

AS TABLED IN THE HOUSE OF ASSEMBLY

A BILL

entitled

GARAGES LICENSING ACT 2022

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SCHEDULE 1

Application, Licence and Renewal Fees

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Consequential and Related Amendments

WHEREAS it is expedient to reform the current law relating to public garages to update terminology from “public garage” to “garage”; to add various types of garage licences; to enable the Director of the Transport Control Department to grant, refuse to grant, renew, revoke, suspend or vary licences to operate the types of garage; to set fees for an application for and to obtain a type of licence; to provide penalties for various safety contraventions; to create offences and penalties; to create a ticketing scheme; and to provide consequential and related amendments;

Be it enacted by The King’s Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Assembly of Bermuda, and by the authority of the same, as follows:

PART 1

PRELIMINARY

Citation

- 1 This Act may be cited as the Garages Licensing Act 2022.

Interpretation

- 2 (1) In this Act—

“addition or alteration” in relation to a premises includes—

- (i) any material addition or alteration to any existing building or structure;
- (ii) any addition of a new building or structure to the premises;
- (iii) any material alteration to the lay out of the existing buildings or structures;

“auxiliary bicycle” has the meaning provided in section 1(1) of the Auxiliary Bicycles Act 1954;

“court” means the Magistrates’ Court;

“cycle” means an auxiliary bicycle or motorcycle;

“dealer” means a person who is in the business of selling motor vehicles;

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“Department” means the Transport Control Department established under section 6 of the Motor Car Act 1951;

“Director” means the Director of the Transport Control Department;

“garage” means a premises where facilities are provided for the repair, servicing or modification of motor vehicles;

“identification plate” means a plate in the form provided in regulation 26 or 26A of the Motor Car (Examination, Licensing and Registration) Regulations 1952 or regulation 13(2) or 13(3) of the Auxiliary Bicycles (Examination, Licensing and Registration) Regulations 1955;

“licence” means a licence granted under section 6;

“licensee” means the holder of a licence;

“motor car” has the meaning provided in section 2(1) the Motor Car Act 1951 except that it does not include a motorcycle;

“motor vehicle” means any vehicle of whatsoever description which is propelled by mechanical or electric power;

“motorcycle” has the meaning provided section 24(5) of the Motor Car Act 1951;

“premises” means a premises in respect of which a licence is in force;

“structures” includes pits.

(2) Nothing in this Act shall be construed so as to derogate or abridge any provision of—

- (a) the Public Lands Act 1984;
- (b) the Development and Planning Act 1974 or any development plan made thereunder;
- (c) any ordinance made under the Municipalities Act 1923; or
- (d) any regulations made under the Marine Board Act 1962.

PART 2 LICENSING

Types of licence

3 (1) The Director may, in accordance with this Part, grant any of the following licences—

- (a) a Dealer Garage Licence for the service of motor vehicles, except cycles, at a motor vehicle dealership;
- (b) a Garage Licence for the service of motor vehicles;
- (c) a Cycle Dealer Garage Licence for the service of cycles at a cycle dealership;

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- (d) a Cycle Garage Licence for the service of cycles;
- (e) a Body and Paint Garage Licence for the making or repairing, painting or modification of the body of motor vehicles;
- (f) a Detailing Garage Licence for the cleaning or modification of the appearance of motor vehicles, including tinting and fabrication of identification plates.

(2) A person may apply for more than one type of licence and any person who is granted such licences shall pay the fee prescribed in Schedule 1 for each licence.

(3) Every licence shall be granted in respect of a specified property or place on which alone it shall be lawful to conduct the activity authorized by a licence.

(4) The following persons shall be disqualified from applying for and obtaining a licence—

- (a) any person who is under 18 years of age;
- (b) any person who is an undischarged bankrupt or who has within five years of the application entered into any composition or arrangement with his creditors;
- (c) any person who has been convicted, whether in Bermuda or elsewhere, of an offence of which fraud or dishonesty is an element.

(5) For the avoidance of doubt, a licence shall be required for—

- (a) a place used for the repair, service or modification of motor vehicles attached to or part of a place licensed under a provision of law for the retail sale of fuel;
- (b) a place attached to or part of a livery that is used for the repair, service or modification of livery vehicles hired or available for hire by such livery.

(6) In this section—

“dealership” means a business operated by a dealer in motor vehicles;

“livery” means an auxiliary bicycle livery licensed under section 16 of the Auxiliary Bicycles Act 1954 or a minicar livery licensed under section 101B of the Motor Car Act 1951;

Application for the grant or renewal of a licence

4 (1) An application for the grant or renewal of a licence of the type provided in section 3(1)(a) to (e) shall—

- (a) be made in writing and be in such form as the Director shall determine;
- (b) contain such particulars and specifications and shall be accompanied by such plans, relating to the location, siting, lay out, approaches, construction and equipment of the premises or to any addition or alteration, as the Director may consider necessary;

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- (c) be accompanied by a fire certificate issued by the Chief Fire Officer under section 13 of the Fire Safety Act 2014 or written confirmation from the Chief Fire Officer that he has surveyed the premises and concluded fire safety requirements under Part 4 of that Act;
 - (d) be accompanied by the application fee prescribed in Schedule 1 which shall be non-refundable.
- (2) An application for the grant or renewal of a licence of the type provided in section 3(1)(f) shall be accompanied by—
- (a) such information as the Director may determine; and
 - (b) the application fee prescribed in Schedule 1 which shall be non-refundable.
- (3) Where, in the opinion of the Director, any particulars, specifications or plans furnished in connection with an application under subsection (1)(b) are such to prevent him from dealing satisfactorily with an application, the Director may by written notice to the applicant require such additions or corrections or further particulars, specifications or plans as he considers necessary in order to enable him to deal satisfactorily with the application.
- (4) The Director shall consider every application and may in his discretion either grant or renew, or refuse to grant or renew, a licence.

