



ANNO VICESIMO QUARTO

ELIZABETHAE SECUNDAE REGINAE

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No. 81 of 1975

**An Act to authorise the Minister for Transport on behalf of the Government of the State to guarantee the repayment of moneys borrowed for certain purposes by proprietors of urban passenger services and to pay to those proprietors subsidies and for matters incidental thereto**

[ASSENTED TO 16TH DECEMBER, 1975]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

**1. Short title.** This Act may be cited as the *Urban Passenger Service Proprietors Assistance Act 1975*.

**2. Commencement.** This Act shall commence on a date appointed by Proclamation.

**3. Interpretation.** In this Act, save where a contrary intention appears—

- “approved lender” means a bank, financial institution or person that holds itself or himself out as a lender of money, approved by the Minister for the purposes of this Act generally or in respect of a particular loan;
- “approved passenger omnibus” means a passenger omnibus that complies with the standards prescribed by or under this Act with respect to passenger omnibuses;
- “authorised officer” means an authorised officer within the meaning of the *State Transport Act 1960–1972*;
- “Commissioner” means the Commissioner for Transport appointed under the *State Transport Act 1960–1972* and includes a person for the time being performing the duties of the Commissioner;
- “Committee” means the Committee of Review established and constituted under this Act;
- “gross fare revenue” means the revenue collected from fares actually paid by passengers on an urban passenger service only;
- “Local Authority” means a Local Authority constituted under the *Local Government Act 1936–1975*: the term includes a Joint Local Authority and Brisbane City Council constituted under the *City of Brisbane Act 1924–1974*;
- “metropolitan district” means the area comprising the Brisbane Statistical Division as defined at the material time by the Bureau of Census and Statistics of the Commonwealth by whatever name called;
- “Minister” means the Minister for Transport or other Minister of the Crown who, at the material time, is charged with the administration of this Act and includes a Minister of the Crown who is temporarily performing the duties of the Minister;
- “motor vehicle” means a vehicle propelled by electricity, gas, motor spirit, oil, steam or other mechanical power: the term includes a trailer attached to a motor vehicle but does not include a motor cycle, railway locomotive, tramway locomotive, tram motor, tram car, fire engine, fire reel, traction engine or any machinery designed especially for roadmaking;
- “passenger omnibus” means a motor vehicle constructed, fitted and equipped principally for the carriage of eight or more adult persons approved by the Commissioner under the *State Transport Act 1960–1972* and usually used for the carriage of passengers at separate and distinct fares on an urban passenger service;
- “pensioner” means a person who—
  - (a) is a pensioner within the meaning of the *Social Services Act 1947–1975* of the Commonwealth as amended or any Act in substitution therefor entitled to and the holder of a pensioner’s concession entitlement card issued under that Act in accordance with terms and conditions that apply at the date of commencement of this Act;

- (b) is a pensioner within the meaning of the *Repatriation Act 1920-1975* of the Commonwealth as amended or any Act in substitution therefor entitled to and the holder of a pensioner's concession entitlement card issued under that Act in accordance with terms and conditions that apply at the date of commencement of this Act;
  - (c) is a pensioner within the meaning of the Act specified in provision (a) or (b) of this definition entitled to and the holder of any writing approved by the Governor in Council indicating his eligibility for concession entitlements as a pensioner in accordance with terms and conditions that apply at the date of commencement of this Act or that are declared by the Governor in Council by Order in Council to be acceptable for the purposes of this Act;
- “proprietor” means a person other than a Local Authority, Crown corporation or Crown instrumentality who is the holder of a licence or permit under the *State Transport Act 1960-1972* to provide and carry on an urban passenger service;
- “provincial city” means an Area of the State constituted a City under the *Local Government Act 1936-1975*;
- “urban centre” means an area of the State comprising an urban centre as defined at the material time by the Bureau of Census and Statistics of the Commonwealth by whatever name called having a population of more than 10 000 persons;
- “urban passenger service” means a service the subject of a licence or permit under the *State Transport Act 1960-1972* for the carriage of passengers at separate and distinct fares within the metropolitan district, a provincial city or an urban centre.

**4. Committee of Review.** (1) There is established for the purposes of this Act and there shall at all times hereafter be constituted a body called the “Committee of Review”.

