

CHAPTER – VI
Special Provisions Relating To State Transport Undertakings

97. Definition. - In this Chapter, unless the context otherwise requires, “road transport service” means a service of motor vehicles carrying passengers or goods or both by road for hire or reward.

Corresponding Law. - Section 97 corresponds to section 68 – A (a) of the motor vehicles Act, 1939.

Objects and Reasons. - Clause 97 seeks to define certain expression used in this Chapter.

***98. Chapter to override Chapter V and other laws.-** The provisions of this Chapter and the rules and orders made thereunder shall have effect notwithstanding anything inconsistent therewith contained in Chapter V or in any other law for the time being in force or in any instrument having effect by virtue of any such law.

Corresponding Law. - Section 98 corresponds to section 68 – B of the motor vehicles Act, 1939.

Object and Reasons. - Clause 98 lays down that the provisions of this Chapter override the provisions of Chapter V and other laws.

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Existing scheme under repealed Act or made under Chapter VI shall have overriding effect on Chapter V. – By operation of S. 98 of the Act, Chap VI overrides Chap. V and other law and shall have effect notwithstanding anything inconsistent therewith contained in Chap. V or any other law for the time bring in force or any instrument having effect by virtue of such law. The result is that even under the Act the existing scheme under the repealed Act or made under Chap. VI of the Act shall have overriding effect on Chap. V notwithstanding any right given to private operators in Chap. V of the Act. No corridor protection to private operators is permissible: Ram Krishna Verma v. State of U.P. A.I.r 1992 S.C. 1888: (1992) 2 Acc.C.C. 122: (1992) 2 S.C.C. 620.

99. Preparation and publication of proposal regarding road transport service of a State transport undertaking. - ⁶¹ [(1)Where any State Government is of opinion that for the purpose of providing an efficient, adequate, economical and properly co-ordinated road transport service, it is necessary in the public interest that road transport services in general or any particular class of such service in relation to any area or route or portion thereof should be run and operated by the State transport undertaking, whether to the exclusion, complete or partial, of other persons or otherwise, the State Government may formulate a proposal regarding a scheme giving particulars of the nature of the services proposed to be rendered, the area or route proposed to be covered and other relevant particulars respecting thereto and shall publish such proposal in the Official Gazette of the State formulating such

**S. 5 of the T.N. Motor Vehicles (Special Provisions) Act, 1992 provides that the provisions of Ss. 3, 4 and 6 of the 1992 Act shall have effect notwithstanding anything inconsistent therewith contained in Chaps. V and VI including S. 98 of the Motor Vehicles Act, 1998.*

61. S. 99 re-numbered as sub-S. (1) thereof by Act 54 of 1994, S. 30 (w.e.f. 14-11-1994).

proposal and in not less than one newspaper in the regional language circulating in the area or route proposed to be covered by such scheme and also in such other manner as the State Government formulating such proposal deem fit.

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[(2)Notwithstanding anything contained in sub-section (1), when a proposal is published under that sub-section , then from the date of publication of such proposal, no permit shall be granted to any person, except a temporary permit during the tendency of the proposal and such temporary permit shall be valid only for a period on one year from the date of its issue or till the date of final publication of the scheme under section 100, whichever is earlier]
Corresponding Law -Section 99 corresponds to section 68–C of the motor vehicles Act, 1939.

Object and Reasons. - Clause 99 deals with the preparation of the proposal by the State Government to nationalize road transport services to be operated by State Transport Undertakings and publication of such proposals in the official gazettes and newspapers in regional languages inviting objections.

100. Objection to the proposal. - (1) On the publication of any proposal regarding a scheme in the Official Gazette and in not less than one newspaper in the regional language circulating in the area or route which is to be covered by such proposal any person may, within thirty days from the date of its publication in the Official Gazette, file objections to it before the State Government.

(2) The State Government may, after considering the objections and after giving an opportunity to the objector or his representatives and the representatives of the State transport undertaking to be heard in the matter, if they so desire, approve or modify such proposal.

