

ROAD MAINTENANCE (CONTRIBUTION).

No. 69 of 1965.

AN ACT to impose a charge on the owners of certain motor vehicles as a contribution to the maintenance of roads; to amend the State Transport Co-ordination Act, 1933-1961, and the Main Roads Act, 1930-1961, and for incidental and other purposes.

[Assented to 25th November, 1965.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the *Road Maintenance (Contribution) Act, 1965*. Short title.

2. This Act shall come into operation on a date to be fixed by proclamation. Commencement.

Construction
of Act to be
subject to
Constitution.

3. This Act shall be read and construed subject to the Commonwealth of Australia Constitution Act and so as not to exceed the legislative power of the State to the intent that where any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the remainder of this Act and the application of that provision to other persons or circumstances shall not be affected.

Interpre-
tation.

4. In this Act, unless the contrary intention appears—

“authorised officer” means any person authorised by the Commissioner to do any act or thing under and for the purposes of section nine or seventeen of this Act whether generally or in any particular case, and includes any member of the police force of the State;

“Commissioner” means the Commissioner of Transport constituted under the State Transport Co-ordination Act, 1933;

“commercial goods vehicle” means any motor vehicle (together with any trailer or trailers for the time being attached thereto) that is used or intended to be used for carrying goods for hire or reward or for any consideration or in the course of any trade or business whatsoever, and includes any such motor vehicle together with any such trailer or trailers that is or are so used or intended to be so used by or on behalf of the Crown and whether in connection with a railway or otherwise;

“goods” means all chattels personal;

“load capacity” in relation to a motor vehicle or trailer, means—

- (a) the load or carrying capacity thereof as shown in the certificate of registration issued in respect thereof, or on the records kept under the Traffic Act, 1919, or under any

corresponding Act, Ordinance or legislation of any State or Territory of the Commonwealth;

- (b) where in that certificate or those records there is shown the tare weight of the motor vehicle or trailer, and either the maximum permissible gross weight of the motor vehicle or trailer together with the load that may be carried thereon or the aggregate weight of the motor vehicle or trailer, the difference between that gross or aggregate weight and that tare weight; or
- (c) where no such load or carrying capacity is shown in that certificate or on those records or where no such weights are so shown or no certificate of registration is in force, the load or carrying capacity of a similar motor vehicle or trailer that is registered under the Traffic Act, 1919,

and where a permit is issued in respect of the motor vehicle or trailer under regulation 5 of the Traffic (Vehicle Weights) Regulations, 1963, or any corresponding regulations for the time being in force, includes in addition the extra load or weight permitted to be carried on a road pursuant to that permit;

“motor vehicle” means any motor car, motor carriage or other vehicle propelled upon any road wholly or partly by any volatile spirit, steam, gas, oil or electricity, or by any means other than human or animal power and includes a trailer, but does not include any vehicle run upon a railway or tramway;

“owner” in relation to a commercial goods vehicle, includes—

- (a) a person who is the owner or joint owner or part owner thereof;

(b) a person who has the use thereof under a hiring or hire-purchase agreement; and

(c) a person in whose name the commercial goods vehicle is registered under the Traffic Act, 1919, or under any corresponding Act, Ordinance or legislation of any State or Territory of the Commonwealth,

but does not include an unpaid vendor of the commercial goods vehicle under a hire-purchase agreement;

“road” means any street, road, lane, bridge, thoroughfare or place open to or used by the public for passage with vehicles;

“tare weight” in the case of a motor vehicle or trailer means—

(a) the tare weight or unladen weight as shown in the certificate of registration issued in respect thereof under the Traffic Act, 1919, or on the records kept under that Act, or under any corresponding Act, Ordinance or legislation of any State or Territory of the Commonwealth;

(b) where that tare weight or unladen weight is not shown in that certificate or on those records or no such certificate is in force, the actual unladen weight of the motor vehicle or trailer.

Adminis-
tration

5. Subject to the Minister, this Act shall be administered by the Commissioner.

Application
of Act.

6. This Act does not apply with respect to any commercial goods vehicle, the load capacity of which together with any trailer or trailers for the time being attached thereto, does not exceed eight tons.

7. (1) Notwithstanding the provisions of section six of this Act, the Governor may, by proclamation, apply the provisions of this Act to any commercial goods vehicle the load capacity of which is not more than eight tons, if the Commissioner—

Application of Act to certain vehicles otherwise exempt from this Act.

- (a) certifies in writing that the vehicle together with any trailer or trailers for the time being attached thereto, is or are in his opinion, being used frequently for the carriage of a loading in excess of eight tons; and
- (b) makes a recommendation in writing to the Governor that the proclamation be made.

