



Regulatory Impact Statement

Public Transport Competition (Fees) Regulations 2005

Bus Operator Accreditation

Authorised by the Victorian Government

Public Transport Safety
Department of Infrastructure
80 Collins Street
Melbourne 3000

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REGULATORY IMPACT STATEMENT

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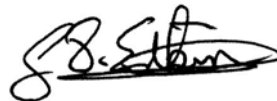
**PUBLIC TRANSPORT COMPETITION (FEES)
REGULATIONS 2004**

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REGULATORY IMPACT STATEMENT

PUBLIC TRANSPORT COMPETITION (FEES) REGULATIONS 2005

Prepared for the
Department of Infrastructure
Victoria

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REGULATORY IMPACT STATEMENT
PUBLIC TRANSPORT COMPETITION (FEES) REGULATIONS 2005

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PUBLIC TRANSPORT COMPETITION (FEES) REGULATIONS 1998

EXECUTIVE SUMMARY

Under the *Public Transport Competition Act 1995* (the Act) bus operators are required to be accredited in order to operate various bus services. Introduction of accreditation of bus operations was initially confined by the Act to commercial operations referred to as ‘*road transport passenger services*’ which is the carriage of passengers in a bus for hire or reward. Subsequently, however an amendment to the Act was made to incorporate hire and drive, courtesy and private bus operations and these operators were required to be accredited.

The original making of the regulations through a regulatory impact statement again only referred to commercial operators of road transport passenger services that outlined the prescribed conditions and fees applicable to commercial operators.

The Minister of Transport determined that the conditions and fees set in the Public Transport Competition Regulations 1999 for commercial operators should not immediately apply to the hire and drive, courtesy and private sectors and established a Working Party to consider the issues of accreditation and fees for these sectors.

The following recommendations from the Working Party were subsequently accepted by the Government:

- To introduce a lower fee for an application for accreditation and annual accreditation for hire and drive, courtesy and private bus operators recognising the less onerous conditions of accreditation that apply to this sector compared to the commercial sector; and
- To provide the Secretary, DOI with regulatory powers to exempt some privately accredited bus operators or new applicants from some or all fees payable.

The proposed Public Transport Competition (Fees) Regulations 2005 implement these decisions and propose a fee of \$240 for an application for accreditation and \$138 and \$35 for each bus after the first bus for annual accreditation.

The Act also contains provisions for a renewal of accreditation after the prescribed time. The Regulations prescribe the accreditation period as 5 years and prescribes 30 days as the period within which an application for renewal of accreditation must be received prior to the expiry date. To date no fee has been prescribed for applications for renewal of accreditation. It is important to now establish the renewal fee as many operators’ accreditation will expire soon.

The proposed Regulations propose a renewal fee of \$148 for commercial operators and \$95 for hire and drive, courtesy and private operators. The Act also contains provisions for the payment of a fee where the application for renewal is late. It is therefore proposed to establish a late fee of \$30.

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Fees have not been previously prescribed for the hire and drive, courtesy and private bus sectors nor for applications for renewal for all accredited operators so the proposed fees represent a new impost. However, they are considered justified on the basis that the fee schedule conforms to user-pays principles and eliminates cross subsidies. The benefits are therefore considered to be greater than the costs associated with the proposals.

Three options have been considered, time charging, a self-regulation program and maintaining the status quo. The costs of each of these options are considered to be greater than the proposed option and therefore are not preferred.

As the criterion for full cost-justification for all proposed fees has been satisfied, and alternatives have been assessed, it is reasonable to conclude that the proposal confers the maximum net benefit to the community. The costing analysis undertaken establishes a cost-justified fee structure that will provide a reliable cost base for future fee reviews.

The introduction of new fees imposes overhead costs for all accredited bus operators. This represents a barrier to entry and impacts on competition. This restriction is considered justified as it eliminates cross subsidies and ensures the beneficiaries of the accreditation services provided bear the associated costs of those services.

1. INTRODUCTION

1.1 Accreditation of Bus Operators

The *Public Transport Competition Act 1995* (the Act) establishes a legislative framework that promotes commercialisation of public transport operations in Victoria. The main purpose of the Act is to improve the operation of road-based public transport by providing for the accreditation of operators and implementing a system of service contracts for certain types of transport services. The accreditation scheme encompasses vehicles with more than 12 seats, including the driver. It is designed to create a regulatory environment that:

- ensures road-based passenger services are provided safely and responsibly by operators;
- reduces restrictive economic regulation on competition;
- simplifies administrative procedures;
- enables uniform and consistent application of standards across similar categories of operation; and
- attests that the accredited person has the capacity to meet prescribed standards relating to:
 - ◆ the provision of passenger transport services, including the ability to manage transport business operations;
 - ◆ the safety of passengers and the public;
 - ◆ the service delivery to passengers affected by bus operations; and
 - ◆ the standards of vehicles and equipment, including their design, service, maintenance and condition.

Under the *Public Transport Competition Act 1995* bus operators are required to be accredited in order to operate various bus services. Failure to obtain or to maintain accreditation means that an operator would not be allowed to operate or to continue to operate passenger bus services. The accreditation system puts the onus on operators to meet minimum acceptable safety and service standards. The Department of Infrastructure (DOI) is responsible for the provisions in the Act and Regulations to ensure compliance with accreditation standards.

Within the DOI, Public Transport Safety (PTS) administers the accreditation scheme by monitoring and undertaking compliance audits and, by virtue of Sections 7 and 10(1B) of the Act, recovers administrative costs from accredited operators in the form of fees set in the *Public Transport Competition Regulations 1999* (the Regulations). The fees were established having regard to the administrative costs associated with implementing and monitoring the Act and Regulations for the commercial type bus operations. The fees are as follows:

- Application for Accreditation - \$409. This is a once-off fee that was set to recover the costs of the assessment and acceptance of the initial accreditation of bus operators.
- Annual Accreditation Fee – this is based on a formula which increases with the number of buses in an operator’s fleet and is set to recover the costs of administration of the accreditation scheme including the audit program by the DOI.

The formula is:

$$\text{Annual accreditation fee} = 55 \times (B-1) + 206$$

where B is the number of buses proposed to be operated or operated by the service.

1.2 Accreditation of Hire and Drive, Courtesy and Private Bus Sector

Introduction of accreditation of bus operations was initially confined by the Act to commercial operations referred to as '*road transport passenger services*'. These include public route, school contract and long distance services. Hire and drive, courtesy and private buses (private buses were referred to as private omnibuses under the previous licensing system) were not included. Appendix 1 provides a description of the types of services offered by these bus operations. Both hire and drive and courtesy buses were not subject to the earlier bus licensing system.

Subsequently, however an amendment to the Act in 1997 was made to incorporate hire and drive, courtesy and private bus operations in the accreditation arrangements and these operators were required to be accredited as if they were operating a road transport passenger service.

While a hire and drive bus business is a commercial enterprise, it does not operate buses, nor carry passengers or supply a driver. As those organisations that operate a bus to provide a courtesy and private passenger service are primarily non-commercial and provide the services only as an adjunct to the main line of business (the passenger service is not the prime motive of the journey) it was considered that they should not require such demanding obligations under the Act and Regulations as apply to commercial road-based passenger services.

Accordingly, the Minister of Transport determined that a number of the conditions and fees set in the Regulations for commercial operators should not apply to the hire and drive, courtesy and private bus sectors and allowed a period of 'grace' for the payment of accreditation fees so that an appropriate level of fees could be determined. The 'grace' period was not an exemption from the payment of fees but merely a delay in levying fees while the appropriate level of fees was established.

In order to do this the Minister established a Working Party to consider the issues of accreditation and fees for these sectors. The Working Party comprised representatives of the DOI, hire and drive industry, Victorian Tour Operators Association, Wilson Parking Australia P/L, Tramway Museum Society of Victoria and Bus Association Victoria.

The Working Party recommended the Government:

- Adopt less onerous conditions of accreditation for the hire and drive, courtesy and private bus sector than applies to the commercial sector. See Appendix 2 for details.
- Introduce lower fees for an application for accreditation and annual accreditation for hire and drive, courtesy and private bus operators recognising the less onerous conditions of accreditation; and

- Provide the Secretary, DOI with regulatory powers to exempt accredited bus operators from some or all fees payable.

The Government subsequently agreed to these recommendations and the proposed Regulations provide the necessary changes to implement them. Operators of buses in these sectors have been accredited but no fees have been levied.

While it has taken some time to finalise this matter the proposed Regulations now provide new accreditation fees for hire and drive, courtesy and private bus operations. In addition, the proposed Regulations exempt from paying fees a person who is operating or seeking to operate a private bus service that:

- Involves the carriage of passengers by a bus for or in connection with activities of a philanthropic body; and
- Is, or is intended to be, operated on a not-for-profit basis.

1.3 Renewal of Accreditation

The opportunity has also been taken in developing the proposed regulatory changes to address another important issue, covering the costs of applications for renewal of accreditation by all accredited operators.

Accreditation is granted for five years and many of the initial operators accredited will soon be eligible for renewal. These are primarily commercial operators as the hire and drive, courtesy and private sectors only became accredited from 2001. The Act provides that a renewal fee be paid. The existing Regulations do not provide for a renewal fee. The proposed Regulations therefore introduce a fee for renewal of accreditation and a late fee to apply to all accredited operators.