(3) The scheme relating to the proposal as approved or modified under sub- section (2) shall then be published in the Official Gazette by the State Government making such scheme and in not less than one newspaper in the regional language circulating in the area or route covered by such scheme and the same shall thereupon become final on the date of its publication in the Official Gazette and shall be called the approved scheme and the area or route to which it relates shall be called the notified area or notified route ;

Provided that no such scheme which relates to any inter-State route shall be deemed to be an approved scheme unless it has the previous approval of the Central Government.

(4) Notwithstanding anything contained in this section, where a scheme is not published as an approved scheme under sub-section (3) in the Official Gazette within a period of one year from the date of publication of the proposal regarding the scheme in the Official Gazette under sub-section (1), the proposal shall be deemed to have lapsed.

Explanation. - In computing the period of one year referred to in this sub- section, any period or periods during which the publication of the approved scheme under sub-section (3) was held up on account of any stay or injunction by the order of any Court shall be excluded.

Corresponding Law. - Section 100 corresponds to section 68 – D of the motor vehicles Act, 1939.

Object and Reasons. - Clause 100 lays down that the State Government may approve or modify the proposal after hearing the objections and publish the approved scheme in the official gazette and newspapers within one year from the date of first publication failing which the proposal to nationalize is deemed to have lapsed.

62. Inserted by Act 54 of 1994, S. 30 (w.e.f. 14-11-1994).

101. Operation of additional services by a State transport undertaking in certain circumstances. - Notwithstanding anything contained in section 87, a State transport undertaking may, in the public interest operate additional services for the conveyance of the passengers on special occasions such as to and from fairs and religious gatherings.

Provided that the State transport undertaking shall inform about the operation of such additional services to the concerned Transport Authority without delay.

Corresponding Law. - This is a new provision in the 1988 Act.

Object and Reasons. - Clause 101 seeks to empower the State Transport Undertakings to operate additional services for the conveyance of passengers during fairs and religious gathering and intimate the transport authorities.

102. Cancellation or modification of scheme.- (1) The State Government may, at any time, if it considers necessary, in the public interest so to do, modify any approved scheme after giving –

(j)the State transport undertaking ; and

(ii)any other person who, in the opinion of the State Government , is likely to be affected by the proposed modification,

an opportunity of being heard in respect of the proposed modification.

(2) The State Government shall publish any modification proposed under sub-section (1) in the Official Gazette and in one of the newspapers in the regional languages circulating in the area in which it is proposed to be covered by such modification, together with the date, not being less than thirty days from such publication in the Official Gazette, and the time and place at which any representation received in this behalf will be heard by the State Government.

Corresponding Law. - Section 102 corresponds to section 68 – E of the motor vehicles Act, 1939.

Object and Reasons. - Clause 102 provides for modifications and cancellation of the approved scheme by the State Government and the procedure to be followed.

103. Issue of permits to State transport undertakings. - (1) Where, in pursuance of an approved scheme, any State Transport undertaking applies in such manner as may be prescribed by the State Government in this behalf for a stage carriage permit or a goods carriage permit or a contract carriage permit in respect of a notified area or notified route, the State Transport Authority in any case where the said area or route lies in more than one region and the Regional Transport Authority in any other case shall issue such permit to the State Transport undertaking, notwithstanding anything to the contrary contained in Chapter V.

(2) For the purpose of giving effect to the approved scheme in respect of a notified area or notified route, the State Transport Authority or, as the case may be, the Regional Transport Authority concerned may, by order,-

(a) refuse to entertain any application for the grant or renewal of any other permit or reject any such application as may be pending ;

(b) cancel any existing permit ;

(c) modify the terms of any existing permit so as to –

(i)render the permit ineffective beyond a specified date ;

(ii)reduce the number of vehicles authorized to be used under the permit;

(iii) curtail the area or route covered by the permit in so far as such permit relates to the

notified area or notified route.