Refusal of licence

- 5 (1) The Director may to refuse to grant a licence on any of the following grounds—
- (a) the application is incomplete;
 - (b) any criteria for approval issued to the applicant by the Director have not been satisfied, in the opinion of the Director; or
 - (c) the prescribed fee has not been paid.
- (2) An application is incomplete if it does not contain such particulars or information as the Director may require under section 4.

Notice of decision

- 6 (1) The Director shall give an applicant notice in writing of the decision to grant or refuse the application for a licence.
- (2) If the decision is—
- (a) to grant the application, the Director shall issue the licence in a form determined by the Director;
 - (b) to refuse the application, the notice shall set out the reasons for the refusal.
- (3) Before a licence is issued, the applicant shall pay the licence fee prescribed in Schedule 1.

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Form of licence

- 7 A licence shall specify—
- (a) the name of the premises;
 - (b) the address and description of the premises;
 - (c) the date upon which the licence comes into force;
 - (d) the date upon which the licence is to expire;
 - (e) any terms and conditions attached to the licence.

Duration of licence

8 Subject to sections 12 and 13, a licence is valid for a period of one year from the date it is issued, or a shorter period as specified therein, and may be renewed under section 9.

Renewal of licence

- 9 (1) A licence may be renewed on application annually if a licensee is not in breach of the terms and conditions attached to the licence.
- (2) An application shall—
- (a) be in such form and include such information as the Director may determine;
 - (b) be accompanied by the renewal fee prescribed in Schedule 1.

Display of licence

- 10 (1) A licensee shall display, or cause to be displayed, a licence in a prominent place at the address shown on the licence so that it is readily seen on entry to the premises.
- (2) A licensee who fails to display a licence in the required manner commits an offence.

Register of licences

- 11 (1) The Director shall cause to be kept and maintained a register to be known as the Register of Garages (hereinafter referred to as the "register") setting out the name of the licensee, address of the premises and type of licence granted, and any such particulars respecting licences as may be required.
- (2) A copy of the register shall be published in the Gazette as soon as may be after the first day of January each year.
- (3) The register shall be available for public inspection in such manner, electronic or any other means, as the Director may determine.

Revocation of licence

- 12 (1) Subject to section 14, the Director may at any time revoke a licence if the Director is satisfied—

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- (a) that the licensee—
 - (i) has made a false declaration in an application for a licence or submitted false information or documentation;
 - (ii) has failed to comply with any term or condition of his licence or any provision of this Act or regulations made under this Act;
 - (iii) is no longer a fit and proper person;
- (b) that the premises is no longer being used for the purpose provided in the licence.

(2) Subject to section 17, the revocation of a licence takes effect on the expiration of 7 days beginning on the date of service on the licensee of the notice revoking the licence.

(3) The Director may also revoke a licence if satisfied that the premises to which it relates ceases to be operated as a garage.

(4) The Director shall cause notice of any revocation to be published in the Gazette.

Suspension or variation of licence

13 (1) Subject to section 14, the Director may suspend or vary a licence—

- (a) at the request of the licensee; or
- (b) if the licensee has contravened a term or condition of a licence or with any provision of this Act or any regulations made under this Act.

(2) Subject to section 17, the suspension or variation of a licence takes effect on the expiration of 7 days beginning on the date of service on the licensee of the notice suspending or varying the licence.

(3) A licence that is suspended shall not be deemed to be on the register during the period the suspension is in force and any licensee who operates a garage while suspended commits an offence.

(4) The Director shall cause note of the suspension and the reasons to be entered in the register.

(5) Where a licence is suspended, a licensee may, at any time during the suspension, apply to the Director to have the licence restored to the register and the Director may restore the licence, subject to any conditions as the Director may determine and he shall return the licence to the licensee.

(6) The Director may cause notice of any suspension or reinstatement to be published in the Gazette.

Notice of intention to revoke, suspend or vary a licence

14 The Director shall, before the revocation, suspension or variation of a licence—

- (a) give the licensee notice in writing of the ground or grounds for the revocation, suspension or variation;

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- (b) give the licensee an opportunity to object in writing within the period of 7 days after receipt of the notice; and
- (c) take any such objection into consideration,

and, if the Director decides to revoke, suspend or vary a term or condition of the licence, the licensee shall be notified, in writing, of the revocation, suspension or variation.

Surrender of licence

15 (1) A licensee may surrender a licence by giving notice, in writing, to the Director specifying the date from which the licence will be surrendered and where such notice has been given, the licence shall cease to have effect.

(2) The surrender of a licence is irrevocable unless the Director, by notice in writing, allows it to be withdrawn.