1.4 Scope of Regulatory Impact Statement (RIS)

In accordance with the *Subordinate Legislation Act 1994* this RIS provides an analysis of the proposed Regulations to:

- Introduce fees for accreditation services required by the Act and Regulations and provided by the DOI to the hire and drive, courtesy and private bus sector;
- Introduce powers for the Secretary DOI to exempt an operator from fees;
- Introduce fees for an application for renewal of accreditation for all accredited bus operators; and
- Introduce a fee for a late application for renewal of accreditation.

All the information contained in the RIS is derived from DOI unless otherwise indicated.

2. NATURE AND EXTENT OF THE PROBLEM

2.1 Accreditation and Annual Fees for Hire and Drive, Courtesy and Private Bus Operators

It was always intended that fees would be applied to all accredited bus operators. Because the Minister decided that it would be unreasonable to levy the same fees as apply to commercial bus operators without investigation, this sector has not paid fees yet operators have been accredited. The problem therefore is that until new fees are introduced the hire and drive, courtesy and private bus sector will continue to be provided accreditation services without paying for the cost of these services. Currently, the hire and drive, courtesy and private bus sector is being subsidised for the accreditation service by the DOI and, in turn, the taxpayer.

Introduction of an appropriate fee level will result in this bus sector paying for the services being provided thereby removing the existing subsidy.

2.2 Renewal and Late Application Fee

As indicated earlier, accreditation is for a period of five years and each bus operator who intends to continue operating in the industry will need to apply for renewal of accreditation. This will involve the DOI in undertaking certain activities similar to those undertaken on initial application for accreditation. At present the accreditation scheme has no means to allow DOI to recover the costs of the activities associated with the renewal of accreditation. Without a renewal fee these activities will be subsidised by the DOI and, in turn, the taxpayer.

Section 14(4) of the Act requires that a person must submit a renewal application not later than the prescribed days before the expiry date. Regulation 13 prescribes 30 days. Section 15(5) of the Act provides that if the applicant pays the prescribed late renewal fee their application may be considered. Therefore, unless a late fee is paid the application cannot be considered and the person would need to make another initial application and pay the full application fee. This is not considered to be reasonable.

Unless all bus operators are appropriately accredited the integrity of the scheme is compromised and the community will not be assured of the safety of bus transport. The late application fee is intended to act as a deterrent against letting the accreditation lapse.

As accreditation has not expired for the initially accredited operators there is no experience of the extent to which late applications will be lodged. However, relating this to payment of annual accreditation fees by commercial operators to date suggests that approximately 2 - 3 % of operators fail to pay their annual fee on time. This generates unnecessary additional administration tasks to collect the fees including phone calls, sending reminders, re-sending invoices, and has involved a site visit to collect the money on one occasion.

A very small number of these non-payers eventually are suspended until the fees are paid. From time to time cheques used to pay the account are not accepted by the bank which also leads to late payments.

2.3 Summary

The problem for which the proposed Regulations are to overcome are the existence of subsidies for accredited services currently being provided to the hire and drive, courtesy and private bus sector. Also, unless fees are set, a further level of subsidies will be created when the term of existing accreditation expires and applications for renewal are received by DOI.

Problems are also anticipated with some operators allowing their accreditation to lapse and not renewing on time.

3. THE PROPOSED REGULATIONS

3.1 Authorising Provisions

Section 34 of the Act provides the power to levy fees for bus accreditation. Section 7 provides for a fee for an application for accreditation and Section 10 provides for a fee to be paid on an annual basis. Section 15 requires an application for renewal of accreditation to be accompanied by the prescribed renewal application fee and makes provision for an additional fee for late applications.

Section 38 provides for exemption from the regulations.

The attached Public Transport Competition (Fees) Regulations 2005 refer to fees in terms of 'fee units'. Each fee unit has the value of 10.23 dollars. For the purposes of efficient administration the fee unit has been rounded to the nearest whole dollar.

3.2 Application for Accreditation Fee and Annual Accreditation Fee for Hire and Drive, Courtesy and Private Bus Operations

The Act requires operators of hire and drive, courtesy and private bus services to be accredited as if they were an operating a road transport passenger service. An accredited person (an individual or body corporate), is one entity irrespective of how many depots they operate from – there is only 'one' accreditation. The legislation does not accredit operating sites or vehicles.

The fee structure for bus operator accreditation is based on a sliding scale which provides for the initial evaluation of an application (costs of which are covered by the Application for Accreditation Fee) and the ongoing administration of the accreditation scheme including the audit program (costs of which are covered by the Annual Accreditation Fee). The fee structure has been devised on the basis of recovering the full costs of staff in the PTS responsible to administer and audit the accreditation system.

The Regulations provide a suite of requirements for road transport passenger service operations. In reviewing these obligations as they might apply to hire and drive, courtesy and private bus operations the Working Party concluded that because of the nature of their operations, operators of hire and drive, courtesy and private services should not be required to comply with the full range of prescribed conditions that apply to road transport passenger services (referred to in this RIS as 'commercial operators'). The Working Party subsequently recommended that only the accreditation conditions referenced in Table 1 should be adopted for the hire and drive, courtesy and private bus sector.

Appendix 2 provides a detailed description of the Working Party's recommendations for each of these bus sectors. These conditions have been adopted and used to accredit all hire and drive, courtesy and private operators to date.

Table 1
Requirements for Full Accreditation (Commercial Sector) and for Hire and Drive, Courtesy and Private Bus Sector

Full Accreditation Requirements under the Public Transport Competition Regulations 1999 (Commercial Sector)	Working Party's Recommended Requirements for Hire and Drive, Courtesy and Private Bus Sector
Initial Entry Requirements	√
Documentation, Records and Reports	√
Management Information Systems	√
Maintenance Management Systems	√
Independent Bus Inspections	√
Approved Transport Management Course	X
Displaying of Signs	√
Adequate Information (courtesy services)	√
Audit Programs	√
Statutory declaration detailing any criminal conviction	X
Requirements relating to ticketing	X
Requirements relating to vehicle information	X
Requirements relating to notice of failure to operate a booked service	X
Fees	√

In view of the proposed less stringent conditions that apply to accreditation of hire and drive, courtesy and private bus operators the administration of the accreditation scheme by the DOI for these sectors is correspondingly less involved than for other commercial operations.

In line with cost recovery principles the proposed Regulations therefore seek to introduce fees for applications for accreditation and annual accreditation for hire and drive, courtesy and private bus operators that reflect the less onerous administration by DOI. The proposed fees are as follows:

- Application for Accreditation Fee - \$240. This is a once-off fee that has been set to recover the costs of the assessment and acceptance of the initial accreditation of bus operators.
- Annual Accreditation Fee – \$138 for the 1st vehicle and \$35.00 for the second and each subsequent vehicle. This increases costs for operators by a factor of the number of buses in an operator's fleet. This fee has been set to recover the ongoing costs of administering the accreditation and audit scheme by the DOI for these bus sectors.

As bus operator accreditation commenced on 1 May 2000, all those hire and drive, courtesy and private operators providing services in the market at the time have been accredited and will not be subject to the application for accreditation fee as it is Government policy to not apply fees retrospectively. They will, however, be liable for the annual accreditation fee. Only new operators or operators detected as operating without accreditation will be liable for the application fee. An analysis of the impact of the new fees is provided in section 5 of this RIS.

3.3 Exemption from Fees

As indicated earlier the Working Party established to consider accreditation requirements for the hire and drive, courtesy and private bus sector recommended that there should be provisions made available for exemption from fees for not-for-profit bodies, such as philanthropic bodies.

It is proposed to administer this process by amending the Regulations with a new regulation (16A) that will exempt from payment of the proposed fees those persons who can demonstrate that their organisation is a philanthropic body and is or is intended to be operated on a not for profit basis

An application for exemption will be required with supporting documentation including for example, a copy of the Constitution or Memorandum and Articles of Association, details of services provided and activities undertaken, and evidence that the assets and income of the organisation are applied solely towards the promotion and furtherance of its objectives.

It is understood that the Australian Taxation Office has an authorisation process for determining philanthropic bodies that are not-for-profit organisations and this authorisation would satisfy the criteria for the exemption of fees. For those bodies who are not required to have this authorisation, it is anticipated that policies and guidelines for determining philanthropic bodies who are not-for-profit organisations will be similar to those currently employed by the Australian Taxation Office and other organisations¹ will be put in place.

From the DOI's knowledge of the existing 439 accredited private bus operators it is estimated that approximately 20% may be considered a philanthropic body that are operated on a not-for-profit basis.

An exemption will apply to all fees established for accreditation.

3.4 Renewal of Accreditation Fee

Fees for application for accreditation and annual accreditation for commercial bus operator accreditation were introduced on 28 May 1999, however the renewal of accreditation fee was not determined at the time.

The Regulations prescribe the period of accreditation as 5 years and set 30 days as the period within which an application for renewal of accreditation must be received prior to the expiry date. It is important to now establish the renewal fee as many operators' accreditation will expire soon.

¹

For example, the State Revenue Office has recently published a booklet, *Organisation Exempt, Victorian Duties and Taxes*, that provides information about exemptions from Victorian taxes and duties that may be available to organisations which are considered to be of a benevolent nature. It provides a definition of a public benevolent institution, the method of application and the documentary requirements for application. This material will also be used as a guide in developing policies to determine those organisations that should be exempt from the fees associated with accreditation.

Section 15 of the Act provides for an accredited person to apply to the Secretary for their renewal of accreditation and this applies equally to all accredited bus operators. It is intended to set a lower renewal fee for operators of hire and drive, courtesy and private bus services on the grounds previously outlined.

