upon any rolling-stock forming part of a railway train any wood, stone or other matter or thing with intent, or with the knowledge that he is likely, to endanger the safety of any person being in or upon, or goods carried on, such rolling-stock or in or upon any other rolling-stock forming part of the same railway train, he commits an offence and shall, on conviction, be liable to a fine not exceeding twenty-five thousand ringgit or to imprisonment for a term not exceeding ten years or to both.

Chapter 9

Miscellaneous: specific enforcement provisions, etc.

General penalty for breach of Part IV, except Chapter 4, and subsidiary legislation

133. Any person who contravenes or fails to comply with any of the provisions of this Part, except Chapter 4, or any subsidiary legislation made under this Act relating to such provisions commits an offence and, if no special penalty is expressly provided in this Part, shall, on conviction, be liable to a fine not exceeding one thousand ringgit or to imprisonment for a term not exceeding three months or to both.

Lien for fares, freight and other charges

134. (1) If, on demand made by or on behalf of a licensed operator, any person fails to pay any sum due to or recoverable by the licensed operator from him in respect of any goods, whether such sum is due for the conveyance, handling, storage, demurrage, or other charges, or in repayment of any sum disbursed by the licensed operator or any other sum howsoever arising, the licensed operator may detain the whole or any of the goods or, if such goods have been removed from the railway premises, any other goods of such person then being in or thereafter coming into the possession of the licensed operator.

(2) When any goods have been detained under subsection (1), the licensed operator may—

- (a) in the case of perishable goods, sell the same at once by public auction or private agreement as it may deem expedient; or
- (b) in the case of other goods, sell by public auction, on the expiration of at least fourteen days' notice of the intended auction published in one or more of the local newspapers, such quantity of the goods as will be sufficient to recover the sum due to or recoverable by the licensed operator together with all expenses of such detention, notice and sale, including, in the case of animals, the expenses of feeding, watering and tending thereof.

(3) The licensed operator may, out of the proceeds of sale, retain the amount of the sum and expenses due to or recoverable by the licensed operator, rendering the surplus, if any, of the proceeds and such of the goods as remain unsold to the person entitled thereto.

(4) If the person entitled thereto fails to remove from the railway premises, within a reasonable time, any of the goods which have remained unsold, the licensed operator may sell the whole of such goods and shall, after deducting the expenses of the further detention and sale of such goods, render the surplus of the proceeds to the person entitled thereto.

(5) The person entitled to remove the goods shall not do so unless he tenders to the licensed operator a sum equal to the costs, charges and expenses of the further detention of such goods from the date of sale under subsection (2) to the date of removal.

(6) Notwithstanding anything in this section, the licensed operator may recover by suit or action any such sum as is referred to in subsection (1).

(7) For the purposes of this section, “goods” shall be deemed to include luggage.

Disposal of unclaimed goods

135. (1) When any goods have come into the possession of a licensed operator for transport or otherwise, and are not claimed by the owner or other person appearing to the licensed operator to be entitled thereto, the licensed operator shall, if such owner or person is known, cause a notice to be served upon him requiring him to remove the goods.

(2) If such owner or person is not known, or the notice cannot be served upon him, or he does not comply with the notice, the licensed operator may, after a reasonable time, sell the goods as nearly as may be in accordance with section 134 and render the surplus, if any, of the proceeds of the sale to any person entitled thereto.

(3) For the purposes of this section, “goods” shall be deemed to include luggage.

Requisition for written declaration of description of goods

136. (1) The owner or person having charge of any goods which are delivered to a licensed operator for the purpose of being transported, and the consignee of any goods which have been transported, shall, on the request of any railway official authorized in that behalf by the licensed operator, deliver to such official a declaration in writing signed by such owner or person, or by such consignee, as the case may be, containing such a description of the goods as may be sufficient to determine the rate which the licensed operator is entitled to charge in respect thereof.

(2) If such owner, person, or consignee refuses or neglects to give such a declaration or refuses to open the package containing the goods in order that their description may be ascertained, the licensed operator may—

- (a) in respect of goods which have been brought for the purpose of being transported, refuse to carry the goods unless a rate is paid in respect thereof not exceeding the highest rate which may be in force at the time on the railway for any class of goods; or
- (b) in respect of goods which have been transported, charge a rate not exceeding such highest rate.

(3) If a declaration delivered under subsection (1) is materially false with respect to the description of any goods to which it purports to relate, and which have been transported, the licensed operator may charge, in respect of the transportation of the goods, a rate not exceeding double the highest rate which may be in force at the time on the railway for any class of goods.

(4) If any difference arises between a railway official and the owner or person having charge, or the consignee, of any goods which have been delivered for transport, or have been transported, with respect to the description of goods being the subject of a declaration under this section, the railway official may detain and examine the goods.

(5) If it appears from the examination that the description of the goods is different from that stated in the declaration delivered under subsection (1), the person who delivered the declaration or, if that person is not the owner of the goods, then that person and the owner jointly and severally, shall be liable to pay to the licensed operator the cost of the detention and examination of the goods, and the licensed operator shall be exonerated from all responsibilities for any loss which may have been caused by the detention or examination thereof.

(6) If it appears that the description of the goods is not different from that stated in the declaration delivered under subsection (1), the licensed operator shall pay the cost of the detention and examination, and be responsible to the owner of the goods for any such loss as aforesaid.

(7) Any person adversely affected by subsection (3) or (5) may, unless he has previously admitted his liability, within seven days of the making of a claim by or on behalf of the licensed operator under any of the preceding subsections, require, by written notice, the licensed operator to recover such claim by suit or action, and until the termination of such suit or action, the right of the licensed operator to recover such claim by sale and retention of the proceeds thereof in the manner stipulated under this section shall be suspended.

(8) For the purposes of this section, “goods” shall be deemed to include luggage.

Power of entry

137. Without prejudice to sections 103, 216 and 217, the Commission or any appointed officer authorized by it in that behalf may, for the purposes of this Part or any subsidiary legislation made under this Part, enter upon any railway or railway premises to inspect and examine the state of the railway or railway premises.

Disposal of differences between licensed operators regarding conduct of joint traffic

138. Where two or more licensed operators whose railways have a common terminus or a portion of the same line of railway communication, are not able to agree upon arrangements for conducting, at such common terminus or at the point of junction between them, their joint traffic safety, the Commission, upon the application of either or of any of such licensed operators, may decide the matters in dispute between them, so far as those matters relate to the safety of the public, and may determine whether the whole or what proportion of the expenses attending to such arrangements shall be borne by either or any of the licensed operators respectively.

Special powers in emergency

139. (1) The Yang di-Pertuan Agong may, on the occurrence of any industrial unrest, strike, lock-out or any other event which gives rise to an emergency or in the interest of public order or safety, authorize the Minister to—

- (a) take temporary possession of any railway, railway service, railway premises or facility established, maintained or worked by a licensed operator;
- (b) withdraw, partially or totally, the use of any railway service, railway premises or facility from any person or class of persons or from the public at large.

(2) If any doubt arises as to the existence of an emergency or whether any act done under subsection (1) was in the interest of public order or safety, a certificate signed by the Yang di-Pertuan Agong and exhibited at such places as the Minister deems fit shall be conclusive proof on the point.

(3) Where the Government takes temporary possession of any railway, railway service or, railway premises or facility under paragraph (1)(a), adequate compensation shall be paid by the Government, upon the Government being satisfied that the events as mentioned in subsection (1) was not caused or contributed to in any way by the licensed operator.

Restriction on execution against railway property

140. (1) None of the rolling-stock, machinery, plant, tools, fittings, materials or effects used or provided by a licensed operator for the purposes of traffic on the railway operated by it, or of its stations or workshops, shall be liable to be taken in the execution of any decree or order of any court or of any local authority or person having by law the power to attach or distrain property or otherwise to cause property to be taken in execution, unless by order or direction of the court pursuant to paragraph 194(1)(b).

(2) Nothing in subsection (1) shall be construed as affecting the authority of any court to attach the earnings of a licensed operator in the execution of a judgement or order.

Legal duties of railway official

141. Every railway official shall be legally bound to do every thing necessary for or conducive to the safety of the public, and every such railway official shall be legally prohibited from doing any act which is likely to cause danger.

Apprehension of offenders

142. Any person found committing or attempting to commit an offence against this Act relating to railways may be arrested, without warrant, by any police officer, railway official or appointed officer, or by any other person whom such police officer, railway official or appointed officer may call to his aid, and every person so arrested shall, without unnecessary delay, be taken to the nearest police station to be dealt with in accordance with the law relating to criminal procedure for the time being in force:

Provided that a railway official shall not effect any such arrest outside the railway premises.

Licensed operator not a common carrier

143. Notwithstanding any other written law, a licensed operator shall not be deemed to be a common carrier or to be subject to any law relating to common carriers.

PART V

INTEGRATION

Integration of land public transport

144. The Commission may, in order to facilitate and accommodate the integration and co-ordination of land public transport, impose on any licensee, licensed operator or terminal licensee such conditions in its or his licence or operator's licence as the Commission deems fit, including a condition requiring integration with other licensees, licensed operators and terminal licensees.

PART VI

ACCIDENTS, INQUIRIES AND INVESTIGATIONS

Chapter 1

*Accidents involving railway***Notice of accident to be given**

145. (1) Whenever an accident occurs involving a railway—

- (a) the railway official in charge of a railway station nearest to the place at which the accident occurs, shall, without unnecessary delay but in any case not later than twenty-four hours after the occurrence of the accident, give notice of the accident in writing or by any form of telecommunication to the officer in charge of the nearest police station; and
- (b) the licensed operator shall, without unnecessary delay but in any case not later than twenty-four hours after the occurrence of the accident, send a written notice of the accident to the Commission.

(2) The notice shall contain a brief statement of the nature of the accident and the extent of the injuries or damage caused.

Inquiry

146. (1) The licensed operator shall, as soon as possible after the occurrence of an accident, cause an inquiry to be made by a committee of officers of the licensed operator set up to investigate the cause of the accident, but in cases where there is no reasonable doubt as to the cause of the accident or the licensed operator accepts all responsibility, it shall not be necessary to hold such inquiry.

(2) The licensed operator shall submit to the Commission a report on the accident and such report shall state what action the licensed operator proposes to take with regard to the railway officials responsible for the accident or for the revision of the rules or system of working and, if an inquiry has been held under subsection (1), a report on the inquiry.

(3) The Commission may, if it is not satisfied with the report submitted to it under subsection (2), form an investigation committee to inquire into the cause of the accident.

(4) For the purposes of such inquiry, the investigation committee may summon any person to attend any meeting of the committee to give evidence on oath or produce any document or other thing in his possession and to examine him as a witness or require him to produce any document or other thing in his possession related to the matters which are the subject matter of such inquiry.

(5) A person who under subsection (4)—

- (a) having been summoned to attend any such inquiry, fails to do so;
- (b) offers any act of disrespect or any insult or threat to the committee or any member of the committee during an inquiry; or
- (c) having been required by the committee to give evidence on oath or to produce a document or other thing, refuses to do so or gives false evidence or produces a document or any other thing which he knows to be false,

commits an offence and shall, on conviction, be liable to a fine not exceeding ten thousand ringgit or to imprisonment for a term not exceeding five years or to both.

(6) The investigation committee shall, on completion of the inquiry, submit its report to the Commission and such report shall state the opinion of the committee as to the cause of the accident and the full particulars of the case.

Minister may order inquiry

147. (1) The Minister may order that an inquiry into the cause of any accident involving a railway be made by any person designated in such order.

(2) Any person so appointed shall have and may exercise, for the purposes of such inquiry, all the statutory and other powers as are for the time being vested in and exercisable by a magistrate for summoning and enforcing the attendance of witnesses, for

administering oaths or affirmations to such witnesses and for compelling such witnesses to answer all reasonable and proper questions related to the matters which are the subject of such inquiry.

(3) The person holding such inquiry shall submit to the Minister a copy of the proceedings and report his opinion as to the cause of the accident together with full particulars of the case.

Meaning of “accident”

148. For the purposes of sections 145, 146 and 147, “accident” means an accident attended by loss of human life or grievous hurt to any member of the public, railway passenger or person engaged in the working or driving of railway trains or by serious damage to goods carried on the railway or property or an accident of such a description as is usually attended by such loss, hurt or damage.

Power to make rules relating to notices of accident, etc.

149. The Commission may make rules relating to—

- (a) the forms of the notices mentioned in section 145 and the particulars of the accident which those notices are to contain;
- (b) the class of accidents in respect of which a notice is to be sent by any form of telecommunication immediately after the accident has occurred;
- (c) the duties of police officers, railway officials or appointed officers on the occurrence of an accident; and
- (d) the procedures of any inquiry into an accident.

Submission of return of accidents

150. Every licensed operator shall send to the Commission a return of accidents occurring in connection with the railway operated by it, whether attended with personal injury or not, in such form and manner and at such intervals or time as the Commission directs.

