

Version No. 004
Non-Emergency Patient Transport Act 2003
Act No. 69/2003

Version incorporating amendments as at 1 July 2006

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The Parliament of Victoria enacts as follows:

PART 1—PRELIMINARY

1. Purposes

The purposes of this Act are—

- (a) to establish a licensing system for certain persons who operate services providing non-emergency transport to or from medical services using stretcher carrying vehicles or offering specialist clinical care or monitoring during transport; and
- (b) to otherwise make provision for the regulation of persons operating non-emergency transport to or from medical services using stretcher carrying vehicles or offering specialist clinical care or monitoring during transport; and
- (c) to establish a system of accreditation for non-emergency patient transport licence holders who operate particular stand-by services for participants in public events who suffer unanticipated illness or injury during the events; and
- (d) to amend the **Ambulance Services Act 1986** and the **Transport Act 1983**; and
- (e) to make other related provisions.

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2. Commencement

- (1) Subject to sub-section (2), this Act comes into operation on a day or days to be proclaimed.
- (2) If a provision of this Act does not come into operation before 1 February 2006, it comes into operation on that day.

3. Definitions

In this Act—

"ambulance service" has the same meaning as in the **Ambulance Services Act 1986**;

"approval in principle" means an approval in principle granted under section 7(1);

"authorised officer" means a person appointed as an authorised officer under section 45;

"Co-ordinator in Chief" has the same meaning as in the **Emergency Management Act 1986**;

"denominational hospital" has the same meaning as in the **Health Services Act 1988**;

"Department" means the Department of Human Services;

"emergency area" has the same meaning as in the **Emergency Management Act 1986**;

"non-emergency patient transport service" means a service that offers or provides for—

- (a) the transport of persons on public roads to or from medical services—
 - (i) using a stretcher carrying vehicle;
or

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- (ii) where the persons being transported are provided with specialist clinical care or monitoring while being so transported; or
 - (b) the transport of persons by air to or from medical services where the persons being transported—
 - (i) are transported on stretchers; and
 - (ii) are provided with specialist clinical care or monitoring by the person operating the transport service;

"non-emergency patient transport service licence" means a licence granted under section 13(1);

"public hospital" has the same meaning as in the **Health Services Act 1988**;

"Secretary" means the person who is for the time being the Department Head (within the meaning of the **Public Administration Act 2004**) of the Department;

S. 3 def. of
"Secretary"
amended by
No. 108/2004
s. 117(1)
(Sch. 3
item 141).

"specialist clinical care or monitoring" means clinical care or monitoring that is performed by persons who are trained to assess, monitor and protect the health of sick or injured persons during transport;

"stand-by service accreditation" means an accreditation granted under section 35(1);

"vehicle" includes any helicopter, aeroplane or other aircraft by which persons may be transported by air to or from medical services.

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4. Non-application of Act

- (1) This Act does not apply to—
- (a) any branch of the Australian Defence forces;
and
 - (b) any service in another State or a Territory of the Commonwealth, that operates an emergency service that corresponds in nature with the emergency service operated by an ambulance service in Victoria; and
 - (c) any person in an emergency area who, in operating a non-emergency patient transport service, is acting under the authorisation or direction of—
 - (i) the person who has declared the area to be an emergency area; or
 - (ii) the Co-ordinator in Chief; and
 - (d) any other person or class of person whom the Governor in Council declares to be a person or class of person to whom this Act does not apply.
- (2) For the purposes of sub-section (1)(d), the Governor in Council may, by Order, declare a person or class of person to be a person or class of person to whom this Act does not apply.
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**PART 2—LICENSING NON-EMERGENCY PATIENT
TRANSPORT SERVICE OPERATORS**

Division 1—Offences

**5. Offence to operate a non-emergency patient
transport service without a licence**

- (1) A person must not operate a non-emergency patient transport service unless that person holds a non-emergency patient transport service licence.

Penalty: 240 penalty units.

- (2) Sub-section (1) does not apply to each of the following persons when the person is operating a non-emergency patient transport service—
- (a) an ambulance service; or
 - (b) a public hospital or denominational hospital; or
 - (c) any other person or class of person whom the Governor in Council has declared to be a person or class of person to whom sub-section (1) does not apply.
- (3) For the purposes of sub-section (2), the Governor in Council may, by Order, declare a person or class of person to be a person or class of person to whom sub-section (1) does not apply.

**6. Offence to claim licence holder or accreditation
status**

- (1) A person who is not the holder of a non-emergency patient transport service licence must not—
- (a) take or use any title calculated to induce a belief that the person is such a licence holder; or

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(b) claim or hold out to be such a licence holder.

Penalty: 50 penalty units.

(2) Sub-section (1) does not apply to a person who is the holder of an approval in principle.