As the PTS has a recorded history of the renewal applicant, the process is less intensive than for initial accreditation. However, while the results of the most recent compliance audit will be taken into account in reviewing the application, as these are undertaken bi-annually it is necessary to make an adequate assessment of all current requirements at the time of the application. This will ensure that operators continue to have systems and procedures in place to ensure the safety of their buses. Failure to gain this assurance will undermine the integrity of the entire accreditation scheme. The assessment will therefore involve a detailed adequacy assessment and possibly an on-site visit to undertake a compliance audit.

It is proposed that the fee for an application for renewal be \$148.00 for all commercial bus operators and \$95 for hire and drive, courtesy and private bus operators. This is based on the cost of processing an application by the DOI. The level of the fee is set to recover the full cost of administration and the difference in fee levels reflects the reduced level of conditions of accreditation that apply to the hire and drive, courtesy and private bus sector.

3.5 Late Application for Renewal Fee

As indicated earlier Section 15(5) of the Act provides that if the applicant pays the prescribed late renewal fee their application may be considered. Therefore, unless a late fee is paid the application will not be considered and the person would need to make another initial application and pay the full application fee. This is not considered to be reasonable.

It is therefore proposed that a late application for accreditation fee be prescribed. This will provide a deterrent against letting accreditation lapse and therefore a person operating illegally. By providing deterrence it ensures efficiency and credibility of the accreditation scheme. As the accreditation period commences on payment of the accreditation fee, being late extends the total period of accreditation, (ie 5 years + late period). This provides an unfair advantage to the late payer. A nominal fee of \$30 is proposed for late applications to all applicants irrespective of the class of accreditation.

An analysis of the impact of the new fees is provided in section 5 of this RIS.

3.6 Consultation

The hire and drive, courtesy and private operators had access to the RIS for the Public Transport Competition Regulations 1999 and had the opportunity to comment as part of the normal consultation process. Further, affected parties were invited, through press advertisements, to participate in the Working Party that reviewed accreditation requirements for the hire and drive, courtesy and private bus sectors.

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Bus Association Victoria (BAV) has been consulted over an extensive period on the need for, and recently the details of, the proposed fees. Following these consultations the BAV is now more aware of the need for separate fees to recover costs for annual accreditation and the renewal of accreditation.

This RIS will be the primary vehicle for further consultation on all the proposals and it is intended to:

- Publicise the availability of the RIS and proposed Regulations in the print media and on the DOI website;
- Distribute a copy of the RIS and proposed Regulations to all relevant peak bodies including, BAV, Association of Independent Schools of Victoria, Victorian Education Department, Victorian Conference of the Seventh Day Adventist Church, Council of Intellectually Disability Agencies, Victorian Council of Churches, Spastic Society of Victoria, Victorian Hospitals Association, Municipal Association of Victoria, Small Business Victoria, Victorian Tourism Operators Association Inc.²; and
- Write to all accredited hire and drive, courtesy and private bus operators informing of the proposed fees and advising of the availability of the RIS and proposed Regulations.

² Hire and drive, courtesy and private bus operators do not have a 'peak body' as such but may belong to one of the bodies listed or another organization, if any.

4. OBJECTIVES

The accreditation scheme seeks to ensure safe bus operations. The Government has a policy of cost recovery for administration of legislation and regulations except in special circumstances.

The Public Transport Competition Act expressly provides for fees to be paid for administration of the provisions of the Act. The proposed Public Transport Competition (Fees) Regulations 2005 therefore seek to deal with these issues by:

- Introducing a fee for an application for accreditation and annual fee for hire and drive, courtesy and private bus operators;
- Providing for exemption of accredited private bus operators or applicants who fall under the category of a philanthropic body and is or is intended to be operated on a not-for-profit basis from all accreditation fees;
- Introducing a fee for an application for renewal of accreditation for all accredited operators; and
- Introducing a fee for an application for renewal of accreditation that has not been received prior to the prescribe time of 30 days prior to expiry date (late fee).

5. IMPACT ASSESSMENT OF PROPOSED FEES

5.1 Introduction

Section 34 of the Act provides the power to levy fees for bus accreditation. The Parliament therefore has confirmed a general legislative policy that hire and drive, courtesy and private passenger transport bus operations may only be legally conducted under the authority of an accreditation. The questions to be resolved then are whether to prescribe a fee for an application, annual fee and a fee for renewal of accreditation application and, if so, whether to recover the full cost of processing the relevant applications.

The current Department of Treasury and Finance Guidelines state that:

*All user-pays type fees and charges should be set to recover the full cost of the product or service provided from users, unless there are explicit policy or public good reasons for not doing so”.*³

The proposed fees are for:

- Application for accreditation;
- Annual accreditation;
- Renewal of accreditation; and
- Late renewal of accreditation.

An analysis of the tasks involved in undertaking activities associated with each of the proposed fees and a costing of the tasks is provided in the following sub-sections and associated appendices.

5.2 Application for Accreditation of Hire and Drive, Courtesy and Private Bus Operators

Currently there are 1,645 accredited bus operators, consisting of 985 commercial operators who pay application fees (495 scheduled school services, 316 tour and charter and 340 scheduled and tour and charter) and 660 non-commercial operators who do not currently pay fees (439 private, 172 courtesy and 49 hire and drive). These are the number of operators not the number of vehicles.

Section 7 of the Act provides that a person may apply to the Secretary for accreditation. The application must be made in the manner and form determined by the Secretary and must be accompanied by the prescribed application fee. This fee is payable only upon application for accreditation. The Regulations provide the things that must accompany an application as documentary evidence that the applicant:

- a) is competent and has the capacity to operate a passenger service or hire and drive business and to meet relevant safety standards; or
- b) is accredited in another State or Territory to operate a similar type of service.

³ *Setting Fees and Charges Imposed by Departments and Budget Sector Agencies Guidelines*, Department of Treasury and Finance, Melbourne.

The application form identifies the applicant and, in the case of a body corporate, not only the body but its nominated manager, operating address, contact details, and class of bus service they are proposing to operate. The applicant, or in the case of a body corporate its nominated manager, must demonstrate that they have systems in place to provide documented evidence for compliance with the prescribed conditions, any conditions that the Secretary may impose and the standards that assists the operator to meet those conditions.

The tasks involved in processing an application by the DOI include:

- acknowledging and processing receipt of the application;
- examining the application to ensure that all appropriate documentation is provided. Where the review of the application reveals that sections of the Act and Regulations have not been complied with, the applicant will be notified of the deficiency to enable the applicant to rectify it and resubmit the application. This process will involve liaison between DOI staff and the applicant;
- conducting required checks including examining the competence and capacity of applicants;
- performing on-site compliance audits and interviewing applicants where necessary; and
- issuing accreditation authorisation documents and scheduling audits.

In addition, there are routine tasks such as opening the mail and registering the applications received, collecting and recording data, processing the issue or refusal to issue an accreditation and other administrative tasks.

When accepted, the application for accreditation results in the issue of accreditation authorisation documents and operating conditions.

The task of processing an Application for Accreditation involves the time of various staff members of the DOI as follows:

- Senior Assessor and Assessor (VPS-4 & 3) - investigation of accreditation application including vetting qualifications, on-site audits and interviewing applicants where necessary prior to submission to the Departmental Secretary for approval, written and telephone inquiries (approximately 4 hours per application).
- Administrative Officer (VPS - 2) - administrative tasks associated with the accreditation scheme regarding the processing of applications, data entry, conducting routine checks and providing advice to prospective applicants (approximately 1.75 hours per application).

Appendix 3 provides a detailed analysis of the costs associated with processing an Application for Accreditation. The proposed fee is \$240.

Over the last four years all hire and drive, courtesy and private bus operators in the market have been accredited. These operators will not be required to pay the application fee retrospectively. During this period the DOI received approximately 102 applications annually from all new entrants to the market.

There are a similar number of cancellations of accreditation each year from these sectors. For the analysis it will be assumed that this turnover will continue.

There are 439 private operators of the 1,645 currently accredited operators. 20% or 88 of the private operators will be exempt from paying fees as they are philanthropic bodies that are not-for-profit organisations. That is, 5% ($88/1645 \times 100$) of all operators will not pay fees. It will therefore be assumed that this proportion will apply equally to new entrants. That is, 5% of all new entrants will not pay fees.

Annual revenue from new entrants will therefore be:

$$97 \times \$240 = \$23,280 \text{ pa.}$$

5.3 Annual Accreditation Fee for Hire and Drive, Courtesy and Private Bus Operators

The Act provides for a scheme to facilitate the observance of appropriate standards by accredited operators. It is a prescribed condition of accreditation that all public passenger vehicles operated must undergo an inspection by a licensed bus tester on an 'annual basis' (this provision ensures that the bus is assessed for its operational condition). The outcomes of these inspections are monitored by PTS on a regular basis as a 'performance indicator'. The costs of these inspections are borne by the industry.

Accredited operators are also required under the standards of accreditation to undertake an annual internal assessment of their documented systems. The result of the independent bus inspection is part of this assessment.

On these grounds it was agreed by the industry for PTS to undertake a 'bi-annual' compliance audits. It is noteworthy that other State jurisdictions did not implement the scheduling of compliance audits by the accreditation authorities and in most instances the self regulating accreditation systems failed. Recently a number of the other States who implemented a bus accreditation scheme have followed the Victorian model on the grounds that scheduled compliance audits and other monitoring methods are vital to the credibility of the system.

The bi-annual audit applies to all operators.