Penalty for failure to comply with section 145

151. (1) A railway official in charge of a railway station who omits to give such notice of an accident as is required by paragraph 145(1)(a) commits an offence and shall, on conviction, be liable to a fine not exceeding five thousand ringgit or to imprisonment for a term not exceeding three years or to both.

(2) A licensed operator who fails to give notice of an accident as is required by paragraph 145(1)(b) shall pay to the Commission a sum of one thousand ringgit for every day during which the default continues.

Penalty for failure to comply with section 150

152. A licensed operator who fails to comply with section 150 shall pay to the Commission a sum of one thousand ringgit for every day during which the default continues after the fourteenth day from the date specified for the submission of the returns.

Compulsory medical examination of persons injured in railway accident

153. Whenever any person injured by an accident on a railway claims compensation on account of the injury, any court having jurisdiction over such matter may order that the person injured be examined by a duly qualified medical practitioner who is not a witness on either side, and may make such order with respect to the costs of the examination as it thinks fit.

Chapter 2

Inquiries

Inquiries by Commission

154. (1) The Commission shall, in response to a direction by the Minister, hold an inquiry on any matter of a general nature which relates to the administration of this Act, other than an inquiry under section 146 or 147.

(2) The Commission may hold an inquiry on any matter, other than an inquiry under section 146 or 147—

- (a) in response to a written request from a person; or
- (b) on its own initiative,

only if it is satisfied that the matter is of significant interest to either the public or to the current or prospective licensed operators under this Act.

Conduct of inquiry

155. (1) An inquiry under this Chapter is to be conducted as and when the Commission deems fit.

(2) The Commission may combine two or more inquiries into a single inquiry.

(3) All inquiries are to be open to the public.

Publication of notice of inquiry

156. (1) If the Commission is directed by the Minister to hold an inquiry under subsection 154(1) or decides to hold an inquiry under subsection 154(2), the Commission shall publish, in any manner it deems appropriate, a notice of the following matters:

- (a) the fact that it is holding the inquiry;
- (b) the period during which the inquiry is to be held;
- (c) the nature of the matter to which the inquiry relates;
- (d) the period of at least forty-five days within which, and the form in which, members of the public are invited to make submissions to the Commission about that matter;
- (e) the matters that the Commission would like such submissions to deal with; and
- (f) the address or addresses to which submissions may be sent.

(2) The Commission is not required to publish a notice of all matters referred to in subsection (1) at the same time or in the same manner.

(3) The Commission shall consider any submission received within the period specified in the notice.

(4) The submissions made by members of the public shall be in the form and nature as specified in the notice.

Private inquiry and confidential materials

157. (1) Notwithstanding subsection 155(3), an inquiry or a part of an inquiry may be conducted in private if the Commission is satisfied that—

- (a) a document or information that may be given, or a matter that may arise during the public inquiry or a part of the inquiry is of a confidential nature; or
- (b) the inquiry or part of the inquiry of a matter or part of a matter would not be conducive to the due administration of this Act if the inquiry or part of the inquiry is open to the public.

(2) The Commission may order that all evidence, documents or other materials presented at a public inquiry which are of a confidential nature are not to be published or disclosed by any person or, that the publication or disclosure of such evidence, documents or materials by any person is to be restricted.

(3) If an inquiry or part of an inquiry takes place in private, the Commission shall give instructions as to the persons who may be present at the inquiry or part of the inquiry.

Reports of public inquiry

158. (1) The Commission shall publish a report of its findings in respect of any public inquiry it conducts.

(2) The Commission shall publish the report within sixty days from the conclusion of the public inquiry.

(3) The Commission shall not include in the report any document, information or material—

- (a) that is of a confidential nature;
- (b) the disclosure of which is likely to prejudice the fair trial of a person;
- (c) that would involve the unreasonable disclosure of personal information about any individual, including a deceased individual; or
- (d) that is subject to an order made under section 157.

Protection from civil action

159. No civil proceedings shall lie against a person in respect of any loss, damage or injury of any kind suffered by another person because of any of the following acts done in good faith:

- (a) the making of a request to hold an inquiry under section 154; or
- (b) the making of a statement to, or giving of a document or information to, the Commission in relation to an inquiry under this Chapter.

Register of reports

160. The Commission shall maintain a register of all reports made pursuant to an inquiry under this Chapter in accordance with section 249.

Chapter 3

Investigation

Investigation by Commission

161. Notwithstanding the provisions of any other written law, the Commission shall investigate any matter pertaining to the administration of this Act if—

- (a) the Minister directs the Commission to conduct an investigation into any offence under this Act which may have been or may be committed; or

- (b) the Commission has grounds to believe that an offence under this Act was, is or will be committed.

Complaints to Commission

162. (1) The Commission may conduct an investigation on a matter referred to in section 161 upon a written complaint by a person.

(2) The complaint shall specify the person against whom the complaint is made (referred to as the “respondent”).

(3) If it appears to the Commission that—

- (a) a person wishes to make a complaint; and
- (b) the person requires assistance to formulate the complaint or to reduce it into writing,

it is the duty of the Commission to take reasonable steps to provide appropriate assistance to the person.

(4) If a complaint has been made to the Commission under this section, the Commission may make inquiries of the respondent for the purpose of deciding—

- (a) whether the Commission has the power to investigate the matter to which the complaint relates; or
- (b) whether the Commission should, in its discretion, investigate the matter.

(5) If the Commission decides not to investigate, or not to investigate further, a matter to which a complaint relates, it shall as soon as practicable and in such manner as it thinks fit, inform the complainant and the respondent of the decision and the reasons for the decision.

Conduct of investigation

163. (1) Before beginning an investigation of a matter to which the complaint relates, the Commission shall inform the respondent that the matter is to be investigated.

(2) An investigation under this Part is to be conducted as the Commission thinks fit.

(3) The Commission may, for the purposes of an investigation, obtain information from such persons as it thinks fit.

(4) Subject to subsection (5), it is not necessary for a complainant or a respondent to be given an opportunity to appear before the Commission in connection with an investigation.

(5) The Commission shall not, as a result of the investigation, make a finding that is adverse to a complainant or respondent unless it has given the complainant or respondent an opportunity to make submissions about a matter to which the investigation relates within a time period of not less than thirty days.

(6) The Commission shall consider the submissions made by the complainant or respondent under subsection (5) before making its decision.

Report on investigation

164. (1) After concluding an investigation, the Commission shall prepare and give to the Minister a report.

(2) The report under subsection (1) shall cover—

- (a) the conduct of the investigation concerned;
- (b) any findings that the Commission has made as a result of the investigation;
- (c) the evidence and other material on which those findings were based; and
- (d) such other matters relating to or, arising out of, the investigation as the Commission thinks fit or as the Minister directs.

Publication of reports

165. The Minister may direct the Commission to publish a report of an investigation if the Minister is satisfied that the publication would be in the national or public interest.

PART VII

CUSTOMER PROTECTION AND RESOLUTION OF DISPUTES

Chapter 1

Customer protection

Dealing with customers

166. A licensee, licensed operator and terminal licensee providing land public transport services have a general duty to deal reasonably with customers and adequately address customer complaints.

Customer standards

167. (1) The Commission may, on its own initiative or upon the recommendation of the Land Public Transport Forum, prepare or cause to be prepared customer standards which may be set out in guidelines issued under this Act, which shall include model procedures for—

- (a) reasonably meeting customer requirements;
- (b) the making, receipt and handling of customer complaints regarding the conduct or operations of a licensee, licensed operator or terminal licensee, handling of disputes through processes including mediation, and procedures for the compensation of customers in case of a breach of the customer standards; and
- (c) the protection of customer information.

(2) The matters which the customer standards may address include—

- (a) the provision of information to customers regarding services, rates and performance;
- (b) the service levels and quality of service to be provided to customers; and
- (c) any other matters of concern to customers.

Land Public Transport Forum

168. (1) The Commission shall designate a body to be known as the “Land Public Transport Forum” for the purposes of this Act by notifying the body in writing, if the Commission is satisfied that—

- (a) the membership of the body is open to all persons;
- (b) the body is capable of performing its functions as required under the relevant provisions of this Act; and
- (c) the body has a written constitution.

(2) The body shall agree in writing to be the Land Public Transport Forum before the designation may be registered.

Functions of Land Public Transport Forum

169. (1) The Land Public Transport Forum shall have all the functions imposed on it under this Act and, without prejudice to the generality of the foregoing, the Land Public Transport Forum shall have the following functions:

- (a) to give feedback and make recommendations to the Commission on any matters concerning the interest of customers in respect of land public transport;
- (b) to represent the interests of customers in respect of land public transport;
- (c) to promote customer’s interest in relation to the fares, freight and other charges, and standards of land public passenger transport services;
- (d) to identify and keep under review matters affecting the interests of customers and, to ensure that the licensees, licensed operators and terminal licensees are aware of and responsive to concerns about their services;
- (e) to publicise the existence, functions and work of the Land Public Transport Forum in protecting the interests of customers; and
- (f) to carry out any functions as may be determined by the Commission.

(2) The Commission shall have due regard to the recommendations of the Land Public Transport Forum in the exercise of its powers and the performance of its functions under this Act.

Avoidance of contracts

170. Any contract for the conveyance of a passenger in a public service vehicle, tourist vehicle or railway shall, in so far as it purports to negate or restrict the liability of any person in respect of any claim which might otherwise be lawfully made against that person in respect of the death of or bodily injury to the passenger while being carried in, entering or alighting from the public service vehicle, tourist vehicle or railway or purports to impose any condition with respect to the enforcement of any such liability, be void.

Chapter 2

Resolution of disputes

Disputes

171. (1) A dispute between two or more licensees, licensed operators and terminal licensees regarding any matter under this Act shall first be attempted to be resolved by negotiation between the parties to the dispute.

(2) Subject to section 138, if the parties to the dispute fail to reach an agreement, the parties may seek the resolution of the dispute by referring the dispute to the Commission.

(3) The Commission shall establish a committee to hear and resolve the dispute.

(4) Notwithstanding subsection (1)—

(a) the Commission may refer any dispute under section 138;
or

(b) the parties to any dispute involving a claim in respect of any aspect of land public transport, whether against any licensee, licensed operator or terminal licensee or otherwise, may jointly seek resolution of such dispute by referring such dispute,

to the committee established by the Commission under subsection (3).

(5) The Commission shall appoint any of its members to be the chairman of the committee established by it under subsection (3).

(6) Any referral under this section shall be in writing and may be subject to the payment of prescribed fees and be subject to such terms and conditions as may be prescribed.

Dispute procedures

172. (1) A committee established by the Commission to hear and resolve disputes may only do so under this Chapter if it is notified in writing of the dispute or pursuant to a referral under subsection 171(4).

(2) The committee shall adopt such procedures as it deems fit and proper in hearing a dispute.

Committee to decide on notified disputes

173. (1) Upon receipt of a notification in writing by the parties to the dispute referred to in subsection 171(2) or pursuant to a referral under subsection 171(4), the committee shall as soon as practicable convene to decide the dispute.

(2) The committee shall be bound under subsection (1) to convene to decide a dispute if it is satisfied that—

- (a) an agreement will not be reached, or will not be reached within a reasonable time;
- (b) the notification of the dispute is not trivial, frivolous or vexatious; and
- (c) the resolution of the dispute would promote the objects of this Act.

(3) The committee may resolve the dispute upon such terms and conditions as it deems fit.

Decisions to be in writing

174. (1) The terms and conditions of any resolution of a dispute by the committee under this Chapter shall be accompanied with reasons and be in writing.

(2) The committee shall provide the parties to the dispute with a copy of its decision as soon as practicable.

(3) The decision of the committee shall be deemed to be the decision of the Commission and shall be binding on the parties to the dispute.

Registration of decisions

175. (1) The Commission shall maintain a register of all decisions of the committee under this Chapter in accordance with section 249.

(2) The register shall contain—

- (a) the names of the parties to the dispute;
- (b) a general description of the matter pertaining to the decision and the decision; and
- (c) the date of the decision,

except the reasons for the decision.

Enforcement of decisions

176. A decision given by the Commission may, by leave of the Sessions Court, be enforced in the same manner as a judgment or order to the same effect, and where leave is so given, judgment may be entered in terms of the decision.

PART VIII

APPEAL TRIBUNAL

Establishment of Appeal Tribunal

177. There shall be established an Appeal Tribunal for the purpose of reviewing any decision or direction of the Commission under this Act on appeal, except a decision under subsection 17(3), 37(3) or 52(3).

Constitution of Appeal Tribunal

178. (1) The Appeal Tribunal shall consist of the following members who shall be appointed by the Minister:

- (a) a Chairman; and
- (b) at least two other members, or such greater even number of members as the Minister thinks necessary.

(2) The Minister shall appoint a person who is a member of the Judicial and Legal Service of the Federation for at least ten years or who is a practising advocate and solicitor of the High Court for at least ten years to be the Chairman of the Appeal Tribunal.

(3) The appointment of the members of the Appeal Tribunal shall be published in the *Gazette*.