(3) A person who is not the holder of a stand-by service accreditation must not—

(a) take or use any title calculated to induce a belief that the person holds such an accreditation; or

(b) claim or hold out to be the holder of such an accreditation.

Penalty: 50 penalty units.

Division 2—Approval in Principle to be Licensed

7. Grant of approval in principle

(1) The Secretary may grant an approval in principle to a person to operate a non-emergency patient transport service.

(2) In granting an approval in principle, the Secretary may specify, that the approval is granted—

(a) for the service to operate the particular class or particular classes of non-emergency patient transport specified in the approval; or

(b) for the service to operate all classes of non-emergency patient transport.

8. Application for approval in principle

(1) A person may apply to the Secretary for the grant of an approval in principle.

(2) An application under sub-section (1)—

(a) must be in the prescribed form; and

(b) must be accompanied by the prescribed fee.

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- (3) A person making an application under subsection (1) must give the Secretary any further information relating to the application that the Secretary requests including, if the person who is to be the operator of the service is a body corporate, any information relating to any director or officer of the body corporate who does or may exercise control over the service to which the application relates.

9. Matters the Secretary must consider in deciding whether or not to grant an approval in principle

- (1) The Secretary must not grant an approval in principle unless the Secretary is satisfied that—
- (a) in the case of an applicant for an approval in principle who is a natural person, the person is a fit and proper person; or
 - (b) in the case of an applicant for an approval in principle who is a body corporate, each director or officer of the body corporate who does or may exercise control over the service is a fit and proper person.
- (2) In determining whether or not to grant an approval in principle, the Secretary may consider whether or not the vehicles proposed to be used in the service are suitable for that use having regard to—
- (a) the safety, health and well being needs of the persons who are likely to be transported in the vehicles; and
 - (b) any other requirements imposed by the regulations.

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10. Time limit for making decision on an application for approval in principle

The Secretary must make and give notice in writing to an applicant under section 8 of his or her decision on the application—

- (a) within 60 days after receiving the application; or
- (b) if the Secretary has requested the applicant to give further information, within 28 days after the information last requested is given to the Secretary—

whichever is the later.

11. Certificate of approval in principle

If the Secretary grants an approval in principle, he or she must issue a certificate of approval in principle stating—

- (a) the name of the person to whom it is issued; and
- (b) any conditions to which it is subject; and
- (c) the types of vehicles for which the approval is granted; and
- (d) the classes of non-emergency patient transport services for which the approval is granted; and
- (e) the period during which the approval continues in force (being one year or, if the Secretary considers it appropriate that the period be longer or shorter, the period so specified by the Secretary).

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12. Transfer or variation of certificate of approval in principle

- (1) The Secretary, on the application of the person who is the holder for the time being of a certificate of approval in principle relating to a class of non-emergency patient transport service may—
 - (a) vary the certificate or any condition to which it is subject; or
 - (b) approve the transfer of the certificate to another person.
- (2) Sections 8 and 9 apply to an application for variation or transfer of a certificate as if the application were an application for the grant of an approval in principle.
- (3) If the Secretary—
 - (a) has varied an approval in principle or any condition to which an approval in principle is subject; or
 - (b) has transferred an approval in principle to another person—

the person who possesses the certificate of approval in principle to which that variation or transfer relates must produce the certificate to the Secretary for endorsement by the Secretary of the particulars of the variation or transfer.

Division 3—Granting, Renewal and Variation of Non-Emergency Patient Transport Service Licences

13. Grant of a non-emergency patient transport service licence

- (1) The Secretary may licence a person to operate a non-emergency patient transport service.

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- (2) In granting a non-emergency patient transport service licence, the Secretary may specify, that the licence is granted—
- (a) for the service to operate the particular class or particular classes of non-emergency patient transport specified in the licence; or
 - (b) for the service to operate all classes of non-emergency patient transport.

14. Application for a non-emergency patient transport service licence

- (1) A person may apply to the Secretary for the grant of a non-emergency patient transport service licence.
- (2) An application under sub-section (1)—
 - (a) must be in the prescribed form; and
 - (b) must be accompanied by the prescribed fee; and
 - (c) if a certificate of approval in principle has been given for the service in respect of which the application is being made, must be accompanied by a copy of that certificate.
- (3) An applicant must give the Secretary any further information relating to the application that the Secretary requests.

