

TRAFFIC (No. 3).

12° Elizabeth II., No. LXXIV.

No. 74 of 1963.

AN ACT to amend the Traffic Act, 1919-1961 and for incidental and other purposes.

[Assented to 19th December, 1963.]

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. 3), 1963.*

Short title and citation.

(2) In this Act the Traffic Act, 1919-1961, is referred to as the principal Act.

Vol. 12 of the Reprinted Acts. Approved for reprint 23rd April, 1958, and amended by Acts Nos. 57 and 59 of 1958, Nos. 7, 12, 13, 52 and 67 of 1959, No. 48 of 1960 and No. 65 of 1961.

(3) The principal Act as amended by this Act may be cited as the Traffic Act, 1919-1963.

Commence-
ment.

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

S. 4
amended.

3. Section four of the principal Act is amended—

(a) by adding, immediately before the interpretation, “Government road”, the following interpretation:

“driver’s license” means a license issued under the provisions of section twenty-three or thirty-three A of this Act authorising a person to drive a motor vehicle of the class or classes therein specified, on a road; ;

(b) by substituting for the words, “license to drive a motor vehicle”, in lines three and four of the interpretation, “license”, the words, “driver’s license”; and

(c) by adding, immediately after the interpretation, “parking”, the following interpretation—

“passenger vehicle” means a motor vehicle licensed to stand or ply for the carriage of passengers for reward, and includes an omnibus; .

Ss. 23, 23A,
24, 24A and 25
repealed and
other sections
enacted.

4. Sections twenty-three, twenty-three A, twenty-four, twenty-four A and twenty-five of the principal Act are repealed and the following sections are enacted in their stead—

Licensing of
drivers.

23. (1) An application for a driver’s license shall be lodged with the Commissioner of Police in the prescribed form and shall specify the class of motor vehicle for which the appropriate license is sought.

(2) Subject to the succeeding provisions of this Division, the Commissioner of Police shall, on the application of any person, on payment of the fees provided by this Act and on being satisfied that the applicant—

(a) has attained the minimum age of seventeen years unless in the opinion of the Commissioner of Police, the

denial of a license to a person of a lesser age would occasion undue hardship in which case he is empowered to issue a license.

- (b) has, if under the age of eighteen years, obtained the consent in writing of a parent or guardian to hold the class of license applied for, or, where the applicant has no parent or guardian in the State, of his employer, to hold the class of license applied for if considered essential for the purposes of his employment;
- (c) has demonstrated his ability to control the class of motor vehicle for which the appropriate driver's license is sought; and
- (d) has a reasonable knowledge of the traffic laws of the State,

issue to the applicant a driver's license appropriate to the class of vehicle for which it is sought.

(3) The Commissioner of Police may accept a certificate of the "Road Safety Instructional Centre" of the body known as the National Safety Council of Western Australia, in satisfaction of the requirements imposed by paragraphs (c) and (d) of subsection (2) of this section.

(4) An applicant for a driver's license appropriate to the passenger vehicle class provided by section twenty-three A of this Act may, in addition to satisfying the requirements of subsection (2) of this section, be required to—

- (a) submit himself to a medical practitioner approved by the Commissioner of Police, for examination as to his physical fitness to drive a passenger vehicle; and
- (b) supply proof of his good character.

Classification
of motor
vehicles.

23A. For the purposes of this Division, motor vehicles may be classified by the regulations, according to their kind, weight, use or characteristics; and, in any event, there shall be a passenger vehicle class.

Conditional
drivers'
licenses.

23B. (1) Where an applicant for a driver's license—

- (a) is, in the opinion of the Commissioner of Police, incapable, by reason of any physical disability, of properly driving, or controlling, a motor vehicle but the incapacity can be overcome by the wearing of suitable aids or the fitting to the motor vehicle of suitable appliances; or
- (b) is unable to comply with any of the requirements, not being the requirement of paragraph (c), of subsection (2) of section twenty-three of this Act, and the denial of a driver's license would, in the opinion of the Commissioner of Police, occasion undue hardship or inconvenience,

the Commissioner of Police may issue a driver's license, subject to such conditions as he thinks fit to impose; and those conditions shall be indorsed on the driver's license.

(2) Every person who, being the holder of a driver's license indorsed with conditions pursuant to subsection (1) of this section, fails to comply with those conditions, or any of them, commits an offence.

Penalty: For a first offence, twenty pounds; and, for any subsequent offence, fifty pounds or imprisonment for three months.

Drivers'
licenses
to be issued
on probation.

23C. (1) Every driver's license that is issued to a person who—

- (a) has not previously held a driver's license under this Act; or

- (b) has not, during a period of three years or more, been authorised to drive a motor vehicle, under the law in force in any other State or in a Territory or other country; or
- (c) being, or having been, the holder of a driver's license issued on probation, has not been the holder of a valid driver's license so issued for a period of, or for periods amounting in the aggregate to, three years,

shall be issued on probation, only, and the license shall be indorsed to that effect, in the prescribed manner.

(2) For the purposes of this section, a person is not the holder of a driver's license for any period during which the license is cancelled or during any period of its invalidity.