(4) A member of the Appeal Tribunal referred to in paragraph (1)(b)—

- (a) shall hold office for a term not exceeding three years; and
- (b) shall be eligible for reappointment upon expiry of his term of office, but shall not be appointed for more than two consecutive terms.

Allowances

179. (1) The members of the Appeal Tribunal appointed under section 178 shall be paid such fixed allowances and other allowances as the Minister may determine.

(2) The members of the Appeal Tribunal shall be paid—

- (a) a daily sitting allowance during the sitting of the Appeal Tribunal; and
- (b) a lodging, travelling and subsistence allowance,

as the Minister may determine.

Resignation and revocation of appointment

180. (1) The Chairman or any other member of the Appeal Tribunal may at any time resign his office by giving a written notice to the Minister.

(2) The Minister may at any time revoke the appointment of the Chairman or any other member of the Appeal Tribunal if—

- (a) he is of unsound mind or otherwise incapable of performing his duties or managing his affairs;
- (b) he becomes bankrupt or insolvent;
- (c) he is prohibited from being a director of a company under the provisions of any written law relating to companies;
- (d) he has been convicted of an offence under any law by a court in Malaysia;
- (e) he is guilty of serious misconduct in relation to his duties;
- (f) he fails to comply with his obligations under section 182;
or
- (g) his performance has been unsatisfactory for a significant period of time.

Vacation of office and temporary appointments

181. (1) The office of the Chairman or any other member of the Appeal Tribunal shall be vacated if—

- (a) he dies;
- (b) he resigns or otherwise vacates his office before the expiry of the term for which he is appointed; or
- (c) his appointment is revoked under section 180.

(2) The Minister shall appoint another person in accordance with section 178 to replace the Chairman or any other member of the Appeal Tribunal during a vacancy in the office of the Chairman or other member of the Appeal Tribunal.

(3) The Minister may appoint temporarily another person in accordance with section 178 to act as the Chairman or any other member of the Appeal Tribunal—

- (a) during any period when the Chairman or member is absent from any duty or from Malaysia; or
- (b) if the Chairman or member is, for any other reason, unable to perform the duties of his office.

(4) No act done or proceeding taken by the Appeal Tribunal in exercise of its powers or the performance of its functions shall be affected on the ground of any vacancy in the membership of the Appeal Tribunal.

Disclosure of interest

182. (1) A member of the Appeal Tribunal shall disclose, as soon as practicable, to the Chairman any interest, whether substantial or not, which might conflict with the member's duties as a member of the Appeal Tribunal in a particular matter.

(2) If the Chairman is of the opinion that the member's interest is in conflict with the member's duties as a member of the Appeal Tribunal, the Chairman shall inform all the parties to the matter of the conflict.

(3) If none of the parties to the matter objects to the conflict, the member may continue to execute his duties as a member of the Appeal Tribunal in relation to that matter.

(4) If a party to the matter objects to the conflict, the member of the Appeal Tribunal shall not continue to execute his duties as a member of the Appeal Tribunal in relation to that matter.

(5) The failure by the member to disclose his interest under subsection (1) shall—

- (a) invalidate the decision of the Appeal Tribunal, unless all parties agree to be bound by the decision; and
- (b) subject the member to the revocation of his appointment under section 180.

Secretary to Appeal Tribunal and other officers

183. (1) There shall be appointed a Secretary to the Appeal Tribunal and such number of officers as may be necessary for carrying out the functions of the Appeal Tribunal.

(2) The Minister may designate such number of public officers as the Minister thinks fit to assist the Secretary in carrying out his functions under subsection (1).

(3) For the purposes of this Act, the Secretary and the officers designated under subsection (2) shall be deemed to be officers of the Appeal Tribunal.

Appeal to Appeal Tribunal

184. (1) A person who is aggrieved by a decision or direction of the Commission as set out in section 177 may, subject to the payment of such fees and compliance with such terms and conditions as may be prescribed, appeal to the Appeal Tribunal by filing a notice of appeal with the Appeal Tribunal.

(2) A notice of appeal shall be made in writing to the Appeal Tribunal within thirty days from the date of the decision or direction of the Commission and the appellant shall give a copy of the notice of appeal to the Chairman of the Commission.

(3) The notice of appeal shall state shortly the substance of the decision or direction of the Commission appealed against, contain an address at which any notices or documents connected with the appeal may be served upon the appellant or upon his advocate and shall be signed by the appellant or his advocate.

Record of decision or direction of Commission

185. (1) The aggrieved person referred to in subsection 184(1) may, on his own initiative, request in writing to the Commission for a statement of the grounds of the decision or direction of the Commission appealed against.

(2) Subject to subsection (3), the Commission shall, upon receiving the written request under subsection (1), provide a copy of a statement of its grounds for its decision or direction to the aggrieved person upon payment of a prescribed fee.

(3) When a notice of appeal has been filed with the Appeal Tribunal under subsection 184(1), the Commission shall, if it had not already written its grounds for its decision or direction for the matter stated in the notice as requested by the appellant under subsection (1), record in writing its grounds for its decision or direction and the written grounds shall form part of the record of proceedings before the Appeal Tribunal.

Stay of decision or direction pending appeal

186. (1) Pending the decision of an appeal by the Appeal Tribunal, a decision or direction of the Commission shall be valid, binding and enforceable, except where a stay of the decision or direction of the Commission has been applied for by the appellant and granted by the Appeal Tribunal.

(2) An application for a stay shall be in writing and shall be made to the Appeal Tribunal on or after the notice of appeal has been filed with the Appeal Tribunal.

Composition of Appeal Tribunal

187. (1) Every proceeding of the Appeal Tribunal shall be heard and disposed of by three members or such greater uneven number of members of the Appeal Tribunal as the Chairman may in any particular case determine.

(2) In the absence of the Chairman, the senior member of the Appeal Tribunal shall preside.

Sittings of Appeal Tribunal

188. (1) The Appeal Tribunal shall sit on such dates and at such places as the Chairman may from time to time appoint.

(2) The Chairman may cancel or postpone any sitting of the Appeal Tribunal and may change the place of the sittings which has been appointed under subsection (1).

(3) Any changes to the dates or places of any sitting of the Appeal Tribunal shall be informed to the parties to the appeal by written notice.

Procedure of Appeal Tribunal

189. The Appeal Tribunal shall decide its own procedures.

Powers of Appeal Tribunal

190. (1) The Appeal Tribunal shall have power—

- (a) to summon parties to the proceedings or any other person to attend before it to give evidence in respect of an appeal;
- (b) to procure and receive evidence on oath or affirmation whether written or oral, and examine all such persons as witnesses as the Appeal Tribunal considers necessary;
- (c) where a person is so summoned, to require the production of any information, document or other thing in his possession or under his control which the Appeal Tribunal considers necessary for the purposes of the appeal;
- (d) to administer any oath, affirmation or statutory declaration, as the case may require;
- (e) where a person is so summoned, to allow the payment for any reasonable expenses incurred in connection with his attendance;
- (f) to admit evidence or reject evidence adduced, whether oral or documentary, and whether admissible or inadmissible under the provisions of any written law for the time being in force relating to the admissibility of evidence;
- (g) to adjourn the hearing of an appeal from time to time, including the power to adjourn to consider its decision;
- (h) to seek expert advice on any matter before it, where it deems necessary; and
- (i) to generally direct and do all such matters as may be necessary or expedient for the expeditious decision of the appeal.

(2) The Appeal Tribunal shall have the powers of a subordinate court with regard to the enforcement of attendance of witnesses, hearing evidence on oath or affirmation and punishment for contempt.

Decision of Appeal Tribunal

191. (1) The decision of the Appeal Tribunal, on any matter, shall be decided on a majority of the members.

(2) A decision of the Appeal Tribunal is final and binding on the parties to the appeal and is not subject to further appeal.

Enforcement of decision of Appeal Tribunal

192. A decision given by the Appeal Tribunal may, by leave of the Sessions Court, be enforced in the same manner as a judgment or order to the same effect, and where leave is so given, judgment may be entered in terms of the decision.

Immunity of action for act or omission done in good faith

193. No action or suit shall be instituted or maintained in any court against—

- (a) the Appeal Tribunal;
- (b) the Chairman or any member of the Appeal Tribunal;
and
- (c) the Secretary or any other officer of the Appeal Tribunal,

for any act or omission done or omitted by it or him in good faith in the performance of its or his functions and the exercise of its or his powers under this Act.

PART IX**ASSUMPTION OF CONTROL****Action by Minister in certain circumstances**

194. (1) Where a licence or operator's licence issued under this Act has been revoked or suspended under section 9, 27, 45, 62 or 104, and the Minister is satisfied that it is in the public

interest for any of the services or facilities provided by the licensee, licensed operator or terminal licensee to be continued—

- (a) the Minister may by order published in the *Gazette* provide for the Commission to assume control of the whole of the property, business and affairs of that licensee, licensed operator or terminal licensee and carry on the whole of its business and affairs, or to assume control of such part of its property, business and affairs and carry on such part of its business and affairs, as may be set out in the order, or for the Commission to appoint any person to do so on behalf of the Commission and for the costs and expenses of the Commission or the remuneration of the person so appointed, as the case may be, to be payable out of the funds and properties of the licensee, licensed operator or terminal licensee as a first charge thereon;
- (b) the Minister may, whether or not an order has been made under paragraph (a), authorize an application to be made by the Commission to the High Court to appoint a receiver or manager to manage the whole of the property, business and affairs of that licensee, licensed operator or terminal licensee or such part thereof as may be set out in the order, if any, and for all such incidental, ancillary or consequential orders or directions of the High Court in relation to such appointment as may, in the opinion of the Commission, be necessary or expedient.

(2) The Minister may, by order published in the *Gazette*, exempt the person appointed pursuant to paragraph (1)(a) or (b) from the provisions of Chapter 2 of Part II, Chapters 1, 2, 3 and 4 of Part III and Chapters 4 and 5 of Part IV.

(3) An order of the Minister under subsections (1) and (2) may be modified, amended, altered, varied or replaced either prospectively, or where it is not impracticable or unjust to do so, retrospectively, by a further order under subsection (1) or (2), as the case may be.

(4) An order made under subsection (1), (2) or (3) may, at any time, be revoked by an order similarly made by the Minister and any such order may contain all such orders, directions or provisions of an incidental, ancillary or consequential nature as may be deemed necessary or expedient by the Minister.

Action by Minister in respect of licensee, licensed operator or terminal licensee in national interest

195. (1) Notwithstanding any other provisions of this Act or any other written law, the Minister may, if he thinks it necessary for national interest, by order published in the *Gazette*, direct—

- (a) the Commission to assume control of the whole of the property, business and affairs of a licensee, licensed operator or terminal licensee and to carry on the whole of the licensee's, licensed operator's or terminal licensee's business and affairs;
- (b) the Commission to assume control of such part of the property, business and affairs of a licensee, licensed operator or terminal licensee as may be specified by the Minister and to carry on such part of the licensee's, licensed operator's or terminal licensee's business and affairs; or
- (c) the Commission to appoint any person to exercise any of the actions directed in paragraph (a) or (b) on behalf of the Commission; and
- (d) for the expenses of the Commission, or the remuneration of the person so appointed under paragraph (c), as the case may be, to be payable out of the assets of the licensee, licensed operator or terminal licensee in priority to all other claims whether secured or unsecured.

(2) The determination of what amounts to national interest shall be made by the Minister and such determination shall be final and binding upon all persons.

(3) The power of the Minister under this section shall only be exercised with the prior approval of the Federal Government.

(4) The Minister may, by order published in the *Gazette*, exempt the person appointed by the Commission pursuant to subsection (1) from the provisions of Chapter 2 of Part II, Chapters 1, 2, 3 and 4 of Part III and Chapters 4 and 5 of Part IV.

Provisions relating to appointment under section 194 or 195

196. (1) A person appointed by the Commission under paragraph 194(1)(a) or 195(1)(c) shall be appointed for such period as may be determined by the Commission, but not exceeding, in any case, two years, but may be reappointed by the Commission with the approval of the Minister for three further consecutive periods not exceeding one year each, and shall during such period of appointment or reappointment hold his appointment at the pleasure of the Commission.

(2) The terms and conditions of the appointment referred to in subsection (1) shall, subject to the order under which the appointment is made and to subsection (1), be determined by the Commission and shall be binding on the licensee, licensed operator or terminal licensee concerned.

(3) A person holding any appointment as is referred to in subsection (1) shall not incur any obligation or liability solely by reason of his holding such appointment.

(4) Where a receiver or manager has been appointed in respect of a licensee, licensed operator or terminal licensee by the High Court under paragraph 194(1)(b), all proper costs, charges and expenses, including the remuneration of the receiver or manager, shall be payable out of the assets of the licensee, licensed operator or terminal licensee in priority to all other claims.

Provisions relating to assumption of control under section 194 or 195

197. (1) Where the control of a licensee, licensed operator or terminal licensee has been assumed in pursuance of an order under section 194 or 195, the licensee, licensed operator or terminal licensee or, where the licensee, licensed operator or terminal licensee is a company, the company and its directors, and officers shall submit its property, business and affairs to such control, and shall provide the Commission or, if the control is assumed by a person appointed by the Commission (referred to as the “appointed person”), to such appointed person, all such facilities as may be required to carry on the business and affairs of the licensee, licensed operator or terminal licensee.