15. Matters the Secretary must consider in deciding whether or not to grant a licence

- (1) The Secretary must not grant a non-emergency patient transport service licence unless the Secretary is satisfied that—
 - (a) in the case of an applicant who is a natural person, the applicant is a fit and proper person; or

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- (b) in the case of an applicant who is a body corporate, each director and officer of the body corporate who does or may exercise control over the service is a fit and proper person.
- (2) In deciding whether or not to grant a licence, the Secretary must consider—
- (a) in relation to the service for which the licence is to be granted—
- (i) the suitability of the equipment and vehicles to be used in the service; and
 - (ii) whether or not there are operating arrangements for the management and staff of the service that are suitable and comply with the regulations; and
 - (iii) whether or not there are arrangements for maintaining the quality of the service that are appropriate; and
 - (iv) whether or not there are arrangements for evaluating, monitoring and improving the quality of the service that are appropriate; and
- (b) whether or not the conditions to which the approval in principle (if any) is subject have been met.
- (3) The Secretary must not refuse to grant a licence on any ground that is inconsistent with an approval in principle that is in force and that has been granted in relation to the service in respect of which the application for the licence has been made.
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16. Time limit for making decision on an application for the grant of licence

The Secretary must make and give notice in writing to an applicant under section 14 of his or her decision on the application—

- (a) within 60 days after receiving the application; or
- (b) if the Secretary has requested the applicant to give further information, within 28 days after the information last requested is given to the Secretary—

whichever is the later.

17. Conditions on licences

- (1) A non-emergency patient transport service licence is subject to any conditions—
 - (a) that are prescribed; and
 - (b) that the Secretary imposes on the licence or on the class of licence to which the licence belongs.
- (2) A licence holder must comply with the conditions to which the licence is subject.

Penalty: 240 penalty units.

18. Particulars of licences

A non-emergency patient transport service licence must contain the following particulars—

- (a) the name and address of the holder of the licence; and
- (b) the class or classes of services that may be operated under the licence; and
- (c) the type or types of vehicles for which the licence is issued; and

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- (d) the conditions to which the licence is subject; and
- (e) the date on which the licence expires; and
- (f) any other prescribed matter.

19. Duration of licences

A non-emergency patient transport service licence continues in force for the period that is specified in the licence, being 2 years from the issue or renewal of the licence (or, if the Secretary considers it appropriate that the period be longer or shorter, the period so specified by the Secretary).

20. Power of Secretary to renew licences

On the expiration of a non-emergency patient transport service licence, the Secretary may renew the licence.

21. Application to renew a licence

- (1) Before a non-emergency patient transport service licence expires, the holder may apply to the Secretary for the renewal of the licence.
- (2) An application under sub-section (1)—
 - (a) must be in the prescribed form; and
 - (b) must be accompanied—
 - (i) if the application is made at least three months before the licence expires, by the prescribed fee; or
 - (ii) if the application is made within the period of three months before the licence expires, by the prescribed fee and an additional fee of one half of the prescribed fee.

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- (3) An applicant under this section must give to the Secretary any further information relating to the application that the Secretary requests.
 - (4) A non-emergency patient transport service licence in respect of which an application is made under this section, is deemed to continue in force, after the expiry of the licence period, until the Secretary makes a decision in relation to the application.

22. Matters the Secretary must consider in deciding whether or not to renew a licence

- (1) The Secretary must not renew a non-emergency patient transport service licence unless the Secretary is satisfied that—
 - (a) in the case of the holder of a licence who is a natural person, the holder is a fit and proper person; or
 - (b) in the case of the holder of a licence who is a body corporate, each director or officer of the body corporate who does or may exercise control over the service is a fit and proper person.
 - (2) In determining whether or not to renew a licence, the Secretary must consider whether or not—
 - (a) the quality of the services operated under the licence is satisfactory; and
 - (b) the service operated under the licence complies with this Act, the regulations and any other law relating to or affecting the operation of a non-emergency patient transport service; and
 - (c) the conditions to which the licence is subject have been complied with.
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23. Time limit for making decision on application for renewal of licence

The Secretary must make and give notice in writing to an applicant under section 21 of his or her decision on the application—

- (a) within 60 days after receiving the application; or
- (b) if the Secretary has requested the applicant to give further information, within 28 days after the information last requested is given to the Secretary—

whichever is the later.

24. Power of the Secretary to vary licences

The Secretary may, either on the application of the holder of a non-emergency patient transport service licence, or on the Secretary's own motion—

- (a) vary a non-emergency patient transport service licence; or
- (b) vary a condition on a non-emergency patient transport service licence, other than a prescribed condition.

25. Variation of licence on the motion of the Secretary

(1) Before—

- (a) varying a non-emergency patient transport service licence; or
- (b) varying a condition on a non-emergency patient transport service licence—

of his or her own motion under section 24, the Secretary must—

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- (c) notify the holder of the licence; and
 - (d) allow the holder an opportunity to make written submissions.
- (2) Submissions under sub-section (1) must be made within the time period specified in the notice.
- (3) In making a decision as to whether or not to vary a licence under section 24, the Secretary must—
- (a) have regard to submissions made within the period for making submissions; and
 - (b) notify the holder of his or her decision.
- (4) A variation to which sub-section (1) applies has effect from the time specified in the notice under sub-section (3).

