



Number 25 of 2003

TAXI REGULATION ACT 2003

ARRANGEMENT OF SECTIONS

PART 1

Preliminary and General

Section

1. Short title.
2. Interpretation.
3. Laying of regulations and orders before Houses of Oireachtas.
4. Expenses.

PART 2

Commission for Taxi Regulation

5. Establishment day.
6. Establishment of Commission for Taxi Regulation.
7. Seal of Commission.
8. Independence of Commission.
9. Principal function and objectives of Commission.
10. Policy directions.
11. Financial assistance to local authorities.
12. Provision of services.
13. Composition and procedure of Commission.
14. Appointment and term of office of Commissioners.
15. Deputy commissioner.
16. Resignation and removal of Commissioners.

Section

17. Restrictions relating to Commissioners.
18. Staff of Commission.
19. Consultants.
20. Membership of Houses of Oireachtas, European Parliament and local authorities by staff.
21. Prohibition on unauthorised disclosure of information.
22. Disclosure of interests.
23. Superannuation of Commissioners.
24. Superannuation of staff.
25. Accountability of Commission to Committees of Oireachtas.
26. Advances by Minister to Commission.
27. Borrowings.
28. Strategy Statements.
29. Accounts and annual report.
30. Commission to keep itself informed of certain matters.
31. Publication of reports and codes of practice.
32. Premises of Commission.

PART 3

Small Public Service Vehicle Regulation

33. Commencement, *Part 3*.
34. Regulation of small public service vehicles and their drivers.
35. Appeal against refusal to grant, suspension or revocation of, licence.
36. Mandatory disqualification for holding licence on conviction of certain offences.
37. Tax clearance certification requirements for licence applicants.
38. Register of licences.
39. Conduct and duties of drivers of small public service vehicles.
40. Regulation of passengers in small public service vehicles.
41. Taximeter areas.
42. Maximum fares.
43. Prohibition on providing taxi or hackney, etc., service without licence.

Section

44. Penalties.
45. Prosecution of summary offences.
46. Fixed charges offences.
47. Guidelines.
48. Service certification.
49. Authorised persons.
50. Fees.
51. Complaints procedure.
52. Regulations under section 82 of Act of 1961.

PART 4

Advisory Council to Commission for Taxi Regulation

53. Appointed Day.
54. Establishment and membership of Advisory Council.
55. Functions of Council.

PART 5

Amendment of Road Traffic Act 2002

56. Amendment of section 23 of Act of 2002 (penalties).
57. Amendment of Part 1 of First Schedule to Act of 2002 (penalty points).

[No. 25.] *Taxi Regulation Act 2003.* [2003.]

Acts Referred to

Civil Service Regulation Act 1956	1956, No. 46
Comptroller and Auditor General (Amendment) Act 1993	1993, No. 8
Criminal Justice (Theft and Fraud Offences) Act 2001	2001, No. 50
Criminal Justice Act 1994	1994, No. 15
European Parliament Elections Act 1997	1997, No. 2
Finance Act 2002	2002, No. 5
Firearms and Offensive Weapons Acts 1925 to 1990	
Freedom of Information Act 1997	1997, No. 13
Illegal Immigrants (Trafficking) Act 2000	2000, No. 29
Local Government Act 2001	2001, No. 37
Minimum Notice and Terms of Employment Acts 1973 to 2001	
Non-Fatal Offences against the Person Act 1997	1997, No. 26
Organisation of Working Time Act 1997	1997, No. 20
Redundancy Payments Acts 1967 to 2001	
Road Traffic Act 1961	1961, No. 24
Road Traffic Act 2002	2002, No. 12
Sex Offenders Act 2001	2001, No. 18
Taxes Consolidation Act 1997	1997, No. 39
Terms of Employment (Information) Act 1994	1994, No. 5
Unfair Dismissals Acts 1977 to 2001	
Worker Protection (Regular Part-Time Employees) Act 1991	1991, No. 5



Number 25 of 2003

TAXI REGULATION ACT 2003

AN ACT TO MAKE PROVISION FOR THE ESTABLISHMENT OF A BODY TO BE KNOWN AS THE COMMISSION FOR TAXI REGULATION, OR, IN THE IRISH LANGUAGE, AN COIMISIÚN UM RIALÁIL TACSAITHE, TO DEFINE ITS FUNCTIONS, TO PROVIDE FOR THE ESTABLISHMENT OF AN ADVISORY COUNCIL TO BE KNOWN AS THE ADVISORY COUNCIL TO THE COMMISSION FOR TAXI REGULATION, OR, IN THE IRISH LANGUAGE, AN CHOMHAIRLE DON CHOIMISIÚN UM RIALÁIL TACSAITHE, TO DEFINE ITS FUNCTIONS, TO AMEND THE ROAD TRAFFIC ACTS 1961 TO 2002 AND TO PROVIDE FOR CONNECTED MATTERS. [8th July 2003]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

PART 1

Preliminary and General

1.—This Act may be cited as the Taxi Regulation Act 2003. Short title.

2.—(1) In this Act, except where the context otherwise requires— Interpretation.

“Act of 1961” means the Road Traffic Act 1961;

“Act of 2002” means the Road Traffic Act 2002;

“appointed stand” has the meaning assigned to it by section 84(1) (inserted by section 15 of the Act of 2002) of the Act of 1961;

“authorised person” has the meaning assigned to it by *section 49*;

“civil service” has the meaning assigned to it by the Civil Service Regulation Act 1956;

“Commission” means the Commission for Taxi Regulation;

“Commissioner” means a member of the Commission;

“Council” means the Advisory Council to the Commission;

[No. 25.] *Taxi Regulation Act 2003.* [2003.]

Pt.1 S.2

“driver number” means the number of a driving licence granted under Part III of the Act of 1961;

“driving licence” has the meaning assigned to it by section 22 of the Act of 1961;

“establishment day” means the day appointed under *section 5* to be the establishment day for the purposes of *Part 2*;

“Garda Commissioner” means the Commissioner of the Garda Síochána;

“grant” in relation to a licence, includes the renewal, transfer or continuance in force of the licence;

“licence” means a licence in respect of a small public service vehicle or a licence to drive a small public service vehicle granted, as the case may be, under *section 34* of this Act or section 82 of the Act of 1961;

“licensing authority” means a person entitled to grant licences in respect of small public service vehicles or their drivers or both under regulations made under *section 34* of this Act or under section 82 of the Act of 1961;

“local authority” means—

- (a) other than in *sections 17, 18* and *20*, a county council, a city council or a town council (within the meaning of the Local Government Act 2001) other than the council of a town mentioned in Part 2 of Schedule 6 of that Act, and
- (b) in *sections 17, 18* and *20*, a county council, a city council or a town council (within the meaning of that Act);

“mechanically propelled vehicle” has the meaning assigned to it by section 3 of the Act of 1961;

“Minister” means the Minister for Transport;

“Ministerial directions” means directions under *section 10*;

“register of licences” means a register established under *section 38*;

“Regulations of 1995” means the Road Traffic (Public Service Vehicles) (Amendment) Regulations 1995 (S.I. No. 136 of 1995);

“small public service vehicle” has the meaning assigned to it by section 3 of the Act of 1961;

“statutory body” means—

- (a) a Minister of the Government,
- (b) the Commissioners of Public Works in Ireland,
- (c) a local authority (within the meaning of the Local Government Act 2001),
- (d) the Garda Commissioner or a member of the Garda Síochána duly authorised by the Garda Commissioner,
- (e) a body established by or under statute,

[2003.] *Taxi Regulation Act 2003.* [No. 25.]

(f) a company in which all the shares are held by, or on behalf of, or by directors appointed by a Minister of the Government, or

(g) a company in which all the shares are held by a body referred to in *paragraph (e)* or a company referred to in *paragraph (f)*;

“superannuation benefits” means pension, gratuities and other allowances payable on resignation, retirement or death;

“taxi” means a street service vehicle (within the meaning of section 3 of the Act of 1961);

“taximeter area” means an area declared to be or deemed to be a taximeter area under *section 41*.

(2) In this Act—

(a) a reference to a section or Part is a reference to a section or Part of this Act, unless it is indicated that a reference to some other enactment is intended,

(b) a reference to a subsection or paragraph is a reference to a subsection or paragraph of the provision in which the reference occurs, unless it is indicated that reference to some other provision is intended, and

(c) a reference to any enactment or instrument made under statute shall be construed as a reference to that enactment or instrument as amended, adapted or extended by or under any subsequent enactment or instrument made under statute including this Act.

3.—(1) Every order (other than an order under *section 5* or *section 33*) or regulation made under this Act shall be laid before each of the Houses of the Oireachtas as soon as practicable after it is made.

Laying of regulations and orders before Houses of Oireachtas.

(2) Either House of the Oireachtas may, by resolution passed within 21 sitting days after the day on which an order or a regulation was laid before it in accordance with *subsection (1)*, annul the order or regulation.

(3) The annulment of an order or regulation under this section takes effect immediately on the passing of the resolution concerned, but does not affect anything that was done under the order or regulation before the passing of the resolution.

4.—The expenses incurred by the Minister in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Finance, be paid out of moneys provided by the Oireachtas.

Expenses.

PART 2

Commission for Taxi Regulation

5.—The Minister shall by order appoint a day to be the establishment day for the purposes of this Part.

Establishment day.

Pt.2
Establishment of
Commission for
Taxi Regulation.

6.—(1) There stands established, on the establishment day, a body to be known as the Commission for Taxi Regulation or, in the Irish language, An Coimisiún um Rialáil Tacsaithe, in this Act referred to as the “Commission”, to perform the functions assigned to it by or under this Act.

(2) The Commission shall be a body corporate with perpetual succession and a seal and power—

- (a) to sue and be sued in its corporate name,
- (b) to acquire, hold and dispose of land or an interest in land, and
- (c) to acquire, hold and dispose of any other property.

(3) The Commission shall have all such powers as are necessary for or incidental to the performance of its functions under this Act.

Seal of
Commission.

7.—(1) The Commission shall, as soon as may be after its establishment, provide itself with a seal.

(2) The seal shall be authenticated by the signature of—

- (a) a Commissioner, or
- (b) a member of the staff of the Commission, authorised by the Commission to act in that behalf.

(3) Judicial notice shall be taken of the seal of the Commission and every document—

- (a) purporting to be an instrument made by and to be sealed with the seal of the Commission, and
- (b) purporting to be authenticated in accordance with *subsection (2)*,

shall be received in evidence and be deemed to be such instrument without proof unless the contrary is shown.

Independence of
Commission.

8.—Subject to this Act, the Commission shall be independent in the exercise of its functions.

Principal function
and objectives of
Commission.

9.—(1) The principal function of the Commission is the development and maintenance of a regulatory framework for the control and operation of small public service vehicles and their drivers.

(2) In exercising its function, the Commission shall seek to achieve the following objectives—

- (a) to promote the provision and maintenance of quality services by small public service vehicles and their drivers,
- (b) to pursue the continued development of a qualitative and customer orientated licensing system, regulatory code and standards for small public service vehicles, small public service vehicle licence holders and small public service vehicle drivers,

[2003.] *Taxi Regulation Act 2003.* [No. 25.]