(2) Where the control of a licensee, licensed operator or terminal licensee has been assumed in pursuance of an order under section 194 or 195, the Commission or the appointed person, as the case may be, shall remain in control of the property, business and affairs of the licensee, licensed operator or terminal licensee concerned, and carry on the business and affairs of that licensee, licensed operator or terminal licensee in the name and on behalf of that licensee, licensed operator or terminal licensee, as provided in the said order, until such time as the said order is revoked under subsection 194(4).

(3) Throughout the period of control of a licensee, licensed operator or terminal licensee in pursuance of an order under section 194 or 195, there shall be vested in the Commission or the appointed person, as the case may be, all the powers of the licensee, licensed operator or terminal licensee or, where the licensee, licensed operator or terminal licensee is a company, of the company and its directors, under the constituent documents of that licensee, licensed operator or terminal licensee, or exercisable by that licensee, licensed operator or terminal licensee or the company or its directors under any written law or otherwise howsoever, regardless whether such powers are exercisable by resolution, special resolution, or in any other manner whatsoever, and any difficulty whatsoever arising in relation thereto may be resolved by the Minister by a direction in writing.

(4) During the period that an order under section 194 or 195 is in force, no licensee, licensed operator or terminal licensee or where the licensee, licensed operator or terminal licensee is a company, no company or director, to which the order relates shall, either directly or indirectly, engage in any activity in relation to the licensee, licensed operator or terminal licensee, except as may be required or authorized by the Commission or the appointed person, as the case may be, and no remuneration of whatever nature shall accrue or be payable to the licensee, licensed operator or terminal licensee or, where the licensee, licensed operator or terminal licensee is a company, the company or any director, except such as may be approved in writing by the Commission or the appointed person, as the case may be, in relation to any activity required or authorized as aforesaid by the Commission or the appointed person, as the case may be.

(5) It is hereby declared that an order under section 194 or 195 shall not have the effect of conferring on, or vesting in, the Commission or the appointed person, as the case may be, any title to, or any beneficial interest in, any property of the licensee, licensed operator or terminal licensee to which the order relates.

PART X

COMMON OFFENCES AND PENALTIES

Unlawfully bringing dangerous or offensive goods or luggage

198. (1) No person shall bring or cause to be brought onto a relevant vehicle or railway, any dangerous or offensive goods or luggage—

(a) of a prescribed class or kind; and

(b) except in accordance with regulations made under this Act in respect of the carriage of dangerous or offensive goods by relevant vehicles or railways.

(2) Nothing in this section or any order or regulations made under this Act shall be construed as to derogate from any written law in force relating to the possession or transport of dangerous or offensive goods or luggage.

(3) A licensee or licensed operator may refuse to carry any goods or luggage that is suspected to contain articles of a dangerous nature, and may require the goods or luggage to be opened.

(4) In case any such goods or luggage has been received by any licensee or licensed operator for the purpose of being carried on the relevant vehicle or railway, any employee of the licensee or licensed operator may stop the transit thereof until he is satisfied as to the nature of the contents of the goods or luggage.

(5) A person who takes or deposits or causes to be taken or deposited any dangerous or offensive goods or luggage upon a relevant vehicle or railway in contravention of subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding fifty thousand ringgit or to imprisonment for a term not exceeding seven years or to both.

Entering or leaving railway coach, public service vehicle or tourism vehicle, etc., while in motion or travelling irregularly

199. Any passenger who gets into or upon, or attempts to get into or upon, or quits or attempts to quit any railway coach, public service vehicle or tourism vehicle while such coach or vehicle is in motion, or who travels or attempts to travel on or in any part of the coach or vehicle not intended for the use of passengers, commits an offence and shall, on conviction, be liable to a fine not exceeding one thousand ringgit for each offence.

Disorderly or offensive behaviour or nuisance

200. Any person who—

- (a) behaves in a disorderly or offensive manner or commits any nuisance on a railway coach, railway premises, public service vehicle or tourism vehicle; or
- (b) assaults, hinders or obstructs a licensee or licensed operator or an employee of the licensee or licensed operator, including a railway official, in the execution of his duties,

commits an offence and shall, on conviction, be liable to a fine not exceeding one thousand ringgit or to imprisonment for a term not exceeding three months or to both, and in addition, the offender may be removed by the licensee or licensed operator or an employee of the licensee or licensed operator from such railway coach, railway premises, public service vehicle or tourism vehicle and shall, if he is a passenger, forfeit his fare.

Wilful act or omission endangering passenger

201. A person who wilfully does any act, or wilfully omits to do what he is legally bound to do, intending by such act or omission to cause or knowing that he is thereby likely to cause the safety of any person travelling or being upon a railway, public service vehicle or tourism vehicle to be endangered, commits an offence and shall, on conviction, be liable to a fine not exceeding fifty thousand ringgit or to imprisonment for a term not exceeding seven years or to both.

Negligent act

202. A person who rashly or negligently, and without lawful excuse, does any act which is likely to endanger his own safety or that of any person travelling or being upon a railway, public service vehicle or tourism vehicle, commits an offence and shall, on conviction, be liable to a fine not exceeding two thousand ringgit or to imprisonment for a term not exceeding six months or to both.

Smoking prohibited

203. (1) No person shall smoke any cigarette or tobacco products in or on any railway or railway premises, public service vehicle or tourism vehicle.

(2) A person who contravenes subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding ten thousand ringgit or to imprisonment for a term not exceeding two years or to both.

Making false statements, etc.

204. (1) If any person—

- (a) for the purpose of obtaining under the provisions of this Act the issuance of any type or description of licence or operator's licence to himself or to any other person or the variation of any such licence or operator's licence, or for the purpose of preventing the issuance or variation of any such licence or operator's licence or of procuring the imposition of any condition or limitation in relation to any such licence or operator's licence, makes any statement or declaration which to his knowledge is false or incorrect, either in whole or in part, or in any material respect misleading;
- (b) furnishes any particulars in relation to an application for the issuance of a licence or operator's licence under this Act which to his knowledge is false or in any material respect misleading;

- (c) furnishes any information to the Commission in response to a request made by the Commission under or for the purposes of this Act which to his knowledge is false or incorrect, either in whole or in part, or in any material respect misleading; or
- (d) makes any entry in a record, register or other document required to be issued, kept, maintained or furnished under this Act which is false or in any material respect misleading,

he commits an offence and shall, on conviction, be liable to a fine of not less than one thousand ringgit but not more than ten thousand ringgit or to imprisonment for a term not exceeding one year or to both.

(2) In any prosecution under this section, when it has been proved that any application, statement, declaration, particulars, information, entry, record, register or other document is false or incorrect in whole or in part or misleading in any material particular, it shall be presumed until the contrary is proved, that such application, statement, declaration, particulars, information, entry, record, register or other document was false or incorrect or misleading in any material particular, as the case may be, to the knowledge of the person signing, delivering or supplying the same.

(3) If any person—

- (a) forges, alters, tampers with, defaces, mutilates, uses or lends to or allows to be used by any other person any sign, identification mark, plate or document which is required by this Act to be carried or exhibited on any relevant vehicle, railway train, licence, operator's licence or land public transport facility or terminal;
- (b) makes or has in his possession any sign, identification mark, plate or document so closely resembling any such sign, identification mark, plate or document as stated in paragraph (a) as to be calculated to deceive;
- (c) alters any entry made in a register, licence, operator's licence or other document issued or kept under this Act;

- (d) exhibits on any relevant vehicle or railway train, any licence, operator's licence, sign, identification mark, plate or document which has been altered, tampered with, defaced, mutilated or added to, or any imitation of a licence, operator's licence, sign, identification mark, plate or document which is required under this Act to be carried or exhibited on a relevant vehicle or railway train;
- (e) exhibits on any relevant vehicle or railway train, any licence, operator's licence, sign, identification mark, plate or document which does not belong to such relevant vehicle or railway train;
- (f) prepares or maintains or authorizes the preparation or maintenance of false records that are required to be maintained under this Act; or
- (g) falsifies or authorizes the falsification of records that are required to be furnished under this Act,

he commits an offence and shall, on conviction, be liable to a fine of not less than one thousand ringgit but not more than ten thousand ringgit or to imprisonment for a term not exceeding one year or to both:

Provided that in the case of paragraph (d), he does not commit an offence if he proves that he had acted in good faith and had no reasonable grounds for supposing that such licence, operator's licence, sign, identification mark, plate or document had been altered, tampered with, defaced, mutilated or added to, or that such licence, operator's licence, sign, identification mark, plate or document was an imitation.

(4) Paragraphs (3)(a) and (b) shall, with all necessary modifications, apply in relation to a document evidencing the appointment of an appointed officer as they apply in relation to a licence or operator's licence.

(5) For the purposes of this section, "document" includes a badge.

Soliciting or touting

205. (1) Any person who, without lawful authority, solicits or touts for the purposes of offering services in connection with accepting for hire or reward the carriage of passengers or plying for hire or reward, whether or not carried out by that person, at any public place or its ancillary areas or in the vicinity of such place, commits an offence and shall, on conviction, be liable to a fine not exceeding fifty thousand ringgit or to imprisonment for a term not exceeding five years or to both.

(2) Notwithstanding any other provisions in this Act, a police officer, road transport officer or appointed officer may arrest without warrant any person who has committed or is suspected of having committed an offence under this section and shall without unnecessary delay, bring the person arrested to the nearest police station, and thereafter the person shall be dealt with in accordance with the law relating to criminal procedure for the time being in force.

(3) For the purposes of this section, “public place” includes all parts of an airport that is freely accessible to members of the public, any road, any terminal, or any place which has been gazetted as a stand for public service vehicles.

Penalty for fraud

206. Any person who—

- (a) defrauds or attempts to defraud a licensed operator of a public service vehicle service or railway service, which requires fares to be paid in advance of the provision of such service—
 - (i) by travelling or attempting to travel upon a public service vehicle or railway without having previously paid his fare;
 - (ii) by riding in or upon a railway carriage of a higher class than that for which he has paid his fare;or

- (iii) by continuing his journey in or upon any of the public service vehicles or railway carriages beyond the station for which he has paid his fare without having previously either paid the fare for the additional distance or obtained the sanction of the driver of the public service vehicle or station master or guard of the railway train;
- (b) knowingly and wilfully refuses or neglects on arriving at the station to which he has paid his fare to quit such public service vehicle or railway carriage;
- (c) transfers or profits by the transfer of the return half of any ticket obtained by him; or
- (d) in any other manner whatsoever attempts to evade the payment of his fare,

commits an offence and shall, on conviction, be liable to a fine not exceeding one thousand ringgit or to imprisonment for a term not exceeding three months or to both for each offence.

PART XI

INFORMATION GATHERING POWERS AND ENFORCEMENT PROVISIONS

Chapter 1

Information gathering powers

Provision of information

207. (1) Notwithstanding any other written law, if the Commission has reasonable grounds to believe that any person—

- (a) has any information or document that is relevant to the performance of the powers and functions of the Commission under the land public transport laws; or
- (b) is capable of giving any evidence which the Commission has reasonable grounds to believe is relevant to the performance of the powers and functions of the Commission under the land public transport laws,

it may, by a written notice, order the person—

- (A) to give an appointed officer, within the period and in the manner and form specified in the notice, any such information;
- (B) to produce to an appointed officer, within the period and in the manner specified in the notice, any such documents, whether in a physical form or in electronic media;
- (C) to make copies of any such documents and to produce those copies to an appointed officer within the period and in the manner specified in the notice;
- (D) if the person is an individual, to appear, at a private hearing, before an appointed officer at a time and place specified in the notice to give any evidence, either orally or in writing, and produce any such documents, whether in a physical form or in electronic media;
- (E) if the person is a body corporate or a public body, to cause a competent officer of the body to appear, at a private hearing, before an appointed officer at a time and place specified in the notice to give any such evidence, either orally or in writing, and produce any such documents, whether in a physical form or in electronic media; or
- (F) if the person is a partnership, to cause an individual who is a partner in the partnership or an employee of the partnership to appear, at a private hearing, before an appointed officer at a time and place specified in the notice to give any such evidence, either orally or in writing, and to produce any such documents, whether in a physical form or in electronic media.

(2) The Commission shall allow the person so ordered under subsection (1) a reasonable time to provide any such information or documents as specified in the notice.

(3) Any person required to provide information or documents under subsection (1) shall ensure that the information or documents provided are true, accurate and complete and such person should provide a representation to that effect, including a representation that he is not aware of any other information or document which would make the information or document provided untrue or misleading.

Proof of compliance

208. A person shall, if at any time called upon in writing by the Commission to do so, provide to the Commission or its appointed officer all documents and information as the person may have relating to his compliance with any of the provisions of this Act, as the Commission may generally, or in relation to any particular case, require.