Notice of intention to change registered address

16 (1) A licensee shall give notice, in writing, to the Director of an intention to change the registered address of any premises prior to any change in address.

(2) Where a licensee is required to give notice to the Director and no such notice is given, the licensee commits an offence.

Appeal by licensee

17 (1) An applicant may appeal against the Director's decision not to grant or renew a licence.

(2) A licensee may appeal against the Director's decision to revoke, suspend or vary any term or condition of a licence.

(3) Any applicant or licensee who is aggrieved by any decision referred to in subsection (1) or (2) may, within 14 days after receipt of notification of such decision, appeal to the court against the decision by notice, in writing, setting out the grounds of appeal.

(4) On any appeal under this section, the court may make such order, including an order for costs, as it thinks fit.

PART 3

INSPECTIONS AND STOP ORDERS

Rights of entry and inspection

18 (1) Any examiner or traffic officer (hereinafter referred to as an "inspector") may, at any reasonable time, enter any premises or place operating as a garage—

- (a) to inspect the premises or place; or
- (b) for ascertaining the manner in which the premises or place is being used.

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(2) If it is shown to the satisfaction of a magistrate on sworn information, in writing, by an inspector that—

- (a) admission to the premises or place has been refused to an inspector;
- (b) the case is one of emergency;
- (c) an application for such admission would defeat the object of the entry;
- (d) there is reasonable ground for entry upon the premises or place for the purpose for which entry is required,

then, subject to subsection (3), the magistrate may by warrant under his hand authorize that inspector to enter the premises or place, if need be by force.

(3) A magistrate shall not issue a warrant under subsection (2) in respect of any premises or place unless satisfied—

- (a) that admission to the premises or place was sought after not less than one day notice of the intended entry had been served on the licensee or a person operating the place as a garage; or
- (b) that admission to the premises or place was sought in an emergency and was refused by or on behalf of the licensee; or
- (c) that an application for admission to the premises or place would defeat the object of the entry.

(4) A warrant under subsection (2) continues in force until the purpose for which the entry is required has been satisfied.

(5) In this section, “examiner” and “traffic officer” have the meanings provided in section 7 the Motor Car Act 1951.

Stop order

19 (1) The Director may serve an order on a person (hereinafter referred to as a “stop order”) if the Director makes a determination—

- (a) that a person has contravened or is contravening this Act;
- (b) that a person has failed to comply with any regulations made under this Act; or
- (c) that a person has failed to comply with any term or condition of a licence.

(2) A stop order shall specify the contravention or the failed compliance referred in subsections (1)(a), (b) or (c).

(3) A stop order shall require the licensee to immediately stop the contravention or matter of failed compliance and shall state the reasons for the making of the order.

(4) Subject to section 22, a stop order may be enforced in either of the ways provided in sections 20 and 21.

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Contravening a stop order

20 (1) Subject to subsection (2), any person who fails to comply with a stop order commits an offence.

(2) Where the Director has taken proceedings against a person under section 21 for a failure by that person to comply with a stop order, that person shall not be prosecuted in respect of that failure by virtue of this section unless or until the proceedings under section 21 are concluded.

Enforcement of stop orders

21 (1) If it appears to the Director that the licensee has failed to comply with a stop order, the Director may make application to the court under this section for an enforcement order.

(2) If, after hearing the Director and the licensee in relation to an application made under subsection (1), the court is satisfied that the stop order has been lawfully made and has not been complied with, the court may make an enforcement order allowing an inspector to—

- (a) close the premises or place operating as a garage;
- (b) enter on that premises or place;
- (c) seize and hold any equipment used on that premises or place in contravention of the stop order,

for the carrying out of the stop order.

(3) Any equipment seized shall be disposed of in such manner as the court may direct in the enforcement order.

(4) The Director may recover by action any expenses incurred by the Transport Control Department for anything done pursuant to the enforcement order under subsection (2).

Appeal against stop order

22 (1) Any licensee who is aggrieved by a determination of the Director in section 19, may within 14 days after receipt of notification of the decision, appeal to the court against the determination, in writing, setting out the grounds of appeal.

(2) On any appeal under this section, the court may make such order, including an order for costs, as it thinks fit.

PART 4

AUTOMOTIVE SERVICE AND CYCLE SERVICE TECHNICIANS

Interpretation of Part 4

23 In this Part—

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“automotive service technician” has the meaning provided in section 2 of the National Occupational Certification (Automotive Service Technician) Regulations 2008;

“certificate” means a national occupational certificate as an automotive service technician granted under the National Occupational Certification Act 2004.

Cycle service technicians

24 (1) The Director, in relation to the registration and supervision of cycle service technicians, shall have the same powers and shall perform the same duties as are conferred under this Part in respect of an automotive service technician, and the provisions of sections 25 to 30 inclusive shall be construed as if for the words “automotive service technician” there were substituted the words “cycle service technician”.

(2) In this section, “cycle service technician” means a person who is employed in connection with the mechanical maintenance, repair fitting or equipment of cycles.

Automotive service technicians

25 The Director, in relation to the registration and supervision of automotive service technicians shall have the powers and shall perform the duties conferred under this Part.

Register of automotive service technicians

26 The Director shall cause to be kept and maintained a register to be known as the Register of Automotive Service Technicians (in this Part referred to as the “register of technicians”) which shall contain the names of persons who—

- (a) have applied to be placed on the register of technicians; and
- (b) have been granted a certificate,

and a person whose name is so entered in the register is hereinafter referred to as a “registered automotive service technician”.