(2) The Committee of Review shall consist of four members appointed by the Governor in Council by notification published in the Gazette of whom—

- (a) one shall be the person for the time being holding the office of Deputy Commissioner for Transport, who shall be chairman;
- (b) one shall be the person for the time being holding the office of Licensing Officer in the Department of Transport;
- (c) one shall be an officer of the Treasury Department;
- (d) one shall be an accountant possessing the qualification specified in section 17 (3) of the *Public Accountants Registration Act 1946-1975*, recommended by the Minister from a panel of at least four names of accountants qualified as prescribed by this provision (d) nominated by one or more than one association in the State representative of accountants.

**5. Functions of Committee.** The functions of the Committee are—

- (a) to consider and make recommendations on applications for the review of applications for subsidies;

- (b) to advise the Minister or Commissioner on any matter referred to it by him arising out of the administration of this Act;
- (c) such other functions as are prescribed.

**6. Tenure of office.** (1) A member of the Committee shall be appointed for a term of one year but if by the expiration of that term his successor has not been duly appointed, he shall, subject to this Act, hold office until his successor is duly appointed.

A member of the Committee shall, if he is otherwise qualified, be eligible for re-appointment as a member.

(2) The Governor in Council may at any time, by notification published in the Gazette, remove a member of the Committee from office as a member.

(3) The office of a member of the Committee shall become vacant if the member—

- (a) dies;
- (b) declines to act or to act further as a member;
- (c) resigns his office by writing signed by him furnished to the Minister;
- (d) is bankrupt or otherwise takes advantage of the laws in force for the time being relating to bankruptcy;
- (e) is a patient within the meaning of the *Mental Health Act 1974*;
- (f) is absent without prior leave granted by the Committee from three consecutive meetings of the Committee of which due notice has been given to him;
- (g) ceases to be qualified as a member;
- (h) is removed from office as a member by the Governor in Council.

(4) Attendance of a member of the Committee at the time and place appointed for an ordinary meeting thereof shall be deemed to constitute presence at that meeting notwithstanding that by reason that a quorum is not present no meeting is then and there actually held and the secretary to the Committee shall enter in the minute book the names of all members who so attend.

**7. Casual vacancies.** (1) When a vacancy occurs in the office of a member of the Committee during the term of office of members then constituting the Committee, the Governor in Council may appoint as prescribed by section 4 another qualified person as a member.

(2) A person appointed to fill a casual vacancy in the membership of the Committee shall hold office for the balance of his predecessor's term of office as a member or until he sooner vacates that office and shall if otherwise qualified be eligible for re-appointment.

**8. Proceedings at meetings of Committee.** (1) The chairman of the Committee shall preside at every meeting thereof at which he is present.

(2) In the absence of the chairman, the members of the Committee present at a meeting may elect one of their number to be chairman for the day.

(3) The chairman for the day, whilst acting as chairman, shall have all the powers, duties, functions and immunities of the chairman.

**9. Business of Committee.** Subject to this Act, the Committee shall conduct its business and proceedings at meetings in the manner prescribed and so far as not prescribed in such manner as it determines from time to time.

**10. Failure to nominate.** If an association entitled under section 4 to nominate a panel of names of persons fails within 28 days after a request in writing in that behalf by the Minister to submit a nomination, the Minister may without that nomination recommend to the Governor in Council a person who is in the opinion of the Minister a suitable person as a member of the Committee to fill the vacancy that ought to be filled from that panel and the person so recommended shall be deemed to be duly nominated under that section.

**11. Guarantee of loans.** (1) The Minister is authorised on behalf of the State to guarantee the repayment of principal moneys borrowed or to be borrowed by a proprietor from an approved lender for the purpose of purchasing one or more than one new approved passenger omnibus or one or more than one approved passenger omnibus that has been manufactured for less than five years and that complies with the standards for approval prescribed by or under the *State Transport Act 1960-1972*.

(2) (a) The liability of the Minister under a guarantee or guarantees given under this Act shall not exceed—

- (i) the amount borrowed by the proprietor: or
- (ii) an amount equal to two-thirds of the fair and reasonable purchase price (as determined by the Minister) to the proprietor of the passenger omnibus or omnibuses in question,

whichever is the less.

(b) The period of time of a guarantee given pursuant to this Act shall not in any case exceed five years.