(2) The Commissioner shall, before he certifies as provided in subsection (1) of this section, serve on the owner of the commercial goods vehicle a notice advising—

- (a) the owner that he proposes to so certify;
- (b) his reasons therefor; and
- (c) that he will so certify, unless, within fourteen days or such longer period as the Commissioner specifies in the notice, the owner satisfies the Commissioner that there is not sufficient cause for him to so certify.

(3) (a) Upon the making of a proclamation pursuant to subsection (1) of this section, the provisions of this Act, other than section six thereof, apply with respect to any commercial goods vehicle, specified in the proclamation and to the owner of that vehicle.

(b) A proclamation so made may, from time to time, be varied or cancelled by subsequent proclamation.

8. (1) The owner of every commercial goods vehicle shall as provided by this Act pay to the Commissioner towards compensation for wear and tear caused thereby to roads in the State a charge at the rate prescribed in the First Schedule to this Act.

Contribution for wear and tear of roads.

(2) The charge referred to in subsection (1) of this section shall become due at the time of the use of any road by the commercial goods vehicle and if not then paid shall be paid and recoverable as provided in this Act.

(3) Any charge payable under this Act is a civil debt due to the Commissioner by the owner of the commercial goods vehicle concerned and, without affecting any other method of recovery provided by this Act, may be recovered by the Commissioner in any court of competent jurisdiction.

Records of
journeys of
commercial
goods
vehicles.
Vide Act No.
30 of 1918,
s. 25.

9. The owner of a commercial goods vehicle shall—

- (a) keep in duplicate in the form in the Second Schedule to this Act an accurate daily record of all journeys of the commercial goods vehicle along roads in the State; and
- (b) retain for a period of six months after the completion of any journey and on demand make available to the Commissioner or any authorised officer, a copy of each such record for inspection when so required.

Returns and
payments to
be made to
Commis-
sioner.

10. (1) Subject to this Act, not later than the fourteenth day of each month each owner of a commercial goods vehicle that has during the preceding month travelled on any road in the State, shall deliver to the Commissioner at his office in Perth in respect of each such vehicle—

- (a) the record of the previous month kept pursuant to section nine of this Act, certified as correct; and
- (b) the amount of all moneys owing by way of charges payable in respect of that previous month pursuant to this Act in so far as not already paid to the Commissioner.

(2) It is a sufficient delivery, for the purposes of this Act, of any record or payment of moneys owing by way of charge, if the record or payment is sent by prepaid registered post addressed to the Commissioner at his office in Perth and the record or payment is posted not later than the day on which the record or payment is by subsection (1) of this section required to be delivered to the Commissioner.

Vide Act No.
30 of 1918,
s. 31 (4).

11. (1) Subject to subsection (2) of this section, an owner of a commercial goods vehicle may make an arrangement in writing with the Commissioner as to—

Alternative provision as to records.

(a) the time and place and manner when, where or in which he shall pay the charges that by this Act he is required to pay;

(b) the records to be made and kept in relation thereto; and

(c) the delivery thereof to the Commissioner, and thereupon the provisions of this Act apply in respect of that vehicle subject to the arrangement.

(2) Nothing in this section affects the amount of charge payable under this Act or postpones the payment of any charge for more than three months after the date on which it would otherwise be payable.

12. (1) All moneys received by the Commissioner by way of charges under this Act shall be paid by him to the credit of an account which shall be opened and kept at the Treasury by the Treasurer and shall be called the "Roads Maintenance Trust Fund".

Payments to Roads Maintenance Trust Fund.

(2) Money standing to the credit of that Fund shall be applied only on the maintenance of roads in the State including grants to the Councils of Municipalities constituted under the Local Government Act, 1960.

(3) The provisions of this section have effect notwithstanding anything contained in the Main Roads Act, 1930-1961.

Cost of
Administra-
tion of this
Act and
amendment
of Act No.
42 of 1933
and Act No.
5 of 1930.

13. (1) Subject to subsection (2) of this section, the cost of the administration of this Act shall be met from the fund called the "Transport Co-ordination Fund" kept under section sixty of the State Transport Co-ordination Act, 1933-1961.

(2) If at any time during any financial year the Treasurer is of opinion after consulting with the Commissioner, that the moneys standing to the credit of the Transport Co-ordination Fund are not sufficient to meet the whole of the cost of the administration of this Act, the Treasurer shall in writing, from time to time, direct that so much of the moneys as are paid to the credit of "The Main Roads Trust Account" pursuant to section fourteen A of the Traffic Act, 1919, as is sufficient for the time being to make up the deficiency shall be paid, notwithstanding the provisions of that section, into the Transport Co-ordination Fund.

(3) Effect shall be given to any direction of the Treasurer given under subsection (2) of this section.