Publication of register of technicians

27 (1) The Director shall cause to be published in the Gazette as soon as may be after the first day of January in each year, a list of the names of the registered automotive service technicians on that day.

(2) A list under subsection (1) shall not contain the name of any person who is suspended under section 29.

(3) The register shall be available for public inspection in a manner, electronic or any other means, as the Director may determine.

Registration of automotive service technicians

28 (1) A person who holds a certificate may apply to the Director, in a form to be determined by the Director, to have his name entered in the register of technicians .

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(2) The Director shall review the application and, after the production of such information as the Director may require, the applicant shall become a registered automotive service technician.

Suspension of automotive service technician

29 (1) The Director may suspend a registered automotive service technician where it is determined that the registered automotive service technician—

- (a) is not, while practising the trade of automotive service technician, performing work in a manner compatible with good practice in that trade; or
- (b) is not, and has not for a substantial period, been practising the trade of automotive service technician.

(2) Any person who is suspended shall not be deemed to be a registered automotive service technician during the period the suspension is in force and any person who practises the trade of automotive service technician while suspended commits an offence.

(3) The Director shall cause a note of the suspension and reasons to be entered in the register of technicians.

(4) When suspending a person, the Director shall send notice of the suspension and any such notice shall require the person to surrender the certificate to the Director.

(5) A person who, on receiving notice of a suspension, refuses or fails to surrender his certificate to the Director within seven days of such notice commits an offence.

(6) A registered automotive service technician who is suspended may apply to the Director to have his name restored to the register of technicians and the Director may restore his name, subject to such conditions as the Director may determine.

(7) The Director shall, within seven days, return the certificate of a person who has his name restored to the register of technicians.

(8) The Director may cause notice of any suspension or restoration to be published in the Gazette.

Appeal by automotive service technician

30 An automotive service technician who is aggrieved by any decision of the Director in this Part may, within 14 days after receipt of notification of the decision, appeal to the court against the decision or by notice, in writing, setting out the grounds of appeal.

Purporting to be a registered automotive service technician

31 Any person who is not a registered automotive service technician or has been suspended under section 29 and purports to be a registered automotive service technician commits an offence.

PART 5
SAFETY

Elevating-type vehicle lifts

32 (1) All elevating-type motor vehicle lifts installed in a premises shall be equipped with stop chocks designed to prevent motor vehicles from rolling forward or backward off the lift when it is elevated.

(2) Any such stop chock may be placed in position either automatically or manually.

(3) Any person for the time being operating, or being in charge of the operation of, any elevating-type motor vehicle lift shall ensure that the stop chocks provided in accordance with this section are, before the lift is elevated, duly placed in such a position as to prevent the movement of any motor vehicle on the lift.

(4) Any person who contravenes subsection (1) or (3) commits an offence.

Safety devices for elevating-type vehicle lifts

33 (1) All elevating-type motor vehicle lifts, other than the types of lift referred to as the nut and screw type four post lift, shall be equipped with a safety leg of such design that, upon the lift being raised—

- (a) the leg comes into, and becomes locked in, a vertical position;
- (b) the lift cannot be lowered while the leg remains so locked; and
- (c) the leg cannot be unlocked except by the operation of a trip line extending outside the line of vertical travel of the lift.

(2) Any person for the time being operating, or being in charge of the operation of, any elevating-type motor vehicle lift mentioned in this section shall ensure—

- (a) that any trip line installed under this section is not operated so as to release a lift until it is desired to lower the lift; and
- (b) that no person is within the line of vertical travel of the lift when the trip line is operated.

(3) Any person who contravenes subsection (1) or (2) commits an offence.

Safety of pits

34 (1) Where a pit is installed in a premises it shall, whenever it is not in actual use and a motor vehicle is not standing above it—

- (a) be kept covered; and
- (b) be kept adequately protected by guard rails not less than 42 inches in height,

and any cover or guard rails required under this section shall be of such type and pattern as the Director may determine.

- (2) Any person who contravenes subsection (1) commits an offence.

Spray painting

- 35 (1) Where a premises or any part of a premises is used for spray painting—
- (a) the spray painting shall be done in a room completely partitioned off from other parts of the building; and
 - (b) any such room shall be adequately ventilated and where the Director considers it necessary, shall be equipped with non-sparking exhaust fans of such number, design and situation as the Director may direct and such fans shall be operated whenever that room is used for spray painting.
- (2) Any person who contravenes subsection (1) commits an offence.

Fire extinguishing apparatus

- 36 (1) Suitable and efficient fire extinguishing apparatus shall be kept in a premises in such a position and filled or charged in such a manner as to be readily available for use.
- (2) Any apparatus in subsection (1) shall be of such pattern and such capacity, and shall be provided in such quantity, as the Director, after consultation with the Chief Fire Officer, may direct.
- (3) Any person who contravenes this section commits an offence.