26. Application to vary a licence

- (1) The holder of a non-emergency patient transport service licence may apply to the Secretary for—
- (a) variation of the licence; or
 - (b) variation of a condition of the licence.
- (2) An application under sub-section (1)—
- (a) must be in the prescribed form; and
 - (b) must be accompanied by the prescribed fee.
- (3) An applicant under sub-section (1) must give to the Secretary any further information relating to the application that the Secretary requests.

27. Matters the Secretary must consider in deciding on certain applications for variation

In deciding on an application by a non-emergency patient transport service licence holder to—

- (a) vary the licence; or

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- (b) vary a condition on the licence—
to enable the holder to operate an additional class or classes of service under the licence, the Secretary must consider—
 - (c) the suitability of the equipment and vehicles to be used in the additional class or classes of service; and
 - (d) whether or not there are operating arrangements for the management and staff of the additional class or classes of service that are suitable and comply with the regulations; and
 - (e) whether or not there are arrangements for maintaining the quality of the additional class or classes of service that are appropriate; and
 - (f) whether or not there are arrangements for evaluating, monitoring and improving the quality of the additional class or classes of service that are appropriate.

28. Time limit for making decision on application for variation of licence

The Secretary must make and give notice in writing to an applicant under section 26 of his or her decision on the application—

- (a) within 60 days after receiving the application; or
- (b) if the Secretary has requested the applicant to give further information, within 28 days after the information last requested is given to the Secretary—

whichever is the later.

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29. Surrender of licence

- (1) The holder of a non-emergency patient transport service licence may surrender that licence to the Secretary for cancellation.
- (2) If a licence is surrendered under sub-section (1)—
 - (a) the Secretary must cancel the licence; and
 - (b) the holder must produce the licence certificate to the Secretary for cancellation.

Division 4—Suspension and Cancellation of Non-Emergency Patient Transport Service Licences

30. Suspension of licence and notice of proposal to cancel

- (1) If the Secretary is satisfied that there may be grounds for cancelling a non-emergency patient transport service licence, the Secretary may suspend that licence.
- (2) The Secretary must serve notice of the suspension of the licence on the holder of the licence either personally or by post.
- (3) A notice under sub-section (2) must—
 - (a) state that the licence is suspended; and
 - (b) state that the Secretary is satisfied that there are grounds for the cancellation of the licence; and
 - (c) set out those grounds; and
 - (d) set out the time within which written submissions on the proposed cancellation of the licence may be made to the Secretary.

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- (4) A suspension under this section remains in force until—
- (a) if the Secretary decides to cancel the licence, the coming into effect of that cancellation; or
 - (b) if the Secretary decides not to cancel the licence, the making of that decision.
- (5) The holder of a licence whose licence is suspended under this section is deemed not to be the holder of a licence for the period of the suspension.

31. Making of submissions on suspension

- (1) The holder of a non-emergency patient transport service licence whose licence has been suspended under section 30 may make written submissions on the proposal to cancel the licence.
- (2) Submissions made under sub-section (1) must be made within 28 days of the holder being notified of the suspension.

32. Powers of the Secretary where a non-emergency patient transport service licence has been suspended

- (1) If, after considering any submissions made within the time fixed for making submissions under section 31, the Secretary is satisfied that—
 - (a) in the case of a licence holder who is a natural person, the licence holder is not a fit and proper person; or
 - (b) in the case of a licence holder who is a body corporate, any director or officer of the body corporate who does or may exercise control over the service that is the subject of the licence is not a fit and proper person; or
 - (c) the health and safety of patients or clients of the holder of the licence are at risk; or

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- (d) the licence holder—
 - (i) has failed to carry on the service in accordance with this Act or the regulations or the licence; or
 - (ii) if the licence holder is also the holder of a stand-by service accreditation, the licence holder has failed to carry on that service in accordance with this Act, the regulations or the accreditation; or
- (e) the licence holder—
 - (i) is not likely to carry on the service in accordance with this Act, the regulations or the licence; or
 - (ii) if the licence holder is also the holder of a stand-by service accreditation, the licence holder is not likely to carry on that service in accordance with this Act, the regulations or the accreditation; or
- (f) the licence holder has been found guilty of an offence against this Act or the regulations—

the Secretary may—

- (g) cancel the licence; or
- (h) in a case to which paragraph (d) or (e) applies—
 - (i) state an intention to cancel the licence if, within a period (not being less than 28 days from the giving of notice of the Secretary's decision) satisfactory arrangements are not made to remedy any failure to comply, or to be able to continue to comply, with this Act, the regulations or the licence; and

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- (ii) cancel the licence after the expiry of the period specified in sub-paragraph (i), if satisfactory arrangements have not been made.
- (2) In making a decision under sub-section (1), the Secretary must consider—
- (a) the conduct of the licence holder; and
 - (b) the seriousness of any breach of this Act, the regulations, the licence or, where the case so requires, the accreditation; and
 - (c) whether or not any such breach could have been avoided by the reasonable exercise of care; and
 - (d) any circumstances that may prevent the licence holder from being able to continue to carry on the service in accordance with this Act, the regulations, the licence or, where the case so requires, the accreditation.