Section 10 of the Act makes it a condition of accreditation that an accredited person must pay an annual accreditation fee. The fee is payable within 7 days of the issue of the Certificate of Accreditation and before the expiry of each 12 month period from the date the Certificate was granted.

As discussed earlier, the fee structure for bus operator accreditation provides for the initial evaluation of an application (costs of which are covered by the Application for Accreditation Fee) and the ongoing administration of the accreditation scheme including the audit program (costs of which are covered by the Annual Accreditation Fee). The fee structure has been devised on the basis of recovering the full costs of staff in the PTS responsible to administer and audit the accreditation system.

The proposed annual accreditation fee for hire and drive, courtesy and private bus operators of \$138 for the first bus and \$35 for the second and subsequent bus, is set to recover the costs of the ongoing administration of the accreditation scheme for this sector. The \$35 per bus component has been designed to minimise the impact of the imposition of fees on very small businesses especially when the bus is ancillary to the prime purpose of the organisation. It is also anticipated that as a general rule these operations will consume fewer accreditation administration resources than larger operators and to this extent this formula is congruent with user pays principles.

The activities of DOI staff dedicated to ongoing administration of the scheme for hire and drive, courtesy and private bus operators involve processes associated with maintenance of the database, management of the accreditation scheme, and investigations of breaches of the Act and Regulations and annual reporting.

The tasks involved in managing the biennial compliance audit function are:

- Administration of an electronic database that records operator details, audit scheduling and outcome reports, accreditation history, and fee scheduling.
- Monitoring the auditing scheduling time frames and downloading reports approximately 2 months in advance of the scheduled timeframe.
- Notifying accredited persons approximately 7 days prior to a scheduled compliance audit. A letter confirming the audit time, date and place and scope of the audit is sent out to the accredited person or, in the case of a body corporate, its nominated manager.
- The audits are undertaken under guidelines for quality systems auditing (AS 3911 Guidelines for Auditing Quality Systems) and PTS's internal policies. On completion of an audit the auditor finalises the assessment report and issues any observations, non-compliance reports etc at the closing meeting. An audit report is issued within 14 days of the completion audit date and sent to the operator.
- The audit database is updated and the next compliance audit is scheduled.
- The issuing of non-compliance reports requires the operator to close out the non-compliances and return the corrective actions to PTS where the database is updated.

The tasks of ongoing administration of the accreditation scheme and the audit function (tasks attributed to the annual accreditation fee) for the hire and drive, courtesy and private bus sector involve the time of various staff members of PTS as follows:

- Senior Assessor (VPS-4, 3 & 2) (3 staff) - conduct and supervision of audits, interviewing applicants where necessary, written and telephone inquiries, monitoring trends including the independent vehicle assessment results, driver information, complaints and breaches of accreditation.

- Audit Officer (VPS - 3) (2 staff) - these officers will have a monitoring, review and audit role to ensure compliance of the accreditation standards. It is anticipated that each Audit Officer will undertake 165 (refer to Appendix 4) compliance audits per year. In addition, the Audit Officer will carry out other accreditation activities including providing advice to accredited operators and prospective industry entrants and undertaking enforcement activities.
- Administrative Officer (VPS - 3) (1 staff member) - administrative tasks associated with the accreditation scheme including database maintenance, activities relating to notifiable occurrences and accreditation annual fees renewal, and providing advice to prospective applicants.

Appendix 4 provides an analysis of the administrative costs associated with annual accreditation including the audit program for hire and drive, courtesy and private bus operators.

An analysis of the cost impact of the Annual Accreditation Fee on operators given the size of their bus fleets is provided in Appendix 5. Estimated revenue to DOI from the annual accreditation fee is \$93,691 pa compared to estimated expenditure in the provision of accreditation services by DOI of \$124, 943 pa.

5.4 Application for Renewal of Accreditation – All Accredited Operators

Section 12 of the Act provides for the duration of accreditation and the prescribed period is five years. Consequently accreditation expires in the fifth year from the granting of accreditation date.

Section 15 of the Act provides that a person may apply to the Secretary for renewal of accreditation within 30 days of the expiry date of their existing accreditation. The application must be made in the manner and form determined by the Secretary and must be accompanied by the prescribed renewal application fee. This fee is payable only upon a renewal application for accreditation.

The section also contains provisions for the Secretary to consider a renewal application made later than the prescribed 30 days on the condition that a prescribed late renewal application fee is paid.

The Regulations prescribe that a renewal application must be accompanied by documentary evidence that the applicant:

- is competent and has the capacity, by virtue of training or experience to operate a road transport passenger service and is able to meet the relevant safety conditions and standards; and
- is accredited in another State or Territory to a similar type of service; or
- has successfully completed a transport management course approved by the Secretary.

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In the case of an accredited hire and drive bus business or courtesy or private passenger service, the renewal application must be accompanied by documentary evidence that the applicant:

- is competent and has the capacity, by virtue of experience to operate a hire and drive business or a courtesy or private passenger service and systems to meet the relevant safety conditions and standards.

The application form identifies the applicant and, in the case of a body corporate, not only the body but its nominated manager, operating address, contact details, and class of bus service they are proposing to operate. The applicant, or in the case of a body corporate its nominated manager, must demonstrate that they have systems in place to provide documented evidence for compliance against the prescribed conditions, any conditions that the Secretary may impose and the standards that assists the operator to meet those conditions.

Section 16 of the Act gives the Secretary the option of renewing or refusing accreditation. In renewing an accreditation the Secretary may renew it as then in force, may vary the class of bus service or may vary or revoke any conditions to which the accreditation is subject to or impose new conditions of accreditation. If the Secretary refuses to renew an accreditation, the Secretary must notify the accredited person.

The DOI audit database has been programmed to identify expiring accredited operators 60 days prior to the actual expiry date.

The tasks of processing a Renewal of Accreditation Application involves various staff members of PTS as follows:

- Senior Administrative Officer (VPS-3) – monitors the audit database renewal of accreditation scheduling timeframes and sends a letter notifying the person of the expiry date, a 'Renewal of Accreditation Manual', Application Form, is also sent out at the same time. The letter outlines that the renewal application must be received by the DOI not later than 30 days of their expiry date. On receipt of the renewal application an administrative staff member records on the database and updates information if required and passes it onto an Assessor.
- Senior Assessor and Assessor (VPS – 4 & 3) - these officers undertake adequacy audits, complete the assessment and make recommendations to the Director. The Assessor prepares the accreditation 'confirmation letter and invoice' (existing annual fee), 'authorisation letter', and 'certificate'. Note: in some instances, an 'on site' compliance audit will be required to be undertaken as part of the assessment process depending on prior history.
- Administrative Officer (VPS - 2) – This officer sends out the 'confirmation letter' that outlines that the application has been finalised and upon the payment of the annual fees (invoice) accreditation will be granted. On receipt of payment, the Administrative Officer sends the authorisation letter and certificate to the accredited person.

Appendices 6 and 7 provide a detailed analysis of the costs involved in considering an application for renewal of accreditation for commercial bus operators and hire and drive, courtesy and private bus operators respectively.

As indicated earlier, there are currently 1,645 accredited bus operators, consisting of 985 commercial operators who pay annual fees and 660 non-commercial operators who do not at present pay fees.

It is anticipated that there will be approximately 685 accredited commercial operators that will require their accreditation to be renewed over the next 12 months. Of the remaining operators (960), 300 commercial operators and 660 hire and drive, courtesy and private bus operators will be due to renew their accreditation between 2006 and 2007.

Appendix 8 provides an estimation of the total revenue generated from renewal of accreditation and payment of the late application fee over the next three years as follows:

Revenue Estimate 2005-07:

• Renewal – commercial operators	\$145,780
• Renewal – hire and drive, courtesy and private operators	\$ 54,340
• Late application	\$ 2,335
Total (2004-07):	\$202,455

Expenditure by DOI in the provision of renewal services for 2005-7 is estimated as \$224,073.

5.5 Enforcement of Fees Application

The proposed fees are enforced by a requirement in the Act that they accompany the relevant application (Sections 7 [c] and 10). Accordingly, an application will not be processed until the correct fee has been paid. In the absence of accreditation a person commits an offence if he or she engages in regulated activities without the accreditation.

This is the simplest and most cost-effective method of enforcement of fees. It is anticipated that enforcement of these fees will not add in any material way to the cost of the regulation.

5.6 Cost and Benefit Assessment

5.6.1 Costs

Under the proposed Regulations the costs to the community are the cost of the fees themselves. The costs are borne by those who benefit directly from the regulated activities. These are the persons (bus operators) to whom accreditation is granted which allows them to conduct hire and drive, courtesy and private bus services or commercial bus services.

5.6.1.1 Costs for Bus Operators

Costs for each of the proposed fees compared with the current level of charges (base case) are calculated in Table 2.

Table 2

Costs of Proposed Regulations

	Base Case (Current level of costs)	Proposed Regulations (\$ pa)
Hire and Drive, Courtesy and Private Bus Operators		
Application for Accreditation	Nil	97 new entrants each year @ \$240 = \$23,280
Annual Accreditation	Nil	\$93,691 Refer Appendix 5
Renewal Fee	Nil	572 operators @ \$95 amortised over 5 years = \$10,868
Late Fee	Nil	5% of 572 operators @ \$30 amortised over 5 years = \$172
Sub-total	\$Nil	\$128,011
Commercial Bus Operators		
Renewal Fee	Nil	985 @ \$148 = \$145,780 amortised over 5 years = \$29,156 pa
Late Application Fee	Nil	5% of 985 @ \$30 = \$1,477 amortised over 5 years = \$295 pa
Sub-total	\$Nil	\$29,451
Total Annual Cost Impact	\$Nil	\$157,462 pa

5.6.1.2 Costs of Administration by DOI

As the costs for each fee have been calculated on the basis of (near) full cost recovery the impact cost for bus operators is equivalent to the costs of administration and enforcement.