Commission may retain documents

209. (1) The Commission may take and retain for as long as is necessary possession of a document provided by any person under this Chapter.

(2) The person who provided the document is entitled to be supplied, as soon as practicable, with a copy certified by the Commission to be a true copy of the document.

(3) Notwithstanding any other written law, the certified copy of the document shall be received by all courts and tribunals as evidence as if it was the original document.

(4) Until a certified copy of the document is supplied, the Commission shall, at such times and places as the Commission deems appropriate, permit the person who provided the document or a person authorized by the person to inspect and make copies of or take extracts from the original document.

(5) If the Commission is satisfied that the retaining of the document is no longer necessary, the Commission may return the document to the person who provided the document under subsection (1) as soon as practicable.

Access to records

210. (1) A licensee, licensed operator or terminal licensee shall, if at any time requested by the Commission by written notice, allow the Commission or its appointed officer access to its records if the Commission has reasonable grounds to believe that the licensee, licensed operator or terminal licensee—

- (a) has any information or document that is relevant to the performance of the powers and functions of the Commission under the land public transport laws; or

- (b) is capable of giving any evidence which the Commission has reasonable grounds to believe is relevant to the performance of the powers and functions of the Commission under the land public transport laws.

(2) A licensee, licensed operator or terminal licensee who fails to comply with the written notice under subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding two hundred thousand ringgit.

Incorrect records

211. A person shall not, in purported compliance with a requirement imposed by the rules made by the Commission under paragraph 253(1)(m) in relation to record-keeping, make a record of any matter or thing in such a way that it does not correctly record the matter or thing.

Record of information

212. (1) The Commission shall maintain a record of all information or documents received pursuant to a written notice given under subsection 207(1).

(2) A record maintained under subsection (1) may be made available to the public.

Publication of information

213. (1) The Commission may publish any information received by it in the course of exercising its powers and functions under this Chapter.

(2) The Commission shall consider the commercial interest of the parties to whom the information relates before publishing such information.

(3) The Commission shall not publish any information or any part of any information disclosed to it if the publication—

- (a) is likely to prejudice the fair trial of a person; or

- (b) would involve the unreasonable disclosure of personal information about any individual, including a deceased person,

but the Commission may publish an extract relating to such information provided that the particulars in the extract shall not be arranged in any way which would compromise or prejudice the person providing such information.

Offence for non-compliance

214. A person who fails to comply with an order of the Commission in accordance with this Chapter commits an offence and shall, on conviction, be liable to a fine not exceeding fifty thousand ringgit or to imprisonment for a term not exceeding six months or to both.

Chapter 2

Enforcement powers of appointed officers

Appointed officer

215. (1) The Commission may, in writing, appoint such number of its employees or any public officer, other than a police officer and road transport officer, to exercise the powers of enforcement under the land public transport laws.

(2) Any person appointed under subsection (1) shall be deemed to be a public servant within the meaning of the Penal Code [Act 574].

(3) The Commission may make rules on the uniform for and identification cards to be carried by appointed officers while on duty.

Power of investigation

216. (1) An appointed officer may investigate the activities of a licensee, licensed operator or terminal licensee in relation to the commission of an offence under this Act.

(2) Notwithstanding anything in this Act or any other written law, an appointed officer shall have the right to be present at the site of any accident involving a railway for the purpose of investigating the same and preparing a report of the investigation and recommendations to be submitted to the Commission.

(3) For the avoidance of doubt, it is declared that for the purposes of this Act, the appointed officer shall have all or any of the powers of a police officer of whatever rank in relation to police investigations in seizable cases as provided for under the Criminal Procedure Code [*Act 593*], and such powers shall be in addition to the powers provided under this Act and shall not be in derogation thereof.

Power of arrest

217. (1) An appointed officer may arrest without warrant any person—

- (a) found committing or attempting to commit or abetting the commission of an offence under this Act; or
- (b) whom the appointed officer reasonably suspects of being engaged in committing or attempting to commit or abetting the commission of an offence under this Act.

(2) An appointed officer making an arrest under subsection (1) shall, without unnecessary delay make over the person so arrested to the nearest police officer or, in the absence of a police officer, take such person to the nearest police station, and thereafter the person shall be dealt with as is provided by the law relating to criminal procedure for the time being in force as if he had been arrested by a police officer.

Search and seizure with warrant

218. (1) If it appears to a Magistrate, upon written information on oath from the appointed officer and after such inquiry as the Magistrate considers necessary, that there is reasonable cause to believe that an offence under this Act is being or has been committed on any premises, so that any evidence or thing which is necessary to the conduct of an investigation into an offence may be found in any premises, the Magistrate may issue a warrant

authorising the appointed officer named in the warrant to enter the premises at any reasonable time by day or by night, with or without assistance and if need be by force and there to search for and seize any such evidence or thing, provided that nothing shall authorize any court other than a High Court to grant a warrant to search for a postal article, telegram or other documents in the custody of the postal or telegraph authorities.

(2) Without affecting the generality of subsection (1), the warrant issued by the Magistrate may authorize the search and seizure of—

- (a) copies of any books, account or other documents, including computerized data, which contain or are reasonably suspected to contain information as to any offence so suspected to have been committed;
- (b) any signboard, card, letter, pamphlet, leaflet or notice representing or implying that the person has a licence or operator's licence issued under this Act; or
- (c) any document, equipment, motor vehicle, instrument or matter that is reasonably believed to furnish evidence of the commission of the offence.

(3) An appointed officer conducting a search under subsection (1) may, for the purpose of investigating into the offence, search any person who is in or on the premises.

(4) An appointed officer making a search of a person under subsection (3) or section 219 may seize or take possession of, and place in safe custody all things, other than the necessary clothing found upon the person, and any other things which there is reason to believe were the instruments or other evidence of the offence, and they may be detained until the discharge or acquittal of the person.

(5) Whenever it is necessary to cause a woman to be searched, the search shall be made by another woman with strict regard to decency.

(6) If, by reason of its nature, size or amount, it is not practicable to remove any book, accounts, documents, computerized data, signboard, card, letter, pamphlet, leaflet, notice, equipment, motor vehicle, instrument or matter seized under this section, the appointed officer shall by any means seal such book, accounts,

documents, computerized data, signboard, card, letter, pamphlet, leaflet, notice, equipment, motor vehicle, instrument or matter in the premises or container in which it is found.

(7) A person who, without lawful authority, breaks, tampers with or damages the seal referred to in subsection (6) or removes any book, accounts, documents, computerized data, signboard, card, letter, pamphlet, leaflet, notice, equipment, motor vehicle, instrument or matter under seal or attempts to do so commits an offence and shall, on conviction, be liable to a fine not exceeding fifty thousand ringgit or to imprisonment for a term not exceeding six months or to both.

Search and seizure without warrant

219. If an appointed officer is satisfied upon information received that he has reasonable cause to believe that by reason of delay in obtaining a search warrant under section 218 the investigation would be adversely affected or evidence of the commission of an offence is likely to be tampered with, removed, damaged or destroyed, the appointed officer may enter the premises and exercise in, upon and in respect of the premises all the powers referred to in section 218 in as full and ample a manner as if he were authorized to do so by a warrant issued under that section.

Access to computerized data

220. An appointed officer conducting a search under sections 218 and 219 shall be given access to computerized data whether stored in a computer or otherwise, and for such purpose shall be provided the necessary password, encryption code, decryption code, software or hardware and any other means required to enable comprehension of the computerized data.

Warrant admissible notwithstanding defects

221. A search warrant issued under this Act shall be valid and enforceable notwithstanding any defect, mistake or omission therein or in the application for such warrant and any book, accounts, documents, computerized data, signboard, card, letter, pamphlet, leaflet, notice, equipment, motor vehicle, instrument or matter seized under such warrant shall be admissible in evidence in any proceedings under this Act.

List of books, documents, etc., seized

222. (1) Except as provided in subsection (2), where any book, accounts, documents, computerized data, signboard, card, letter, pamphlet, leaflet, notice, equipment, motor vehicle, instrument or matter is seized pursuant to this Act, the appointed officer making the seizure—

(a) shall prepare—

- (i) a list of the book, accounts, documents, computerized data, signboard, card, letter, pamphlet, leaflet, notice, equipment, motor vehicle, instrument or matter seized and shall sign the list; and
- (ii) a written notice of the seizure containing the grounds for the seizure and shall sign the notice; and

(b) shall as soon as practicable serve a copy of the list of the book, accounts, documents, computerized data, signboard, card, letter, pamphlet, leaflet, notice, equipment, motor vehicle, instrument or matter seized and the written notice of the seizure to the occupier of the premises which have been searched, or to his agent or servant at those premises.

(2) The written notice of the seizure shall not be required to be served in pursuance of paragraph (1)(b) where the seizure is made in the presence of the person against whom proceedings under this Act are intended to be taken, or in the presence of the owner of such property or his agent, as the case may be.

(3) If the premises are unoccupied, the appointed officer shall post a copy of the list of the book, accounts, documents, computerized data, signboard, card, letter, pamphlet, leaflet, notice, equipment, motor vehicle, instrument or matter seized conspicuously on the premises.

Release of books, documents, etc., seized

223. (1) Without prejudice to section 80, if any book, accounts, documents, computerized data, signboard, card, letter, pamphlet, leaflet, notice, equipment, motor vehicle, instrument or matter has been seized under this Act, the appointed officer who effected the seizure may, after referring to the Public Prosecutor, release the book, accounts, documents, computerized data, signboard, card,

letter, pamphlet, leaflet, notice, equipment, motor vehicle, instrument or matter to the person as he determines to be lawfully entitled to it, if the book, accounts, documents, computerized data, signboard, card, letter, pamphlet, leaflet, notice, equipment, motor vehicle, instrument or matter is not liable to forfeiture under this Act, and is not otherwise required for the purpose of any proceedings under this Act or for the purpose of any prosecution under any other written law, and in such event neither the appointed officer effecting the seizure, nor the Federal Government, Commission or any person acting on behalf of the Federal Government or Commission shall be liable to any proceedings by any person if the seizure and the release of the book, accounts, documents, computerized data, signboard, card, letter, pamphlet, leaflet, notice, equipment, motor vehicle, instrument or matter had been effected in good faith.

(2) A record in writing shall be made by the appointed officer effecting the release of the book, accounts, documents, computerized data, signboard, card, letter, pamphlet, leaflet, notice, equipment, motor vehicle, instrument or matter under subsection (1) specifying in detail the circumstances of and the reason for the release, and he shall send a copy of the record to the Public Prosecutor within seven days of the release.

Power to require attendance of person acquainted with case

224. (1) An appointed officer making an investigation under this Act may by order in writing require the attendance before himself of any person who appears to the appointed officer to be acquainted with the facts and circumstances of the case, and such person shall attend as so required.

(2) If any person refuses or fails to attend as so required, the appointed officer may report such refusal or failure to a Magistrate who shall issue a summons to secure the attendance of such person as may be required by the order made under subsection (1).

Examination of person acquainted with case

225. (1) An appointed officer making an investigation under this Act may examine orally any person supposed to be acquainted with the facts and circumstances of the case and shall reduce into writing any statement made by the person so examined.

(2) Such person shall be bound to answer all questions relating to the case put to him by the appointed officer:

Provided that such person may refuse to answer any question the answer to which would have a tendency to expose him to a criminal charge or penalty or forfeiture.

(3) A person making a statement under this section shall be legally bound to state the truth, whether or not such statement is made wholly or partly in answer to questions.

(4) The appointed officer examining a person under subsection (1) shall first inform that person of the provisions of subsections (2) and (3).

(5) A statement made by any person under this section shall, whenever possible, be taken down in writing and signed by the person making it or affixed with his thumb print, as the case may be, after it has been read to him in the language in which he made it and after he has been given an opportunity to make any corrections he may wish.

Admissibility of statements in evidence

226. (1) Except as provided in this section, no statement made by any person to an appointed officer in the course of an investigation made under this Act shall be used in evidence.

(2) When any witness is called for the prosecution or for the defence, other than the accused, the court shall, on the request of the accused or the prosecutor, refer to any statement made by that witness to the appointed officer in the course of the investigation under this Act and may then, if the courts thinks fit in the interest of justice, direct the accused to be furnished with a copy of it and the statement may be used to impeach the credit of the witness in the manner provided by the Evidence Act 1950 [Act 56].

(3) Where the accused had made a statement during the course of an investigation, such statement may be admitted in evidence in support of his defence during the course of the trial.

(4) Nothing in this section shall be deemed to apply to any statement made in the course of an identification parade or falling within section 27 or paragraphs 32(1)(a), (i) and (j) of the Evidence Act 1950.

(5) When any person is charged with any offence in relation to—

(a) the making; or

(b) the contents,

of any statement made by him to an appointed officer in the course of an investigation made under this Act, that statement may be used as evidence in the prosecution's case.

Forfeiture of books, documents, etc., seized

227. (1) Without prejudice to section 80, any book, accounts, documents, computerized data, signboard, card, letter, pamphlet, leaflet, notice, equipment, motor vehicle, instrument or matter seized shall be liable to forfeiture.