(3) For the removal of doubts, it is hereby declared that no appeal shall lie against any action taken, or order passed, by the State Transport Authority or any Regional Transport Authority under sub-section (1) or sub-section (2).

Corresponding Law. - Section 103 corresponds to section 68 – F of the motor vehicles Act, 1939.

State Amendments – [Karnataka]. – In its application to the State of Karnataka in S. 103, after sub-S. (1), insert the following sub-section, namely:-

“(1-A) It shall be lawful for the State Transport Undertaking to operate on any route as stage carriage, under any permit issued therefore to such Undertaking under sub-section (1), any vehicle placed at the disposal and under the control of such Undertaking by the owner of such vehicle under any arrangement entered into between such owner and the Undertaking for the use of the said vehicle by the Undertaking.” – Karnataka Act 11 of 1996, S. 2(w.r.e.f. 8-7-1996).

[Uttar Pradesh]. – In its application to the State of Uttar Pradesh, in S. 103, after sub-S. (1) the following sub-section shall be inserted, namely: -

“(1-A) It shall be lawful for the State Transport Undertaking to operate on any route as stage carriage, under any permit issued therefore to such Undertaking under sub-section (1), any vehicle placed at the disposal and under the control of such Undertaking by the owner of such vehicle under any arrangement entered into between such owner and the Undertaking for the use of the said vehicle by the Undertaking.” – Uttar Pradesh Act 5 of 1993, S.2 (w.r.e.f. 16-1-1993).

Objects and Reasons .- Clause 103 lays down the procedure in the matter of giving effect to the approved scheme and grant of permit to the State Transport Undertaking in pursuance of the approved scheme.

104. Restriction on grant of permits in respect of a notified area or notified route. -

Where a scheme has been published under sub-section (3) of section 100 in respect of any notified area or notified route, the State Transport Authority or the Regional Transport Authority, as the case may be, shall not grant any permit except in accordance with the provisions of the scheme;

Provided that where no application for a permit has been made by the State Transport undertaking in respect of any notified area or notified route in pursuance of an approved scheme, the State Transport Authority or the Regional Transport Authority, as the case may be, may grant temporary permits to any person in respect of such notified area or notified route subject to the condition that such permit shall cease to be effective on the issue of a permit to the State Transport undertaking in respect of that area or route.

Corresponding Law. - Section 104 corresponds to section 68 – FF of the motor vehicles Act, 1939.

Object and Reasons. - Clause 104 provides that the Transport authorities shall not grant any permit to private sector on notified routes or notified areas except in accordance with the provisions of the scheme. It also provides that where STU has not come forward to operate services on such routes or areas private sector may be given temporary permit until such time STU comes forward to operate services.

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Restriction on grant of permits in respect of notified area or route – Applicability of section. – In terms of the S. 104 of the Motor Vehicles Act, the Regional Transport Authority or the State Transport Authority, as the case may be, is disabled from issuing a permit except in accordance with the provisions of the scheme published under S. 100(3): Karnataka State Road Transport Corporation v. Pauli Govis A.I.R. 1996 Karn. 247: I.L.R. (1996) Karn. 295.

105. Principles and method of determining compensation and payment thereof. -

(1) Where, in exercise of the powers conferred by clause (b) or clause (c) of sub-section (2) of section 103, any existing permit is cancelled or the terms thereof are modified, there shall be paid by the state transport undertaking to the holder of the permit, compensation, the amount of which shall be determined in accordance with the provisions of sub-section (4) or sub-section (5), as the case may be.

(2) Notwithstanding anything contained in sub-section (1), no compensation shall be payable on account of the cancellation of any existing permit or any modification of the terms thereof, when a permit for an alternative route or area in lieu thereof has been offered by the State Transport Authority or the Regional Transport Authority, as the case may be and accepted by the holder of the permit.

(3) For the removal of doubts, it is hereby declared that no compensation shall be payable on account of the refusal to renew a permit under clause (a) of sub-section (2) of section 103.