5.6.1.3 Bus Travelling Community Costs

It is anticipated that any additional costs imposed on the bus industry under normal market conditions may be passed on to the bus travelling community. An increase in bus overhead costs may result in one or a mix of the following:

- Increase in fares;
- Reduction in quality of service;
- Withdrawal of service;
- Reduction in other expenditures such as maintenance and safety management;
- Subsidisation of the service;
- Absorption of costs through other internal operating efficiency savings;
- Reduction in operators profits margin.

An adjustment in fares is possibly the simplest response to an increase in overhead costs for a bus operator whose business is not directly subsidised by the government.

The degree to which this response is adopted will relate to an assessment by the operator of the potential for customers to use substitute services that do not attract the additional costs. That is, how elastic the demand for the service is to an increase in price (fare). Substitutes may include private vehicle, train or taxi.

The Industry Commission's report on Urban Transport (February 1994) found that "the law of demand applies to travel modes: demand for travel on a mode decreases as the price of that mode increases". However, the report also discovered that "mode choice appears to be more sensitive to changes in travel time than changes in price".⁴

In terms of the bus sectors affected by the proposed Regulations the following assessment is made:

Hire and Drive – These operate on a commercial basis and it can therefore be expected that additional costs will be passed on to customers. The most significant cost of the proposal is the annual accreditation fee and Appendix 5 shows for all hire and drive operators (49) this amounts to \$11,592 pa or \$62 per bus (see Appendix 5 for details of the number of buses in each category).

Courtesy – While this sector does not charge fares the overall costs may be passed on in some form. The total cost of the annual fee for this sector is \$26,116 amongst 138 operators or \$109 per bus.

Private – It is unlikely that this sector is in a position to directly pass on additional costs. It is the largest group in terms of number of operators (439) and buses (707). The total cost of the annual fee is \$55,983 or \$79 per bus (this takes into account the estimated 20% operators who will be exempt from paying fees).

Commercial Bus Operators – It is expected that this sector will pass on the additional costs to customers. From Table 2 the total annual costs are \$29,451 amongst 985 operators is \$30 per operator or less than \$1 per bus.

5.6.2 Benefits

5.6.2.1 Adopting a Full Cost Recovery Policy - elimination of subsidy

The regulation of the hire and drive, courtesy and private sector of the bus industry in Victoria has until now been subsidised by the taxpayer – these bus operators have not had to pay accreditation fees. Under the proposed arrangements full cost recovery of regulatory services will apply. This will:

- focus the attention of operators on the regulatory services provided to ensure only necessary services are provided and those that are provided are done so in the most efficient manner;
- make more transparent the regulatory services being provided and reduce the level of subsidy;
- focus the attention of the regulating body on the efficiency of its operations thereby reducing waste and minimising resulting compliance costs.

⁴ Industry Commission, Urban Transport, Vol. 2 Appendices, Report No. 37, 15 February 1994, page 39.

In the same way if renewal fees were not introduced the costs of the activities undertaken by DOI in processing applications for renewal of accreditation would not be recovered and would therefore represent a subsidy to the bus industry.

Appendix 8 provides an analysis of the income and expenditure of administration of the proposed Regulations by DOI. It can be seen that at the proposed level of fees 81% of administrative costs will be recovered.

5.6.2.2 Passenger and community benefits

Benefits are derived by the passengers of hire and drive, courtesy and private buses and the general community in terms of the assurance that the bus has passed minimum satisfactory safety and service standards by the operator being accredited. Benefits are also derived from the audit function that ensures continued compliance with the safety and service standards.

5.6.2.3 Benefits for small bus operators

The Annual Accreditation Fee provides a minimising formula for the very small operators.

5.6.2.4 Exemption provisions introduce social impact benefits

Opportunities are also afforded philanthropic bodies that are operated on a not-for-profit basis to apply for exemption from all fees. While it is anticipated that this will apply to a small group of bus operators the exemption provision affords social equity benefits.

5.6.3 *Summary of Cost and Benefit Assessment*

Table 3 provides a summary of the costs and benefits anticipated of the introduction of the proposed Regulations.

Table 3

Summary of Costs and Benefits

Costs	Benefits
Total Industry Costs - \$157,462 pa	Elimination of the existing subsidy of hire and drive, courtesy and private bus sector. Elimination of the potential subsidy for renewal costs of administration.
DOI Costs – As the fees represent cost recovery these are equivalent to the total industry costs.	Community assurance of the integrity of the bus accreditation scheme by virtue of the deterrent effect of the late renewal fee.
Bus Travelling Community Costs – commercial costs of the hire and drive sector (\$62 per bus) are expected to be passed on to customers. Costs to the courtesy sector (\$109 per bus) are expected to be passed on in some form. Costs for the private sector (\$79 per bus) are likely to be absorbed within the organisation.	Opportunity for social equity to be obtained by virtue of the exemption from fees provisions.

6. OPTIONS FOR OTHER FORMS OF FEES REGULATION

Three options for recovering the costs of regulating these activities have been considered namely, time charging, a self-inspection program and retaining the status quo, that is, not introducing fees.

6.1 Time Charging

This option involves charging for an application for accreditation on the basis of time actually taken to process an individual application.

Time charging involves setting a rate per hour and charging by the actual time consumed possibly in ¼ hour blocks. A system of time charging must have as a basis the known fixed costs of operation and an anticipated number of applications as well as a component for overheads.

Time charging is ideal in circumstances where the time taken to carry out an assessment is highly variable and where there are few areas of commonality.

On the basis of experience with accreditation of both the commercial and hire and drive, courtesy and private bus sectors it is concluded that there are generally few areas of variability in the application for accreditation and therefore it is anticipated this option would not, prima facie, provide quantum benefits. In the same way it is anticipated that the renewal application process will not be particularly variable as it will generally involve a consistent amount of time in vetting and processing.

The area where time charging may provide advantages is in the conduct of audits where the length of time is variable primarily due to the size of the business and number of buses in the fleet. The benefits and costs of this option are explored here.

6.1.1 Benefits

A bus operator with a large bus fleet may derive benefits from time charging for auditing from economies of scale where costs can be apportioned over the number of buses. To some extent this has been addressed in the proposed fee structure that determines fees relevant to the number of buses in the applicant's fleet. However, this option will enable larger operators in particular to derive these scale economies.

6.1.2 Costs

DOI Costs

In a general sense it can be assumed that the existing costs of administration will need to be recovered from the time charging method. While there are benefits in more accurate transfer of costs to accredited operators, total costs are anticipated to increase due to the need for:

- Additional staff time in training, and utilising the time allocating system;
- Additional capital investment in equipment to process the bill (charge).

- Despite accurate record keeping, there would still be potential for dispute about the cost actually incurred in processing an application, and there could be collection problems. To solve these, significant deposits may need to be held in order to make this form of fee collection practicable. This would involve additional costs to the process.

In addition, to impose time charging for the proposed applications would unnecessarily complicate the administrative procedures as the existing applications for accreditation, annual accreditation for commercial operators are based on the methodology and administrative systems that are already in place and are envisaged for the proposed fees.

Operator Costs

Operators would not be informed of the costs of the process prior to commencing the process.

6.2 Self-Inspection Program

This option involves operators under a self-regulation system arranging for independent audits by ‘accredited’ auditors rather than under the current DOI sponsored system that is part of the annual accreditation fee.

The audit program under the Regulations is a crucial component of the accreditation system for monitoring compliance, detecting and discouraging non-compliance. It is vital for the credibility and viability of the accreditation system that operator compliance with prescribed standards is independently and objectively assessed.

The audit framework is designed to ensure that only operators who can demonstrate an appropriate level of compliance with the standards can achieve and maintain accreditation. Each operator is audited at least once every two years. Persons who have recognised qualifications in quality assurance and experience in auditing transport systems from PTS carry out the audits.

Because this option would be a voluntary system it would be incumbent on the DOI, as regulator of the accreditation scheme, to ensure that all operators are either covered under its annual fee arrangement or a self-regulating program. The system might include results of private audits being submitted to DOI advice.

It is anticipated that this option may be attractive to operators with large fleets who may consider savings could be achieved through scale economies. For example, from Appendix 5 it can be seen that there are 16 operators with fleets of five or more buses and six operators with more than ten buses.

6.2.1 Benefits

Because this option would allow an operator to arrange independent auditing it would provide a focus on identifying the least cost method of audits to ensure compliance with the safety standards.

The option would allow for innovative and flexible ways to be adopted to demonstrate compliance with the required standards.

6.2.3 Costs

The current accreditation scheme replaced the earlier highly prescriptive licensing system of buses in Victoria. By its nature the scheme places greater responsibility on bus operators through the quality assurance system required as part of the Regulations. The scheme has only been operation for approximately five years and operators have only now become accustomed to the new arrangements. While the option of self-regulation is voluntary, a further change such as the self-regulatory option is likely to be disruptive and cause confusion.

The safety of buses is of primary concern to the Government. Any option that allows bus operators to select an alternative safety quality control system must be well tried and tested before it is implemented. Such a system was introduced in New South Wales and, due to unsatisfactory outcomes, was abandoned for a more comprehensive approach similar to that operating in Victoria.