(2) An order for the forfeiture of the book, accounts, documents, computerized data, signboard, card, letter, pamphlet, leaflet, notice, equipment, motor vehicle, instrument or matter seized and liable to forfeiture under this Act shall be made by the court before which the prosecution with regard thereto has been held if it is proved to the satisfaction of the court that an offence under this Act has been committed and that the book, accounts, documents, computerized data, signboard, card, letter, pamphlet, leaflet, notice, equipment, motor vehicle, instrument or matter seized was the subject matter of or was used in the commission of the offence, notwithstanding that no person has been convicted of such offence.

(3) If there is no prosecution with regard to any book, accounts, documents, computerized data, signboard, card, letter, pamphlet, leaflet, notice, equipment, motor vehicle, instrument or matter seized under this Act, such book, accounts, documents, computerized data, signboard, card, letter, pamphlet, leaflet, notice, equipment, motor vehicle, instrument or matter shall be taken and deemed to be forfeited at the expiration of a period of one calendar month from the date of service of a notice to the

last-known address of the person from whom the book, accounts, documents, computerized data, signboard, card, letter, pamphlet, leaflet, notice, equipment, motor vehicle, instrument or matter was seized indicating that there is no prosecution in respect of such book, accounts, documents, computerized data, signboard, card, letter, pamphlet, leaflet, notice, equipment, motor vehicle, instrument or matter, unless before the expiration of that period a claim thereto is made in the manner set out in subsections (4), (5) and (6).

(4) Any person asserting that he is the owner of the book, accounts, documents, computerized data, signboard, card, letter, pamphlet, leaflet, notice, equipment, motor vehicle, instrument or matter referred to in subsection (3) and that it is not liable to forfeiture may, personally or by his agent authorized in writing, give written notice to the appointed officer in whose possession such book, accounts, documents, computerized data, signboard, card, letter, pamphlet, leaflet, notice, equipment, motor vehicle, instrument or matter is held that he claims the book, accounts, documents, computerized data, signboard, card, letter, pamphlet, leaflet, notice, equipment, motor vehicle, instrument or matter.

(5) On receipt of the notice under subsection (4), the appointed officer shall refer the matter to a Magistrate for his decision.

(6) The Magistrate to whom the matter is referred under subsection (5) shall issue a summons requiring the person asserting that he is the owner of the book, accounts, documents, computerized data, signboard, card, letter, pamphlet, leaflet, notice, equipment, motor vehicle, instrument or matter and the person from whom it was seized to appear before the Magistrate, and upon their appearance or default to appear, due service of the summons having been proved, the Magistrate shall proceed to the examination of the matter and, on proof that an offence under this Act has been committed and that the book, accounts, documents, computerized data, signboard, card, letter, pamphlet, leaflet, notice, equipment, motor vehicle, instrument or matter seized was the subject matter of or was used in the commission of such offence, the Magistrate shall order the book, accounts, documents, computerized data, signboard, card, letter, pamphlet, leaflet, notice, equipment, motor vehicle, instrument or matter to be forfeited, and shall, in the absence of such proof, order its release.

(7) Any book, accounts, documents, computerized data, signboard, card, letter, pamphlet, leaflet, notice, equipment, motor vehicle, instrument or matter forfeited or deemed to be forfeited shall be delivered to the Commission and shall be disposed of in such manner as the Commission thinks fit.

Cost of holding books, documents, *etc.*, seized

228. Where any book, accounts, documents, computerized data, signboard, card, letter, pamphlet, leaflet, notice, equipment, motor vehicle, instrument or matter seized under this Act is held in the custody of the Government or the Commission pending the completion of any proceedings in respect of an offence under this Act, the cost of holding such thing in custody shall, in the event of any person being found to have committed an offence, be a debt due to the Government by such person and shall be recoverable accordingly.

No cost or damages arising from seizure to be recoverable

229. No person shall, in any proceedings before any court in respect of any book, accounts, documents, computerized data, signboard, card, letter, pamphlet, leaflet, notice, equipment, motor vehicle, instrument or matter seized in the exercise or the purported exercise of any power conferred under this Act, be entitled to the costs of such proceedings or to any damages or other relief unless such seizure was made without reasonable cause.

Additional powers

230. An appointed officer shall, for the purposes of the execution of this Act, have power to do all or any of the following:

- (a) to require the production of any book, accounts, documents, computerized data, card, letter, pamphlet, leaflet or notice kept by a licensee, licensed operator, terminal licensee or any other person and to inspect, examine and to download from them, make copies of them or take extracts from them;
- (b) to require the production of any identification document from any person in relation to any act or offence under this Act;

- (c) to make such enquiries as may be necessary to ascertain whether the provisions of this Act have been complied with.

Chapter 3

Enforcement powers of police officers, etc.

Power of police in investigation

231. Every police officer making an investigation under this Act may exercise any or all of the special powers in relation to police investigation in seizable cases conferred on such police officer by Chapter XIII of the Criminal Procedure Code, and the provisions of sections 112 to 114 of that Code shall apply to statements made by persons examined in the course of such investigation.

Power of road transport officer in investigation

232. (1) Every road transport officer making an investigation under this Act shall have the power to require information, whether orally or in writing, from any person supposed to be acquainted with the facts and circumstances of the case under investigation.

(2) Whoever, on being required by a road transport officer to give information under this section, furnishes as true information which he knows or has reason to believe to be false, commits an offence and shall, on conviction, be liable to a fine of not less than one thousand ringgit but not more than ten thousand ringgit or to imprisonment for a term not exceeding one year or to both.

(3) When any such information is proved to be untrue or incorrect in whole or in part, it shall be no defence to allege that such information or any part thereof was misinterpreted, or furnished inadvertently or without criminal or fraudulent intent.

Appointed officer not in uniform to produce identification card

233. (1) Every appointed officer, if not in uniform when acting against any person under this Act, shall on demand, declare his office and produce to the person against whom he is acting such document establishing his identity as the Commission may direct an appointed officer to carry.

(2) It shall not be an offence for any person to refuse to comply with any request, demand or order made by any police officer, road transport officer or appointed officer, not in uniform, if such police officer, road transport officer or appointed officer refuses to declare his office and produce his identification document on demand being made by such person.

Chapter 4

*Miscellaneous***Obstruction**

234. A person who—

- (a) refuses any police officer, road transport officer or appointed officer access to any premises which such officer is entitled to have under this Act or in the execution of any duty imposed or power conferred by this Act;
- (b) assaults, obstructs, hinders or delays any police officer, road transport officer or appointed officer in effecting any entry which the police officer, road transport officer or appointed officer is entitled to effect under this Act, or in the execution of any duty imposed or power conferred by this Act; or
- (c) refuses to give any police officer, road transport officer or appointed officer any information relating to an offence or suspected offence under this Act or any other information which is relevant to the performance of the functions and powers of the Commission under the land public transport laws and which he has in his knowledge or power to give,

commits an offence and shall, on conviction, be liable to a fine not exceeding two hundred thousand ringgit or to imprisonment for a term not exceeding two years or to both.

Compounding of offences

235. (1) The Minister may prescribe any offence under this Act as an offence which may be compounded.

(2) Any of the following persons, namely—

- (a) the Chairman of the Commission or any appointed officer authorized by the Commission;
- (b) a Chief Police Officer, a Commissioner of Police or any police officer not below the rank of Inspector specially authorized in writing by name or by office in that behalf by the Minister responsible for the police;
- (c) the Director General or Director for Road Transport or any road transport officer specially authorized in writing by name or by office in that behalf by the Director General;
- (d) the Dato Bandar;
- (e) the Perbadanan Putrajaya; or
- (f) an officer of the appropriate authority declared to be an appropriate authority under paragraph (a) of the definition of “appropriate authority” in section 67 of the Road Transport Act 1987, specially authorized in writing by name or by office in that behalf by the Minister responsible for local government,

may, with the consent in writing of the Public Prosecutor, compound any offence committed by any person under this Act and prescribed to be a compoundable offence under subsection (1) by making a written offer to the person suspected to have committed the offence to compound the offence upon payment to the person making the offer to compound of an amount of money not exceeding fifty per centum of the amount of maximum fine for that offence within such time as may be specified in his or its written offer.

(3) An offer under subsection (2) may be made at any time after the offence has been committed but before any prosecution for it has been instituted, and where the amount specified in the offer is not paid within the time specified in the offer or such extended time as the person making the offer to compound may grant, prosecution for the offence may be instituted at any time after that against the person to whom the offer was made.

(4) Where an offence has been compounded under subsection (2), no prosecution shall be instituted in respect of the offence against the person to whom the offer to compound was made, and any book, accounts, documents, computerized data, signboard, card, letter, pamphlet, leaflet, notice, equipment, motor vehicle, instrument or matter seized in connection with the offence may be released or forfeited by the Commission or any appointed officer authorized by the Commission, subject to such terms and conditions as it or he thinks fit to impose in accordance with the conditions of the compound.

(5) The amount paid in relation to an offence which is compounded under this section shall be paid into the Suruhanjaya Pengangkutan Awam Darat Fund established under section 29 of the Suruhanjaya Pengangkutan Awam Darat Act 2010.

Commission to be informed of convictions and compounds

236. (1) When, during any proceedings leading to the conviction, or upon the conviction, of any person for any criminal offence whatsoever, it comes to the knowledge of the court recording such conviction that such person (whether or not such person is in possession of a licence or operator's licence issued under this Act) is, or has been, or has acted as, the driver, conductor or owner of a public service vehicle or operator of a public service vehicle service, or driver or owner of a tourism vehicle, or driver or owner of a goods vehicle or operator of a goods vehicle service, or operator of a terminal, the court shall immediately send particulars of such conviction, and of any sentence passed thereon, to the Commission.

(2) Where any court convicts a person of any offence under sections 40 to 49 and section 69 of the Road Transport Act 1987, and the person so convicted is the holder of a licence to act as the driver or conductor of a public service vehicle, tourism vehicle or goods vehicle, the court shall immediately send particulars of such conviction, and of any such licence or operator's licence, if such particulars can be ascertained, to the Commission.

(3) Where any officer has compounded an offence pursuant to subsection 235(2), such officer shall immediately send particulars of such offence to the Commission.

Recovery of fares, freight, special charges, etc.

237. (1) When any person is convicted before a court of criminal jurisdiction for an offence under this Act, the court may, in addition to imposing any penalty under this Act, fix or assess the amount of any fares, freight, special charges, surcharges, damages, expenses or other sums of money whatsoever which may have become payable by such person to a licensee, licensed operator or terminal licensee, and order such amount to be paid by such person to the licensee, licensed operator or terminal licensee.

(2) Nothing in subsection (1) shall prevent the recovery of any fares, freight, special charges, surcharges, damages, expenses or other sums of money whatsoever which may have become payable by any person to a licensee, licensed operator or terminal licensee by way of a civil claim before a court of civil jurisdiction.

Provisions as to evidence

238. (1) A copy of a licence, operator's licence or approval, certified by the Chairman of the Commission to be a true copy of such licence, operator's licence or approval, shall be admissible as evidence for all purposes for which the original of such copy would have been admissible had such original been produced and admitted as evidence, without proof of the signature or authority of the person signing the licence, operator's licence or approval or the copy thereof.

(2) When in any proceedings for an offence under this Act it is necessary to prove that any person was, or was not, the holder of a licence, operator's licence or approval, a certificate purporting to be signed by the Chairman of the Commission and certifying that a person was, or was not, the holder of a licence, operator's licence or approval, shall be admissible as evidence and shall constitute *prima facie* proof of the facts certified in such certificate, without proof of the signature of the Chairman of the Commission to such certificate.

Presumptions

239. In any proceedings for an offence under this Act, in so far as it may be necessary to establish the offence charged, it shall be presumed until the contrary is proved—

- (a) that any conveyance of passengers in a public service vehicle, tourism vehicle or railway, as the case may be, was for hire or reward;
- (b) that any conveyance of goods in a goods vehicle or railway, as the case may be, was for hire or reward;
- (c) that passengers carried in—
 - (i) a public service vehicle were being carried in consideration of separate payments made by them;
 - (ii) a tourism vehicle were being carried in consideration of a single or separate payments made by them;
 - (iii) a railway were being carried in consideration of separate payments made by them;
- (d) that any person is not the holder of a vocational licence under Chapter 6 of Part IV;
- (e) that any person is not the holder of a short term licence or short term operator's licence under Part III; or
- (f) that any person is not the holder of a licence or operator's licence under Part II, Part III or Part IV, as the case may be.

Liability of registered owner and others in respect of relevant vehicle

240. (1) Unless expressly provided otherwise, any act or omission by any servant, agent or partner of the owner of a relevant vehicle shall, for the purpose of any prosecution or proceeding under this Act, be deemed to be the act or omission of the owner, unless he satisfies the court that he has taken all reasonable steps and precautions to prevent such act or omission.