- (c) to oversee the development of a professional, safe, efficient and customer-friendly service by small public service vehicles and their drivers, Pt.2 S.9
- (d) to encourage and promote competition in relation to services (including fares) offered by small public service vehicles,
- (e) in seeking to achieve the provision of quality services by small public service vehicles and their drivers, to have due regard to the protection of service users and providers alike,
- (f) to promote measures to facilitate increased integration of taxi services in the public transport system,
- (g) to promote the development of high quality cost effective services by small public service vehicles and their drivers which meet a wide range of customer needs including those of passengers with mobility or sensory impairments,
- (h) to promote access to small public service vehicles by persons with disabilities,
- (i) to encourage investment to support and enhance the services offered by small public service vehicles and to promote innovation in this regard.

(3) The exercise of functions of the Commission under this Act may be carried out by or through any member of the staff of the Commission or a person authorised by the Commission, as the Commission deems appropriate.

10.—(1) The Minister may give such general policy directions to the Commission in relation to small public service vehicles and their drivers as he or she considers appropriate to be followed by the Commission in the exercise of its functions. Policy directions.

(2) The Commission shall comply with any directions given under *subsection (1)*.

(3) Where the Minister gives a direction under *subsection (1)* a notice of the giving of the direction and details of it (including reasons for giving the direction) shall be—

- (a) laid before each House of the Oireachtas as soon as may be after it is given, and
- (b) published in *Iris Oifigiúil* within 28 days of the giving of it.

11.—(1) The Commission may, out of income generated from the payment of fees under this Act, provide financial assistance to local authorities to support the development or provision of infrastructure to facilitate and support the operation of small public service vehicles. Financial assistance to local authorities.

(2) For the purpose of facilitating the provision of financial support under this section, the Commission may prepare a scheme that shall include provisions relating to the conditions that may be applied to the application for, approval of and payment of such financial support.

Pt.2 S.11

(3) A scheme under *subsection (2)* shall be prepared in consultation with the Council and with the consent of the Minister.

Provision of services.

12.—(1) For the purpose of enabling the Commission to perform its functions, a statutory body may provide any service to the Commission on such terms and conditions (including payment for such service) as may be agreed and the Commission may avail of such service.

(2) In this section “service” includes the use of premises or equipment and the use of services or employees.

Composition and procedure of Commission.

13.—(1) The Commission shall consist of at least one member and not more than 3 members.

(2) Each member of the Commission shall be known as a Commissioner for Taxi Regulation and is in this Act referred to as a “Commissioner”.

(3) Subject to this Act, the Commission may regulate its own procedure.

Appointment and term of office of Commissioners.

14.—(1) Each Commissioner shall be appointed—

(a) by the Minister, and

(b) on such terms and conditions, including remuneration, as the Minister may fix, with the consent of the Minister for Finance.

(2) A person shall not be appointed as a Commissioner unless the Civil Service and Local Appointments Commissioners, after holding a competition on behalf of the Commission, have selected him or her for appointment as a Commissioner.

(3) A Commissioner appointed in accordance with *subsection (2)* shall be appointed on a full-time basis for a period of not less than 3 years and not more than 5 years.

(4) Where there is more than one Commissioner, the Minister shall appoint one of them to be chairperson of the Commission on such terms and conditions of appointment, including remuneration, as the Minister may fix, with the consent of the Minister for Finance, to hold office in a full-time capacity for a period of not less than 3 and not more than 5 years.

(5) The chairperson shall have a casting vote in the case of decisions to be taken by the Commission in the event of a tied vote.

(6) A Commissioner, including the chairperson, whose term of office expires by effluxion of time shall be eligible for re-appointment to serve a second term, subject to a limit of serving no more than 10 years on the Commission.

(7) A Commissioner shall not serve more than 2 terms of office as a Commissioner.

(8) In circumstances where the chairperson is unavailable to perform his or her duties, the Minister shall appoint an acting chairperson to assume the duties of chairperson of the Commission for a

stated period not exceeding 6 months. The acting chairperson shall be an existing Commissioner. Pt.2 S.14

(9) The Commission may act where a vacancy arises in its membership.

15.—The Commission shall, where there is only one Commissioner appointed under *section 14*, designate a member of its staff as a deputy member of the Commission (“deputy commissioner”) who shall assume and carry out with the authority of the Commission all of the functions of the Commission in the absence of the Commissioner or where the membership of the Commission is vacant. Deputy commissioner.

16.—(1) A Commissioner may resign by giving notice in writing to the Minister of his or her intention to resign and any such resignation shall take effect as of the date upon which the Minister shall have received notice of the resignation. Resignation and removal of Commissioners.

(2) A Commissioner may be removed from office by the Minister—

(a) if, in his or her opinion, the Commissioner has become incapable through ill health of effectively performing his or her duties, or

(b) for stated misbehaviour.

(3) In removing a Commissioner, the Minister shall give a statement of the reason or reasons for the removal to the Commissioner and the statement of reasons shall be laid before each House of the Oireachtas.

(4) Where the chairperson of the Commission ceases to be a Commissioner he or she shall also thereupon cease to be chairperson of the Commission.

17.—(1) A Commissioner is deemed to have vacated his or her office where he or she— Restrictions relating to Commissioners.

(a) is nominated as a member of Seanad Éireann, or

(b) is nominated as a candidate for election as a member of Dáil Éireann, Seanad Éireann or to the European Parliament, or is regarded pursuant to Part XIII of the Second Schedule to the European Parliament Elections Act 1997, as having been elected to the European Parliament to fill a vacancy.

(2) A person who is, for the time being, entitled under the Standing Orders of either House of the Oireachtas to sit in either House or who is a member of the European Parliament shall, while he or she is so entitled or is such a member, be disqualified from becoming a Commissioner.

(3) (a) A person who is a member of a local authority is disqualified from becoming a Commissioner.

(b) A Commissioner is deemed to have vacated his or her office where he or she becomes a member of a local authority.

Pt.2 S.17

(4) A Commissioner shall not hold any other office or employment in respect of which emoluments are payable.

(5) For a period of 12 months after a Commissioner has ceased to be a Commissioner, such Commissioner shall not accept any office, consultancy or employment where, in the course of such office, consultancy or employment, the Commissioner could or might use or disclose any confidential information acquired by him or her in the exercise of his or her functions under this Act.

Staff of
Commission.

18—(1) The Commission may—

(a) with the consent of the Minister and the Minister for Finance, determine the number, grading, remuneration and other conditions of service of staff to be appointed to the Commission, and

(b) appoint to be members of the staff of the Commission such persons as the Commission may determine from time to time.

(2) Where a member of the staff of the Commission has previous service in the civil service or in a local authority, such service shall be reckonable for the purposes of, but subject to any other exceptions or exclusions in—

(a) the Redundancy Payments Acts 1967 to 2001,

(b) the Minimum Notice and Terms of Employment Acts 1973 to 2001,

(c) the Unfair Dismissals Acts 1977 to 2001,

(d) the Terms of Employment (Information) Act 1994,

(e) the Worker Protection (Regular Part-Time Employees) Act 1991, and

(f) the Organisation of Working Time Act 1997.

Consultants.

19—(1) The Commission may, from time to time, engage such consultants or advisers as it may consider necessary to assist it in the discharge of its functions.

(2) Any fees due to a consultant or adviser engaged under this section shall form part of the expenses of the Commission.

Membership of
Houses of
Oireachtas,
European
Parliament and
local authorities by
staff.

20—(1) Where a person employed by the Commission—

(a) is nominated as a member of Seanad Éireann,

(b) is elected as a member of either House of the Oireachtas or to the European Parliament,

(c) is regarded pursuant to Part XIII of the Second Schedule to the European Parliament Elections Act 1997, as having been elected to the European Parliament to fill a vacancy, or

(d) becomes a member of a local authority,

he or she shall upon that happening, stand seconded from his or her employment by the Commission and shall not be paid by, or be entitled to receive from, the Commission remuneration or allowances in respect of the period commencing on such nomination, election, when he or she is so regarded as having been so elected or becoming a member of a local authority, as the case may be, and ending when he or she ceases to be a member of either such House, the European Parliament, or the local authority, as the case may be. Pt.2 S.20

(2) A person who is, for the time being, entitled under the Standing Orders of either House of the Oireachtas to sit in either House or who is a member of the European Parliament shall, while he or she is so entitled or is such a member, be disqualified from becoming a member of the staff of the Commission.

(3) Without prejudice to the generality of *subsection (1)*, that subsection shall be read as prohibiting, among other things, the reckoning of a period mentioned in that subsection as service with the Commission for the purposes of any superannuation benefits.

21.—(1) Save as otherwise provided by law, a person shall not disclose confidential information obtained by him or her while performing duties as a Commissioner, member of the staff of, or an adviser or consultant to, or as an authorised person (within the meaning of *Part 3*) of, or as an agent of the Commission, unless he or she is duly authorised by the Commission to do so. Prohibition on unauthorised disclosure of information.

(2) In this section, “confidential information” includes information that is expressed by the Commission to be confidential either as regards particular information or as regards information of a particular class or description.

(3) A person who contravenes *subsection (1)* is guilty of an offence and is liable on summary conviction to a fine not exceeding €3,000.

(4) Nothing in *subsection (1)* shall prevent the disclosure of information in a report made to the Commission or by or on behalf of the Commission to the Minister.

(5) Proceedings for an offence under *subsection (3)* may be brought and prosecuted summarily by the Commission.

(6) The Third Schedule to the Freedom of Information Act 1997 is amended by inserting in Part I at the end thereof:

- (a) in the second column of “*Taxi Regulation Act 2003*”, and
- (b) in the third column of “*section 21(1)*”.

22.—(1) Where a Commissioner, a member of the staff of the Commission, or a consultant, adviser or other person engaged by the Commission, has a pecuniary interest or other beneficial interest in, or material to, any matter which falls to be considered by the Commission, he or she— Disclosure of interests.

- (a) shall disclose to the Commission or, where the disclosure is required of a Commissioner and he or she is the only Commissioner, disclose to the Minister, the nature of his or her interest in advance of any consideration of the matter,

(b) shall neither influence nor seek to influence a decision in relation to the matter,

(c) shall take no part in any consideration of the matter, unless there are compelling reasons requiring him or her to do so,

(d) if a Commissioner—

(i) shall withdraw from a meeting of the Commission for so long as the matter is being discussed or considered by the Commission, unless there are compelling reasons requiring him or her not to withdraw, and

(ii) shall not vote or otherwise act in relation to the matter,

and

(e) shall prepare and furnish to the Commission a statement in writing of the compelling reasons.