33. Notice of Secretary's decision

- (1) The Secretary must give notice to the holder of a non-emergency patient transport service licence that has been suspended under section 30 of the Secretary's decision under section 32 and set out reasons for that decision in the notice.
- (2) A notice under sub-section (1) must be served on the licence holder within 28 days after the expiry of the date for the making of submissions under section 31.

34. Coming into effect of cancellation

Cancellation of a non-emergency patient transport service licence by the Secretary has effect from the time at which notice of the cancellation is served on the licence holder.

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Division 5—Accreditation to operate particular stand-by services at public events

35. Granting of a stand-by service accreditation

- (1) The Secretary may accredit a person who is the holder of a non-emergency patient transport service licence to operate a service that provides for staff and vehicles to attend at public events to provide, at the event, if a need arises, stand-by services to participants in the event who suffer unanticipated illness or injury during the event.
- (2) Accreditation is subject to any conditions imposed—
 - (a) by the Secretary; or
 - (b) by the regulations.
- (3) A person may apply to the Secretary for the grant of a stand-by service accreditation.
- (4) An application under sub-section (3)—
 - (a) must be in the prescribed form; and
 - (b) must be accompanied by the prescribed fee.
- (5) An applicant must give to the Secretary any further information relating to the application that the Secretary requests.

36. Time limit on making decision on application for the grant of an accreditation

The Secretary must make and give notice in writing to an applicant under section 35(3) of the Secretary's decision on the application—

- (a) within 60 days after receiving the application; or

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- (b) if the Secretary has requested the applicant to give further information, within 28 days after the information last requested is given to the Secretary—

whichever is the later.

37. Duration and renewal of accreditation

- (1) A stand-by service accreditation continues in force, unless sooner cancelled, for the period of the non-emergency service patient transport licence held by the person accredited.
- (2) Accreditation may be renewed at the same time as and as if it were part of the non-emergency service patient transport licence held by the person accredited.

38. Cancellation of accreditation

- (1) If the Secretary believes that there are reasonable grounds to cancel a stand-by service accreditation, the Secretary may do so, even though the non-emergency service patient transport licence held by the person accredited has not been cancelled or suspended.
- (2) Before cancelling an accreditation the Secretary must—
 - (a) notify the holder of the accreditation of the proposal to cancel it; and
 - (b) allow the holder an opportunity to make written submissions.
- (3) Submissions under sub-section (2) must be made within the period specified in the notice.

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- (4) In making a decision as to whether or not to cancel a stand-by service accreditation, the Secretary must—
 - (a) have regard to any submissions made under sub-section (2) within the period specified in the notice; and
 - (b) notify the holder of the decision.
 - (5) A cancellation under this section has effect from the time specified in the notice under sub-section (4).

Division 6—General Matters

39. Fit and proper person

- (1) In determining whether or not a person is a fit and proper person for the purposes of this Act, the Secretary may take into account all or any of the following matters—
 - (a) whether or not the person has been found guilty of an offence against this Act;
 - (b) whether or not the person is of sound financial reputation and stable financial background;
 - (c) whether or not the person is of good repute, having regard to character, honesty and integrity;
 - (d) whether or not the person, is a person in relation to whom, not more than 10 years have expired since that person was found guilty of—
 - (i) an indictable offence against the person; or

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- (ii) an offence involving dishonesty, fraud or trafficking in drugs of dependence—

where the maximum penalty for the offence is more than 3 months imprisonment.

- (2) Sub-section (1) is not to be taken to limit the circumstances in which a person may be considered not to be a fit and proper person for the purposes of this Act.

40. Endorsement of licence

If the Secretary—

- (a) varies a non-emergency patient transport service licence; or
(b) varies a condition on a non-emergency patient transport service licence—

whether or not the variation is made under section 24 or at the time of renewal—

- (c) the holder of the licence must produce the licence to the Secretary for endorsement of the variation; and
(d) the Secretary must cause the licence to be endorsed with particulars of the variation.

41. Change of directors etc.

If a person ceases to be, or is appointed as, a director of or other officer having control of a body corporate that holds a non-emergency patient transport service licence, the body corporate must within 30 days after the change occurs give the Secretary a statement setting out—

- (a) the name and address of the person who has ceased to hold, or been appointed to, a position (as the case requires); and

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(b) the position which the person has ceased to hold or been appointed to (as the case requires).

Penalty: 50 penalty units.