23D. (1) Subject to any other provisions of this Act, a driver's license is valid for a period of twelve months from the date of issue or renewal and may be renewed for a further period of twelve months, within one month prior to, or within twelve months after, its expiry.

Renewal of
drivers'
licenses.

(2) Where a driver's license is not renewed prior to its expiry but within a period of twelve months thereafter, the renewal has the effect of validating the license for the balance of that period of twelve months, only; but, where the holder has, within fifteen days after the expiry, given to the Commissioner of Police notice of his intention not to renew the license and thereafter renews it within twelve months after its expiry, the renewal has effect on and from the day on which it is effected.

(3) Where the renewal of a driver's license is not effected within twelve months after its expiry, the Commissioner of Police may require an applicant for renewal to satisfy him of the requirements, or any of the requirements, provided by subsection (2) of section twenty-three of this Act.

Power of
Commissioner of
Police
to refuse
to issue or
to suspend
drivers'
licenses.

24. (1) The Commissioner of Police may refuse to issue a driver's license, or may cancel, suspend or refuse to renew a driver's license, where he has reason to believe that the applicant for, or the holder of, a license—

- (a) is not of good character;
- (b) is addicted to alcohol or drugs, to such extent as to render him a danger to the public, when in control of a motor vehicle on a road;
- (c) suffers from a mental disorder, or from a physical disability that is likely to impair his ability to control a motor vehicle;
- (d) is debarred from driving a motor vehicle under the law in force in any other State or in a Territory or other country; or
- (e) should not, by reason of the number of his convictions for offences (not being minor offences) under this Act or the regulations, be the holder of a driver's license.

(2) Without affecting any penalty to which the holder may be liable, the Commissioner of Police may cancel or suspend the operation of, and refuse to renew, a driver's license, where—

- (a) the holder of the license obtained its issue by fraud or misrepresentation or in a manner contrary to the provisions of this Act; or
- (b) the license being indorsed, pursuant to the provisions of subsection (1) of section twenty-three B of this Act, the holder of the license has failed to comply with any condition to which its issue was subject.

(3) Where the Commissioner of Police decides to exercise the power conferred by subsection (1) or by subsection (2) of this section, he shall give to the person thereby

affected notice in writing of that decision, setting out his reasons therefor; and a person aggrieved by the decision may, within thirty days after the receipt of the notice, apply, by way of complaint, to a Court of Petty Sessions for a review of the decision.

(4) The court hearing an application made under subsection (3) of this section shall comprise a stipendiary magistrate and may, after hearing the parties, grant or dismiss the application; and, in granting the application, shall review the decision of the Commissioner of Police and make such order as it thinks fit.

(5) The Commissioner of Police shall not renew a driver's license, in the case of a license holder aged seventy-five years or more, but less than eighty years, unless the license holder has, within the past three years, satisfied him, and, in the case of a license holder aged eighty years or more, until the license holder again satisfies him, that he conforms with the requirements of paragraph (c) of subsection (2) of section twenty-three of this Act.

25. (1) Subject to section twenty-five A of this Act, every person who—

- (a) drives a motor vehicle of a class for which he is not the holder of the appropriate, valid driver's license; or
- (b) employs, or permits, some other person to drive a motor vehicle of a class for which that other person is not the holder of the appropriate, valid driver's license,

Offence of driving motor vehicles without appropriate driver's license.

on a road, commits an offence.

Penalty: For a first offence, twenty pounds; and for any subsequent offence fifty pounds or imprisonment for three months.

(2) Where a person,—

- (a) having applied for a driver's license and having been refused the issue of the license under the provisions of section twenty-four of this Act; or
- (b) having held a driver's license that is cancelled or of which the operation is suspended; or
- (c) having been disqualified from holding or obtaining a driver's license,

commits an offence against subsection (1) of this section, he may be arrested without warrant, by a member of the Police Force or a traffic inspector, and is liable, instead of to the penalties provided by that subsection, to those provided by this subsection.

Penalty: One hundred pounds or imprisonment for twelve months.

(3) The court convicting a person of an offence against this section shall, if the offence is committed in any of the circumstances mentioned in subsection (2) of this section, whether inflicting any other penalty or not, disqualify that person from holding or obtaining a driver's license, appropriate to any class of vehicle whatever, for a period of not less than six months or more than two years, as the court thinks fit; and the period of disqualification so imposed shall be cumulative upon any other period of disqualification to which that person may then be subject or upon any period for which the operation of his driver's license may currently be suspended.

Learner's permits.

25A. (1) The Commissioner of Police may, on the application of a person conforming with the requirements of paragraph (a) or (b) of subsection (2) of section twenty-three of this Act and on payment of a fee of two shillings and sixpence and subject to such conditions as he may see fit to impose, issue to the applicant, for the purpose of learning to drive the vehicle, a

permit to drive a motor vehicle of the class therein specified, if the applicant has nominated a person approved by the Commissioner of Police, being a person who has held a driver's license (other than a driver's license issued on probation) appropriate to the class of vehicle specified in the permit, for a period of one year or more, or who is the holder of a license or permit, issued under the Motor Vehicle Drivers' Instructors Act, 1963, in respect of the class of vehicle concerned, to act as the applicant's instructor.

