

TRAFFIC (No. 2).

No. 62 of 1965.

AN ACT to amend the Traffic Act, 1919-1964.

[Assented to 19th 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. (1) This Act may be cited as the *Traffic Act Amendment Act (No. 2), 1965.*

Short title and citation.

(2) In this Act, the Traffic Act, 1919-1964, is referred to as the principal Act.

Reprinted, as approved for reprint 15th June, 1964, and amended by Acts Nos. 51, 67 and 80 of 1964.

(3) The principal Act as amended by this Act may be cited as the Traffic Act, 1919-1965.

S. 4 amended.

2. Section four of the principal Act is amended—

(a) by inserting, immediately after the section number, "4.", the subsection designation, "(1)";

- (b) by adding, immediately after the word, "vehicle", being the last word in the interpretation, "driver", the words, "or animal";
- (c) by deleting the interpretation, "motor omnibus";
- (d) by substituting for the interpretation, "motor vehicle", the following interpretation—

"motor vehicle" means a self-propelled vehicle that is not operated on rails; and the expression includes a trailer, semi-trailer or caravan while attached to a motor vehicle; ;
- (e) by substituting for the interpretation, "omnibus", the following interpretation—

"omnibus" means a passenger vehicle equipped to carry more than eight adult persons and used to carry passengers for separate fares; ;
- (f) by deleting the words, "or used as aforesaid", in lines one and two of paragraph (a) of the proviso to the interpretation, "owner";
- (g) by deleting the interpretation, "parking";
- (h) by inserting, immediately after the word, "reservation", in line three of the interpretation, "road", the passage, ", median strip";
- (i) by substituting for the interpretation, "vehicle", the following interpretation—

"vehicle" means any conveyance, other than a train, designed to be propelled or drawn by any means and, where the context permits, includes an animal driven or ridden; ;

and

(j) by adding the following subsection—

(2) A reference in this Act to the metropolitan area shall be read and construed as a reference to the area known as “the metropolitan traffic area”, to be prescribed by regulation. .

3. Section five of the principal Act is amended ^{S. 5} _{amended.} by substituting for paragraph (a) of subsection (1) the following paragraph—

(a) Subject to the succeeding provisions of this subsection, a vehicle license is required for every vehicle described in the Second Schedule of this Act, but a vehicle license is not required for—

(i) an agricultural implement being towed on a road by a vehicle; or

(ii) an unlicensed vehicle being towed on a road by a tow truck, as described in that Schedule,

if the vehicle or tow truck (as the case may be) is the subject of the requisite vehicle license. .

4. Section nineteen of the principal Act is ^{S. 19} _{amended.} amended—

(a) by adding, immediately after the word, “purpose”, being the last word in subparagraph (ii) of the proviso to paragraph (a), the passage, “or unless, in the case of a vehicle being towed, it is towed by a duly licensed tow truck”; and

(b) by substituting for the passage, commencing with the word, “vehicle”, in line eleven of paragraph (b), and ending with the word, “and”, in line thirteen of that paragraph, the passage—

“vehicle, while—

(i) on trial after completion or repair;

- (ii) on delivery to or from an agent;
 - (iii) on trial by an intending purchaser;
 - (iv) on delivery to a purchaser;
 - (v) being driven to a local authority, for the purpose of being licensed, for the first time; or
 - (vi) while being driven to or from an Agricultural Show or a Motor Show, for the purpose of being, or after being, exhibited there;
- and” .

S. 23A
repealed and
re-enacted.

5. Section twenty-three A of the principal Act is repealed and re-enacted with amendments, as follows—

Regulations
classifying
vehicles,
drivers, etc.

23A. The Governor may make regulations—

- (a) classifying motor vehicles for the purposes of this Division; and
- (b) prescribing the minimum ages, subject to section twenty-three of this Act, of persons to be issued with a driver's license appropriate to any class of motor vehicle. .

S. 23B
amended.

6. Section twenty-three B of the principal Act is amended by substituting for the passage, “inconvenience.”, being the concluding passage of paragraph (b) of subsection (1), the passage, “inconvenience; or

- (c) should not, in the opinion of the Commissioner of Police, drive a motor vehicle, except subject to conditions or limitations.”.