(2) For the purposes of this section but without prejudice to the generality of *subsection (1)*, a person shall be regarded as having a beneficial interest if he or she or any member of his or her household—

(a) holds a licence,

(b) or any nominee of his or her is a member of a company or any other body which has a beneficial interest in, or material to, a matter referred to in that subsection,

(c) is in partnership with or is in the employment of a person who has a beneficial interest in, or material to, such a matter, or

(d) is a party to any arrangement or agreement (whether or not enforceable) concerning land to which such a matter relates.

(3) For the purposes of this section, a person shall not be regarded as having a beneficial interest in, or material to, any matter, by reason only of an interest of his or hers or of any company or of any other body or person mentioned in *subsection (2)* which is so remote or insignificant that it cannot reasonably be regarded as likely to influence a person in considering, discussing or in voting on, any question with respect to the matter, or in performing any function in relation to that matter.

(4) Where a question arises as to whether or not a course of conduct, if pursued by a person, would be a failure by him or her to comply with the requirements of *subsection (1)*, the question shall be determined by the Commission or, where there is only one Commissioner, in the case of that Commissioner, by the Minister.

(5) Where a disclosure is made to the Commission, particulars of the disclosure shall be recorded in the minutes of any meeting concerned.

(6) Where a person, other than a Commissioner, referred to in this section fails to make a disclosure in accordance with this section,

[2003.] *Taxi Regulation Act 2003.* [No. 25.]

the Commission shall decide the appropriate action (including removal from office or termination of contract) to be taken. Pt.2 S.22

(7) Where a Commissioner fails to make a disclosure in accordance with this section, the Minister shall decide the appropriate action (including removal from office) to be taken.

23.—(1) The Minister may, with the consent of the Minister for Finance, make a scheme or schemes for— Superannuation of Commissioners.

(a) the granting of superannuation benefits to or in respect of a Commissioner ceasing to hold office, or

(b) the making of contributions to a pension scheme approved of by the Minister with the consent of the Minister for Finance which has been entered into by a Commissioner.

(2) The Minister may, with the consent of the Minister for Finance, make a scheme amending or revoking a scheme under *subsection (1)*, including a scheme amended under this subsection.

(3) If any dispute arises as to the claim of a Commissioner to, or the amount of, any superannuation benefit payable in pursuance of a scheme under *subsection (1)*, such dispute shall be submitted to the Minister who shall refer it to the Minister for Finance for determination by him or her.

(4) A scheme under *subsection (1)* shall be carried out by the Minister in accordance with its terms.

(5) No superannuation benefit shall be granted by the Minister to or in respect of any Commissioner ceasing to hold office otherwise than—

(a) in accordance with a scheme under *subsection (1)*, or

(b) as may be approved of by the Minister with the consent of the Minister for Finance under *subsection (1)*.

(6) (a) A scheme under *subsection (1)* shall be laid before each House of the Oireachtas by the Minister as soon as may be after it is made.

(b) Either House of the Oireachtas may, by resolution passed within 21 sitting days after the day on which the scheme was laid before it in accordance with *paragraph (a)*, annul the scheme.

(c) The annulment of a scheme under *subsection (1)* takes effect immediately on the passing of the resolution concerned but does not affect anything that was done under the scheme before the passing of the resolution.

24.—(1) The Commission may prepare and submit to the Minister a scheme or schemes or make such other arrangements with the approval of the Minister, given with the consent of the Minister for Finance, for the granting of superannuation benefits to or in respect of such members of the staff of the Commission as it may think fit. Superannuation of staff.

(2) Every scheme under *subsection (1)* shall fix the time and conditions of retirement for all persons to or in respect of whom superannuation benefits are payable under the scheme, and different times and conditions may be fixed in respect of different classes of persons.

(3) Every scheme submitted by the Commission to the Minister under *subsection (1)* may, with the consent of the Minister for Finance, be amended or revoked by a subsequent scheme prepared, submitted and approved under *subsection (1)*.

(4) A scheme under *subsection (1)* shall, if approved by the Minister with the consent of the Minister for Finance, be carried out by the Commission in accordance with its terms.

(5) No superannuation benefit shall be granted by the Commission nor shall any other arrangements be entered into by the Commission for the provision of such a benefit to or in respect of a member of the staff of the Commission otherwise than—

(a) in accordance with a scheme under *subsection (1)*, or

(b) as may be approved of by the Minister with the consent of the Minister for Finance.

(6) If any dispute arises as to the claim of any person to, or the amount of, any superannuation benefit payable in pursuance of a scheme under *subsection (1)*, such dispute shall be submitted to the Minister who shall refer it to the Minister for Finance, whose decision shall be final.

(7) As soon as may be after the establishment day, the Commission shall establish a fund, administered by trustees who shall be appointed by the Commission, from which superannuation benefits payable, in respect of a member of the staff of the Commission ceasing to hold office, under a scheme under *subsection (1)* shall be paid.

(8) (a) A scheme under *subsection (1)* shall be laid before each House of the Oireachtas by the Minister for Finance as soon as may be after it is made.

(b) Either House of the Oireachtas may, by resolution passed within 21 sitting days after the day on which the scheme was laid before it in accordance with *paragraph (a)*, annul the scheme.

(c) The annulment of a scheme under *subsection (1)* takes effect immediately on the passing of the resolution concerned but does not affect anything that was done under the scheme before the passing of the resolution.

(9) Moneys required to be paid by the Minister for Finance under this section shall be advanced out of the Central Fund or the growing produce thereof.

[2003.] *Taxi Regulation Act 2003.* [No. 25.]

- (a) the regularity and propriety of the transactions recorded or required to be recorded in any book or other record of account subject to audit by the Comptroller and Auditor General which the Commission is required by or under statute to prepare, Pt.2 S.25
- (b) the economy and efficiency of the Commission in the use of its resources,
- (c) the systems, procedures and practices employed by the Commission for the purpose of evaluating the effectiveness of its operations, and
- (d) any matter affecting the Commission referred to in a special report of the Comptroller and Auditor General under section 11(2) of the Comptroller and Auditor General (Amendment) Act 1993 or in any other report of the Comptroller and Auditor General (in so far as it relates to a matter specified in *paragraph (a), (b) or (c)*) that is laid before Dáil Éireann.

(2) From time to time, and whenever so requested, the Commission shall account for the performance of its functions to a Committee of one or both Houses of the Oireachtas.

26.—(1) The Minister may, from time to time, with the consent of the Minister for Finance, advance to the Commission out of moneys provided by the Oireachtas such sums as the Minister may determine for the purposes of expenditure by the Commission in the performance of its functions. Advances by
Minister to
Commission.

(2) The sums to be advanced under *subsection (1)* shall be expended solely for the purpose and exercise of the functions conferred on the Commission by this Act or in specified circumstances that are the subject of a Ministerial direction.

27.—The Commission may, for the purpose of the performance of its functions, borrow money but shall not do so without the consent of the Minister and the Minister for Finance. Borrowings.

28.—(1) The Commission shall draw up and adopt a strategy statement reflecting its statutory functions. Strategy
Statements.

(2) A strategy statement shall—

- (a) be adopted within 1 year of the establishment day and every 5 years thereafter,
- (b) take into account the principal function and objectives set out in *section 9* and any Ministerial direction, and
- (c) comprise the key objectives, outputs and related strategies, including use of resources, of the Commission.

(3) The Commission shall present a copy of a strategy statement to the Minister and to such committees of either or both Houses of the Oireachtas as the Minister may, from time to time, direct.

Pt.2 S.28

(4) Prior to the adoption of a strategy statement and its presentation to the Minister, the Commission shall undertake a public consultation process on a draft of the strategy statement.

(5) The Commission shall publish a strategy statement drawn up and adopted under this section.

Accounts and annual report.

29.—(1) In accordance with good accounting practice, the Commission shall keep, in such form as may be approved by the Minister, with the consent of the Minister for Finance, all proper and usual accounts of all moneys received or expended by it including an income and expenditure account and balance sheet.

(2) (a) Within 3 months of the end of each financial year, the Commission shall submit accounts kept under *subsection (1)* in respect of that financial year to the Comptroller and Auditor General for audit.

(b) Within 42 days of the accounts being audited by the Comptroller and Auditor General, they shall, together with the report of the Comptroller and Auditor General on those accounts, be presented by the Commission to the Minister.

(c) The Minister shall cause copies of the accounts and report referred to in *paragraph (b)* to be laid before each House of the Oireachtas within 3 months of being presented them.

(3) The Commission shall, when presenting the report referred to in *subsection (2)(b)* to the Minister, present a report to the Minister in relation to—

(a) the performance of its functions, including decisions taken following the receipt of advice from the Council, in the previous financial year, and

(b) its proposed work programme for the following year, with reference to progress on the strategy statement.

(4) The financial year of the Commission shall be the period of 12 months ending on 31 December in any year, and for the purposes of this section the period commencing on the establishment day and ending on the following 31 December shall be deemed to be a financial year.

(5) The Commission shall supply the Minister with such information relating to the performance of its functions as the Minister shall from time to time request.

Commission to keep itself informed of certain matters.

30.—(1) The Commission shall keep itself informed of the policies, objectives, resolutions and guidelines of any public authority the functions of which have, or may have, a bearing on the matters with which the Commission is concerned.

(2) In this section “public authority” means the Minister, the Commission of the European Communities and any other public authority inside or outside the State which, in the opinion of the Commission, has functions that have, or may have, a bearing on matters with which the Commission is concerned.

31.—Subject to *section 21*, the Commission may publish any reports or codes of practice on matters related to its functions.

Pt.2
Publication of
reports and codes
of practice.

32.—The Commission may, for the purposes of providing premises necessary for the performance of its functions purchase, lease, equip and maintain offices and premises with the consent of the Minister and the Minister for Finance.

Premises of
Commission.

PART 3

Small Public Service Vehicle Regulation

33.—This Part comes into operation on such day or days as the Minister may appoint by order either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes or different provisions.

Commencement,
Part 3.

34.—(1) The Commission may make regulations in relation to the licensing, ownership, control and operation of small public service vehicles, the licensing and control of small public service vehicle drivers, and the standards to be applied to such vehicles and their drivers.

Regulation of small
public service
vehicles and their
drivers.