(4) (a) For the purpose of giving effect to this section, paragraph (a) of subsection (2) of section sixty of the State Transport Co-ordination Act, 1933-1961, shall be repealed and re-enacted as follows—

(a) the cost of administration of this Act and the Road Maintenance (Contribution) Act, 1965; .

(b) The State Transport Co-ordination Act, 1933-1961, as amended by this Act may be cited as the State Transport Co-ordination Act, 1933-1965.

(5) (a) The provisions of this section have effect notwithstanding anything contained in the Main Roads Act, 1930-1961.

(b) For the purpose of giving effect to this section, subparagraph (ii) of paragraph (a) of subsection (1) of section thirty-two of that Act is amended by adding after the word, "Commissioner" being the last word in that subparagraph, the passage, "and any amount specified in any direction made from time to time by the Treasurer pursuant to section thirteen of the Roads Maintenance (Contribution) Act, 1965".

(c) The Main Roads Act, 1930-1961 as amended by this Act may be cited as the Main Roads Act, 1930-1965.

14. (1) Any person who—

Offences.

- (a) fails to keep any record as required by this Act or to retain a copy of that record or to make a copy thereof available for inspection as so required;
- (b) omits any item from any record required to be kept by him by this Act or from any copy thereof;
- (c) makes any false or misleading statement in any record required to be kept by him by this Act or in any copy thereof;
- (d) fails to deliver to the Commissioner as required by this Act any record so required to be kept by him; or
- (e) fails to pay to the Commissioner as required by this Act any charges payable in respect of any commercial goods vehicle,

is guilty of an offence against this Act.

(2) Any person who commits an offence against this Act is liable—

- (a) to a fine of one hundred pounds;
- (b) for a second offence to a fine of two hundred pounds; and
- (c) for a third or subsequent offence to a fine of three hundred pounds.

Liability of
Director, etc.,
of a body
corporate
that is
owner of a
commercial
goods
vehicle.
Vide Act No.
82 of 1961,
s. 5.

15. (1) In this section "director" includes any person occupying the position of director of a corporation by whatever name called and includes a person in accordance with whose directions or instructions the directors of a corporation are accustomed to act.

(2) Where a corporation is the owner or one of the owners of a commercial goods vehicle, any reference in this Act to the owner of such a commercial goods vehicle shall be construed as including a reference to every person who is a director of that corporation.

(3) Where any person has, by reason only of being director of a corporation, been required under this Act to discharge any obligation to pay any sum of money that the corporation was obliged to pay, whether pursuant to a judgment or order of a court or not, that person—

- (a) is entitled to recover from the corporation any amount so paid as a civil debt due to the person by the corporation; and
- (b) when any amount so paid cannot be recovered from the corporation, is entitled to recover contribution from any other director of the corporation who would have been liable in respect of the amount so paid except that the amount may be recovered by a director from any other director shall not exceed that proportion of the total amount that he has paid as one bears to the total number of directors of that corporation.

(4) Where pursuant to the provisions of subsection (2) of this section more than one person is liable as owner of a commercial goods vehicle, any obligation imposed upon the owner by or under this section shall be deemed to have been discharged, if the obligation is performed by any one of those persons.

- (5) A certificate purporting to be signed by—
- (a) the Registrar of Companies appointed under the Companies Act, 1961; or
 - (b) the officer holding the corresponding office under any corresponding Act or Ordinance for the time being in force in any State or Territory of the Commonwealth,

stating that it appears from a return or returns lodged with him pursuant to the relevant law relating to companies that on any date, or during any period, any person specified therein was a director of a corporation specified in the certificate, is *prima facie* evidence of the matters specified in the certificate.

(6) For the purposes of subsection (5) of this section, a person who appears from any return lodged as provided in that subsection, to be a director of a corporation, shall be deemed to continue as such until by a subsequent return so lodged it appears that he has ceased to be such a director.

(7) Nothing in this section affects the liability of a corporation that is the owner or one of the owners of a commercial goods vehicle to pay any amount to the Commissioner in accordance with any of the provisions of this Act.

16. (1) All complaints for offences against this Act shall be heard by a Court of Petty Sessions constituted by a stipendiary magistrate sitting alone.

Hearing of
and time for
making
complaints.

(2) A complaint for an offence against this Act may be made at any time within twelve months from the time when the matter of complaint arose.

17. (1) Where any person is convicted of an offence against this Act the Court convicting him of that offence may, in addition to imposing a

Recovery of
contributions.

penalty on the person for the offence, order him to pay to the Clerk of the Court, within a time to be specified in the order, any amount that from the evidence given during the hearing of the complaint for the offence the Court is satisfied should have been, but has not been, paid to the Commissioner by way of charge under this Act.