7. Section twenty-four of the principal Act is amended,— S. 24
amended.

(a) as to subsection (1),—

(i) by inserting, immediately after the word, “number”, in line one of paragraph (e), the words, “or nature”; and

(ii) by substituting for the passage, “license.”, being the concluding passage of paragraph (e), the passage, “license; or

(f) is no longer capable of controlling the class of motor vehicle for which he holds the appropriate driver’s license.”;

(b) as to subsection (4), by inserting, immediately after the word, “order”, in the penultimate line, the passage, “, including an order for the issue of a driver’s license, subject to conditions and limitations,”;

(c) as to subsection (5), by substituting for the word, “conforms”, in line seven, the words, “is able to comply”; and

(d) by adding, after subsection (5), the following subsection—

(6) Where, pursuant to an order made under subsection (4) of this section, a license is issued subject to limitations or conditions, the provisions of subsection (2) of section twenty-three B of this Act apply, as though the license were issued pursuant to that section. .

8. Section twenty-five of the principal Act is amended— S. 25
amended.

(a) by substituting for the final paragraph of subsection (2) the following—

Penalty: Not less than fifty pounds or more than one hundred pounds or, in the alternative, imprisonment for a period not exceeding twelve months. ;

and

- (b) by deleting the passage, “whether inflicting any other penalty or not,” in lines four and five of subsection (3).

S. 25A
amended.

9. Section twenty-five A of the principal Act is amended, as to subsection (1),—

- (a) by substituting for the word, “conforming”, in line two, the word, “complying”; and
- (b) by substituting for the word, “or”, in line three, the word, “and”.

S. 25B
amended.

10. Section twenty-five B of the principal Act is amended—

- (a) as to subsection (1), by inserting, immediately after the word, “thirty-one”, in line three of subparagraph (iii) of paragraph (a), the passage, “, thirty-one A, thirty-one B”;
- (b) as to subsection (2), by substituting for the words, “whichever is the longer”, being the concluding words of the subsection, the passage, “or, where he is convicted, on more than one occasion, of an offence such as is mentioned in subsection (1) of this section, from the date of his latest conviction”;
and
- (c) by adding, after subsection (3), the following subsection—

(4) Where a person is qualified to obtain a driver’s license issued on probation only, and is, while not the holder of such a license, convicted of an offence such as is mentioned in subsection (1) of this section, he is deemed, for the purposes of subsection (2) of this section and of that subsection only, to have been the holder of a driver’s license that has been cancelled by operation of this section. .

11. Section twenty-five C of the principal Act is amended by adding, after subsection (2), the following subsection—

S. 25C
amended.

(3) Notwithstanding the foregoing provisions of this section, the Minister may authorise the issue and renewal, free of charge, of a driver's license appropriate to, and limited to the driving of, a motorised wheelchair. .

12. Section twenty-seven of the principal Act is amended by substituting for the final paragraph of subsection (1) the following—

S. 27
amended.

Penalty: For a first offence, twenty-five pounds and, for any subsequent offence, fifty pounds. .

13. Section thirty of the principal Act is amended by substituting for the passage, "Twenty-five pounds.", in the last line, the passage, "For a first offence, twenty-five pounds and, for any subsequent offence, fifty pounds."

S. 30
amended.

14. Section thirty A of the principal Act is amended by substituting for the final paragraph the following—

S. 30A
amended.

Penalty: For a first offence, fifty pounds and, for any subsequent offence, one hundred pounds or imprisonment for three months; and, in any event, the court convicting a person of a subsequent offence shall order that any driver's license held by him be suspended, and that he be disqualified from obtaining a driver's license, for a period of not less than twelve months. .

15. Section thirty-one of the principal Act is repealed and the following sections are substituted—

S. 31
repealed and
sections sub-
stituted.

31. (1) Every person who wilfully drives a vehicle at a speed, or in a manner, that is inherently dangerous or that is, in the circumstances, dangerous to the public commits an offence known as reckless driving.

Offence of
reckless
driving.

(2) A person charged with an offence against this section may, instead of being convicted of that offence, be convicted of an offence against section thirty-one A or thirty-one B of this Act.

(3) A person convicted of an offence against this section is liable,—

- (a) for a first offence, to a fine not exceeding one hundred pounds or to imprisonment for a period not exceeding three months; and, in any event, the court convicting that person shall order that any driver's license held by him be suspended, and that he be disqualified from obtaining a driver's license, for a period of not less than six months;
- (b) for a second offence, to a fine not exceeding two hundred pounds or to imprisonment for a period not exceeding six months or to both that fine and imprisonment; and, in any event the court convicting that person shall order that any driver's license held by him be suspended, and that he be disqualified from obtaining a driver's license, for a period of not less than twelve months; and
- (c) for a third or subsequent offence, to imprisonment for a period not exceeding twelve months; and, in any event, the court convicting that person shall order that any driver's license held by him be cancelled and that he be permanently disqualified from obtaining a driver's license.