(4) Where, in exercise of the powers conferred by clause (b) or sub-clause (i) or sub-clause (ii) of clause (c) of sub-section (2) of section 103, any existing permit is cancelled or the terms thereof are modified so as to prevent the holder of the permit from using any vehicle authorized to be used thereunder for the full period from which the permit, would otherwise have been effective, the compensation payable to the holder of the permit for each vehicle affected by such cancellation or modification shall be computed as follows :-

(a) for every complete month or part of a month exceeding fifteen days of the unexpired period of the permit	Two hundred rupees;
(b) for part of a month not exceeding fifteen days of the unexpired period of the permit	One hundred rupees;

Provided that the amount of compensation shall, in no case, be less than four hundred rupees.

(5) Where, in exercise of the powers conferred by sub-clause (iii) of clause (c) of sub-section (2) of section 103, the terms of an existing permit are modified so as to curtail the area or route of any vehicle authorized to be used thereunder, the compensation payable to the holder of the permit on account of such curtailment shall be an amount computed in accordance with the following formula, namely :-

$Y \times A / R$

Explanation. - In this formula –

(i) “Y” means the length or area by which the route or area covered by the permit is curtailed ;

(ii) “A” means the amount computed in accordance with subsection (4);

(iii) “R” means the total length of the route or the total area covered by the permit.

(6) The amount of compensation payable under this section shall be paid by the

State Transport undertaking to the person or persons entitled thereto within one month from the date on which the cancellation or modification of the permit becomes effective :

Provided that where the State transport undertaking fails to make the payment within the said period of one month, it shall pay interest at the rate of seven percent. Per annum from the date on which it fails due.

Corresponding Law. – Sub-section (1) to (5) of section 105 correspond to section 68-G, whereas sub-section (6) of section 105 corresponds of section 68- H of the Motor Vehicles Act, 1939.

Objects and Reasons. – Clause 105 sets out the principles and methods for determining compensation and payment thereof where a private operator is affected in pursuance of the giving effect to an approved scheme.

106, Disposal of article found in vehicles. – Where any article found in any transport vehicle operated by the State transport undertaking is not claimed by its owner within the prescribed period, the State transport undertaking may sell the article in the prescribed manner and the sale proceeds thereof, after deducting the costs incidental to sale, shall be paid to the owner on demand.

Corresponding Law. – Section 106 corresponds to section 68-HH of the Motor Vehicles Act, 1939.

Objects and Reasons. – Clause 106 speaks of the procedure in the disposal of articles found unclaimed in the vehicle owned by State Transport Undertaking.

107. Power of State Government to make rules. – (1) The State Government may make rules for the purpose of carrying into effect the provisions of this Chapter.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :-

(a) the form in which any proposal regarding a scheme may be published under section 99;

(b) the manner in which objections may be filed under sub-section (1) of section 100;

(c) the manner in which objections may be considered and disposed of under sub-section (2) of section 100;

(d) the form in which any approved scheme may be published under sub-section (3) of section 100;

(e) the manner in which application under sub-section (1) of section 103 may be made ;

(f) the period within which the owner may claim any article found left in any transport vehicle under section 106 and the manner of sale of such article.

(g) The manner of service of orders under this Chapter ;

(h) Any other matter which has to be, or may be, prescribed.

Corresponding Law. – Section 107 corresponds to section 68 – 1 of the Motor Vehicles Act, 1939.

Objects and Reasons. – Clause 107 enables the State Government to make rules for the purpose of carrying into effect the provisions of this Chapter.

108. Certain powers of State Government exercisable by the Central Government. – The powers conferred on the State Government under this Chapter shall, in relation to a corporation or company owned or controlled by the Central Government or by the Central Government and one or more State Governments, be exercisable only by the Central Government in relation to an inter-State route or area.

Corresponding Law. – Section 108 corresponds to section 68 – J of the Motor Vehicles Act, 1939.

Objects and Reasons. – Clause 108 makes provisions for the Central Government to exercise certain powers of the State Government in relation to an inter – State route or area, relating to certain cases.