

# NEW TRACTORS AND MOTOR VEHICLES CONTROL.

12° GEO. VI., No. XIII.

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No. 13 of 1948.

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**AN ACT** relating to the Control of the Distribution, Storage and Use of new Tractors and new Motor Vehicles ; and for other purposes.

[Assented to 18th November, 1948.]

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

Short title  
and com-  
mencement.

1. This Act may be cited as the *New Tractors and Motor Vehicles Control Act, 1948.*

Construction.

2. This Act shall be read and construed so as not to exceed the legislative power of the State, the intention being that where any enactment herein would, but for this section, have been construed as being in excess of that power, it shall nevertheless be a valid enactment to the extent to which it is not in excess of that power.

3. This Act shall bind the Crown.

Application to  
the Crown.

4. Every direction, condition, regulation, order or requirement, and every consent, permission, exemption, approval, license or other authority whatsoever which was given, made or granted under or pursuant to the National Security Act, 1939-1943, of the Commonwealth, the Defence (Transitional Provisions) Act, 1946, of the Commonwealth, and their respective amendments, or the Building Operations and Building Materials Control Act, 1945-1947, of the State, and which, in relation to the control of the distribution, storage or use of new tractors, was in force on the thirty-first day of July, 1948, or which, in relation to such control as aforesaid of new motor vehicles, was in force immediately prior to the commencement of this Act, shall, subject to the provisions of this Act and of orders under this Act, continue in force, or be deemed to have continued in force, so far as practicable, as if given, made or granted under the provisions of this Act, and this Act shall have such retrospective operation as may be necessary to give effect to the provisions of this section:

Transition.

Provided that no person shall be liable to prosecution or punishment for an offence against any regulation under either of the said Acts of the Commonwealth in respect of any act or omission in relation to the control aforesaid of new tractors which occurred or may occur between the thirty-first day of July, 1948, and the commencement of the first order under this Act.

5. Subject to the proviso to the last preceding section, all acts, matters and things done, executed or omitted after the thirty-first day of July, 1948, but before the commencement of the first order under this Act, in relation to the control of the distribution, storage or use of new tractors, which, if done, executed or omitted under this Act or under the first order under this Act would be valid, shall be deemed always to have been valid and lawful, and are hereby authorised, ratified and validated accordingly.

Validation.

6. In this Act unless the context otherwise requires—

Interpretation

“distribution” includes sale, lease, hire, loan, gift, delivery and disposal;

“Minister” means the Minister for Agriculture or other Minister of the Crown for the time being charged with the administration of this Act;

“motor vehicle” includes a motor car, motor omnibus, omnibus, as respectively defined in the Second Schedule to the Traffic Act, 1919-1947.

“new” includes “not substantially used;”

“order” means an order under the hand of the Minister or of a delegate appointed under this Act, published in the *Gazette*;

“tractor” means a tractive unit designed for hauling, drawing or pulling any trailer, semi-trailer or agricultural machine, and includes a tractor with wheels and a caterpillar tractor.

Power of  
Minister to  
make orders.

7. (1) Subject to subsections (5) and (6) of this section, the Minister may, by order, make provision for—

(a) regulating or prohibiting the distribution, storage or use of all or any new tractors, new motor vehicles or any of them or any class, type or model of any of them; and in relation thereto or any of them—

(b) the furnishing of returns, the supply of information with or without any statutory declaration, and the issue of permits.

(2) Any order may be absolute or subject to such conditions or restrictions as are specified in the order, and may contain such incidental and supplementary provisions as are necessary or convenient for the purposes of the order.

(3) Any order may avoid, vary or renew any contract or part of a contract the operation or effect of which may appear to be affected by the order.

(4) Any order may by any subsequent order be revoked, varied or amended, but subject thereto shall take effect and have the force of law from the date of publication in the *Gazette*, or from a later date fixed by the order.

(5) The first order relating to new tractors shall be in the form of the First Schedule to this Act.

(6) The first order relating to new motor vehicles shall require the approval of the Governor, and the first order relating to new motor vehicles shall be in the form of the Second or the Third Schedule to this Act, or in both such forms.

8. The Governor may enter into an arrangement with the Governor-General of the Commonwealth or with the Governor of any State thereof providing for any matter necessary or convenient for the purpose of carrying out or giving effect to the provisions of this Act or of any order under this Act.

Arrangements  
with Com-  
monwealth  
and States.

9. For the purposes of this Act or of any order under this Act, any person thereto authorised by the Minister may, at any reasonable time, enter into any premises in or on which any new tractor or new motor vehicle may be, or may reasonably be supposed to be, and may inspect the premises and tractors or motor vehicles therein or thereon and may also inspect any accounts, books and documents relating thereto or the use thereof or any of them.

Powers of  
inspection.

10. (1) The Minister may, by notice published in the *Gazette*, delegate to any person all or any of his powers, functions and authorities under this Act, except this power of delegation.

Delegation  
of powers.

(2) Where the exercise of any power, function or authority by the Minister is dependent upon the opinion, belief or state of mind of the Minister in relation to any matter, that power, function or authority may be exercised by the delegate upon the opinion, belief or state of mind of that delegate.