The proposition that a self-regulating audit system should apply to the hire and drive, courtesy and private bus sector when the sector already only needs to comply with some of the conditions of accreditation that apply to the commercial sector, is likely to send an inappropriate signal to the hire and drive, courtesy and private bus sector. That is, it may be construed that safety standards are of lesser importance than commercial operations.

Operating two auditing systems will involve additional administrative costs in terms of ensuring all operators are covered by either system. Costs can also be envisaged in changing from one system to another.

This option will also involve additional costs for the DOI in assuring itself and the industry that independent auditors are able to meet existing safety standards.

Notwithstanding these costs, a system of operator-organised audits that can assure acceptable safety standards should be explored by the industry as a means to ensure compliance costs are minimised.

6.3 Maintain the Status Quo - Not Set Fees

It is feasible to continue the existing arrangement and not set fees as proposed.

6.3.1 Benefits

This option would involve no regulatory change and would not involve any costs of administration in fee charging and processing by DOI, estimated at \$971,188 over 5 years. Similarly, this option would not impose estimated costs of \$871,782 on accredited bus operators over 5 years.

6.3.2 Costs

This would mean that the grace period for hire and drive, courtesy and private bus operators would conclude and that the hire and drive, courtesy and private sectors would not be charged any fees. This option would continue the existing subsidy afforded the hire and drive, courtesy and private bus sector as the costs of accreditation would be paid by the DOI, and, in turn the taxpayer.

Also, this would represent inconsistent public policy especially when existing commercial operators are charged accreditation fees.

If the hire and drive, courtesy and private bus sector was charged fees that apply to the commercial sector for application for accreditation and annual accreditation this would be inconsistent with cost recovery principles as it would be over charging.

Equally, were no renewal fees implemented a subsidy of \$224,073 over five years would apply to accredited operators.

6.4 Analysis of Options

The time charging option, while useful for allocating actual costs, does not attract significant benefits due to the relatively consistent administrative effort required and would involve substantial set-up and ongoing administrative costs. The option of self-regulation is not considered justified at this stage due to the considerable overall costs for operators, DOI and the community if safety standards were eroded. The option, however, has merit as a cost efficiency driver and should be pursued by the industry.

Maintaining the current arrangements provides subsidies for the hire and drive, courtesy and private bus sector and all accredited bus operators in terms of administrative costs of renewals.

Costs of the options are considered greater than those of the proposed Regulations and the benefits are fewer. On this basis the options are not considered a better method of achieving the identified objectives.

7. COMPETITION TEST

7.1 Guiding Principles

The National Competition Policy Agreements set out specific requirements with regard to all new legislation adopted by jurisdictions that are party to the agreements. Clause 5(1) of the Competition Principles Agreement sets out the basic principle that must be applied to both existing legislation, under the legislative review process, and to proposed legislation:

The guiding principle is that legislation (including Acts, enactments, Ordinances or Regulations) should not restrict competition unless it can be demonstrated that:

(a) The benefits of the restriction to the community as a whole outweigh the costs; and

(b) The objectives of the regulation can only be achieved by restricting competition.

Clause 5(5) provides a specific obligation on parties to the agreement with regard to newly proposed legislation:

Each party will require proposals for new legislation that restricts competition to be accompanied by evidence that the restriction is consistent with the principle set out in sub-clause (1).¹⁹

Therefore, all Regulatory Impact Statements must include a section providing evidence that the proposed regulatory instrument is consistent with these National Competition Policy obligations.

7.2 The Market

There are several markets affected by the proposed Regulations due to the different types of services being provided, namely:

The commercial market: This includes the provision of passenger bus services. These services comprise what is generally considered “public transport” services including scheduled route services that typically operate over a fixed route to a pre-determined timetable. The market also includes school bus services and tour and charter operations. There are 985 bus operators with approximately 5,400 buses in this market.

Hire and drive bus market: Buses are offered for hire to the general public. This is a relatively small market with 49 operators and 187 buses.

Courtesy bus market: These buses are generally not available to the public, are not part of the core business but provide transport for employees of a business usually free of charge. This market has 172 operators and 240 buses.

Private bus market: Services in this market are generally not available to the public and are provided by religious, community or philanthropic groups and organisations for their membership, free of charge. This market has 439 operators and 707 buses.

7.3 Identification of Restriction

The imposition of fees on an industry sector adds overhead costs. This represents a barrier to trade, effectively reducing competition in the market.

7.4 Assessment of Restriction

The restriction on trade is appropriate as it allows public benefits to be realised in the elimination of cross subsidies from DOI and, in turn, the whole taxpaying public. This results in the beneficiary of the services being provided, paying the full cost of the services.

In addition, public benefits arise as the accreditation scheme, in being fully funded, is not inhibited in achieving its overall safety objectives.

Due to the formula for the Annual Accreditation Fee some benefits will be derived particularly by small bus operators. This is consistent with Government policy to minimise the economic impact of government regulation on small business. Also, it is estimated that due to the nature of the hire and drive, courtesy and private bus sectors with many small operators providing services in rural areas and for education, religious and other bodies this will not provide any real competitive advantage for these operators.

8. IMPLEMENTATION

8.1 Fees for Hire and Drive, Courtesy and Private Bus Operators

As indicated earlier, there is no intention to retrospectively apply the application for accreditation fee to existing accredited operators. The application fee will only apply to new applications and will be outlined in the 'Help Kit' provided by PTS.

In terms of the annual accreditation it is intended that on the anniversary of their accreditation, accredited operators will receive an 'invoice' for the annual accreditation. Currently all operators receive an 'annual update' invoice.

Systems, including the electronic audit database, and personnel are in place to administer and manage the application fees and annual fees.

DOI will notify all private bus accredited operators who fall under the category of a philanthropic body that they may be eligible for an exemption of some or all fees if they can demonstrate undue hardship due to the imposition of fees.

8.2 Renewal of Accreditation Fee – All Accredited Bus Operators

Introduction of fees for renewal of accreditation will primarily be undertaken in two phases by DOI - Phase 1 will involve processing renewal applications from existing commercial operators (685). In view of the relatively short timeframe in which to process the large number of renewal applications this phase will involve all PTS's bus accreditation staff to cover the peak workload. This peak period is expected from January 2005 through to December 2005.

Once the bulk of accredited operators have renewed their accreditation, Phase 2 will involve ongoing renewal operations after the expiry of renewed accreditations.

DESCRIPTION OF THE TYPES OF SERVICES PROVIDED BY THE HIRE AND DRIVE, COURTESY AND PRIVATE BUS SECTORS

Hire/Drive Service

- Hired for valuable consideration for a finite period;
- Driven by the hirer or person on behalf of the hirer;
- Available to the general public.

Courtesy Bus Service

- Carriage of passengers in the course of a business or trade;
- Provided by a business or trade free of charge to their customers or employees;
- The service is merely an adjunct to the core business;
- Not available to the general public;
- Examples include:
 - ◆ Pick up and delivery service for patrons of a hotel or club; and
 - ◆ Transport of customers to and from the operator's place of business in the anticipation that the passenger may purchase an item or service.

Private Bus Service

- Carriage of passengers for or in connection with the activities of a religious, educational, philanthropic, sporting, or social body;
- The service is not operated for hire or reward;
- The service is merely an adjunct to the core organisation's activities
- Not available to the general public;
- Examples include:
 - ◆ Bus operated by a school to transport students to camps, sporting venues, campuses etc;
 - ◆ Bus operated by councils, health services etc to transport their clients; and
 - ◆ Bus operated by a religious organisation to convey parishioners to and from church.

**ESSENTIAL ELEMENTS OF HIRE AND DRIVE, COURTESY AND
PRIVATE BUS OPERATOR ACCREDITATION
(As recommended by the Working Party)**

(This Appendix outlines the conditions for accreditation of hire and drive, courtesy, private bus operators as recommended by the Working Party established to review fees and conditions of accreditation for this sector of the bus industry. The recommendations have been accepted by the Minister and adopted by DOI. Note that the number of operators and buses contained in the Appendix was compiled in 2001.)

Bus operator accreditation should establish industry conditions in vehicle safety, public safety and driver/owner competence. The accreditation system should require the operator to have acceptable systems in place in relation to safety and vehicle maintenance. The system should also require the operators to ensure that drivers are appropriately qualified and competent.

1. Hire And Drive: Conditions of Operator Accreditation

There are approximately 185 buses available for hire and drive arrangements in Victoria. Hire and drive operators have not been subjected to any form of licensing system in the past and their buses have not been subjected to annual inspections.

Because hire and drive buses are available to the general public, there is a strong case that the operation should be subjected to at least the same level of safety conditions as courtesy and private providers. Customer standards are matters best determined by the operator and client group.

The key features of the accreditation of hire and drive services are safety related issues including:-

- ensuring that management information relating to safety and driver issues are documented and retained;
- ensuring that a maintenance management system is in place;
- ensuring that vehicles operated have a current bus inspection certificate; and
- provisions to ensure compliance of conditions.

It is acknowledged that there is a cost impact in relation to bus inspections and a consequent down time that the industry has not been previously subjected to.

The following Table provides a description of the conditions recommended to be implemented in an accreditation system for hire and drive services.