(2) Regulations under this section may, in particular and without prejudice to the generality of *subsection (1)* make provision in relation to—

- (a) licences in respect of small public service vehicles,
- (b) the categories of small public service vehicles in respect of which licences may be granted,
- (c) licences in respect of the drivers of small public service vehicles and the categories of small public service vehicles they may drive for hire,
- (d) the persons (including the Commission) who may grant licences,
- (e) applications for or matters relating to licences including the following—
 - (i) the terms or conditions relating to the grant of a licence,
 - (ii) the manner and form of an application for the grant of a licence,
 - (iii) the fees to be paid in respect of the grant of a licence or badges or plates or signs relating to a licence,
 - (iv) the format and content of a licence,
 - (v) the inspection and certification of a vehicle that is the subject of an application for a licence,
 - (vi) the age of a vehicle that is the subject of an application for a licence,
 - (vii) the insurance of a vehicle that is the subject of an application for a licence,

- (viii) the period of validity of a licence,
- (ix) the revocation and suspension of a licence,
- (f) the operation of a small public service vehicle, including any or all of the following matters—
 - (i) the vehicle standards to be complied with, including standards in relation to the entry to and accommodation in the vehicle for people with a disability, including wheelchair users or persons with mobility and sensory difficulties,
 - (ii) the size of a vehicle including the passenger carrying and luggage carrying capacity of the vehicle,
 - (iii) the identification, including the internal and external signage or colour of a vehicle,
 - (iv) advertising in or on the vehicle,
 - (v) the conditions or restrictions, if any, to be applied to the transfer of a licence to another person or to another vehicle,
 - (vi) the conditions subject to which the vehicle may be operated as a small public service vehicle,
 - (vii) the use of taximeters, machines for issuing receipts and other apparatus,
 - (viii) the keeping of records in relation to the operation of the vehicle as a small public service vehicle,
 - (ix) the information that must be displayed, and the manner of such display, in relation to the licence granted in respect of the vehicle, including where appropriate the approved maximum fare structure applying to the vehicle,
 - (x) the insurance of the vehicle,
 - (xi) the display, and manner of such display, of information necessary for the assistance of a passenger, including information relating to the requirements established for the conduct of drivers of small public service vehicles and requirements established for the conduct of hirers and other passengers,
 - (xii) requirements relating to the fitting or non-fitting of equipment in the vehicle and the operation of such equipment,
- (g) the inspection of small public service vehicles,
- (h) powers of authorised persons in addition to those under *section 49*.

(3) In making regulations under this section, the Commission may establish requirements and conditions for the purpose of the assessment of applicants for the grant of licences, including requirements and conditions in respect of—

- (a) the fitness of a person to hold a licence having regard to an assessment carried out by the Garda Commissioner or on behalf of the Commission, Pt.3 S.34
- (b) requirements relating to the knowledge of the geography, routes, place names and other matters relevant to the provision of service by a small public service vehicle in an area in respect of which a person makes application for the grant of a licence,
- (c) the knowledge of and ability to meet the needs of people with disabilities including mobility and sensory difficulties to a standard determined by the Commission in consultation with the National Disability Authority,
- (d) knowledge of and ability to meet the needs of consumers,
- (e) knowledge of the regulations, standards and requirements relating to the licensing, driving and operation of small public service vehicles, and the general law relating to road traffic,
- (f) the health of the applicant.

(4) The Commission may, for the purpose of assessing applications for the grant of a licence, authorise or approve persons for the purpose of determining that a person who wishes to apply for the grant of a licence complies with or has reached an acceptable level of competence in respect of each or any of the standards established under this section.

(5) Any regulation made under this section relating to the licensing of drivers of small public service vehicles shall be made only after consultation with the Garda Commissioner and the Council.

(6) The Commission may, after consultation with the Garda Commissioner and the Council make regulations for the purpose of specifying conditions and requirements for drivers of small public service vehicles in respect of any or all of the following—

- (a) the identification of drivers including internal and external vehicle signage, badges or any other means that may be specified,
- (b) the dress code of drivers,
- (c) availability for work and scheduling of persons as drivers.

(7) In making regulations under this section, the Commission may set different and separate requirements and conditions in relation to the licensing of drivers of different categories of small public service vehicle.

(8) The Commission, in making regulations under this section, may set different requirements and conditions in relation to—

- (a) the licensing and operation of different categories of small public service vehicles and their drivers,
- (b) for different circumstances, and
- (c) for different areas.

Pt.3 S.34

(9) In making a regulation under this section the Commission may, with the consent of the Minister amend or revoke any regulation made under section 82 of the Act of 1961 in so far as it relates to small public service vehicles and their drivers.

(10) A person who fails to comply with or contravenes a regulation under this section is guilty of an offence.

Appeal against refusal to grant, suspension or revocation of, licence.

35.—(1) Whenever a licensing authority proposes to refuse to grant a licence or proposes to suspend or revoke a licence, it shall notify in writing the applicant or the holder, as the case may be, of the proposal and the reasons for the refusal, suspension or revocation and shall, if any representations are made by or on behalf of the applicant within 14 days after the date of the notification, consider the representations.

(2) Whenever the licensing authority having considered the representations (if any) that may have been made by or on behalf of the applicant, decides, as the case may be, to refuse to grant the licence or revoke or suspend the licence, the licensing authority shall notify in writing the applicant of its decision and of the appeal procedure under *subsection (3)*.

(3) Where an applicant for a licence has been notified under *subsection (2)* of the decision of the licensing authority, as the case may be, to refuse to grant the licence or to revoke or suspend the licence, the applicant may, within 14 days after the date of the notification, appeal to the District Court against the refusal.

(4) Where the decision under *subsection (2)* is to suspend or revoke a licence and the holder of the licence has made an appeal under *subsection (3)* against the decision, the decision stands suspended until the appeal has been determined or withdrawn.

(5) An appeal under *subsection (3)* shall be to the judge of the District Court within whose jurisdiction the applicant or the holder ordinarily carries on or proposes to carry on the business of providing small public service vehicle services.

(6) On the hearing of an appeal under *subsection (3)* in relation to the decision of the licensing authority under *subsection (2)*, the Court may either confirm the decision or allow the appeal. If the appeal is allowed in relation to a decision to refuse to grant a licence the licensing authority shall, upon notification to it by the Court, grant the licence.

(7) The decision of the District Court on an appeal under *subsection (3)* is final except by leave of the Court, an appeal on a specified point of law lies to the High Court.

(8) On the commencement of this section any appeals procedure established under any regulations made under section 82 of the Act of 1961 in relation to the refusal of an application for a licence or revoking or suspending a licence is replaced by this section.

Mandatory disqualification for holding licence on conviction of certain offences.

36.—(1) Where a person being the applicant for or the holder of a licence is convicted of any of the following offences, namely—

(a) murder,

(b) manslaughter,

- (c) an offence—
- (i) under the Non-Fatal Offences against the Person Act 1997 (other than section 2 or 3), or
 - (ii) on—
 - (I) conviction on indictment, under section 2 or 3 of that Act, or
 - (II) summary conviction, under section 2 or 3 of that Act where the individual assaulted was at the time of the offence or at a material time before it a fare paying passenger in a small public service vehicle being driven by the person, other than where the individual assaulted contributed, in the opinion of the Commission, in a material way to the assault or is convicted of an offence under either of those sections for assaulting the person,
- (d) a sexual offence (within the meaning of section 3 of the Sex Offenders Act 2001),
- (e) a drug trafficking offence (within the meaning of section 3 of the Criminal Justice Act 1994),
- (f) an offence relating to money laundering under Part IV of the Criminal Justice Act 1994,
- (g) an offence under the Criminal Justice (Theft and Fraud Offences) Act 2001,
- (h) an offence under section 2 of the Illegal Immigrants (Trafficking) Act 2000, or
- (i) an offence under the Firearms and Offensive Weapons Acts 1925 to 1990,

the person—

- (i) in the case of being convicted summarily where a fine only is imposed by the Court, is disqualified for the period of 12 months,
- (ii) in any other case, subject to *subsection (2)*, is disqualified,

for holding a licence and, accordingly, where the person is the holder of a licence, the licence stands revoked.

- (2) Subject to *subsection (3)*, after the period of—
- (a) 2 years in the case of being convicted summarily, where a term of imprisonment is imposed by the Court, with or without a fine,
 - (b) 5 years in the case of being convicted on indictment, where a fine or a term of imprisonment of less than 10 years or both is imposed by the Court, or

- (c) 10 years in the case of being convicted on indictment, where a term of imprisonment of 10 or more years is imposed by the Court with or without a fine,

of an offence referred to in *subsection (1)*, the person may apply—

- (i) where the offence has been tried summarily, to the judge of the District Court in whose District Court District, or
- (ii) where the offence has been tried on indictment, to the judge of the Circuit Court in whose Circuit,

the person resides, to be allowed to apply for a licence under such terms or conditions as the Court may direct.

(3) Notwithstanding *section 33*, where a person has been convicted of an offence referred to in *subsection (1)* before the commencement of that subsection, and the relevant period referred to in *subsection (2)* for making an application under *subsection (2)* has elapsed before the commencement of *subsections (1) and (2)*, he or she may make an application under *subsection (2)* before the commencement of that subsection.

(4) A person shall not make an application under *subsection (2)* where he or she is serving a term of imprisonment.

(5) Where a person being the applicant for or the holder of a licence to drive a small public service vehicle is convicted, after the commencement of this subsection, of any of the following offences under the Act of 1961, namely—

- (a) on conviction on indictment, dangerous driving under section 53,
- (b) driving a vehicle while under the influence of an intoxicant under section 49 (inserted by section 10 of the Act of 1994), or
- (c) being in charge of a vehicle while under the influence of an intoxicant under section 50 (inserted by section 11 of the Act of 1994),

the person is disqualified for holding a licence to drive a small public service vehicle for the period of any disqualification for holding a driving licence resulting from conviction for the offence under the Act of 1961 and—

- (i) in the case of a conviction mentioned in *paragraph (a)*, the period of 5 years, or
- (ii) in the case of a conviction mentioned in *paragraph (b) or (c)*, the period of 2 years,

following the end of the first-mentioned period, and, accordingly, where the person is the holder of a licence to drive a small public service vehicle, the licence stands revoked.

(6) A person who is disqualified under this section for holding a licence and who—

- (a) carries or attempts to carry a passenger for reward or stands or plys for hire in a small public service vehicle, or

(b) operates or controls any business or activity relating to the provision of small public service vehicle services, Pt.3 S.36

is guilty of an offence.

37.—(1) A licence shall not be granted by a licensing authority unless the applicant produces to the licensing authority, a tax clearance certificate issued under section 1095 (inserted by section 127 of the Finance Act 2002) of the Taxes Consolidation Act 1997. Tax clearance certification requirements for licence applicants.

(2) The Commission may, with the consent of the Minister for Finance, make regulations for the purpose of specifying particular conditions or requirements for applicants for licences in relation to taxation obligations.

38.—(1) The Commission shall establish and maintain a register or a number of registers (“register of licences”) relating to licences granted under this Part. Register of licences.

(2) A register of licences may be maintained in a form that is not legible if it is capable of being converted into permanent legible form.

(3) A register shall contain the following details in relation to licences and their holders—

- (a) the name and address of the holder,
- (b) any change of address of the holder,
- (c) the licence number,
- (d) where the licence is granted in respect of a vehicle, the unique identification mark (registration number) of the said vehicle,
- (e) the driver number of the holder of a licence, that is to say the number of the driving licence granted to the holder,
- (f) the category of small public service vehicle in respect of which a licence has been granted,
- (g) the date of the grant of a licence,
- (h) the area of application in respect of which the licence has been granted, where appropriate,
- (i) details of any transfer of ownership of a licence or of the continuance in force of a licence in respect of a different vehicle,
- (j) details of any suspension applying to a licence, including the period of the suspension, a reference to the reason for the suspension and particulars of all removals of such suspensions,
- (k) details of the revocation of a licence and the reasons for the revocation.