Offence of
dangerous
driving.

31A. (1) Every person who drives a vehicle at a speed, or in a manner, that is, in the circumstances, dangerous to the public commits an offence known as dangerous driving.

(2) A person charged with an offence against this section may, instead of being convicted of that offence, be convicted of an offence against section thirty-one B of this Act.

(3) A person convicted of an offence against this section is liable,—

- (a) for a first offence, to a penalty not exceeding fifty pounds; and
- (b) for any subsequent offence, to a fine not exceeding one hundred pounds or to imprisonment not exceeding three months; and, in any event, the court convicting that person shall order that any driver's license held by him be suspended, and that he be disqualified from obtaining a driver's license, for a period of not less than twelve months.

31B. (1) Every person who drives a vehicle without due care and attention commits an offence known as careless driving. Offence of careless driving.

(2) A person convicted of an offence against this section is liable,—

- (a) for a first offence, to a penalty not exceeding twenty-five pounds; and
- (b) for any subsequent offence, to a penalty not exceeding fifty pounds; and, in any event, the court convicting that person shall order that any driver's license held by him be suspended, and that he be disqualified from obtaining a driver's license, for a period of not less than three months.

31C. (1) The reference, in sections thirty-one, thirty-one A and thirty-one B of this Act,— Application of ss. 31, 31A and 31B.

- (a) to the driving of a vehicle is a reference to the driving of a vehicle on a road or in any place commonly used by the public or to which the public is permitted to have access; and
- (b) to a first, second, third or subsequent offence is a reference to such an offence committed after the coming into operation of the Traffic Act Amendment Act (No. 2), 1965.

(2) The provisions of paragraph (b) of subsection (1) of this section do not affect the operation of section thirty-three of this Act.

(3) Where, under the provisions of section thirty-one or thirty-one A of this Act, a person is imprisoned, the period of the suspension of any driver's license held by him and of his disqualification from obtaining a driver's license, pursuant to an order made under those sections, shall be computed from the date of his release from imprisonment, whether on parole or otherwise. .

S. 32
amended.

16. Section thirty-two of the principal Act is amended—

(a) by substituting for the word, "three", in the penultimate line of subsection (1), the word, "six"; and

(b) as to paragraph (a) of subsection (3)—

(i) by substituting for the words, "not exceeding fifty pounds or", in lines one and two of subparagraph (i), the passage, "of not less than one hundred pounds or more than one hundred and fifty pounds or, in the alternative,";

(ii) by substituting for the word, "three", in line six of subparagraph (i), the word, "six";

(iii) by substituting for the words, "not exceeding one hundred pounds or", in lines one and two of subparagraph (ii), the passage, "of not less than two hundred pounds or more than two hundred and fifty pounds or, in the alternative,";

(iv) by substituting for the words, "twelve months", in line six of subparagraph (ii), the words, "two years"; and

(v) by substituting for subparagraph (iii), ending with the passage, "Act.", the following subparagraph—

(iii) For a third offence a fine of not less than three hundred pounds or more than three hundred and fifty pounds or, in the alternative, to imprisonment for twelve months and the Court before whom the person is convicted shall in any case cancel any license to drive held by the person and shall order that he be permanently disqualified from obtaining a license under this division of this Act. .

17. Section thirty-three of the principal Act is amended by inserting immediately after the word, "time", in line three of paragraph (a) and, again, in line three of paragraph (b), of subsection (1), the passage, ", and from such date," in each case.

S. 33
amended.

18. Section thirty-four of the principal Act is amended by substituting for the word, "ten", in line two of the final paragraph of subsection (1), and for the word, "twenty-five", in the last line of that paragraph, the word, "twenty-five", and the word, "fifty", respectively.

S. 34
amended.

19. The principal Act is amended by repealing Divisions 3 and 3A of Part IV.

Divisions
3 and 3A
of Part IV
repealed.

20. Sections forty-seven and forty-eight of the principal Act are repealed and the following section is substituted—

Ss. 47 and 48
repealed and
section sub-
stituted.

47. (1) The Governor may make regulations for any purpose for which regulations are contemplated or required by this Act and may make all such other regulations as may, in his

Regulations.

opinion, be necessary or convenient for giving full effect to the provisions of, and for the due administration of, this Act, for the licensing, equipment and use of vehicles and for the regulation of traffic, generally.