Inflammable substances

- 37 (1) No person, on a premises, shall cause or allow any petrol, petroleum product, solvent, spray coating or other inflammable liquid to be kept in any container other than a closed container .
- (2) Any oily waste, oily rags or any inflammable rubbish shall be kept in a proper container.
- (3) Any container used for keeping any inflammable substance mentioned in subsections (1) or (2) shall—
- (a) be the type that is made and designed to transport, store or hold inflammable substances; and
 - (b) be maintained free of leaks, and, in the case of a self-closing container, shall be maintained in efficient working order.
- (4) Any person who contravenes this section commits an offence.

Fire precautions when filling

- 38 (1) No person shall pour, or cause or allow to be poured, any petrol or other fuel into the tank of a motor vehicle or into any container on or off a motor vehicle, or shall remove the filler cap, lid or other cover of the tank or container on a premises—
- (a) in the case of a motor vehicle, while the engine is running; or

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(b) while any person is within 50 feet of the motor vehicle or container carrying a naked flame or light.

(2) A container used for keeping petrol or fuel mentioned in subsection (1) shall be of the type that is made and designed to transport, store or hold petrol or fuel.

(3) Any person who contravenes this section commits an offence.

Smoking

39 (1) No person shall smoke or allow any other person to smoke on a premises or inside any building or other structure forming part of the premises.

(2) Any person who contravenes this section commits an offence.

First aid equipment

40 (1) First aid equipment of a type and in a quantity approved by the Director shall be kept on a premises and any such equipment shall at all times be kept in good order and available for immediate use.

(2) Any person who contravenes this section commits an offence.

PART 6 OFFENCES

Operating without a licence

41 A person who operates a garage without a licence commits an offence.

Unlicensed premises

42 A person who operates a garage on a premises in respect of which there is no licence in force commits an offence.

False representation or forged licence

43 A person who—

- (a) makes a false representation with a view to obtaining a licence;
- (b) forges, alters or counterfeits a licence;
- (c) procures to be made a forged, altered or counterfeit licence;
- (d) produces a forged, altered or counterfeit licence (to an inspector),

commits an offence.

Transferring or borrowing a licence

44 (1) A licensee who transfers a licence to any other person commits an offence.

(2) A person who attempts to make use of a licence issued to another person commits an offence.

General penalty

45 (1) Offences against this Act shall be prosecuted before a court of summary jurisdiction.

(2) A person found guilty of an offence under this Act is liable to a fine not exceeding \$15,000 provided that in the case of a second or subsequent conviction under the same provision, the maximum fine shall be an amount not exceeding \$30,000.

PART 7

TICKETING

Interpretation of Part 7

46 In this Part—

“offence” means a contravention of this Act or regulations made under this Act;

“ticket” means a ticket referred to in section 48.

Authorisation of ticketing

47 Without prejudice to the procedure set out in the Criminal Jurisdiction and Procedure Act 2015 for laying an information and for issuing a summons, an information may be laid and a summons issued for offences specified in Schedule 2 by means of a ticket issued in accordance with this Part.

Form of ticket

48 (1) A ticket shall, subject to this Part, be in the form prescribed in regulations made under section 55 and shall consist of three parts: an information, a summons and a record of conviction.

(2) The use on a ticket of any word or expression in Schedule 2 describing the offence, or any word or expression substantially to the same effect, in relation to an offence under this Act is sufficient for all purposes in connection with proceedings for that offence to describe the offence.

Issue of ticket

49 Where an inspector has reasonable cause to suspect that a person is committing or has committed an offence under this Act, a ticket may be issued under this Part.

Delivery of summons

50 (1) Upon completing the ticket, the issuing inspector shall affix his signature to the summons portion and shall deliver the summons portion to the person charged with an offence under this Act.

(2) The issuing inspector shall request the person charged with an offence under this Act to enter his signature on the information portion of the ticket and such signature shall be sufficient proof of receipt of the summons.

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(3) A person charged with an offence under this Act who refuses without reasonable excuse to accept delivery of the summons part of the ticket under subsection (1) commits an offence.

Payment of penalty out of court

51 (1) Subject to this section, there may be endorsed upon a summons a notice that the person to whom the summons is directed may, within seven days of the of the summons, pay out of court a specified penalty.

(2) Where a summons is endorsed under subsection (1), it shall provide for a plea of guilty in the following form—

“PLEA OF GUILTY

I am aware that I have a right to a hearing in respect of the offence with which I am charged and that by signing this plea of guilty I am waiving my right to a hearing and my signature may result in a conviction against me without a hearing. I hereby plead guilty to the offence as charged and consent to be convicted of the offence in my absence.

[blank]

Signature of Defendant”.

(3) A signature affixed to the form of Plea of Guilty purporting to be that of the person to whom the summons is directed is prima facie proof that it is the signature of that person.

(4) Upon receipt of a summons duly signed with a plea of guilty and of the amount of the penalty specified in the summons, an officer of the court shall issue an official receipt for the amount of that penalty and shall place the summons before the court.

(5) The court shall formally convict the person charged with an offence under this Act specified in the summons and no further penalty may be imposed in respect of the offence.

(6) If a person charged with an offence under this Act does not plead guilty to the offence and pay the penalty specified in the summons, the person shall appear at the time and place specified in the summons for the hearing of the charge, and if he fails to appear, the court may proceed in accordance with section 3 of the Criminal Jurisdiction and Procedure Act 2015.