(2) Every permit issued under this section shall be indorsed with the conditions (if any) to which its issue is subject and with the name of the person nominated and approved to act as instructor; and the holder of a permit who drives a motor vehicle on a road other than in conformity with those conditions, or without being accompanied, in the manner provided by subsection (3) of this section, by the person nominated and approved to act as instructor, commits an offence.

Penalty: Ten pounds.

(3) The person nominated and approved as the instructor of a permit holder, under this section, shall, while the permit is being exercised, occupy a seat in the motor vehicle beside the permit holder or, in the case of a permit to drive a motor cycle, shall ride in a side car attached, or on a pillion seat fitted, to the motor cycle or on an accompanying motor cycle.

(4) A permit issued under this section is valid for a period of sixty days and may, on payment of a further fee of two shillings and sixpence, be, from time to time, renewed for a like period; but the Commissioner of Police may, at any time, by notice in writing to the holder, cancel the permit.

Cancellation
of drivers'
licenses
issued on
probation.

25B. (1) Where a court, pursuant to the provisions of this or any other Act, suspends the operation of a driver's license issued on probation; or where the holder of a driver's license issued on probation—

(a) is convicted of an offence under—

(i) section two hundred and seventy-seven, or two hundred and eighty, of The Criminal Code and the offence arose out of the driving by him of a motor vehicle;

(ii) section two hundred and ninety-one A, or three hundred and ninety A, of The Criminal Code;

(iii) subsection (1) of section twenty-six, section twenty-nine, thirty, thirty A, thirty-one, sixty, sixty-one, or sixty-eight, of this Act;

or

(iv) any regulation that may be prescribed for the purposes of this section;

or

(b) is disqualified by a court pursuant to the provisions of this or any other Act, from holding or obtaining a driver's license,

then, that license is, by operation of this section, cancelled.

(2) A person whose driver's license is cancelled by operation of this section may not apply to the Commissioner of Police for the issue to him of a driver's license before the termination of any period for which the operation of the license was suspended or during which he is disqualified from holding or obtaining a driver's license and, in any event, until after three months from the date of his conviction whichever is the longer.

(3) The Commissioner of Police shall not issue a driver's license to a person such as is mentioned in subsection (2) of this section, until that person has again complied with the requirements of subsection (2) of section twenty-three of this Act; and shall then issue the license on probation, only.

25C. (1) The fees payable—

Fees for
licenses and
renewals of
licenses.

- (a) on an application for a driver's license;
- (b) on the issue, and the renewal, of a driver's license (other than such as is appropriate to the passenger vehicle class); and
- (c) on the issue and the renewal, of a driver's license appropriate to the passenger vehicle class,

are such as are set out in Part IV of the Third Schedule to this Act.

(2) All fees paid under paragraph (b) of subsection (1) of this section shall be paid into the Treasury, to the credit of the Central Road Trust Fund established under section eleven A of this Act.

5. Subsection (2) of section twenty-six of the principal Act is repealed. S. 26
amended.

6. Section thirty-three A of the principal Act is amended— S. 33A
amended.

- (a) by inserting, immediately after the word, "may", in line ten of subsection (1), the passage, ", except where the license was issued on probation,";
- (b) by inserting, immediately after the word, "after", in line ten of subsection (1), the words, "one month from"; and

- (c) by substituting for the words, "section twenty-four A of this Act", in lines six and seven of subsection (4), the words, "this section".

Third
Schedule
amended.

7. The Third Schedule to the principal Act is amended by adding, after Part III, a heading and Part as follows—

PART IV.

FEEES RELATING TO DRIVERS' LICENSES.

The following fees are payable—

	£	s.	d.
(a) on the first application for a driver's license and on every subsequent application made after three months from the refusal of any such license	2	0	0
(b) on the issue, or renewal, of a driver's license (other than such as is appropriate to the passenger vehicle class, only)	1	0	0
(c) on the issue or renewal of a driver's license appropriate to the passenger vehicle class	10	0	

S. 668A of
The Criminal
Code
amended.

8. (1) In this section, "The Criminal Code" means The Criminal Code as set forth in the Schedule to the Criminal Code Act, 1913, set forth in Appendix B to the Criminal Code Act Compilation Act, 1913 (Act No. 28 of 1913), as reprinted with amendments to, and including, Act No. 73 of 1954 incorporated pursuant to the provisions of the Amendments Incorporation Act, 1938, and further amended by Act No. 11 of 1956, Act No. 43 of 1956, Act No. 74 of 1956, Act No. 50 of 1957, Act No. 25 of 1960, Act No. 50 of 1960, Act No. 28 of 1961 and Act No. 35 of 1962.

See Act No.
28 of 1961,
s. 5.

(2) Section six hundred and sixty-eight A of The Criminal Code is amended by substituting for the words, "twenty-four A", in line two of paragraph (b) of subsection (5), the words, "thirty-three A".