

PUBLIC TRANSPORT AUTHORITY — PARKING INFRINGEMENT TICKETS

4965. Hon Ken Travers to the Minister for Finance representing the Minister for Transport

I refer to question without notice 749, and ask how can two different versions of a parking infringement notice both comply with the requirement of Schedule 2, Form 1 of the Government Railways (Parking Stations) By-law 1997 and both be valid?

Hon SIMON O'BRIEN replied:

The Public Transport Authority advises as at 8 November 2011:

Section 74 of the Interpretation Act 1984 states that where a form is prescribed or specified under a written law, deviation there from not materially affecting the substance nor likely to mislead shall not invalidate the form used.

The Interpretation Act 1984 further states that it applies to all state legislation unless:

- (a) Express provision is made to the contrary; or
- (b) In the case of an Act, the intent and object of the Act or something in the subject or context of the Act is inconsistent with such application; or
- (c) In the case of subsidiary legislation, the intent and object of the act under which that subsidiary legislation is made is inconsistent with such application.

As there is no express intention to exclude the Interpretation Act 1984 from the Public Transport Authority Act 2003 or its regulations; or the Government Railways Act 1904 or its By-Laws, and with the core substance and intent of the infringement notices having not deviated from the core substance and intent of the scheduled form in the Act, those infringement notices are deemed to be valid.

In addition, the legal advice provided by the Office of the State Solicitor states that the reference to By-Law 80 alone does not render the infringement notice invalid. Additionally, page 17 of the Government Railways (Parking Station) By-Laws 1997 reads that the Government Railways (Parking Station) By-Laws 80 is not repealed but is now known as the Government Railways (Parking Station) By-Laws 1997.