- ❖ PERSONAL/COMPANY DETAILS
 - ✓ Name and address of the person, or company seeking to be accredited.
 - ✓ A company is required to nominate any number of its managers who are in a position of control and influence over the daily operations.
 - ✓ A statement of the nature of service(s) and number of vehicles operated.
- ❖ RECORDS AND DOCUMENTS
 - ✓ All documentation is to be preserved in a good and accurate condition.
 - ✓ All documentation required to demonstrate compliance with accreditation is to be recorded in English and retained for a period of 2 years.
 - ✓ All documentation must be made available for inspection.
- ❖ MANAGEMENT INFORMATION SYSTEM
 - ✓ Must establish and maintain a management information system consisting of: – a driver monitoring program, a fleet register, an emergency management plan, a mobility enhancement strategy and a public complaints register.
- ❖ REPORTS ON REQUEST
 - ✓ Must respond to any request by the Secretary in relation to submitting a report on any aspect of the accreditation.
- ❖ VEHICLE SAFETY
 - ✓ Must ensure that all buses operated by the person are in a safe operating condition at all times.
- ❖ MAINTENANCE MANAGEMENT SYSTEM
 - ✓ Must establish and maintain a maintenance management system consisting of: - daily inspections, defect reporting, safety inspections and programmed maintenance.
- ❖ INDEPENDENT BUS INSPECTION
 - ✓ Must ensure that all buses operated have a current bus inspection certificate.
- ❖ DISPLAY OF SIGNS
 - ✓ Must display ‘no-smoking’ signs in all operated buses.
 - ✓ Must display a ‘accreditation number’ on all buses operated.
- ❖ OBSERVANCE OF ACCREDITATION CONDITIONS
 - ✓ Must ensure internal audits and reviews are conducted on a regular basis.

2. **Courtesy and Private Services: Conditions of Operator Accreditation**

It is estimated that there are approximately 900 courtesy and private buses in Victoria. These services are typically either operated for a specific client group or are operated as a small part but integral to a larger business undertaking.

Because courtesy and private services are generally not available to the general public, with the exception of certain types of courtesy services, it was considered that customer standards are matters best determined by the operator and client group.

- The key features of the accreditation of courtesy and private services are safety related issues including: -
- ensuring that management information relating to safety and driver issues is documented and retained;

- ensuring that a maintenance management system is in place;
- ensuring that vehicles operated have a current bus inspection certificate; and
- provisions to ensure compliance of accreditation conditions.

In relation to ‘certain types’ of courtesy services (Hotels, Crown Casino, Airport), it is proposed that these types of services should be required to provide adequate information on the services provided. They should also give reasonable notice to intending passengers if services are changed.

The following Table provides a description of the conditions recommended to be implemented in an accreditation system for courtesy and private services.

<ul style="list-style-type: none"> ❖ PERSONAL/COMPANY DETAILS <ul style="list-style-type: none"> ✓ Name and address of the person, or company seeking to be accredited. ✓ A company is required to nominate any number of its managers who are in a position of control and influence over the daily operations. ✓ A statement of the nature of service(s) and number of vehicles operated. ❖ RECORDS AND DOCUMENTS <ul style="list-style-type: none"> ✓ All documentation is to be preserved in a good and accurate condition. ✓ All documentation required to demonstrate compliance with accreditation is to be recorded in English and retained for a period of 2 years. ✓ All documentation must be made available for inspection. ❖ MANAGEMENT INFORMATION SYSTEM <ul style="list-style-type: none"> ✓ Must establish and maintain a management information system consisting of: – a driver monitoring program, a fleet register, an emergency management plan, a mobility enhancement strategy and a public complaints register. ❖ REPORTS ON REQUEST <ul style="list-style-type: none"> ✓ Must respond to any request by the Secretary in relation to submitting a report on any aspect of the accreditation. ❖ VEHICLE SAFETY <ul style="list-style-type: none"> ✓ Must ensure that all buses operated by the person are in a safe operating condition at all times. ❖ MAINTENANCE MANAGEMENT SYSTEM <ul style="list-style-type: none"> ✓ Must establish and maintain a maintenance management system consisting of: - daily inspections, defect reporting, safety inspections and programmed maintenance. ❖ INDEPENDENT BUS INSPECTION <ul style="list-style-type: none"> ✓ Must ensure that all buses operated have a current bus inspection certificate. ❖ CUSTOMER SERVICE REQUIREMENTS <ul style="list-style-type: none"> ✓ Courtesy operators, who provide a service to tourists, must ensure that adequate information is available. Where pre-booked services are provided, they must ensure all services booked are provide, or given reasonable notice to all intending passengers. ✓ Must display ‘no-smoking’ signs in all operated buses. ✓ Must display a ‘accreditation number’ on all buses operated. ❖ OBSERVANCE OF ACCREDITATION CONDITIONS <ul style="list-style-type: none"> ✓ Must ensure internal audits and reviews are conducted on a regular basis.
--

**APPLICATION FOR ACCREDITATION FOR HIRE AND DRIVE,
COURTESY AND PRIVATE BUS OPERATORS**

COST OF PROCESSING AN APPLICATION BY DOI

1. Salaries

Processing an application

Salary (61,420/52/32 = hourly rate / time = cost)

Senior Assessor (VPS-4 \$61,420)	1hr	@ \$31.08	\$31.08
Assessor (VPS-3, \$46,490)	3 hrs.	@ \$23.52	\$70.56
Administrative Officer (VPS-2 \$36,040)	1.75 hrs.	@ \$18.23	\$31.90
Total				\$133.54
Salary on –costs		(@ 23.65%)		\$31.58

Total Salary Costs **\$165.12**

2. Operating Costs

Accommodation, operating expenses, depreciation and travel and related costs and corporate overheads (45%) \$74.30

Total Costs **\$239.42**

PROPOSED FEE **\$240**

**ANNUAL ACCREDITATION FOR HIRE AND DRIVE, COURTESY AND
PRIVATE BUS OPERATORS
COST OF ADMINISTRATION & AUDIT BY DOI**

The annual accreditation fee covers the costs of annual administration of the accreditation scheme by the DOI as follows:

Administration

- Management of accreditation database, providing advice and assistance to the industry concerning the accreditation scheme, the Act and Regulations, annual and other reporting, training and liaison with other agencies and bodies as required; and
- Investigation of formal complaints and the conduct of investigations.

Conduct of the Audit Program

- Preparation of assessment material and organisation of audits;
- Conduct of audits, liaison with accredited operator; and
- Reporting of audits on database and making recommendations as required.

1. ADMINISTRATION COSTS	
Salaries	
1 Senior Assessor (VPS-4) 20% @ \$61,420 (12284/52/38).....	\$6.21
1 Administrative Officer & 2 Assessors (VPS-3) 30% @ \$92,980 (2) (27894/52/38)..	\$14.12
(VPS-2) 50% @ \$36,040 (18020/52/38).....	\$9.12
Salary On-Costs @ 23.65%	\$6.96
Total Salary Costs	\$36.41
Operating Costs	
Accommodation, operating expenses, corporate overheads (35%)	\$12.74
Total Administration Costs	\$49.15
2. AUDIT PROGRAM COSTS	
2 x Audit Officers (VPS-3) 100% @ \$46,490 (ea) (46490/52/38)..	\$23.52
Salary On-Costs @ 23.65%	\$5.56
Hourly rate	\$29.08
(1) Costs of an Audit	
Assessor (VPS-3) 2 hrs @ \$29.08 hr.....	\$58.16
Total Salary Cost	\$58.16
Operating Costs	
Accommodation, operating expenses, travel, corporate overheads (45%)	\$26.17
Total Cost of an Audit	\$84.33
(2) Cost of Audit Program	
165 audits will be conducted by each of two assessors (VPS-3)	
Total cost of audit program per annum = 165 x 2 x \$84.33 (\$27,828.90) – (27828.9/52/38)	
Total Audit Program costs	\$14.08
TOTAL COSTS	
Administration	\$49.15
Audit Program.....	\$14.08
TOTAL	\$63.23
ANNUAL COST	(63.23x52x38) = \$124,943

**NUMBER OF BUSES IN HIRE AND DRIVE, COURTESY, PRIVATE BUS SECTOR
COST IMPACT OF PROPOSED ANNUAL ACCREDITATION FEE ON FLEET SIZES
(ie \$138 + \$35 per bus after 1st bus)**

Category	No. of Oper	No. of Buses in Fleet																			Total	
		1 bus	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18-21	22		23-25
H & D	No. Oper	17	7	9	4	3	1	1	2		1		1			2		1				49
	Cost	2346	1211	1872	972	834	313	348	766		453		523			1256		698				11592
Courtesy	No. Oper	138	22	5	4			1	1				1									172
	Cost	19044	3806	1040	972			348	383				523									26116
Private	No. Oper	282	103	29	16	5	1	1	1												1	439 ⁵
	Cost	38916	17819	6032	3888	1390	313	348	383	0	0	0	0	0	0	0	0	0		890		55,983 ⁶
	Total Operators	437	132	43	24	8	2	3	4	0	1	0	2	0	0	2	0	1	0	1	0	660
	Total Cost	60,306	22,836	8,944	5,832	2,224	626	1,044	1,532	0	453	0	1,046	0	0	1,256	0	698	0	890	0	\$93,691

Category	Approx: No. of Buses in Category	Cost per Bus \$
H & D	187	\$62
Courtesy	240	\$109
Private	707	\$79 ⁷
Total	1,134	

⁵ Less 20% of operators who are exempted from paying fees (philanthropic and not-for-profit) = 351 fee paying private operators.

⁶ This has been adjusted for the 20% non-fee paying operators (ie \$69,979 –20%).

⁷ This has been adjusted for the 20% non-fee paying operators.