(2) In the event of any act or omission by any servant, agent or partner of the owner of a relevant vehicle which would have been an offence against this Act if committed by the owner, that servant, agent or partner shall also be guilty of that offence.

Prosecution

241. (1) No prosecution for any offence under this Act shall be instituted except with the consent in writing of the Public Prosecutor.

(2) Any appointed officer authorized in writing by the Public Prosecutor may conduct the prosecution of any offence committed under this Act.

Offences by body corporate

242. (1) If a body corporate commits an offence under this Act, any person who at the time of the commission of the offence was a director, chief executive officer, chief operating officer, manager, secretary or other similar officer of the body corporate or was purporting to act in any such capacity or was in any manner or to any extent responsible for the management of any of the affairs of the body corporate or was assisting in such management—

(a) may be charged severally or jointly in the same proceedings with the body corporate; and

(b) if the body corporate is found to have committed the offence, shall be deemed to have committed that offence unless, having regard to the nature of his functions in that capacity and to all circumstances, he proves—

(i) that the offence was committed without his knowledge, consent or connivance; and

(ii) that he had taken all reasonable precautions and exercised due diligence to prevent the commission of the offence.

(2) If any person would be liable under this Act to any punishment or penalty for his act, omission, neglect or default, he shall be liable to the same punishment or penalty for every

such act, omission, neglect or default of any employee or agent of his, or of the employee of the agent, if the act, omission, neglect or default was committed—

- (a) by that person's employee in the course of his employment;
- (b) by the agent when acting on behalf of that person; or
- (c) by the employee of the agent in the course of his employment by the agent or otherwise on behalf of the agent acting on behalf of that person.

Abetment and attempt punishable as offences

243. (1) A person who abets the commission of or who attempts to commit any offence under this Act shall be guilty of that offence and shall, on conviction, be liable to the punishment provided for the offence.

(2) A person who does any act preparatory to or in furtherance of the commission of any offence under this Act shall be guilty of that offence and shall, on conviction, be liable to the punishment provided for that offence:

Provided that any term of imprisonment imposed shall not exceed one-half of the maximum term provided for that offence.

Protection of informers

244. (1) Except as provided in subsections (2) and (3), no witness in any civil or criminal proceedings pursuant to this Act shall be obliged or permitted to disclose the name or address of any informer or the substance and nature of the information received from him or state any matter which might lead to his discovery.

(2) If any book, accounts, document, computerized data, signboard, card, letter, pamphlet, leaflet, notice, equipment, instrument or matter which is in evidence or is liable to inspection in any civil or criminal proceedings whatsoever contains any entry in which any informer is named or described or which might lead to his discovery, the court shall cause all such entries to be concealed from view or to be obliterated in so far as may be necessary to protect the informer from discovery.

(3) If in a trial for an offence under this Act the court, after full inquiry into the case, is of the opinion that the informer wilfully made in his complaint a material statement which he knew or believed to be false or did not believe to be true, or if in any other proceedings the court is of the opinion that justice cannot be fully done between the parties to the proceeding without the discovery of the informer, it shall be lawful for the court to require the production of the original complaint, if in writing, and permit an inquiry and require full disclosure concerning the informer.

Manner of service of documents

245. (1) Service of any document on any person shall be effected—

- (a) by delivering the document to the person or by delivering the document to the last-known address of residence of the person;
- (b) by leaving the document at the last-known address of residence or place of business of the person in a cover addressed to that person; or
- (c) by forwarding the document by post in a prepaid letter addressed to the person at his last-known address of residence or place of business.

(2) A document required to be served on the owner, management corporation or occupier of any premises shall be deemed to be properly addressed if addressed by the description of the “owner”, “management corporation” or “occupier” of such premises without further name or description and may be served by delivering the document to an adult person on the premises or, if there is no such person on the premises to whom the document can with reasonable diligence be delivered, by fixing the document on some conspicuous part of the premises.

Inaccuracies in document

246. (1) No misnomer or inaccurate description of any person, premises, holding, street or place named or described in any document prepared, issued or served under, by virtue of or for

the purposes of this Act shall in any way affect the operation of this Act with respect to that person or place if that person or place is so designated in the document as to be identifiable.

(2) No proceedings taken under or by virtue of this Act shall be invalid for want of form.

PART XII

GENERAL

Land Public Transport Fund

247. (1) A fund to be known as the “Land Public Transport Fund” is established and shall be controlled and operated by the Commission.

(2) The Land Public Transport Fund shall consist of—

- (a) such sums as may be provided by Parliament from time to time for the purposes of land public transport;
- (b) all moneys received for the purposes of this Fund pursuant to section 13; and
- (c) such other moneys as may be determined by the Minister.

(3) The Land Public Transport Fund shall be expended for the following purposes:

- (a) the improvement of land public transport;
- (b) the provision of land public transport services in rural developments; or
- (c) such other purposes related to land public transport as may be determined by the Minister.

(4) All costs, charges and expenses of administering the Fund shall be chargeable to the Fund and may be paid out of the Fund from time to time.

(5) The moneys of the Fund, in so far as they are not immediately required to be expended by the Commission under this Act, shall be invested in such manner as the Minister may, with the concurrence of the Minister of Finance, approve.

(6) For the purposes of this Act, the financial year of the Fund shall commence on 1 January and end on 31 December of each year.

(7) The Commission shall cause proper accounts of the Fund and proper reports of its activities in respect of the Fund to be kept and shall, as soon as practicable after the end of each financial year, cause to be prepared in respect of that financial year—

- (a) a statement of accounts which shall include a balance sheet and an account of contributions and expenditure; and
- (b) a report dealing with its activities in respect of the management and administration of the Fund.

(8) The Commission shall cause the statement of accounts described in paragraph (7)(a) to be audited by independent auditors appointed by the Commission.

(9) The Commission shall as soon as possible send a copy of the statement of accounts certified by the auditors and a copy of the auditors' report, together with the report described in paragraph (7)(b) to the Minister who shall cause them to be laid before both Houses of Parliament.

Reporting to Minister on industry performance

248. (1) The Commission shall monitor all significant matters relating to the land public transport and report thereof to the Minister at the end of each financial year of the Commission.

(2) In performing its functions under subsection (1), the Commission shall have regard to such industry performance indicators as the Commission considers appropriate.

(3) The Commission shall monitor and report on the following matters:

- (a) the operation and administration of this Act;
- (b) the rates applicable for land public transport services;
- (c) the total investments in respect of land public transport during such financial year;

- (d) the required investment in land public transport in the following year;
- (e) the service and performance standards of licensees and licensed operators;
- (f) the environmental standards in relation to land public transport;
- (g) the tabulation of offences committed by the licensees, licensed operators and their employees involving the respective modes of land public transport owned or used by them;
- (h) the evaluation of the condition and level of maintenance of terminals and facilities, together with recommended priority listing of the same for upgrading or refurbishment in the following year;
- (i) the tabulation of complaints from the public to the Commission on any matter involving land public transport;
- (j) the feedback from the Land Public Transport Forum during the past year on any matter affecting or relating to land public transport;
- (k) any deficiencies in the scope or operation of this Act;
- (l) the competition framework of the land public transport services industry; and
- (m) any other matters the Minister thinks necessary.

(4) The Commission shall publish a report regarding the matters specified in subsection (3) in a manner it deems appropriate and shall make the same available to the general public, as soon as practicable, following the date on which the Commission conveys the report to the Minister.

Register

249. (1) The Commission shall maintain a register in both physical and electronic forms of all matters which are required to be registered under this Act.

(2) A person may, on payment of a prescribed fee—

(a) inspect the register; and

(b) make a copy of, or take extracts from, the register.

(3) If a person requests that a copy be provided in an electronic form, the Commission may provide the relevant information—

(a) on a data processing device; or

(b) by way of electronic transmission.

Directions by Commission

250. (1) The Commission may from time to time issue directions in writing to any person, as provided for in this Act, about the compliance or non-compliance of any condition of a licence or operator's licence or any provision of this Act, including the remedying of a breach of a condition of the licence or operator's licence or any provision of this Act.

(2) Prior to making a direction under subsection (1), the Commission shall issue a notice in writing to the person specifying the nature of the required compliance.

(3) The person shall be granted an opportunity to be heard or may submit a written submission on the reasons for his or its conduct or activity within a reasonable time period specified in the notice.

(4) After expiry of the notice specified in subsection (3), the Commission shall take into consideration any reasons provided by the person before making a decision in relation to the relevant conduct or activity of the person.

(5) After due consideration of any reasons provided by the person, the Commission may issue a direction pursuant to subsection (1) requiring the person to take a specified action directed towards ensuring that the person does not contravene or does not continue to contravene any of the conditions of the licence or operator's licence or any of the provisions of this Act.

(6) The Commission shall give the person a written notice of its direction as soon as practicable, and the direction issued by the Commission shall be complied with.

(7) A direction made by the Commission under this Chapter shall be registered as soon as practicable.

(8) The direction shall be effective from the date of registration or such later date as the Commission may specify in the direction.

(9) The direction shall expire on such date as the Commission may specify in the written notice or if no date is specified, the direction shall be in force until the direction is revoked.

(10) The Commission may vary or revoke a direction and the procedures set out in subsections (2), (3), (4), (5), (6), (7), (8) and (9) shall apply *mutatis mutandis* in respect of any variation or revocation of a direction.

(11) A person who fails to comply with a direction of the Commission under this section commits an offence and shall, on conviction, be liable to a fine not exceeding two hundred thousand ringgit or to imprisonment for a term not exceeding two years or to both.

(12) The Commission shall maintain a register of all directions issued by the Commission, including any variation or revocation of a direction in accordance with section 249.

General exemption

251. (1) The Minister may, on the recommendation of the Commission, if he considers it consistent with the purposes of this Act or in the interest of the public, by order published in the *Gazette* exempt a licensee, licensed operator or terminal licensee, or a relevant vehicle or railway or a class thereof from all of or any of the provisions of this Act for such duration and subject to such terms and conditions as the Minister may specify.

(2) The Minister may at any time, on the recommendation of the Commission, by order published in the *Gazette*, revoke any order made under subsection (1).

Power of Minister to make regulations

252. (1) The Minister may, on the recommendation of the Commission, make regulations for all or any of the following purposes:

- (a) to provide for all matters relating to the issuance of licences, operator's licences and approvals under this Act and the issuance of copies of licences, operator's licences and approvals in the case of licences, operator's licences and approvals that are lost or destroyed, including—
 - (i) the eligibility of persons applying for licences, operator's licences or approvals;
 - (ii) the procedure on applications, including standard information required to be furnished to the Commission and determination of questions in connection with the issuance, variation, renewal, surrender, return, revocation and suspension of licences and operator's licences and conditions attached to the same;
 - (iii) the procedure on applications, including standard information required to be furnished to the Commission and determination of questions in connection with the issuance, variation, revocation and suspension of approvals and conditions attached to the same;
 - (iv) forms of licences, operator's licences and approvals;
 - (v) fees imposed in connection with any matter described above and the manner of payment thereof;
 - (vi) any matter relating to the circumstances in which licences, operator's licences and approvals may be revoked or suspended under this Act;
- (b) to provide for all matters relating to exemptions, partial or otherwise, with or without conditions, of any persons or classes of persons, or relevant vehicles or railways or classes of relevant vehicles or railways, or the usage of relevant vehicles or railways or classes thereof, from complying with any or all of the requirements of this

Act, including the procedure on applications of the same, standard information required to be furnished to the Commission, and fees imposed in connection with and the manner of payment of the same;

- (c) to provide for any matter relating to the Land Public Transport Fund;
- (d) to provide for the form of orders to be made under this Act by the Minister;
- (e) to provide for the offences which may be compounded and the forms to be used and the method and procedure for compounding the offences;
- (f) to provide for the procedures and the manner in which applications for exemption or reductions of fares or freight may be made;
- (g) to provide for the issuance of vocational licences to drivers of railway trains, the criteria or tests to be met or applied in relation to the issuance of such licences, the procedure of application for such licences, including standard information required to be furnished to the Commission in connection therewith, the forms of such licences, the conditions to be attached thereto, the fees to be charged and the manner of payment of such fees;
- (h) to provide for the imposition, demand, collection and retention of area congestion pricing charges and proceeds thereof, and all other matters connected with the same;
- (i) to regulate terminals by way of licensing of operators or owners of such terminals;
- (j) to provide for the construction of railways and crossings or manner of approach to any road or thoroughfare by a railway train;
- (k) to regulate the use as public service vehicles, tourism vehicles or goods vehicles or any class thereof within Malaysian territory, of motor vehicles registered as public service vehicles, tourism vehicles or goods vehicles in any foreign country, by virtue of or subject to the provisions of any international agreement entered into by the Government;

- (l) to regulate the use of trains registered or licensed in any foreign country within Malaysian territory, by virtue of or subject to the provisions of any international agreement entered into by the Government;
- (m) to declare what shall be deemed to be infectious or contagious diseases and to regulate the conditions under which railway companies may carry persons or animals suffering from such infectious or contagious diseases, and to provide for the disinfection of railway coaches which have been used by such persons or animals;
- (n) to provide for any matter relating to the performance of the functions of the Commission under the land public transport laws;
- (o) to provide for the conduct, functions and powers of persons appointed as appointed officers under this Act and the identification cards and uniforms to be worn by them;
- (p) to provide for the procedure and any matter relating to appeals under this Act;
- (q) to provide for any matter relating to the approval of developing policies and plans relating to land public transport;
- (r) to regulate the integration and co-ordination of land public transport and land public transport services provided by licensees, licensed operators and terminal licensees, and all matters related thereto;
- (s) to provide and prescribe for any fees payable in connection with the provision of any service or matter under this Act;
- (t) to provide for any other matter for which this Act makes express provision to be prescribed;
- (u) to provide for all other matters as may be necessary or expedient for giving effect to this Act.