(3) The authority conferred upon the Minister by subsection (1) is subject to compliance with the provisions of this Act that provide with respect to the giving of a guarantee.

**12. Application for guarantee.** (1) A proprietor may make application in writing to the Commissioner for the giving of a guarantee by the Minister pursuant to this Act.

(2) The application shall set out fully details of—

- (a) the amount of the loan obtained or to be obtained and interest payable thereon;
- (b) the name of the lender;
- (c) the proportion of the loan to be the subject of the guarantee;
- (d) the capacity of the proprietor to repay the loan and interest thereon and the manner in which the proprietor proposes to repay the loan and interest thereon;
- (e) the security available for the purpose of obtaining the loan, and shall be accompanied by such other information, particulars, documents and other writings as are prescribed and so far as not prescribed as the Commissioner requires.

(3) The evidence and information furnished to the Commissioner pursuant to subsection (1) shall be treated as confidential and no part thereof shall be published to any person save to the extent necessary for giving effect to this Act.

(4) The Commissioner shall consider each application made pursuant to subsection (1) and shall submit the application together with his report thereon to the Minister who, if he is of opinion that the guarantee should be given, shall recommend to the Governor in Council accordingly.

**13. Approval of giving of guarantee.** (1) The Governor in Council may, on the recommendation of the Minister and subject to such terms and conditions as the Governor in Council determines approve that any guarantee or guarantees applied for be given by the Minister under this Act or he may refuse any application for such guarantee or guarantees.

(2) Without limiting the generality of subsection (1), matters specified in an approval pursuant to that subsection shall include—

- (a) the amount of the loan or the proportion thereof to be guaranteed;
- (b) the terms, provisions and conditions of the loan in respect of which the guarantee is to be given including repayment of the loan and payment of interest thereon;
- (c) the security to be given by the applicant or other person providing security to the lender.

**14. Terms of guarantee.** A guarantee given under this Act is limited to such amount and to such period of time and is subject to such other terms and conditions as the Governor in Council determines.

**15. Guarantee voidable in certain circumstances.** A guarantee given under this Act is voidable at the option of the Minister if the lender fails in any respect to comply with the terms, provisions and conditions binding upon him with respect to the loan or fails to take security for the loan or without the consent in writing of the Minister first had and obtained releases wholly or partly a mortgage or other security taken in respect of the loan or without such consent waives any right or remedy had by the lender in respect of the loan under any mortgage or other security therefor taken by him or otherwise howsoever.

**16. Recovery of moneys paid under guarantee.** The Minister has, in respect of all moneys paid by him under a guarantee given by him under this Act the following powers, rights and remedies:—

- (a) he may recover from the proprietor the amount of all those moneys with interest at the prescribed rate and until so prescribed at the rate of nine and one-half per centum per annum by action in a court of competent jurisdiction;
- (b) he shall, to the extent of any payment made by him, be entitled to the benefit of any securities held by the lender as security for the loan to which the guarantee relates so that—
  - (i) where the Minister has paid to the lender the whole of the moneys secured by those securities, the lender shall hand over those securities to the Minister, who may exercise all the powers of the lender in respect thereof;

- (ii) where the Minister has paid part only of the moneys so secured, the lender shall, as and when directed by the Minister, realize those securities and, after satisfying his or its own claims out of the proceeds thereof, shall pay the balance, if any, to the Minister.

The powers, rights and remedies of the Minister under this section shall be exercisable singly or concurrently as he thinks fit.

**17. Payment of subsidy.** (1) The Minister is authorised on behalf of the State to pay by way of subsidy to a proprietor—

- (a) an amount calculated and payable from time to time as prescribed by way of interest on principal moneys borrowed before or after the date of commencement of this Act from an approved lender by a proprietor for the purpose of purchasing one or more than one new approved passenger omnibus or one or more than one approved passenger omnibus that has been manufactured for less than five years and that complies with the standards for approval prescribed by or under the *State Transport Act 1960-1972* at the rate per annum of interest being charged by the lender or at six per centum per annum whichever is the less for a period not exceeding five years;
- (b) an amount calculated and payable from time to time as prescribed equal to a percentage of his gross fare revenue not exceeding in any case 10 per centum per annum;
- (c) an amount calculated and payable from time to time as prescribed equal to three per centum (or such greater percentage as the Governor in Council on the recommendation of the Minister in a particular case approves) of his gross fare revenue as compensation for the fare revenue lost by him in providing concession fares to pensioners at a prescribed rate based on fares determined by the Commissioner.