(4) (a) Pending the establishment of registers under this section, registers currently held by local authorities and the Garda

Síochána under regulations made under section 82 of the Act of 1961 shall continue and shall be regarded as registers for the purpose of this section.

- (b) The Commission shall arrange for the transfer of information from the registers held by the Garda Síochána and local authorities referred to at *paragraph (a)*, to the registers to be established under this section in consultation with them.

(5) Information contained in a register of licences shall, subject to a determination by the Commission in consultation with the Garda Commissioner, that certain information relating to a person referred to in the register should remain confidential, be available for inspection at all reasonable times.

(6) The Commission shall, on payment of a fee (other than where a request is made by the Garda Commissioner or by the Courts Service) as determined by the Commission in consultation with the Minister, issue a certificate relating to information contained in a reference in a register of licences relating to a licence granted under regulations made under *section 34* or regulations made under section 82 of the Act of 1961, including the name and address of the person who holds the licence or the vehicle in respect of which the licence was granted.

(7) The establishment and maintenance of a register of licences shall be funded from income derived from fees accruing to the Commission under this Act.

Conduct and duties of drivers of small public service vehicles.

39.—(1) The Commission may, subject to any Ministerial directions, make regulations in relation to the conduct, general behaviour, deportment and the duties of drivers of small public service vehicles.

(2) Without prejudice to the generality of *subsection (1)*, the Commission may make regulations for the purpose of setting requirements in respect of any or all of the following matters—

- (a) the operation of any equipment fitted in a small public service vehicle for the purpose of facilitating a hire,
- (b) the treatment of and conduct towards passengers or intending passengers,
- (c) the acceptance of a hire,
- (d) compliance with the stated requirements of the person who has hired the vehicle, where such requirements are reasonable,
- (e) the recording of agreed fares prior to the commencement of a hire,
- (f) the display, on the driver of or in the small public service vehicle or both, of information relating to the licence in respect of a small public service vehicle held by the driver of the vehicle,
- (g) the issue of receipts,
- (h) the determination of and adherence with the shortest route between the commencement and completion of a hire,

(i) the facilitation of the needs of any person with mobility, sensory or other difficulties in the provision and reception of a hire. Pt.3 S.39

(3) Different requirements may be created under this section—

(a) in respect of different categories of small public service vehicles,

(b) for different circumstances, and

(c) for different areas or different taximeter areas.

(4) A driver of a small public service vehicle who fails to comply with or contravenes a regulation made under this section is guilty of an offence.

(5) The driver of a small public service vehicle in respect of which a fare has been agreed in advance of the commencement of the hire, who charges or seeks to charge a fare that is greater than the agreed fare is guilty of an offence.

40.—(1) A passenger or intending passenger in a small public service vehicle shall comply with any reasonable request made to him or her by a driver of a small public service vehicle. Regulation of passengers in small public service vehicles.

(2) A passenger or intending passenger in a small public service vehicle shall not—

(a) deliberately remove, displace, deface or alter any instrument, sign or notice in the vehicle,

(b) spit in or on or deliberately soil any part of the vehicle,

(c) deliberately leave any syringe (within the meaning of the Non-Fatal Offences against the Person Act 1997) or sharp instrument in any part of the vehicle,

(d) carry into such vehicle an animal (other than a guide dog in the company of a visually impaired passenger or, subject to any requirements of regulations under *section 34*, a domestic animal in need of urgent veterinary attention) save with the express permission of the driver, which permission may be withdrawn at any time.

(3) A person, or where prior arrangements in relation to payment have been made with another party, that party, who has hired a small public service vehicle shall pay the fare agreed in advance for the hire or, where the maximum fare for the hire is the subject of a maximum fares order, the fare determined in accordance with that order.

(4) A passenger or an intending passenger of a small public service vehicle who contravenes *subsection (2)* is guilty of an offence.

(5) A person who hires a small public service vehicle and who, without reasonable excuse, does not comply with *subsection (3)* is guilty of an offence.

Pt.3
Taximeter areas.

41.—(1) The Commission may—

- (a) declare any area to be a taximeter area in which a taxi may operate for the carriage of a passenger for reward within the area, and
- (b) extend or otherwise alter the boundary of a taximeter area.

(2) Before making a declaration under *subsection (1)*, the Commission shall—

- (a) consult with the Council, the Garda Commissioner and the local authority in whose functional area the taximeter area is located,
- (b) publish a notice in one or more newspapers circulating in the area to be declared to be a taximeter area or where an existing taximeter area is to be extended or otherwise altered—
 - (i) indicating that it is proposed to make such a declaration, and
 - (ii) stating that representations in relation to the proposed declaration may be made in writing to the Commission within a period of one month from the publication of the notice,
- (c) consider any observations made by the Council or the Garda Commissioner or a local authority under *paragraph (a)* and any representations made subsequent to the publication of the notice referred to in *paragraph (b)*.

(3) An area declared before the commencement of this section to be a taximeter area under article 7(1) of the Regulations of 1995, or regarded to be a taximeter area under article 7(3) of the Regulations of 1995, is deemed to be a taximeter area for the purpose of this section and may be extended or altered by the Commission in accordance with this section.

(4) A licensing authority (within the meaning of the Regulations of 1995) shall not, upon the commencement of this section, declare, extend or alter a taximeter area under the Regulations of 1995.

Maximum fares.

42.—(1) The Commission may make an order (“maximum fares order”) fixing the maximum fares in respect of any taximeter area that may be charged by the driver of a taxi.

(2) In this section—

“shared hire” means a hire which is engaged jointly by more than one person at the same time, not necessarily terminating at the same location, from an appointed stand which has been designated for shared hire purposes by a local authority;

“single hire” means a hire which is engaged by one person on that person's sole behalf or on behalf of that person and additional persons.

(3) Different maximum fares may be fixed under this section—

[2003.] *Taxi Regulation Act 2003.* [No. 25.]

(a) in respect of hires engaged on a single hire basis and on a shared hire basis, Pt.3 S.42

(b) for different circumstances or times, and

(c) for different taximeter areas.

(4) Before fixing maximum fares under this section the Commission shall—

(a) consult with—

(i) any local authority within whose functional area the taximeter area exists,

(ii) the Council,

(iii) the Legal Metrology Service,

(b) publish a notice in one or more newspapers circulating in the taximeter area—

(i) indicating that it is proposed to exercise the function, and

(ii) stating that representations in relation to the proposal may be made in writing to the Commission before a specified date (which shall be not less than one month after the publication of the notice), and

(c) consider any observations made by the Council, the Legal Metrology Service, any local authority consulted under *paragraph (a)* and any representations made pursuant to *paragraph (b)*.

(5) Where maximum fares are fixed under this section by the Commission, details of the fares fixed shall be published by the Commission in one or more newspapers circulating in the taximeter areas in respect of which the maximum fares have been fixed.

(6) The Commission may amend or revoke a maximum fares order.

(7) An officer of the Commission may issue a certificate that on a specified day specified fares were the maximum fares fixed for a taxi in respect of a particular taximeter area.

(8) A certificate purporting to be issued under *subsection (7)* that on a specified day a specified fare was the maximum fare fixed for a taxi in a particular taximeter area shall, without proof of the signature of the person purporting to sign it or that he or she was the proper person to issue it, be evidence until the contrary is shown of the matters certified in the certificate.

(9) Any maximum fares fixed for particular taximeter areas in accordance with article 27 of the Regulations of 1995 and in force immediately before the commencement of this section shall, after such commencement, continue in force as if fixed under this section and may be amended or revoked accordingly.

(10) Section 84 (inserted by section 15(1) of the Act of 2002) of the Act of 1961 is amended by inserting after subsection (1)(d) the following:

Pt.3 S.42

“(dd) designating appointed stands for the purpose of shared hire.”.

(11) The driver of a taxi who charges or attempts to charge a fare for a hire, in respect of a journey in a taximeter area to which a maximum fares order applies, that is greater than the maximum fare that may be calculated in accordance with the order is guilty of an offence.

Prohibition on providing taxi or hackney, etc., service without licence.

43.—(1) A person shall not drive or use a mechanically propelled vehicle in a public place (within the meaning of the Act of 1961) for the carriage of persons for reward unless the person holds a licence to drive a small public service vehicle and there is a small public service vehicle licence in force in respect of the vehicle.

(2) A person who contravenes this section is guilty of an offence.

(3) In this section—

“small public service vehicle licence” means a licence, in respect of a small public service vehicle, granted under regulations made under *section 34* of this Act or *section 82* of the Act of 1961;

“use” includes the stopping, parking of a mechanically propelled vehicle or the vehicle standing for hire at an appointed stand.

Penalties.

44.—(1) A person guilty of an offence under *section 42(11)* or *43* is liable on summary conviction—

(a) other than for an offence referred to in *paragraph (b)*, to a fine not exceeding €3,000, and

(b) in the case of a third or subsequent offence which is the third or subsequent offence in any period of 12 consecutive months, to a fine not exceeding €3,000 or to imprisonment for a term not exceeding 3 months or to both.

(2) A person guilty of an offence under *section 34(10)*, *39(4)* or *(5)*, *40(4)* or *(5)*, *48(5)* or *49(6)* is liable on summary conviction to a fine not exceeding €1,500.

(3) Where the holder of a small public service vehicle driver’s licence is convicted of an offence under this Part or *section 82* of the Act of 1961 which in the opinion of the Court makes the holder unfit to hold the licence, the Court may revoke or suspend, for such period as it sees fit, the licence.

(4) Where a licence is suspended or revoked under *subsection (3)* and the person who held the licence carries or attempts to carry a person for reward or stands or plys for hire in a small public service vehicle, he or she is guilty of an offence and is liable on summary conviction to a fine not exceeding €3,000 or to imprisonment for a term not exceeding 3 months or to both.

(5) A person guilty of an offence under *section 36(6)* is liable—

(a) on summary conviction, to a fine not exceeding €3,000 or to imprisonment for a term not exceeding 6 months or to both, or

[2003.] *Taxi Regulation Act 2003.* [No. 25.]

- (b) on conviction on indictment, to a fine not exceeding €50,000 Pt.3 S.44 or to imprisonment for a term not exceeding 3 years or to both.

45.—Proceedings for an offence under this Part, or under section 82(6) of the Act of 1961 in respect of small public service vehicles, may be brought and prosecuted summarily by— Prosecution of summary offences.

- (a) the Commission,
- (b) an authorised person (including a member of the Garda Síochána),
- (c) a licensing authority and where a licensing authority is a local authority, by the local authority in whose functional area the offence was committed.

46.—(1) Where an authorised person has reasonable grounds for believing that a person is committing or has committed a contravention of— Fixed charges offences.

- (a) regulations made by the Commission under *section 34*, or
- (b) regulations made under section 82 of the Act of 1961 in relation to small public service vehicles,

declared by the Commission by regulations to be a fixed charge offence, he or she may serve personally or by post on the person a notice in the prescribed form stating that—

- (i) the person is alleged to have committed the offence,
- (ii) the person may during the period of 28 days beginning on the date of the notice make to the Commission at the address specified in the notice a payment of the prescribed amount accompanied by the notice, and
- (iii) a prosecution in respect of the alleged offence will not be instituted during the period specified in the notice and, if the payment specified in the notice is made during that period, no prosecution in respect of the alleged offence will be instituted.