(2) In exercising his powers under subsection (1), the Minister may make different regulations for different classes, description or use of relevant vehicles or railways within a particular mode of land public transport.

Power of Commission to make rules

253. (1) The Commission may make rules for all or any of the following purposes:

- (a) to provide for the safe carriage of passengers, their luggage and goods by land public transport;
- (b) to provide for the safe use and maintenance of—
 - (i) terminals; and
 - (ii) railways including railway systems and railway premises;
- (c) to regulate the opening and closure of railway stations and railway routes;
- (d) to regulate prescribed related, peripheral or ancillary activities undertaken in connection with the provision of any railway services;
- (e) to provide for all matters relating to consumer standards under this Act;
- (f) to provide for the obligation of licensees and licensed operators in respect of the disruption of land public transport services;
- (g) to provide for the prevention of trespass of, nuisance or obstruction upon, or damage or injury in relation to, a railway;
- (h) to provide for the preservation and promotion of good order, sanitation and cleanliness on relevant vehicles and railways;
- (i) to provide for the minimum standards and specifications in respect of the design, construction and maintenance of the gates or barriers of an occupation crossing and to regulate the use of such crossing;
- (j) to provide for the custody of licences and operator's licences, the production, return and surrender of licences and operator's licences on the expiration, revocation or suspension of the licences and operator's licences, or variation of the conditions thereof and the custody, production, return and obliteration of documents;

- (k) to provide for the form of register and other records to be kept and maintained by the Commission, the opening, maintenance and closure thereof, the inspection and taking of extracts therefrom and the supply of copies thereof;
- (l) to provide for the form of notifications, notices and orders to be made under this Act;
- (m) to provide for the records to be kept by licensees, licensed operators and drivers of relevant vehicles and railways, the returns to be made and the manner of record-keeping;
- (n) to provide for all matters relating to the provision of information and additional information, and exemptions from providing information by the licensee, licensed operator and terminal licensee, other than information mentioned in paragraphs 252(1)(b) and (f) and subparagraphs 252(1)(a)(ii) and (iii), and the level of detail, interval, manner and form in which such information is to be provided for purposes of this Act;
- (o) to provide for the establishment, administration and regulation of accreditation-based compliance schemes in relation to licensees, licensed operators or drivers of relevant vehicles or railways and all matters in connection therewith, including the certification of accreditors of such schemes and provisions relating to the enforcement of such schemes;
- (p) to regulate the duties, conduct and conditions of service including hours of duty of drivers, conductors and persons attending to relevant vehicles or railways;
- (q) to regulate the number of persons to be employed as drivers, conductors and persons attending to relevant vehicles or railways;
- (r) to provide for the forms and procedures relating to applications for vocational licences by drivers of railway trains, the minimum qualifications to be possessed by such persons, to regulate their conduct, duties and powers, and any matter relating to their terms of service and requirement for continuous training;
- (s) to regulate the number of persons to be carried on a public service vehicle, tourism vehicle or railway;

- (t) to regulate the carriage of passengers on goods vehicles;
- (u) to provide for the equipment, including fire extinguishers, first aid kits or safety cones to be carried by or affixed to a relevant vehicle or railway;
- (v) to provide for the types of taximeters that may be authorized, limitations on their use, and the control of testing, repair and maintenance of taximeters;
- (w) to regulate the towing or drawing of relevant vehicles by tow-trucks or other motor vehicles and the manner of attachment and to regulate and control tow-truck operations;
- (x) to provide for the conduct of persons employed on or in connection with public service vehicles, tourism vehicles or railways, and the means of identification and uniform to be worn by them;
- (y) to provide for the conduct of passengers boarding, travelling in or alighting from a public service vehicle, tourism vehicle or railway and of intending passengers waiting to board a public service vehicle (except a hire and drive car), tourism vehicle or railway;
- (z) to require—
 - (i) the removal from a public service vehicle, tourism vehicle or railway of any person infringing rules made under paragraph (y); and
 - (ii) a passenger who is reasonably suspected by the driver or conductor thereof of contravening rules made under paragraph (y) to give his name and address to a police officer, or driver, conductor or other duly authorized employee or enforcement officer of the licensee or licensed operator, or appointed officer, where relevant, on demand;
- (aa) to regulate the manner of payment and collection of fares and freight for land public transport services and, subject to paragraph 252(1)(r), ticketing systems;
- (bb) to require a passenger on a public service vehicle (except a hire and drive car) or railway, if so requested by the driver or conductor thereof or other duly authorized employee or enforcement officer of the licensee or licensed operator, to leave the vehicle on the completion of the journey for which he has paid the fare;

- (cc) to provide for the safe custody or disposal of any property accidentally left in a public service vehicle, tourism vehicle or railway and the recovery of costs incurred in respect thereof;
- (dd) to require road safety seat-belts to be fitted to such class or description of public service vehicles or tourism vehicles as may be specified, to stipulate the minimum standards of quality of material and construction with respect to such safety seat-belts and the position in which such safety seat-belts shall be fixed, to require the use of such safety seat-belts in such vehicles, and to control the sale or supply of safety seat-belts that do not conform to the minimum standards of quality of material and construction;
- (ee) to stipulate the size, shape and character of any sign, particulars, words, letters, colours, plates or marks to be displayed on any relevant vehicle or class thereof, the manner in which the same are to be fixed, displayed, illuminated and rendered easily distinguishable, whether by night or day, and to provide for distinctive signs, particulars, words, letters, colours, plates or marks to be carried by or placed on relevant vehicles licensed for a particular purpose or to identify them as relevant vehicles under this Act;
- (ff) to prohibit, in connection with the use of relevant vehicles and railways, the use of any appliances, accessories or machines, or the commission of any acts, which are likely to cause annoyance or danger;
- (gg) to regulate the lights and reflectors to be carried by or on any relevant vehicle or any class or description thereof, whether in respect of the nature of such lights, the positions in which and the colour of the background on which they shall be fixed, and the periods during which they shall be lighted, or otherwise;
- (hh) to prescribe the conditions subject to which, and the times at which, articles of exceptionally heavy weight or exceptionally large dimensions may be carried on roads by relevant vehicles;
- (ii) to prescribe the manner in which relevant vehicles used on roads shall be loaded and the precautions to be taken for ensuring the safety of the public in connection therewith;

- (jj) to prescribe the conditions subject to which, and the times at which, goods may be loaded onto or unloaded from relevant vehicles or any particular class or description of relevant vehicles on roads, except in relation to any relevant vehicles registered in any foreign country which is subject to the provisions of any international agreement entered into by the Government;
- (kk) to prohibit or prescribe the conditions subject to which relevant vehicles or any particular class or description of relevant vehicles may remain stationary or be left unattended on any road, any particular class of roads or any particular road;
- (ll) to restrict and regulate the use on roads of vehicles engaged in the erection, placing, removal, alteration or repair of lamps, overhead cables and road or street works;
- (mm) to provide for the accounts and records to be kept by licensees, licensed operators and terminal licensees, and records in respect of terminals or use of relevant vehicles, as the case may be, under this Act;
- (nn) to provide for the period in which written recommendations by the Commission to the Minister may be submitted for a grant of approval of a railway scheme or a licence to operate a railway;
- (oo) to provide for the deposit of plans, sections on a scale and a book of reference for the purposes of approval of a railway scheme;
- (pp) to provide for the construction, opening and closing and conditions of use of private crossings;
- (qq) to provide for the manner and frequency of inspection of a railway after it has been opened;
- (rr) to provide for such other matters for which this Act makes an express provision for the Commission to make rules.

(2) In exercising its powers under subsection (1), the Commission may make different rules for different classes, description or use of relevant vehicles or railways within a particular mode of land public transport.

Penalties for subsidiary legislation

254. The regulations made under section 252 and the rules made under section 253 or any other subsidiary legislation made under this Act may provide for any act or omission in contravention of the regulations, rules or other subsidiary legislation to be an offence and may provide for penalties of a fine not exceeding five hundred thousand ringgit or a term of imprisonment not exceeding five years or to both.

Power of Minister to amend Schedules

255. The Minister may, on the recommendation of the Commission, from time to time, by order published in the *Gazette*, vary, delete, add to, substitute for, or otherwise amend the First Schedule and Second Schedule.

Power of Commission to issue guidelines or circulars

256. The Commission may, generally in respect of this Act, or in respect of any particular provision of this Act, or generally in respect of the conduct of all or any of the licensees, licensed operators, terminal licensees or other persons regulated under this Act, issue such guidelines or circulars as the Commission may deem necessary for the purposes of the land public transport laws.

Public Authorities Protection Act 1948

257. The Public Authorities Protection Act 1948 [*Act 198*] shall apply to any action, suit, prosecution or proceedings against the Commission, any member of the Commission, any member of an investigation committee or any other committee, any member or officer of the Appeal Tribunal, any employee of the Commission and any appointed officer in respect of any act, neglect or default done or omitted by it or him in such capacity.

Protection against suit and legal proceedings

258. The Commission, any member of the Commission, any member of an investigation committee or any other committee, any employee of the Commission and any appointed officer shall not be liable to be sued in any court for losses or damages for or on account of, or in respect of, any act or matter done or ordered to be done or omitted to be done by it or him in good faith and in the intended exercise of any power or discharge of any duty conferred on it or him under this Act.

FIRST SCHEDULE

[Section 2]

CLASSES OF PUBLIC SERVICE VEHICLES

Interpretation

1. In this Schedule—

“bus” means a motor vehicle having a seating capacity of not less than eight persons (including the driver);

“stage bus” means a bus plying along a route approved by the Commission for the carriage of passengers on a service which contains fare stages, with a separate fare, timetable and schedule of fares for each fare stage;

“charter bus” means a bus which is hired as a whole for a single journey for which payment is made to the owner by the person hiring the bus;

“express bus” means a bus plying along the route approved by the Commission, with a timetable and fare table, for the carriage of passengers at separate fares on a service which contains no fare stages of less than thirty-two kilometres;

“mini bus” means a bus having a seating capacity of not more than twenty-six persons (including the driver) used for the carriage of passengers at separate fares;

“employees bus” means a bus used for the conveyance of workers in any industry to and from their work place and otherwise;

“feeder bus” means a bus which has no fare stages used for the carriage of passengers on a round trip at separate fares from a fixed base for a distance within a radius of not more than seven kilometres;

“school bus” means a bus used exclusively for the conveyance of pupils or staff of schools or other educational institutions;

“taxi cab” means a motor vehicle having a seating capacity of not more than six persons (including the driver) used for carrying persons on any journey in consideration of a single fare;

“airport taxi cab” means a motor vehicle having a seating capacity of not more than seven persons used exclusively for the carriage of persons to and from the airport in consideration of a payment and operated from a fixed base or in an authorized area;

“limousine taxi cab” means a motor vehicle having a seating capacity of not more than seven persons (including the driver) and operating from a fixed base or in an authorized area in consideration of a single payment;

“hire car” means a motor vehicle having a seating capacity of not more than six persons or, in areas approved by the Commission, twelve persons (in all cases including the driver) used for carrying persons on one journey in consideration of separate payments made by them;

“hire and drive car” means a motor vehicle let on hire for the purpose of being driven by the hirer or his nominee.

Classes of public service vehicles

2. For the purposes of this Act, public service vehicles shall be categorised into the following classes:

- (a) stage buses;
- (b) charter buses;
- (c) express buses;
- (d) mini buses;
- (e) employees buses;
- (f) feeder buses;
- (g) school buses;
- (h) airport buses;
- (i) hire cars;
- (j) hire and drive cars;
- (k) taxi cabs;
- (l) airport taxi cabs; and
- (m) limousine taxi cabs.

SECOND SCHEDULE

[Section 2]

CLASSES OF TOURISM VEHICLES

Interpretation

1. In this Schedule—

“excursion bus” means a bus used exclusively for the conveyance of tourists and in consideration of payment which has no fare stages;

“hire and drive car for tourists” means a motor vehicle let on hire for the purpose of being driven by the hirer or his nominee whether a tourist or not, and used exclusively for the conveyance of a tourist or tourists.

Classes of tourism vehicles

2. For the purposes of this Act, tourism vehicles shall be categorised into the following classes:

- (a) excursion buses; and
- (b) hire and drive cars for tourists.