(2) (a) The different provisions of subsection (1) shall have retrospective operation to the extent in this subsection indicated.

(b) The first period in respect of which a subsidy pursuant to subsection (1) (a) becomes payable shall commence on 1st July 1975 or, where a loan is obtained on or after that date, on the date from which interest on the principal moneys borrowed commences to accrue.

(c) The subsidy payable pursuant to subsection (1) (b) shall be payable from and including 1st October 1975 on gross fare revenue collected in respect of each period of three months from and including 1st July 1975.

(d) The subsidy payable pursuant to subsection (1) (c) shall be payable on and from the date of commencement of this Act on gross fare revenue collected on and from that date.

**18. Application for subsidy.** (1) A proprietor may make application to the Commissioner for payment to the proprietor of a subsidy pursuant to this Act.

(2) The application shall be in writing, shall contain the prescribed particulars and shall comply in all respects with prescribed conditions.

(3) Upon receipt of the application the Commissioner—

- (a) shall make or cause to be made such enquiries and investigations with respect thereto as he considers necessary;

- (b) shall examine or cause to be examined all information, documents and other writings submitted by the proprietor;
  - (c) may refer the application back to the proprietor for clarification on any matter or for the submission of any further information or for any other reason he thinks it proper to do so.
- (4) After considering fully the application, the Commissioner may recommend to the Minister—
- (a) that the application be refused; or
  - (b) that a subsidy be granted and the amount or rate thereof.
- (5) The Minister—
- (a) may approve or refuse to approve a recommendation made by the Commissioner;
  - (b) may refer the application back to the Commissioner for further investigation or information.
- (6) The Commissioner shall give notice in writing to the applicant of the decision upon the application.

**19. Review of application.** (1) A proprietor who is dissatisfied with a decision with respect to an application under this Act for a subsidy may, within 21 days after the receipt by him of notice of the decision, apply in writing to the Commissioner for a review of the application.

(2) An application for review shall state clearly and briefly the grounds upon which a review is sought and whether the applicant desires the matter referred to the Committee.

- (3) The Commissioner—
- (a) may review the application;
  - (b) may, and shall if the applicant so requests, refer the application to the Committee for review.

Where the Commissioner reviews the application he may exercise any of the powers conferred upon him under this Act with respect to an application for a subsidy.

(4) The Committee shall review every application for review referred to it and in carrying out that function may exercise any of the powers conferred upon the Commissioner under this Act with respect to an application for a subsidy.

Upon the completion of its review, the Committee may make such recommendations as it thinks fit and shall report the result of its review to the Commissioner.

- (5) The Commissioner—
- (a) shall upon the completion of the review of an application by him make recommendations to the Minister;
  - (b) shall, where an application is reviewed by the Committee, submit to the Minister all recommendations made by the Committee.

The Minister may, in relation to the review of an application, exercise any of the powers conferred upon him under this Act with respect to an application for a subsidy.

(6) The Commissioner shall give notice in writing to the applicant of the decision upon the application for review.

**20. Powers of authorised officers.** In discharging any function with which he is charged for the effectual administration of this Act, an authorised officer may exercise any of the powers conferred upon an authorised officer by or under the *State Transport Act 1960-1972* and, in construing those powers for the purposes of this Act, a reference to "goods" in any provision of that Act that confers a power on an authorised officer with respect to goods only shall be read as a reference to "passengers" also.

**21. Service of writings.** A notice or other writing required by or under this Act to be given by the Commissioner or other person to any person for the purposes of this Act may be given—

- (a) by serving it personally upon the person to whom it is directed;
- (b) by leaving it at the address of the place of residence of the person to whom it is directed last known to the person by whom it is required to be given;
- (c) by posting it to the person to whom it is addressed at the address of the place of his residence last known to the person by whom it is required to be given.

**22. Regulations.** The Governor in Council may make regulations not inconsistent with this Act for or with respect to all matters required or permitted by this Act to be prescribed and all matters that are necessary or convenient for the proper administration of this Act or to achieve the objects and purposes of this Act.