(2) Without limiting the generality of subsection (1) of this section, the Governor may make regulations—

- (a) empowering an authority therein named to—
 - (i) authorise and regulate processes;
 - (ii) restrict or prohibit the use of such roads, for such periods, as it may specify;
 - (iii) erect traffic signs and traffic control signals;
 - (iv) seize and remove obstructing or abandoned vehicles and animals;
 - (v) authorise the use of vehicles of which the use should be restricted or would otherwise be unlawful, subject to the payment of any prescribed fee and subject to such conditions and limitations as the authority may impose;
- (b) regulating the conduct and behaviour of drivers and passengers of vehicles or of any class of vehicle;
- (c) prescribing fares for passenger vehicles and regulating the engagement of the drivers of those vehicles in other occupations;
- (d) prescribing the manner of determining the weight of vehicles and their loads;
- (e) enabling vehicles to be driven and tested;
- (f) requiring any matter affected by them to be in accordance with a specified standard or requirement;

- (g) requiring any form used for the purposes of this Act to be such as may from time to time be determined by the Minister and published in the *Government Gazette*;
- (h) prescribing such fees as are not prescribed by this Act;
- (i) imposing penalties not exceeding fifty pounds for a first offence, and not exceeding one hundred pounds for any subsequent offence, against any regulation made under this section. .

21. Section sixty of the principal Act is amended— S. 60
amended.

- (a) by inserting, immediately after the word, "a", in line four of subsection (1), the word, "motor";
- (b) by adding, after subsection (1), the following subsection—

(1a) Every person who, not being a member of the Police Force or an inspector, acting in the execution of his duty, drives or uses a vehicle that is not a motor vehicle, without previously obtaining the consent of the owner or person lawfully in charge of the vehicle, commits an offence.

Penalty: For a first offence, twenty-five pounds and, for any subsequent offence, fifty pounds. ;

and

- (c) by repealing subsection (3) and substituting the following subsections—

(3) Where, before the coming into operation of the Traffic Act Amendment Act (No. 2), 1965, a person was, under the provisions of this section as they then existed, disqualified from holding or obtaining a license to drive a motor

vehicle or was so disqualified and his license to drive a motor vehicle was suspended, by reason of his conviction of an offence or offences against subsection (1) of this section committed before he attained the age of eighteen years, the disqualification or the disqualification and suspension suffered in respect of that offence or those offences is, by force of this subsection, removed and discontinued.

(4) For the purposes of any provision of this section that existed before the coming into operation of the Traffic Act Amendment Act (No. 2), 1965, an offence against subsection (1) of this section that was first committed by a person after attaining the age of eighteen years is deemed to be the first such offence committed by that person. .

S. 61
amended.

22. Section sixty-one of the principal Act is amended by substituting for the final paragraph the following—

Penalty: For a first offence, fifty pounds or imprisonment for three months and, for any subsequent offence, one hundred pounds or imprisonment for six months. .

S. 68
amended.

23. Section sixty-eight of the principal Act is amended by substituting for the final paragraph the following—

Penalty: For a first offence, fifty pounds and, for any subsequent offence, one hundred pounds. .

S. 74
repealed.

24. Section seventy-four of the principal Act is repealed.

25. Section seventy-four A of the principal Act is amended— S. 74A amended.

- (a) by substituting for the section number, "74A.", the section number, "75.";
- (b) by substituting for the words, "officers of the Public Service", in line four of subsection (1), the word, "persons"; and
- (c) by adding, after subsection (3), the following subsection—

(4) Notwithstanding the provisions of any other Act, penalties prescribed under this section may be inflicted on, and collected from, persons under the age of eighteen years. .

26. The principal Act is amended by adding, after the final section, the following section— S. 76 added.

76. Where, by this Act, a minimum penalty is provided, that penalty is, in each case, irreducible in mitigation, notwithstanding the provisions of any other Act. . Minimum penalties.

27. The Second Schedule to the principal Act is amended— Second Schedule amended.

- (a) by inserting, immediately after the word, "includes", in line nine of the description of Motor Wagon, the words, "a tow truck and"; and
- (b) by adding at the end thereof, under the appropriate columns, the following item and description—

Tow truck	A motor wagon designed, and ordinarily used, for the purpose of towing other vehicles. .
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Third
Schedule
amended.

28. The Third Schedule to the principal Act is amended by inserting, immediately after the word, "wagon", in line one of item 2, under the heading, "LICENSE FEES FOR MOTOR VEHICLES", the passage, "(including a tow truck)".