(2) Where notice is given under *subsection (1)*—

- (a) the person to whom the notice applies may, during the period specified in the notice, make to the Commission at the address specified in the notice the payment specified in the notice accompanied by the notice;
- (b) the Commission may receive the payment, issue a receipt for it and retain the money so paid, and any payment so received shall not be recoverable in any circumstances by the person who made it;
- (c) a prosecution in respect of the alleged offence shall not be instituted during the period specified in the notice, and if the payment so specified is made during the period, no prosecution in respect of the alleged offence shall be instituted.

Pt.3 S.46

(3) In a prosecution for an offence under *section 34(10)* or under section 82(6) of the Act of 1961 the onus of proving that a payment pursuant to a notice under this section has been made lies on the defendant.

(4) Regulations under *subsection (1)* prescribing an amount for a fixed charge offence may prescribe different fixed charge amounts in relation to different contraventions and to such contraventions involving different categories of small public service vehicle and to such contraventions committed in different areas.

(5) Regulations under this section shall not be made by the Commission without the consent of the Minister.

(6) The Commission may make regulations for prescribing any matter referred to in this section as prescribed or to be prescribed.

(7) Income generated by the payment of prescribed fixed charge amounts under this section shall be disposed of in a manner determined by the Commission with the agreement of the Minister and the Minister for Finance.

(8) In this section—

“contravention” in relation to regulations, means a contravention of or a failure to comply with the regulations;

“prescribed” means prescribed by regulations made by the Commission.

Guidelines.

47.—(1) The Commission may draw up and issue guidelines to a licensing authority which is not the Commission in relation to the licensing and operation of small public service vehicles and their drivers. A licensing authority shall have due regard to any guidelines issued.

(2) Guidelines drawn up by the Minister under section 84(10) (inserted by section 15 of the Act of 2002) of the Act of 1961 are deemed to be guidelines drawn up and issued by the Commission under this section.

(3) Section 84 (inserted by section 15 of the Act of 2002) of the Act of 1961 is amended in subsection (10) by substituting “The Commission for Taxi Regulation” for “The Minister”.

Service certification.

48.—(1) The Commission may establish or provide for the establishment of schemes for the recognition of quality service (“quality service certification”) by persons or commercial concerns that provide services for the support of the operation of small public service vehicles.

(2) The Commission shall determine both the content and design of a notice containing details of the award of a quality service certification, and provisions in relation to the display of the said notice by a person or commercial concern determined to be a quality service provider.

(3) In determining, or arranging for the certification of, requirements and performance criteria for quality service under this section, the Commission shall consult with—

- (a) the Council,
- (b) the Garda Commissioner,
- (c) any other body that the Commission considers may be of assistance in formulating such requirements and performance criteria.

(4) Certification as a quality service provider under this section may be awarded or removed by the Commission having regard to performance indicators over specified periods of time.

(5) A person or a commercial concern who claims to have been awarded certification as a quality service provider under this section or who displays a notice as such notwithstanding where no such certification has been awarded to the person under this section is guilty of an offence.

(6) In this section “quality service” means a service that meets specified requirements and performance criteria determined by the Commission or by another person on behalf of the Commission.

49.—(1) The Commission may, after consultation with the Garda Commissioner, appoint in writing such and so many persons as it may determine to perform the functions conferred on authorised persons under this Part. Authorised persons.

(2) The Commission may revoke an appointment under *subsection (1)*.

(3) The number of authorised persons standing appointed under *subsection (1)* and their remuneration and other conditions of service shall be such as may be determined by the Commission with the consent of the Minister and the Minister for Finance.

(4) A person appointed as an authorised person under *subsection (1)*, shall, on his or her appointment, be furnished by the Commission with a warrant of his or her appointment and when exercising a power conferred on an authorised person under this Part shall, if requested by any person affected, produce the warrant to the person for inspection.

(5) For the purposes of ensuring that the holders of licences are complying with any regulations or requirements made under this Part with respect to licences granted under this Part or section 82 of the Act of 1961, an authorised person may—

- (a) at any reasonable time, enter the premises or place where any activity connected with the provision of small public service vehicle services takes place, and search and inspect the premises and any licences or documents found there,
- (b) in the presence of a member of the Garda Síochána in uniform, stop and search any small public service vehicle and any licence or documents found in the vehicle,
- (c) secure for future inspection any premises, place or vehicles in which licences or documents relating to the provision of small public service vehicle services are kept or there are reasonable grounds for believing that such are kept,

Pt.3 S.49

- (d) require a person in charge of the premises or the driver of the vehicle to produce any licence or documents relating to the provision of such services which are in the person's power and control and to give the authorised person such information as he or she may reasonably require for the purpose of enforcing this Part,
 - (e) inspect and take extracts from or make copies of such licences or documents (including in the case of information in a non-legible form, an extract from or copy of such information in permanent legible form),
 - (f) remove and retain such licences or documents for such reasonable period for future inspection,
 - (g) take photographs or make any record or visual recording of any activity on the premises or place or of the vehicle.
- (6) A person who—
- (a) obstructs or impedes an authorised person exercising a function of an authorised person under this section or a regulation made under *section 34* or under section 82 of the Act of 1961,
 - (b) fails to comply with a requirement of an authorised person under this section or such regulations, or
 - (c) gives information to an authorised person which he or she knows to be false or misleading,

is guilty of an offence.

(7) In this Part “authorised person” means a person appointed by the Commission to be an authorised person for the purposes of this Part, or a member of the Garda Síochána.

Fees.

50.—(1) The fees set by the Commission under this Part in respect of the licensing of small public service vehicles and the drivers of small public service vehicles, the award of quality service certification and the issue of certificates relating to registers of licences shall, subject to this section, accrue to the Commission.

(2) Income from fees received by the Commission shall be applied for the purpose of—

- (a) meeting the expenses properly incurred by the Commission in the discharge of its functions under this Act, and
- (b) where appropriate, to support the funding or part funding of the development or provision of infrastructure referred to in *section 11*.

(3) Where licensing authorities, other than the Commission, are engaged in the licensing of small public service vehicles or the drivers of small public service vehicles on behalf of the Commission, the Commission, with the agreement of the Minister and the Minister for Finance shall determine a percentage of the fee income generated by the licensing authority that shall be retained by it.

(4) Income generated by the payments referred to in *subsection (1)* that is surplus to the income necessary to meet the demands

established in *subsection (2)*, shall be disposed of in a manner determined by the Commission with the agreement of the Minister and the Minister for Finance. Pt.3 S.50

51.—(1) The Commission shall set up a procedure to consider complaints from members of the public and users and intending users of small public service vehicles in respect of— Complaints procedure.

- (a) the condition and cleanliness,
- (b) the conduct and behaviour of a driver,
- (c) overcharging or other matters relating to fares charged by a driver for the hire, and
- (d) matters relating to the hiring,

of a small public service vehicle.

(2) The procedure set up under *subsection (1)* shall, as far as practicable, be user-friendly and accessible. The Commission shall publish details of the procedure.

52.—(1) Section 82 of the Act of 1961 is amended by substituting for subsection (1) the following: Regulations under section 82 of Act of 1961.

“(1) The Minister may make regulations in relation to the control and operation of large public service vehicles.”.

(2) Regulations made by the Minister under section 82 of the Act of 1961 in relation to the control and operation of small public service vehicles which are in force immediately before the commencement of this section shall continue in force and may be amended or revoked by the Commission, with the consent of the Minister.

(3) The Minister may make regulations in respect of matters relating to the transition from regulations made under section 82 of the Act of 1961 to regulations under this Act (including the revocation or amendment of regulations made under section 82 of the Act of 1961).

PART 4

Advisory Council to Commission for Taxi Regulation

53.—The Minister shall by order appoint a day to be the appointed day for the purposes of this Part. Appointed Day.

54.—(1) There stands established, on the appointed day, a body to be known as the Advisory Council to the Commission for Taxi Regulation or in the Irish language, An Chomhairle don Choimisiún um Rialáil Tacsaithe and in this Act referred to as the “Council”, to perform the functions assigned to it under this Part. Establishment and membership of Advisory Council.

(2) The Council shall consist of a chairperson and 17 ordinary members.

(3) (a) The Minister shall appoint a person to be the chairperson of the Council who, in the opinion of the Minister, has appropriate experience and expertise and is sufficiently

independent from small public service vehicle operations and the Commission.

- (b) An appointment under *paragraph (a)* shall be for such period not exceeding 3 years as may be specified by the Minister when appointing the person and shall be on such terms and conditions as may be determined by the Minister, with the consent of the Minister for Finance.
- (c) The chairperson shall chair the meetings of the Council.
- (d) In the event of the chairperson being unable to attend a meeting of the Council, the members who are present shall choose one of their number to chair the meeting.
- (e) In the event of the office of chairperson being vacant, the Minister shall designate one of the members of the Council to chair its meetings until a chairperson is appointed.

(4) In addition to the chairperson appointed under *subsection (3)*, members of the Council shall comprise:

- (a) at least 4 persons representing small public service vehicle and driver interests;
- (b) at least one person representing local authorities;
- (c) at least one person representing the Garda Síochána;
- (d) at least 2 persons who in the opinion of the Minister represent the interests of consumers;
- (e) at least one person from an organisation representing the interests of persons with disabilities;
- (f) at least one person who in the opinion of the Minister represents the interests of business;
- (g) at least one person who in the opinion of the Minister represents the interests of tourism; and
- (h) at least 4 other persons, who, in the opinion of the Minister, have a special interest or expertise in matters relating to the functions of the Commission, the Council or matters related thereto.

(5) An organisation or person may, at its own initiative or at the request of the Minister, nominate a person to be a member of the Council and the Minister in making an appointment under *subsection (6)*, shall have regard, in so far as is practicable, to any nominations received by him or her under this subsection.

(6) The Minister shall appoint persons to be ordinary members of the Council in accordance with *subsection (4)*. An appointment under this subsection shall be for such period not exceeding 3 years as may be specified by the Minister when appointing persons and shall be on such terms and conditions as may be determined by the Minister, with the consent of the Minister for Finance.

(7) The chairperson and ordinary members of the Council may be paid, out of monies at the disposal of the Commission, such allowances for expenses as the Minister, with the consent of the Minister for Finance, may determine.

[2003.] *Taxi Regulation Act 2003.* [No. 25.]

(8) A person whose term of office expires by the effluxion of time shall be eligible for re-appointment. Pt.4 S.54

(9) In appointing the chairperson and ordinary members of the Council, the Minister shall insofar as is practicable ensure—

- (a) an equitable gender balance between men and women, and
- (b) both urban and rural representation,

in the composition of the Council.