Information

52 (1) The information part of the ticket shall be—

- (a) signed by the inspector who issues the ticket;
- (b) sworn before a justice of the peace or a magistrate; and
- (c) deposited with the court, together with the record of conviction part of the ticket.

GARAGES LICENSING ACT 2022

(2) The information part of the ticket need not be sworn before the summons part is delivered or served and the inspector who signed, swore and issued the ticket need not be the person who delivers or serves the summons.

Amount of penalty

53 Nothing in this Act prevents the court from imposing any penalty authorized by law in regards to offences under this Act if—

- (a) no amount is entered on the summons; or
- (b) the person charged does not plead guilty to the offence and pay the penalty specified in the summons.

Record of conviction

54 Where the court makes a conviction on a ticket information in respect of an offence under this Act, the court shall complete the record of conviction part of the ticket and an officer of the court shall cause a copy of it to be forwarded to the Commissioner of Police.

Prescription of ticket by the Minister

55 The Minister may make regulations prescribing the form of ticket for the purposes of this Act.

PART 8

MISCELLANEOUS

Regulations

56 (1) The Minister may make regulations for the better administration of this Act and, without derogation from the generality of the foregoing, such regulations may—

- (a) provide for the licensing of garages;
- (b) prohibit or restrict the operation in garages of any business not connected with the repair or servicing of motor vehicles;
- (c) prescribe measures and equipment for promoting the safety of persons and property on or in the vicinity of the premises;
- (d) require licensees to report to the Director the particulars of any case where defects in or damage to a motor vehicle brought to that premises for repair are such as to render the motor vehicle unfit for use.

(2) The negative resolution procedure shall apply to regulations made under this Act.

Consequential and related amendments

57 The consequential and related amendments set out in Schedule 3 shall have effect.

GARAGES LICENSING ACT 2022

Saving and transitional

58 (1) A garage licence in force immediately before the coming into operation of this Act shall, on and after that day, be deemed to be a licence granted by the Director under this Act and shall remain in force for three months.

(2) The holder of a garage licence in subsection (1) shall, within the three month period from the commencement of this Act, submit an application for the grant of a licence under this Act.

(3) A person who has been carrying on an activity specified in section 3 immediately before the commencement of this Act shall apply for a licence to carry on such activity under this Act during the period of 60 days beginning with the commencement of this Act.

(4) For the avoidance of doubt, a place for which a garage licence is in force in subsection (1) or a person referred to in subsection (3) is subject to Part 3 (Inspection and Stop Orders) of this Act.

(5) An application for the grant or renewal of a garage licence that was filed before the commencement of this Act shall be dealt with as an application for the grant of a licence under the provisions of this Act.

(6) After consultation with the Director, the Minister may, by order subject to the negative resolution procedure, extend the time period provided in subsection (1) or (3) for a further period of 30 days to enable compliance.

(7) A person who is certified as an automotive service technician under the National Occupational Certification Act 2004 immediately before the commencement of this Act is considered to be an automotive service technician for the purpose of Part 4 of this Act.

(8) In this section, “garage licence” means a licence granted by the Minister under Part VI (Public Garages) of the Motor Car Act 1951 or the Public Garage and Filling Station Regulations 1952 to allow a person to operate a place as a public garage.

Repeal and revocation

59 (1) Part VI (Public Garages) of the Motor Car Act 1951 is hereby repealed.

(2) The Public Garage and Filling Station Regulations 1952 are hereby revoked.

Commencement

60 This Act shall come into operation on such day as the Minister may appoint by notice in the Gazette.

GARAGES LICENSING ACT 2022

SCHEDULE 1

(Sections 4, 6 and 9)

APPLICATION, LICENCE AND RENEWAL FEES

A. APPLICATION FEES

1. Application Fee (non-refundable)	\$500
2. Renewal Application Fee (non-refundable)	\$250

B. LICENCE FEES

1. Dealer Garage	\$6,000
2. Garage	\$3,000
3. Cycle Dealer Garage	\$3,000
4. Cycle Garage	\$2,000
5. Body and Paint Garage	\$5,000
6. Detailing Garage	\$2,000

C. RENEWAL FEES

1. Dealer Garage	\$3,000
2. Garage	\$1,500
3. Cycle Dealer Garage	\$1,500
4. Cycle Garage	\$1,000
5. Body and Paint Garage	\$2,500
6. Detailing Garage	\$1,000

GARAGES LICENSING ACT 2022

SCHEDULE 2

(Section 48)