**APPLICATION FOR RENEWAL OF ACCREDITATION
COST OF PROCESSING AN APPLICATION BY DOI -
COMMERCIAL OPERATORS**

1. <u>Salaries</u>		
Administrative Officer (VPS 2)	¼ Hrs @ \$18.17	\$ 4.54
Senior Assessor (VPS 4)	¼ Hrs @ \$30.33	\$ 7.58
Assessor (VPS 3)	3 Hrs @ \$23.45	\$ 70.35
Administrative Officer (VPS 3)	1 hr @ \$23.45	\$ 23.45
Total.....		\$105.92
Salary on-costs (23.65%).....		\$ 25.05
Total Salary Costs		\$130.97
2. <u>Operating Costs</u>		
Operating expenses		
Corporate overheads (20% ⁸) - as % of total salary costs.....		\$26.19
Total Costs.....		\$157.16
Proposed Fees.....		\$148.00

⁸ Note that the overhead charge here is lower than for the cost of an application for accreditation where field inspections involving travel costs and, at times, overnight accommodation are required.

**APPLICATION FOR RENEWAL OF ACCREDITATION - COST OF
PROCESSING AN APPLICATION BY DOI - HIRE and DRIVE, COURTESY
AND PRIVATE BUS OPERATORS**

1. Salaries		
Administrative Officer (VPS 2)	¼ Hr @ \$18.17	\$ 4.54
Senior Assessor (VPS 4)	¼ Hr @ \$30.33	\$ 7.58
Assessor (VPS 3)	2 Hrs @ \$23.45	\$ 46.90
Administrative Officer (VPS 3)	½ Hr @ \$23.45	\$ 11.72
Total.....		\$70.74
Salary on-costs (23.65%).....		\$ 16.73
Total Salary Costs		\$87.47
2. Operating Costs		
Operating expenses		
Corporate overheads (20%) - as % of direct salary costs.....		\$17.49
Total Costs.....		\$104.96
Proposed Fees.....		\$95.00

**DOI INCOME AND EXPENDITURE OF ADMINISTRATION OF PROPOSED PUBLIC TRANSPORT COMPETITION (FEES)
REGULATIONS 2005**

	2005	2006	2007	2008	2009	Aggregate \$
Income						
Application for Accreditation	23,280	23,280	23,280	23,280	23,280	116,400
Annual Accreditation	93,691	93,691	93,691	93,691	93,691	468,455
Renewal of Application – Commercial	48,544	48,544	48,692	Nil	Nil	145,780
Renewal of application – Hire & Drive, Courtesy and Private	Nil	27,170	27,170	Nil	Nil	54,340
Late Application for Accreditation	492	921	922	Nil	Nil	2,335
Total Income	\$166,007	\$193,606	\$193,755	\$116,971	\$116,971	\$787,310
Expenditure						
Application for Accreditation	24,480	24,480	24,480	24,480	24,480	122,400
Annual Accreditation	124,943	124,943	124,943	124,943	124,943	624,715
Renewal of Application – Commercial	51,548	51,548	51,705	Nil	Nil	154,801
Renewal of Accreditation – Hire & Drive, Courtesy and Private	Nil	34,636	34,636	Nil	Nil	69,272
Total Expenditure	\$200,970	\$235,607	\$235,764	\$149,423	\$149,423	\$971,188

Assumptions:

1. Hire and Drive, Courtesy and Private - Application for Accreditation Fee: (\$240)

1.1 Income

Over the last four years 102 new applications were received annually. It will be assumed that this trend will continue. It is also assumed the new entrants will have only one bus. There are 439 private operators of the 1,645 currently accredited operators. 20% or 88 of the private operators will be exempt from paying fees as they are philanthropic not-for-profit organisations. That is, 5% (88/1645x100) of all operators will not pay fees. It will therefore be assumed that this proportion will apply equally to new entrants. That is, 5% of all new entrants will not pay fees. (102-5% =97x \$240=\$23,280).

1.2 Expenditure

Costs associated with processing of new applications (102 x \$240. From Appendix 3).

2. Hire and Drive, Courtesy and Private - Annual Accreditation Fee (\$138 + \$35 per bus after 1st bus)

2.1 Income

As the number of new entrants to the market (102 pa) is equivalent to the number of exiting operators it has been assumed that the total of 660 operators will continue over the foreseeable future. (660 x \$138 + \$35 – see Appendix 5 for detailed analysis)

2.2 Expenditure - Costs from Appendix 4.

3. Renewal of Accreditation Fees

3.1 Income

- 985 commercial operators were accredited between 1999/2001 and will be eligible for renewal between 2004/2006. It will be assumed that 328 will apply each year from 2005-2006 and 329 for 2007 and all will apply for renewal. Renewal for commercial operators is \$148.
- 660 hire and drive, courtesy and private bus operators were accredited between 2001/2002 and will be eligible for renewal between 2006-7. It will be assumed 330 will apply each year (2006-7) and all will apply for renewal. 20% or 88 private operators will not pay fees. Therefore, 44 will be deducted from the number of applications for 2006-7, that is, 286 will apply for renewal and pay fees. Renewal for hire and drive, courtesy and private operators is \$95. 286 x \$95 = \$27,170.
- It will be assumed that 5% of accredited operators will incur a late fee as follows:

	2005	2006	2007
Commercial	328	328	329
H& D etc	Nil	286	286
Total	328	614	615
5%	16	31	31
@ \$30	492	921	922

3.2 Expenditure

DOI costs for renewal of accreditation: Commercial operators - \$157.16 and hire and drive, courtesy and private operators - \$104.96. The costs are derived on the basis of the number of renewal applications identified in 3.1 above.

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Public Transport Competition (Fees) Regulations 2004

S.R. No.

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STATUTORY RULES 2004

Sixth Draft 6/12/2004

S.R. No.

Public Transport Competition Act 1995

**Public Transport Competition (Fees) Regulations
2004**

The Governor in Council makes the following Regulations:

Dated:

Responsible Minister:

PETER BATCHELOR
Minister for Transport

Clerk of the Executive Council

1. Objective

The objective of these Regulations is to amend the Public Transport Competition Regulations 1999 to—

- (a) prescribe a revised schedule of fees for the accreditation of road transport passenger services; and
- (b) provide for renewal of accreditation; and
- (c) provide for certain exemptions from payment of accreditation fees.

2. Authorising provision

These Regulations are made under section 38 of the **Public Transport Competition Act 1995**.

3. Commencement

These Regulations come into operation on 1 March 2005.

4. Principal Regulations

In these Regulations, the Public Transport Competition Regulations 1999¹ are called the Principal Regulations.

5. Substitution of regulation 12

For regulation 12 of the Principal Regulations **substitute—**

"12. Application for renewal of accreditation

- (1) For the purposes of section 15(3)(b)(i) of the Act, the prescribed renewal application fee is the amount set out in item 3 of Schedule 1.
- (2) For the purposes of section 15(3)(b)(ii) of the Act, the prescribed things that must accompany the application are—
 - (a) documentary evidence of the applicant's competence and capacity by virtue of training or experience—
 - (i) to operate a road transport passenger service; and
 - (ii) to meet the relevant safety standards for the management of a service of the kind to which the accreditation relates; and

- (b) documentary evidence that—
- (i) the applicant is accredited in another State or Territory to operate a similar type of service; or
 - (ii) the applicant has undertaken and successfully completed a transport management course approved by the Secretary.
- (3) For the purposes of section 15(5) of the Act, the prescribed late renewal application fee is the amount set out in item 4 of Schedule 1."

6. New regulation 16A inserted

After regulation 16 of the Principal Regulations
insert—

"16A. Exemption from payment of fees

A person who is operating or seeking to operate a private bus service that—

- (a) involves the carriage of passengers by a bus for or in connection with the activities of a philanthropic body; and
- (b) is, or is intended to be, operated on a not for profit basis—

is not required to pay a fee under regulations 7, 10 and 12(1) and (3)."

7. New Schedule 1 inserted

For Schedule 1 to the Principal Regulations
substitute—

"SCHEDULE 1

FEES

1. Application fee (regulation 7)

- (1) The fee to accompany an application for accreditation for—
 - (a) a courtesy service; or
 - (b) a hire and drive service; or
 - (c) a private omnibus service—is 23.5 fee units.
- (2) The fee to accompany an application for accreditation for any other road transport passenger service is 40 fee units.

2. Annual accreditation fee (regulation 10)

- (1) The annual accreditation fee for—
 - (a) a courtesy service; or
 - (b) a hire and drive service; or
 - (c) a private omnibus service—is calculated in accordance with the following formula—
$$(3.5 \times (B - 1)) + 13.5 \text{ fee units—}$$
where B is the number of buses proposed to be operated by the service.
- (2) The annual accreditation fee for any other road transport passenger service is calculated in accordance with the following formula—
$$(5.5 \times (B - 1)) + 20 \text{ fee units—}$$
where B is the number of buses proposed to be operated by the service.

3. Renewal application fee (regulation 12(1))

- (1) The fee to accompany an application for renewal of accreditation for—
 - (a) a courtesy service; or
 - (b) a hire and drive service; or
 - (c) a private omnibus service—is 9·3 fee units.
- (2) The fee to accompany an application for renewal of accreditation for any other road transport passenger service is 14·5 fee units.

4. Late renewal application fee (regulation 12(3))

The fee to be paid for the consideration of a late renewal application is 3 fee units."

ENDNOTES

¹ Reg. 4: S.R. No. 60/1999 as amended by S.R. No. 88/2004.

For further information contact:

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January 2005



ACCREDITED

Victoria