(10) An officer of the Minister who is an established civil servant for the purposes of the Civil Service Regulation Act 1956 and a Commissioner or a member of the staff of the Commission may attend and be heard at meetings of the Council but shall not be eligible to vote on any issue.

(11) The Commission shall provide all reasonable facilities and services as may be required by the Council for the carrying out of its functions.

(12) The Council may act notwithstanding a vacancy or vacancies in its membership.

(13) The Council may regulate, by standing orders or otherwise, its procedure and business.

(14) The Minister shall fix the date, time and place of the first meeting of the Council and the members of the Council shall decide on the frequency of all further meetings, subject to the Council meeting at least once each year.

(15) The chairperson or ordinary members of the Council may resign from office by letter addressed to the Minister.

(16) The Minister may remove from office the chairperson or an ordinary member of the Council in the following circumstances:

- (a) where, in the opinion of the Minister, he or she has become incapable through ill-health of effectively performing his or her duties,
- (b) for stated misbehaviour,
- (c) in the case of a person appointed to represent an organisation or interest under *subsection (4)*, where the person is no longer such a representative, or
- (d) where his or her removal appears to the Minister to be necessary or desirable for the effective performance by the Council of its functions.

(17) The Minister may, after consultation with the Council, make regulations on any matter which the Minister considers expedient for the purposes of this section.

55.—(1) It shall be the duty generally of the Council to advise the Commission or the Minister, as appropriate, in relation to issues relevant to small public service vehicles and their drivers. Functions of Council.

(2) Without prejudice to the generality of *subsection (1)*, the Council may provide advice from time to time—

(a) to the Commission in relation to—

- (i) proposals for regulations, standards, codes of practice in relation to small public service vehicles and their drivers submitted by the Commission to the Council for advice,
- (ii) matters relating to the delivery of quality services by small public service vehicles and their drivers,
- (iii) the preparation and review of the Commission strategy statement, and
- (iv) any other matters related to the functions of the Commission or which the Commission submits to the Council for advice, other than matters related to decisions of the Commission in individual cases,

(b) to the Minister in relation to—

- (i) policy relevant to small public service vehicles and their drivers,
- (ii) proposals for legislation or regulations in relation to small public service vehicles and their drivers submitted by the Minister to the Council for advice,
- (iii) the assignment of specific functions relating to small public service vehicles and their drivers to the Commission, and
- (iv) any other matter which, in the opinion of the Council, is relevant to the effective performance by the Council or by the Commission of its functions or which the Minister submits to the Council for advice.

(3) The Commission or the Minister, as appropriate, may consider the advice of the Council given under this section but shall not be bound to act on it.

(4) The Commission may consult with or seek the advice of the Council on any matter relating to small public service vehicles and their drivers or to the effective performance by the Commission of its functions.

(5) The Minister may consult with or seek the advice of the Council on any matter arising in relation to his or her functions with respect to small public service vehicles and their drivers.

(6) Where the advice of the Council is sought by the Commission or the Minister under this Act, neither body shall be required to await the receipt of such advice of the Council before exercising its functions under this Act, once a reasonable period to facilitate the giving of such advice has elapsed.

(7) The Council shall be entitled to be informed at its meetings about the work of the Commission provided that disclosure of such information shall not be in breach of *section 21*.

[2003.] *Taxi Regulation Act 2003.* [No. 25.]

(8) (a) The chairperson or ordinary members of the Council shall not disclose confidential information obtained by him or her as a member of the Council. Pt.4 S.55

(b) In this subsection “confidential information” includes information that is expressed by the Commission or the Minister to be confidential either as regards particular information or as regards information of a particular class or description.

(9) A person who fails to comply with *subsection (8)* is guilty of an offence and is liable on summary conviction to a fine not exceeding €3,000.

(10) Proceedings for an offence under *subsection (9)* may be brought and prosecuted summarily by the Commission.

PART 5

Amendment of Road Traffic Act 2002

56.—Section 23 of the Act of 2002 is amended in the Table thereto by substituting in column (3)— Amendment of section 23 of Act of 2002 (penalties).

(a) at reference number 24, “€1,500” for “€800”, and

(b) at reference number 25, “€800” for “€1,500”.

57.—The chapeau to the columns of Part 1 of the First Schedule to the Act of 2002 is amended by inserting “or may” after “required to” and the chapeau, as so amended, is set out in the Table to this section. Amendment of Part 1 of First Schedule to Act of 2002 (penalty points).

Table

The offences specified in column (2) of this Part at reference numbers 2, 3, 8, 9, 10, 11, 12 and 14 do not include offences on conviction of which the court is required to or may make a consequential disqualification order.



TAXI REGULATION ACT 2003

EXPLANATORY MEMORANDUM

[*This memorandum is not part of the Act and does not purport to be a legal interpretation.*]

General

The principal purposes of this Act can be summarised as follows—

- to provide for the establishment of the Commission for Taxi Regulation;
- to provide for a new code for the regulation of small public service vehicles and their drivers with a particular emphasis on the establishment of a qualitative and consumer orientated licensing system;
- to realise the establishment of the Advisory Council to the Commission for Taxi Regulation which will advise both the Commission and the Minister for Transport in relation to issues relevant to small public service vehicles and their drivers.

Section 1 is a standard provision regarding the short title of the Act.

Section 2 sets out definitions of various terms which are referred to in the Act.

Particular attention is drawn to the following:

- “Commission” is defined to mean the Commission for Taxi Regulation;
- “Council” means the Advisory Council to the Commission;
- “grant” in relation to a licence, includes the renewal, transfer or continuance in force of the licence;
- “licence” means a licence in respect of a small public service vehicle or a licence to drive a small public service vehicle granted, as the case may be, under *section 34* of this Act or *section 82* of the Road Traffic Act 1961;
- “the Minister” means the Minister for Transport.

Section 3 contains standard provisions relating to orders and regulations made under the Act by the Minister or the Commission, including the requirement of laying such orders and regulations before each House of the Oireachtas.

Section 4 provides that where the Minister incurs expenses under the Act, they may be paid out of monies provided by the Oireachtas, as sanctioned by the Minister for Finance.

Section 5 empowers the Minister to make an order appointing the day to be the establishment day of the Commission for Taxi Regulation.

Section 6 provides for the establishment of the Commission for Taxi Regulation, that the Commission will be a body corporate and will have all the powers necessary for the performance of its functions under the Act.

Section 7 provides for the seal of the Commission, the authentication of the seal and that judicial notice shall be taken of it.

Section 8 establishes that the Commission will be independent in the exercise of its functions.

Section 9 establishes both the principal function and the objectives of the Commission.

Subsection (1) presents the Commission's principal function as being the development and maintenance of a regulatory framework for the control and operation of small public service vehicles and their drivers.

Subsection (2) outlines the objectives of the Commission. A particular emphasis is placed on the promotion and maintenance of a quality service by small public service vehicles and their drivers, that is professional, safe and has a strong customer orientation.

Subsection (3) provides that the functions of the Commission may be exercised by its staff or persons authorised by the Commission.

Section 10 provides that the Minister can give policy directions to the Commission in relation to small public service vehicles and their drivers, which the Commission must comply with. *Subsection (3)* provides that notice of the giving of a direction under the section and details of it must be laid before each House of the Oireachtas and be published in *Iris Oifigiúil*.

Section 11 allows the Commission to use income generated by receipts from fees under the Act to provide financial assistance to local authorities to support the development or provision of infrastructure to facilitate and support the operation of small public service vehicles. A scheme prepared by the Commission for the purposes of this section will be prepared in consultation with the Advisory Council and with the consent of the Minister.

Section 12 permits the Commission to engage a statutory body to provide services to support the performance of the Commission functions.

Section 13 provides that the Commission shall consist of at least one and not more than 3 members, each to be known as a Commissioner for Taxi Regulation. *Subsection (3)* provides specifically that the Commission can regulate its own procedures.

Section 14 provides for the appointment and terms of office of the Commissioners.

Subsection (1) provides that the Minister is responsible for the appointment of each Commissioner subject to terms and conditions, including remuneration, fixed by the Minister with the consent of the Minister for Finance.

Subsection (2) provides that all Commissioners must be selected by open recruitment competition held by the Civil Service and Local Appointments Commission on behalf of the Commission.

Subsection (3) establishes that the period of appointment for a Commissioner will be not less than 3 years and not more than 5 years.

Subsection (4) relates to the appointment by the Minister of a chairperson of the Commission, where there is more than 1 Commissioner, and *subsection (5)* provides that the chairperson will have a casting vote where it is necessary.

Subsections (6) and (7) provide for the re-appointment for a second term of Commissioners and that the maximum period that a Commissioner can serve will be 10 years.

Subsections (8) and (9) provide that where the chairperson is not available, another Commissioner can be appointed by the Minister as an acting chairperson and that the Commission can perform its functions even when there is a vacancy in its membership.

Section 15 provides that where there is only one Commissioner, he or she may appoint a member of the Commission staff to be a deputy commissioner to assume and carry out the functions of the Commission in certain circumstances.

Section 16 provides for the resignation of or the removal of a Commissioner by the Minister. *Subsection (2)* establishes the parameters that must apply in the case of a decision to remove a Commissioner. *Subsection (3)* provides that the Minister must give a statement of reasons for the removal of a Commissioner and the statement must be laid before the Houses of the Oireachtas. *Subsection (4)* clarifies that where the chairperson of the Commission ceases to be a Commissioner he or she will also cease to be chairperson of the Commission.

Section 17 establishes that where a Commissioner is nominated or elected to public office in the Dáil, Seanad, European Parliament or a local authority, he or she will be deemed to have vacated his or her office with the Commission. *Subsections (4) and (5)* also provide that a Commissioner cannot take up other paid employment or take up a consultancy or employment within a year of leaving the Commission that would have a direct relevance to the duties he or she exercised as a Commissioner.

Section 18 provides that the Commission may, subject to the consent of the Ministers for Transport and Finance, determine the number, grading, remuneration and other conditions of service of its staff and appoint persons to be members of its staff.

Subsection (2) clarifies the position of staff of the Commission with previous service in the Civil Service or Local Government service and provides for the reckonability of such previous service.

Section 19 allows the Commission to engage consultants or advisers for the purpose of assisting it in the discharge of its functions.

Section 20 clarifies the position relating to the staff of the Commission with regard to membership of the Oireachtas, the European Parliament and local authorities.

Subsection (1) provides that on being nominated or elected or on becoming a member of any of those institutions, an employee of the Commission will be seconded from the Commission to that institution for the period involved and will not be paid by or be entitled to receive remuneration or allowances from the Commission for that period.

Subsection (2) provides that a person who is entitled to sit in either House of the Oireachtas or who is a member of the European Parliament is disqualified from becoming a member of the staff of the Commission.

Subsection (3) provides that a period of secondment referred to in *subsection (1)*, shall not be reckoned as service with the Commission for superannuation purposes.

Section 21 places an obligation on Commissioners, staff, advisers, consultants, authorised persons and agents of the Commission not to disclose confidential information obtained by them while performing their duties.