OFFENCES AND PENALTIES

DESCRIPTION OF OFFENCE	PROVISION	PENALTY
Failure to display a licence in the required manner	section 10(2)	\$1,500
Operating while licence suspended	section 13(3)	\$4,000
Failing to notify of intention to change of address	section 16(2)	\$1,000
Contravening a stop order	section 20(1)	\$5,000
Technician practicing while not registered or suspended	section 29(2)	\$1,500
Technician failing to surrender suspended certificate	section 29(5)	\$1,000
Purporting to be a technician	section 31	\$1,000
Elevator type lift with no stop chocks	section 32(4)	\$5,000
Operating elevator type lift without checking	section 32(4)	\$3,000
Vehicle lift with no safety device	section 33(3)	\$6,000
Operating vehicle lift not ensuring safety	section 33(3)	\$2,000
Service pit not safely kept when not in use	section 34(2)	\$5,000
Unsatisfactory cover or guard rails on pit	section 34(2)	\$5,000
Spray painting not in separate room	section 35(2)	\$6,000
Spray painting in poorly ventilated room	section 35(2)	\$6,000
Failing to have efficient fire extinguishing apparatus	section 36(3)	\$7,000
Failing to have required fire extinguishing apparatus	section 36(3)	\$7,000
Failing to properly store inflammable substances	section 37(4)	\$6,000
Failing to observe fire precautions	section 38(3)	\$6,000
Smoking on premises or inside building	section 39(2)	\$5,000
Failing to have first aid equipment or quantity of first aid equipment	section 40(2)	\$6,000
Operating without a licence	section 41	\$8,000
Unlicensed premises	section 42	\$6,000
Making false representation; forged or counterfeit licence	section 43	\$5,000
Transferring or borrowing licence	section 44	\$3,000
Refusing to accept delivery of summons	section 50(3)	\$500

SCHEDULE 3

(Section 58)

CONSEQUENTIAL AND RELATED AMENDMENTS

Amends Motor Car Act 1951

1 The Motor Car Act 1951 is amended—

- (a) in section 2(1) by deleting the meaning of “public garage” and placing the following in its proper alphabetic place—
“garage” means a place licensed as a dealer garage or a garage under the Garages Licensing Act 2022;
- (b) in section 19A(1) by deleting “a dealer and the owner or operator of a public garage” and substituting “the operator of a garage”;
- (c) in section 20(cc) by deleting “in the operation of a public garage, in connection with the operation of the public garage and subject as prescribed” and substituting “in the operation of a garage or in connection with the operation of a garage”;
- (d) in section 19A(6) in the definition of “loaner vehicle” by deleting “dealer or a public garage” in paragraphs (a) and (b) and substituting “garage”;
- (e) in section 57(1) by deleting “dealer in motor cars or to a person operating a public garage or filling station” and substituting “a person operating a garage”;
- (f) in section 59(2) by deleting “dealer, or to a person operating a public garage or filling station” and substituting “person operating a garage”.

Amends the Motor Car (Examination, Licensing and Registration) Regulations 1952

2 The Motor Car (Examination, Licensing and Registration) Regulations 1952 are amended in regulation 2 in the definition of “dealer” by deleting “public garage or filling station” and substituting “garage”.

Amends the Traffic Offences Procedure Act 1974

3 The Traffic Offences Procedure Act 1974 is amended by inserting the following after the line item on the Motor Car (Examination, Licensing and Registration) Regulations 1952 Paragraph 24—

“An identification plate that does not comply with the Schedule contrary to Motor Car (Examination, Licensing and Registration) Regulations 1952 Paragraph 26(2)”.

GARAGES LICENSING ACT 2022

Amends the Traffic Offences (Penalties) Act 1976

4 The Traffic Offences (Penalties) Act 1976 is amended by inserting the following after the line item on regulation 45 of the Motor Car (Construction, Equipment and Use) Regulations 1952—

“Head 1: Motor Car (Examination, Licensing and Registration) Regulations 1952

Head 2: regulation 26(2)

Head 3: having an unlawful licence plate

Head 4: summary

Head 5: \$500 per identification plate

Head 7: 4 to 6 points”.

GARAGES LICENSING BILL 2022

EXPLANATORY MEMORANDUM

This Bill seeks to reform the current law relating to public garages to update terminology from “public garage” to “garage”, to add various types of garage licences, to enable the Director of the Transport Control Department to grant, refuse to grant, renew, revoke, suspend or vary licences to operate the types of garage, to set fees for an application for and to obtain a type of licence, to provide penalties for various safety contraventions, to create offences and penalties, to create a ticketing scheme and to provide consequential and related amendments.

Clause 1 provides the title of the Bill.

Clause 2 provides the meanings of terms used in the Bill.

Clause 3 provides the various types of licence the Director may grant under the Bill.

Clause 4 provides that a person may apply to the Director for the grant or renewal of a licence.

Clause 5 provides that the Director may refuse to grant a licence on the grounds of: (i) an incomplete application, (2) not satisfying the criteria for approval issued by the Director or (iii) nonpayment of the prescribed fee. It also provides that an incomplete application is one that does not contain the particulars or information required by the Director in clause 4.

Clause 6 provides that the Director is to give an applicant written notice of a decision to grant or refuse an application, with reasons given should the application be refused.

Clause 7 provides the information to be specified in a licence.

Clause 8 provides that a licence is valid for a period of one (1) year or a shorter period as may be specified in the licence.

Clause 9 provides that a licence may be renewed on application for a further period of a year at a time subject to there being no breach of the terms and conditions attached to the licence.

Clause 10 provides for the display of a licence in a prominent place at the address provided in the licence and creates an offence for failing to display in the required manner.

Clause 11 provides for the Director to keep and publish a register of licences in the Gazette and make the register available for public inspection in a manner to be determined by the Director.

Clause 12 provides that the Director may revoke a licence at any time in given instances.

Clause 13 provides that the Director may suspend or vary a licence in the given instances.

GARAGES LICENSING BILL 2022

Clause 14 provides that before the Director revokes, suspends or varies a licence, notice must be given, in writing, of the ground or grounds on which it is intended to do so. It also gives the licensee the opportunity to object to the intended revocation, suspension or variation in writing.