42. Legal personal representatives

- (1) If the holder of a non-emergency patient transport service licence dies, a person who is, or persons who are, named as, or who intends or intend to make application to become, the legal personal representative or representatives of the holder may, within 28 days after the death or such longer period as the Secretary allows, make application to the Secretary to carry on the service until the expiration of the period of one year after the death.
- (2) The Secretary must grant an application under sub-section (1) unless he or she has any reason to believe that if the applicant, or any of the applicants, were to make an application for the licence, the Secretary would refuse the application.
- (3) The granting of an application under this section has effect as a variation of the licence for the period to which the application relates.

**PART 3—REVIEW BY VICTORIAN CIVIL AND
ADMINISTRATIVE TRIBUNAL**

43. Review by VCAT

- (1) A person, whose interests are affected by the relevant decision, may apply to the Victorian Civil and Administrative Tribunal for review of—
 - (a) a decision on an application for the grant of a non-emergency patient transport service licence; or
 - (b) a decision to impose conditions on such a licence; or
 - (c) a decision to vary such a licence; or
 - (d) a decision to cancel or suspend such a licence.
- (2) A person, whose interests are affected by the relevant decision, may apply to the Victorian Civil and Administrative Tribunal for review of—
 - (a) a decision on an application for the grant of a stand-by service accreditation; or
 - (b) a decision to impose conditions on such an accreditation; or
 - (c) a decision to cancel such an accreditation.

44. Time period for making application for review

An application for review under section 43 must be made within 28 days of the later of—

- (a) the day on which the decision is made; or
- (b) if, under the **Victorian Civil and Administrative Tribunal Act 1998**, the person requests a statement of reasons for the decision, the day on which the statement of reasons is given to the person or the person is

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Part 3—Review by Victorian Civil and Administrative Tribunal

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informed under section 46(5) of that Act that
a statement of reasons will not be given.

PART 4—INSPECTION AND ENFORCEMENT POWERS

Division 1—Inspection

45. Appointment of authorised officers

The Secretary may, by instrument, appoint as an authorised officer any employee of the Secretary, who, the Secretary is satisfied, is suitable to be so authorised.

46. Authorised officer's identity card

- (1) The Secretary must issue an identity card to each authorised officer.
- (2) An identity card must contain a photograph of the authorised officer to whom the card is issued.

47. Production of identity card

An authorised officer must produce his or her identity card for inspection—

- (a) before exercising a power under this Act or the regulations, other than a requirement made by post; and
- (b) at any time during the exercise of a power under this Act or the regulations, if asked to do so.

48. Production of vehicles or documents for inspection

- (1) For the purpose of monitoring compliance with this Act or the regulations an authorised officer may require the holder of a non-emergency patient transport service licence, at a time and place specified by the authorised officer—
 - (a) to produce for inspection any vehicles—
 - (i) used in the provision of the service operated under the licence; or

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Part 4—Inspection and Enforcement Powers

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- (ii) if the holder of the licence is also the holder of a stand-by service accreditation, used in the provision of the service operated under the accreditation; or
 - (b) to produce to the authorised officer any documents required to be kept by the licence holder under this Act or the regulations.
 - (2) For the purpose of monitoring compliance with this Act or the regulations an authorised officer may require—
 - (a) an ambulance service that is the operator of a non-emergency patient transport service; or
 - (b) a public hospital or denominational hospital that is the operator of a non-emergency patient transport service—
at a time and place specified by the authorised officer—
 - (c) to produce for inspection any vehicles used in the provision of the service operated by the service or hospital; or
 - (d) to produce to the authorised officer any documents required to be kept by the service or hospital under this Act or the regulations.

49. Self-incrimination

- (1) A person is not excused from complying with a requirement of an authorised officer under section 48 on the ground that to do so may result in information being provided that might incriminate the person.
 - (2) Any information obtained from a person under this Division is not admissible in evidence against the person in criminal proceedings other than in proceedings in respect of the provision of false information.
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s. 50

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- (3) Despite sub-section (2), any information obtained from a person under this Division that is contained in any document—
- (a) that the person is required to keep by any law; or
 - (b) that the operator of a non-emergency patient transport service is required to keep by any law; or
 - (c) that the holder of a stand-by service accreditation is required to keep by any law; or
 - (d) that was obtained without the direct assistance of the person—
- is admissible in evidence against the person in criminal proceedings.
- (4) For the purposes of sub-section (3), a person provides direct assistance in the obtaining of a document if the person identifies, reveals the location of, or explains the contents of, the document.

50. Offences relating to inspection

A person must not—

- (a) without reasonable excuse, obstruct an authorised officer in exercising his or her powers under this Act or the regulations; or
- (b) knowingly make any false or misleading statement in any application to the Secretary under this Act; or
- (c) impersonate the Secretary or an authorised officer in the performance of his or her powers or duties under this Act.

Penalty: 120 penalty units.

Division 2—Enforcement

51. Proceedings for offences

The Secretary, an authorised officer, a member of the police force or a person authorised generally or in a particular case by the Secretary may take proceedings for an offence against this Act or the regulations.