Subsection (2) defines “confidential information” for the purposes of this section.

Subsection (3) provides that a person who contravenes *subsection (1)* is guilty of an offence and is liable on summary conviction to a fine not exceeding €3,000 and *subsection (5)* provides that the Commission can prosecute such an offence.

Subsection (4) clarifies the position in relation to the disclosure of information in a report made to the Commission or by or on behalf of the Commission to the Minister, while *subsection (6)* amends the Freedom of Information Act 1997 by inserting the reference to this Act into the Third Schedule for the purpose of setting aside the secrecy provisions of this section for the purposes of FOI.

Section 22 establishes requirements for Commissioners, the staff of the Commission, advisers, consultants or any other person engaged by the Commission to disclose any interests that may be of relevance to the functions of the Commission.

Subsection (2) clarifies that a beneficial interest for the purposes of this section includes a small public service vehicle licence or a licence to drive a small public service vehicle.

Section 23 provides for the establishment of a superannuation scheme for Commissioners with the consent of the Minister for Finance.

Section 24 provides for the establishment of a superannuation scheme for the staff of the Commission with the approval of the Minister and the consent of the Minister for Finance.

Section 25 provides that the chairperson of the Commission or the Commissioner will be required to give evidence before the Dáil Public Accounts Committee and specifically any other Committee of one or both Houses of the Oireachtas whenever required or requested to do so.

Section 26 allows the Minister, with the consent of the Minister for Finance, to advance money to the Commission out of moneys provided for by the Oireachtas.

Section 27 enables the Commission, with the consent of the Minister and the Minister for Finance, to borrow money for the purpose of carrying out its functions.

Section 28 requires the Commission to draw up and adopt a Statement of Strategy within 1 year of its establishment and every 5 years thereafter. The draft statement must be subject to a public consultation process. The statement must be presented to the Minister and any Committee of the Houses of the Oireachtas as the Minister directs and must also be published.

Section 29 provides for the keeping of accounts by the Commission, the auditing of these accounts by the Comptroller and Auditor General and for their laying before each House of the Oireachtas, together with the report of the Comptroller and Auditor General. The section also provides for the presentation of an annual report of the Commission to the Minister.

Section 30 obligates the Commission to keep abreast of policies, objectives, resolutions and guidelines which may emerge from the Minister, the European Commission and any other public authority inside or outside the State which may have a bearing on any matter with which the Commission is concerned.

Section 31 allows the Commission to publish any report or code of practice on matters relating to its functions.

Section 32 empowers the Commission to purchase, lease, equip and maintain offices and premises for the purposes of discharging its functions, subject to the consent of the Minister and the Minister for Finance.

Section 33 provides that the Minister may make orders bringing the provisions of *Part 3* of the Act into operation. This Part provides for the regulation of small public service vehicles.

Section 34 provides a new legislative basis for the regulation of the licensing, ownership, control and operation of small public service vehicles and their drivers. It will replace section 82 of the Road Traffic Act 1961 and empowers the Commission to make regulations that will provide a replacement to the current Public Service Vehicle Regulations.

Subsection (1) empowers the Commission to make regulations relating to the licensing, ownership, control and operation of small public service vehicles and the licensing and control of the drivers of such vehicles. The subsection also establishes a benchmark to the overall focus of the new licensing regime which will relate primarily to qualitative standards.

Subsection (2) provides for the regulation of a broad range of matters such as:

- the categorisation of small public service vehicles and their drivers;
- the determination of the appropriate authorities for the purpose of granting licences;
- requirements for the consideration and grant of licences;
- standards for the operation of licensed vehicles;
- the inspection of vehicles both for the purpose of the grant of licences and the ongoing operation of the licensed vehicles;

- the determination of powers for authorised persons (see *section 49*) in connection with regulations made under this section.

Subsection (3) provides that the Commission can establish requirements and conditions for licence applicants in respect of a number of areas focused on the delivery of good quality services to consumers.

Subsection (4) allows the Commission to authorise or approve persons for the purpose of making determinations as to the competence of a licence applicant in respect of any of the areas in respect of which standards are applied.

Subsections (5) and (6) relate specifically to the licensing of the drivers of small public service vehicles. The former provides that the Commissioner of the Garda Síochána and the Advisory Council must be consulted in respect of any regulation made that relates to drivers. *Subsection (6)* provides for the regulation of additional issues over those provided for in *subsections (2) and (3)* in relation to drivers, following consultation with the Garda Commissioner and the Advisory Council.

Subsections (7) to (9) relate generally to the making of regulations and provide in particular that different requirements and conditions can be applied to different categories of vehicle and driver licences.

Subsection (10) provides that a person who fails to comply with or contravenes a regulation under this section, will be guilty of an offence.

Section 35 provides that any decision made to refuse to grant, suspend or revoke a licence can be reviewed at the request of the applicant or licence holder and that where the decision is upheld, an appeal can be made to the District Court.

Section 36 introduces a system of automatic disqualification from applying for or holding a licence for those who have been convicted of one of a range of very serious offences. The section includes provisions through which a person who is affected by this provision can request the courts to allow them to apply for a licence in certain restricted circumstances.

In addition, where a person has committed one of a number of serious traffic offences he or she will be disqualified for holding a licence to drive a small public service vehicle for a period additional to any driving disqualification that is applied.

Section 37 provides that all decisions to grant licences under this Act will be subject to the production by the applicant of a tax clearance certificate.

Section 38 provides that the Commission can establish and maintain a register or registers of licences which will include data held by other licensing authorities.

Section 39 empowers the Commission to make regulations in relation to the conduct, general behaviour, deportment and the duties of drivers of small public service vehicles.

Subsection (2) sets out a range of matters in respect of which the Commission may set requirements through regulations including requirements relating to the general behaviour and deportment of the drivers of small public service vehicles while driving or otherwise

using such vehicles. A driver who does not comply with such requirements will be guilty of an offence.

Section 40 establishes obligations and rules that apply to any person who is either a passenger or an intending passenger or a hirer of a small public service vehicle. The obligations include reference to general or criminal behaviour and to the payment of fares.

Section 41 provides that the Commission can declare an area to be a taximeter area and alter or extend existing taximeter areas following consultation with the Garda Commissioner, the Advisory Council and the relevant local authority.

Section 42 provides that the Commission may make orders fixing the maximum fares for taxis operating in any taximeter area following a consultation process including public advertisement. Fares can be fixed for either shared or single hires.

Section 43 provides that a person shall not drive or use a mechanically propelled vehicle in a public place for the carriage of persons for reward unless both the vehicle and its driver is licensed under this Act.

Section 44 establishes a range of penalties to be applied on conviction for offences under this Act. Generally maximum penalties of up to €3,000 or €1,500 can be applied depending on the seriousness of the offence. However an offence of being engaged in any activity relating to the operation of small public service vehicle services when disqualified under *section 36* could on conviction on indictment, attract a fine of up to €50,000 and/or 3 years in jail.

Section 45 provides that offences under this Part of the Act or under section 82(6) of the Road Traffic Act 1961 can be prosecuted summarily by the Commission, a member of the Gardaí, another authorised person or another licensing authority.

Section 46 empowers the Commission to make regulations, with the consent of the Minister, for the purpose of applying fixed charges to offences under the Act or under section 82 of the Road Traffic Act 1961. The payment of a fixed charge will mean that a prosecution will not be taken.

Section 47 provides that the Commission may draw up guidelines for other licensing authorities in relation to the licensing and operation of small public service vehicles and their drivers.

Section 48 empowers the Commission to establish a quality service certification scheme to be applied to services that support small public service vehicle operations.

Section 49 provides that authorised persons may be appointed by the Commission. Members of the Gardaí will be automatically regarded as authorised persons. Authorised persons will perform the enforcement functions necessary to support the regulations and other controls applied under this Act.

Section 50 provides for matters relating to the accrual, use and disposal of fee income received by the Commission.

Subsection (3) provides that where another body is carrying out licensing functions on behalf of the Commission, a percentage of the fees received as a result of that body's involvement can be retained

by it. The determination of that percentage will be subject to agreement with the Minister and the Minister for Finance.

Subsection (4) provides that where there is excess income available to the Commission each year, having provided for the necessary funding provided for in this section, its disposal will be provided for in agreement with the Minister and the Minister for Finance.

Section 51 provides for the establishment by the Commission of a complaints procedure for members of the public, users and intending users of small public service vehicles.

Section 52 provides that section 82 of the Road Traffic Act 1961 will continue to apply to the licensing and operation of large public service vehicles only. The section also provides for the continuance in force of regulations made under section 82 in relation to small public service vehicles and empowers the Commission to amend or revoke such regulations with the consent of the Minister.

Section 53 provides that the Minister may make an order appointing a day on which the Advisory Council to the Commission for Taxi Regulation will be established.

Section 54 provides for the establishment of the Advisory Council, for its membership and related matters. The Minister will appoint the Council, chairperson and ordinary members. Members may be nominated from a range of disciplines or interest groupings referred to in *subsection (4)*.

Section 55 provides that the general duty of the Council will be to advise the Commission or the Minister in relation to issues relevant to small public service vehicles and their drivers. The range of matters in respect of which the Council may provide advice from time to time to either the Commission or to the Minister is set out in *subsection (2)*.

Section 56 provides for an amendment to the Table to section 23 of the Road Traffic Act 2002 to make a correction to the maximum fine that may be imposed in respect of two offences under section 106 of the Road Traffic Act 1961.

Section 57 promotes a minor amendment to the wording of the chapeau to Part 1 of the First Schedule to the Road Traffic Act 2002 and for the sake of clarity it restates the full chapeau.

*An Roinn Iompair,
Iúil, 2003.*

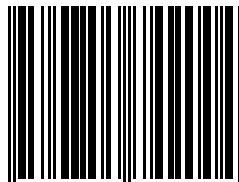
BAILE ÁTHA CLIATH
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR
Le ceannach díreach ón
OIFIG DHÍOLTA FOILSEACHÁN RIALTAIS,
TEACH SUN ALLIANCE, SRÁID THEACH LAIGHEAN, BAILE ÁTHA CLIATH 2,
nó tríd an bpost ó

FOILSEACHÁIN RIALTAIS, AN RANNÓG POST-TRÁCHTA,
51 FAICHE STIABHNA, BAILE ÁTHA CLIATH 2,
(Teil: 01 - 6476834/35/36/37; Fax: 01 - 6476843)
nó trí aon díoltóir leabhar.

DUBLIN
PUBLISHED BY THE STATIONERY OFFICE
To be purchased directly from the
GOVERNMENT PUBLICATIONS SALE OFFICE,
SUN ALLIANCE HOUSE, MOLESWORTH STREET, DUBLIN 2,
or by mail order from
GOVERNMENT PUBLICATIONS, POSTAL TRADE SECTION,
51 ST. STEPHEN'S GREEN, DUBLIN 2,
(Tel: 01 - 6476834/35/36/37; Fax: 01 - 6476843)
or through any bookseller.

€4.06

ISBN 0-7557-4200-1



9 780755 742004