Clause 15 provides that a licensee may surrender a licence on written notification to the Director and creates an offence for failing to surrender the licence.

Clause 16 provides that a licensee will advise the Director of any intended change in address of the premises and creates an offence for failing to do so.

Clause 17 provides that an applicant is able to appeal any decision of the Director to refuse to grant or renew a licence, to revoke a licence or to suspend or vary a licence to the Magistrates' Court.

Clause 18 provides that examiners and traffic officers at the Transport Control Department are inspectors for the purpose of entering and inspecting a premises or place operating as a garage to inspect that premises or place.

Clause 19 gives the Director the power to serve a stop order on a person in circumstances where the Director believes the person has contravened or is contravening the Bill, or the person has failed to comply with any regulation or any term or condition of a licence. It also provides that a stop order requires the licensee to immediately stop the contravention or matter of failed compliance.

Clause 20 creates an offence for any person who contravenes a stop order.

Clause 21 provides the ways in which a stop order may be enforced should a licensee not comply.

Clause 22 provides that a licensee is able to appeal a decision of the Director to serve a stop order to the Magistrate's Court.

Clause 23 provides the meanings of terms used in Part 4 of the Bill.

Clause 24 provides that certain provisions relating to automotive service technicians in Part 4 of the Bill also relate to cycle service technicians.

Clause 25 places a duty on the Director for the registration and supervision of automotive service technicians.

Clause 26 provides that the Director must keep and maintain a register of automotive service technicians.

Clause 27 provides that the Director must publish the register of automotive service technicians in the Gazette and make the register available for public inspection in a manner to be determined by the Director.

Clause 28 provides that a person holding a national occupational certificate as an automotive service technician may apply to have his name entered in the register of automotive technicians.

Clause 29 provides the circumstances in which the Director may suspend the registration of an automotive service technician.

GARAGES LICENSING BILL 2022

Clause 30 provides that an automotive service technician may appeal a decision of the Director to suspend registration to the Magistrate's Court.

Clause 31 creates an offence for a person who does not hold a national occupational certificate as an automotive service technician, or who has been suspended, to purport to be an automotive service technician.

Clause 32 provides a safety precaution for the installation and operation of elevating-type vehicle lifts in a garage and creates an offence for a person who contravenes that precaution or operation.

Clause 33 provides for elevating-type vehicle lifts to be equipped with a safety device and for a person operating, or being in charge of operating, the vehicle lift to ensure the safety device is operated safely. It also creates an offence for any person who contravenes the provision.

Clause 34 provides the safety measures to be used when a service pit is installed in a garage and is not in use. It also creates an offence for any person who contravenes the provision.

Clause 35 provides for a separate room for spray painting that is sufficiently ventilated and equipped with the amount of fans the Director considers necessary. It also provide that the fans must be operational while spray painting is being conducted and creates an offence for any person who contravenes the provision.

Clause 36 provides that fire extinguishing apparatus must be ready for use on the premises of a garage, and creates an offence for any person who contravenes the provision.

Clause 37 provides that any inflammable substance on the premises of a garage must be kept in a closed container designed to hold the inflammable substance, and creates an offence for any person who contravenes the provision.

Clause 38 provides the fire precautions when pouring, or causing to be poured, fuel in various ways on the premises of a garage, and creates an offence for any person who contravenes the provision.

Clause 39 provides that no person shall smoke, or allow another person to smoke, on the premises of a garage, and creates an offence for a person who contravenes the provision.

Clause 40 provides that first aid equipment of the type and quantity approved by the Director must be kept on the site of a garage, and creates an offence for a person who contravenes the provision.

Clause 41 creates the offence of operating a garage without a licence.

Clause 42 creates an offence for operating a garage on a premises that is not provided in a licence.

Clause 43 creates an offence for making false representation or procuring or producing a forged, altered or counterfeit licence.

Clause 44 creates an offence for transferring a licence or making used of another person's licence.

GARAGES LICENSING BILL 2022

Clause 45 creates the general penalty of \$15,000 and \$30,000 for the same second or subsequent offence, that the court may impose for offences committed under the Bill.

Clause 46 provides the meaning of terms used in Part 7 of the Bill.

Clause 47 provides for a ticket summons to be issued for offences specified in Schedule 2 to the Bill.

Clause 48 provides that the form of ticket will be as prescribed in regulations.

Clause 49 provides for the issuance of a ticket where an inspector has reasonable cause to believe an offence is being, or has been, committed.

Clause 50 provides for the delivery of a summons.

Clause 51 provides for the payment out of court of a specified penalty.

Clause 52 provides for the information part of a ticket.

Clause 53 provides the circumstances the court is able to impose a penalty authorised by law.

Clause 54 provides for the record of conviction.

Clause 55 provides that the Minister may make regulations to prescribe the form of ticket.

Clause 56 gives the Minister regulation-making powers, with regulations made under the Act being subject to the negative resolution procedure.

Clause 57 provides for the consequential and related amendments as set out in Schedule 3 to the Bill.

Clause 58 provides the saving and transitional provision.

Clause 59 repeals Part VI (Public Garages) of the Motor Car Act 1951 and the Public Garage and Filling Station Regulations 1952.

Clause 60 provides for the commencement of the Bill by publication of a notice in the Gazette.