(2) Any amount paid to the Clerk of the Court under this section shall be paid by him to the Commissioner, who shall pay the amount to the credit of the Roads Maintenance Trust Fund.

(3) Any amount that is payable under this Act by way of charge is while it remains unpaid a civil debt due to the Commissioner and may be sued for by him in any court of competent jurisdiction or recovered in a summary way under the Justices Act, 1902 upon complaint by the Commissioner or authorised person.

Evidentiary provisions.

18. (1) In any prosecution or proceedings for an offence against this Act or in any proceedings for the recovery of any moneys payable under this Act in respect of any commercial goods vehicle—

(a) a certificate purporting to be signed by the officer for the time being in charge of the records kept under this Act stating that—

(i) no record as prescribed by this Act has been received by the Commissioner in respect of the commercial goods vehicle, in respect of the period stated therein;

(ii) the records described therein are the only records as prescribed by this Act received by the Commissioner in respect of the commercial goods vehicle in respect of the period stated therein;

(iii) the amount of the payment stated therein to have been made is the total amount of payment of charges,

if any, under this Act received by the Commissioner in respect of the commercial goods vehicle in respect of the period stated therein,

is *prima facie* evidence of the matters so stated;

- (b) any record in respect of the commercial goods vehicle received by the Commissioner shall, unless the contrary is proved, be deemed to be a record kept by the owner of the commercial goods vehicle and delivered to the Commissioner pursuant to this Act;
- (c) a certificate or document purporting to be signed by the officer for the time being in charge of the records kept under the Traffic Act, 1919, or under any corresponding Act, Ordinance or legislation of any State or Territory of the Commonwealth stating the load capacity of the motor vehicle or trailer or the maximum permissible gross weight of the motor vehicle or trailer together with the load that may be carried thereon or the aggregate weight of the motor vehicle or trailer, or the tare weight of the motor vehicle or trailer, is *prima facie* evidence of the matters so stated;
- (d) any statement of weight painted on a motor vehicle or trailer and purporting to be the load or carrying capacity thereof or (where statements of weight are painted on a motor vehicle or trailer and purport to be respectively the tare weight of the motor vehicle or trailer and either the maximum permissible gross weight of that motor vehicle or trailer together with the load that may be carried thereon or the aggregate weight of the motor vehicle or trailer) the difference between that tare weight and either that maximum permissible gross weight of the motor vehicle or trailer together with the load that may be carried thereon or that aggregate weight

of the motor vehicle or trailer, is *prima facie* evidence of the load capacity of the motor vehicle or trailer, as the case may be;

(e) a certificate or document purporting to be signed by the officer for the time being in charge of the records kept under the Traffic Act, 1919, or under any corresponding Act, Ordinance or legislation of any State or Territory of the Commonwealth stating that on any date or during any period—

(i) the commercial goods vehicle was registered in the name of any person specified therein; or

(ii) the vehicle was not registered in this State or the State or Territory of the Commonwealth in respect of which the certificate or document is issued,

is *prima facie* evidence of the matters stated therein.

(2) In any prosecution or proceedings for an offence against this Act or in any proceedings for the recovery of any moneys payable under this Act, the allegation in the information, complaint or claim to the effect that a motor vehicle was at all material times a commercial goods vehicle shall be deemed proved in the absence of proof to the contrary.

Section 8.

FIRST SCHEDULE.

1. The rate of the charge to be paid in respect of every commercial goods vehicle shall be one-third of a penny per ton of the sum of—

(a) the tare weight of the commercial goods vehicle; and

(b) two-fifths of the load capacity of the commercial goods vehicle,

per mile of road along which the commercial goods vehicle travels in this State.

2. In assessing such charge fractions of miles and fractions of hundredweights shall be disregarded, but hundredweights (in relation to both tare weight and load capacity) shall be taken into account as decimals of tons.

SECOND SCHEDULE.

Road Maintenance (Contribution) Act, 1965.

Department of Transport.

Certified Record of Journeys.

Owner

Address

.....

Description of Commercial Goods Vehicle.

Make of Truck..... Type Regd. No.....

Tare

Weight cwt.

Load

Capacity..... cwt.

Tare

Trailer: Type Regd. No..... Weight.....cwt.

Load

Capacitycwt.

Statement of Journeys.

During month of.....19.....

Date of Journey	Time of Starting	Was Trailer Used ? (Yes or No)	Commercial Goods Vehicle Travelled			Time of Finishing	Road Miles Travelled in W.A.
			From	Via	To		

Details of Charges Payable.

Commercial Goods Vehicle	Rate per mile*		Miles Travelled = Amount Payable	
Without Trailer		Multiplied by		
With Trailer		Multiplied by		
			Total	

* Calculated in accordance with the First Schedule to the Act.