52. Service of documents

A notice or other document required or authorised by this Act or the regulations to be served on or given to a person is deemed to have been duly served on or given to the person—

- (a) if delivered personally to or left with an adult person at the premises that is the last known place of residence or business of the person on or to whom the notice or document is to be served or given or, if there is no adult person present, by affixing the notice or document to a conspicuous part of the premises; or
- (b) if sent to the person by post.

53. Offences by bodies corporate

- (1) If a body corporate contravenes a provision of this Act or the regulations, each director or officer of the body corporate is deemed to have contravened the provision, if the director or officer knowingly authorised or permitted the contravention.
- (2) A person may be proceeded against and found guilty under a provision in accordance with subsection (1) whether or not the body corporate has been proceeded against under that provision.

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Part 4—Inspection and Enforcement Powers

s. 54

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- (3) Nothing in this section affects any liability imposed on a body corporate for an offence committed by a body corporate against this Act or the regulations.

54. Imputing states of mind to bodies corporate

If, in any proceedings for an offence against this Act or the regulations, it is necessary to establish the state of mind of a body corporate in relation to particular conduct, it is sufficient to show that—

- (a) the conduct was engaged in by an officer or agent of the body corporate within the scope of his or her actual or apparent authority; and
- (b) the officer or agent had that state of mind.

55. Liability of body corporate or employer for acts of others

If an officer or agent of a body corporate engages in conduct on behalf of the body corporate within the scope of his or her actual or apparent authority, the body corporate must be taken for the purposes of a prosecution for an offence against this Act or the regulations, also to have engaged in the conduct, unless the body corporate establishes that the body corporate took reasonable precautions and exercised due diligence to avoid the conduct.

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Part 5—Infringement Notices

s. 56

PART 5—INFRINGEMENT NOTICES

56. Power to serve a notice

- (1) An authorised officer may serve an infringement notice on any person that he or she has reason to believe has committed a prescribed offence against this Act or the regulations.
- (2) In this Part "**authorised officer**" includes a member of the police force.
- (3) An offence referred to in sub-section (1) for which an infringement notice may be served is an infringement offence within the meaning of the **Infringements Act 2006** and the penalty for that offence is the prescribed infringement penalty in respect of that offence.

S. 56(3)
substituted by
No. 32/2006
s. 94(Sch.
item 35(1)).

57. Form of notice

For the purposes of section 56, an infringement notice must be in the form required by the **Infringements Act 2006** and may contain any additional information approved by the Secretary.

S. 57
substituted by
No. 32/2006
s. 94(Sch.
item 35(2)).

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Ss 58–63
repealed by
No. 32/2006
s. 94(Sch.
item 35(3)).

PART 6—REGULATION MAKING POWERS

64. Regulations

- (1) The Governor in Council may make regulations for or with respect to prescribing—
- (a) standards and requirements for the operation of non-emergency patient transport services and, in particular, but not limited to, the following matters—
 - (i) standards and requirements as to safety, cleanliness and hygiene (including infection control procedures);
 - (ii) standards and requirements as to the welfare of persons being transported, including (but not limited to) standards and requirements as to comfort, privacy and respectful treatment;
 - (iii) standards and requirements as to staffing, including (but not limited to) standards and requirements as to staff numbers, qualifications and clinical accreditation;
 - (iv) standards and requirements as to the provision, inspection and maintenance of vehicles and equipment;
 - (v) standards and requirements as to storage facilities;
 - (vi) standards and requirements as to the amount and type of insurance to be maintained;
 - (vii) standards and requirements as to the arrangements to be made to evaluate, monitor and improve the quality of the service and supervision of staff;
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- (viii) standards and requirements as to the provision of and display of information;
 - (ix) standards and requirements as to communication devices to be carried by staff or installed in vehicles;
 - (b) standards and requirements for the operation of services provided under a stand-by service accreditation, and, in particular, but not limited to, the following matters—
 - (i) standards and requirements as to safety, cleanliness and hygiene (including infection control procedures);
 - (ii) standards and requirements as to the welfare of persons to whom the service is provided, including (but not limited to) standards and requirements as to comfort, privacy and respectful treatment;
 - (iii) standards and requirements as to staffing, including (but not limited to) standards and requirements as to staff numbers, qualifications and clinical accreditation;
 - (iv) standards and requirements as to the provision, inspection and maintenance of vehicles and equipment;
 - (v) standards and requirements as to storage facilities;
 - (vi) standards and requirements as to the amount and type of insurance to be maintained;
 - (vii) standards and requirements as to the arrangements to be made to evaluate, monitor and improve the quality of the service and supervision of staff;
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- (viii) standards and requirements as to the provision of and display of information;
 - (c) records to be kept by—
 - (i) non-emergency patient transport services; and
 - (ii) the holders of stand-by service accreditations—

including (but not limited to) the form and the nature of entries to be made in such records and the time within which such entries are to be made and the period for which such records must be maintained;
 - (d) classes of non-emergency patient transport services for the purposes of licensing;
 - (e) in relation to any class of non-emergency patient transport service, the class or classes of persons who may or may not operate that class of service;
 - (f) prescribing offences against this Act or the regulations for the purposes of Part 5;
 - (g) fees to be paid for applications under this Act;
 - (h) penalties, not exceeding 20 penalty units, for breaches of the regulations;
 - (i) any other matter or thing required or permitted to be prescribed or necessary to be prescribed to give effect to this Act.
- (2) The regulations—
- (a) may be of general or limited application; and
 - (b) may differ according to differences in time, place or circumstances; and
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Part 6—Regulation Making Powers

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- (c) may make different prescriptions or impose different standards for different classes of non-emergency patient transport service operators; and
 - (d) may exempt any class of person who operates a non-emergency patient transport service from complying with all or any of the regulations; and
 - (e) may leave any matter or thing to be, from time to time, determined, applied, dispensed with or regulated by the Secretary; and
 - (f) may apply adopt or incorporate by reference any document, either—
 - (i) as in force at the date the regulations come into operation or at any date before then; or
 - (ii) wholly or in part as amended by the regulations; and
 - (g) may make provision for—
 - (i) a scale of fees according to the nature of the application being made or licence being granted; or
 - (ii) the reduction, waiver or refund in whole or in part of any fees.
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Part 7—Amendments to Other Acts

s. 65

PART 7—AMENDMENTS TO OTHER ACTS

65. Amendment to heading in Ambulance Services Act 1986

In the heading to Part 3 of the **Ambulance Services Act 1986**, for "CHIEF GENERAL MANAGER" substitute "SECRETARY".

**66. Amendment of Ambulance Services Act 1986—
Liability to pay fees**

After section 10(7) of the **Ambulance Services Act 1986** insert—

"(8) If a person has been transported by an emergency ambulance service, the fee charged under a direction given by the Secretary under sub-section (5)(a) for that service, is payable by that person whether or not the person consented to the provision of the service."

67. Insertion of new section 10A in the Ambulance Services Act 1986

After section 10 of the **Ambulance Services Act 1986** insert—

"10A. Non-application of section 141 of the Health Services Act 1988

Section 141(2) of the **Health Services Act 1988** does not apply to a person who, for the purposes of—

- (a) the recovery of a fee payable under section 10(8); or
- (b) determining whether a fee is recoverable under section 10(8)—

discloses to the operator of an ambulance service the identity or address of a person transported by that service in an emergency,

See:
Act No.
114/1986.
Reprint No. 2
as at
1 December
1999
and
amending
Act Nos
74/2000 and
11/2001.
LawToday:
www.dms.
dpc.vic.
gov.au

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or other information necessary to determine
if a fee is payable by such a person."

See:
Act No.
9921.
Reprint No. 9
as at
15 July 2003.
LawToday:
www.dms.
dpc.vic.
gov.au

**68. Amendment of the Transport Act 1983—
Commercial passenger vehicle licences**

After section 138(b) of the **Transport Act 1983**
insert—

"(c) for the purposes of providing ambulance
services (within the meaning of the
Ambulance Services Act 1986) or for
providing non-emergency patient transport
services (within the meaning of the
Non-Emergency Patient Transport Act
2003)."

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Endnotes

ENDNOTES

1. General Information

Minister's second reading speech—

Legislative Assembly: 28 August 2003

Legislative Council: 7 October 2003

The long title for the Bill for this Act was "to regulate the operation of the non-emergency transport of persons to or from medical services and the operation of particular stand-by services at public events, to amend the **Ambulance Services Act 1986** and for other purposes."

The **Non-Emergency Patient Transport Act 2003** was assented to on 14 October 2003 and came into operation as follows:

Sections 1, 2, 65–67 on 25 March 2004: Government Gazette 25 March 2004 page 627; rest of Act on 1 February 2006: section 2(2).

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Endnotes

2. Table of Amendments

This Version incorporates amendments made to the **Non-Emergency Patient Transport Act 2003** by Acts and subordinate instruments.

Public Administration Act 2004, No. 108/2004

Assent Date: 21.12.04
Commencement Date: S. 117(1)(Sch. 3 item 141) on 5.4.05: Government Gazette 31.3.05 p. 602
Current State: This information relates only to the provision/s amending the **Non-Emergency Patient Transport Act 2003**

Infringements (Consequential and Other Amendments) Act 2006, No. 32/2006

Assent Date: 13.6.06
Commencement Date: S. 94(Sch. item 35) on 1.7.06: Government Gazette 29.6.06 p. 1315
Current State: This information relates only to the provision/s amending the **Non-Emergency Patient Transport Act 2003**

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Endnotes

3. Explanatory Details

No entries at date of publication.