(3) Any such delegation shall, by notice published as aforesaid, be revocable at will, but until revoked shall prevent the exercise by the Minister of any such delegated power, function or authority.

11. (1) The Minister may appoint and employ such officers and other servants as he may from time to time consider necessary for the proper administration of this Act.

Power to  
employ  
officers, etc.

(2) For the purposes of this Act, the Minister may by agreement with any other Minister concerned of the Commonwealth, or of any State thereof and on such terms and conditions as may be mutually arranged with such other Minister, make use either full time or part time of the services of any officer or servant in the service of the Crown in right of the Commonwealth or in right of any State of the Commonwealth.

Penalties.

12. Any person committing a breach, either by act or omission, of any of the provisions of this Act or of any order under this Act shall be guilty of an offence against this Act, and shall on summary conviction be liable to a penalty of one hundred pounds or to imprisonment for six months.

Protection to administrative authorities.

13. No act, matter or thing done or omitted in good faith by the Minister or any person appointed or authorised by the Minister in or about the purported exercise of any of the powers, functions and authorities conferred upon and exercised by such persons shall subject them or any of them to any liability in respect thereof.

Duration of Act.

14. This Act shall continue in operation until the thirty-first day of December, one thousand nine hundred and forty-nine, and no longer.

Section 7.

**FIRST SCHEDULE.**

**AGRICULTURAL MACHINERY ORDER No. 1.**

Citation.

1. This Order may be cited as the Agricultural Machinery Order No. 1.

Interpretation.

2. In this Order—  
“tractors” includes both wheel and crawler tractors.

Order to apply to new machinery.

3. Unless the contrary intention appears, this Order shall apply only in relation to items of agricultural machinery which have not been substantially used, and which are tractors.

Agricultural machinery specified in the Second Schedule.

4. (1) A person shall not, whether personally or by agent sell or otherwise dispose of any item of agricultural machinery being a tractor unless he has first received the consent in writing of a person authorised by the Minister in writing to give consent under this paragraph.

Order not to apply to sales to retailers.

5. (1) Nothing in this Order shall apply in relation to the sale or other disposal of any item of agricultural machinery to a person who acquires that item for the purpose of a business of dealing in agricultural machinery of that kind carried on by him.

(2) Nothing in this Order shall affect—

- (a) the giving, taking or assignment of any mortgage, charge or pledge of agricultural machinery; or
- (b) the exercise of any rights, powers or remedies under such a mortgage, charge or pledge, other than the exercise of any power of sale of, or power of letting, the agricultural machinery.

6. (1) The Minister or any person authorised by the Minister to act under this paragraph may, by notice in writing, require any person to supply such information or furnish such returns relating to the sale, disposal, manufacture or importation by that person of agricultural machinery as is or are specified in the notice.

Information and returns.

(2) A person who has been required under the last preceding subparagraph to supply any information or to furnish any return shall not—

- (a) refuse or fail to supply the information, or to furnish the return on or before the date specified in the notice, and in the manner so specified; or
- (b) supply any information or furnish any return which is incomplete or false, or misleading in any particular.

7. A person shall not, in any application or certificate made or signed in pursuance of this Order, make any statement or furnish any information which is false or misleading in any particular.

False statements.

## SECOND SCHEDULE.

Section 7.

### CONTROL OF NEW COMMERCIAL MOTOR VEHICLES ORDER.

1. This Order may be cited as the Control of New Commercial Motor Vehicles Order No. 1.

Citation.

2. For the purposes of this Order—

Interpretation.

“acquire” includes purchase, rent, hire, borrow and receive;

“commercial motor vehicle” means a motor vehicle constructed or adapted for the carriage of more than eight adult passengers or principally for the carriage of goods, and includes every chassis designed to form part of such a motor vehicle;

“dispose” includes sell, lease, hire, lend, give and deliver;

“new” in relation to a commercial motor vehicle means commercial motor vehicle which has not been registered pursuant to any law of the State at the date of this Order;

“operate” means carry goods or passengers;

“owner” includes—

- (i) every person in whose name the motor vehicle is registered under any law of the State relating to the registration of motor vehicles; and

(ii) every person who is the owner, joint owner or part owner of the motor vehicle, and any person who has the use of the motor vehicle under a hiring or hire purchase agreement, but does not include an unpaid vendor of such vehicle under a hire purchase agreement;

“permit” means a permit under this Order;

“prescribed transport authority” means a person or body of persons authorised in writing by the Minister to act under this Order.

No disposal or acquisition without a permit.

3. No person shall dispose of or acquire a new commercial motor vehicle unless the person acquiring such vehicle is the holder of a permit authorising such acquisition.

Application for permit.

4. (1) An application for a permit shall be in a form approved by a prescribed transport authority.

(2) Every person making application for a permit shall supply such particulars as a prescribed transport authority may require.

(3) Every person making an application for a permit shall not knowingly make in any such application any statement which is false or misleading in any particular.

Permits.

5. (1) A permit may be issued by a prescribed transport authority.

(2) Every permit shall be subject to such terms or conditions as a prescribed transport authority may deem fit.

(3) A prescribed transport authority may at any time vary, revoke, or suspend a permit, or may vary any term or condition thereof.

(4) Every person to whom a permit is issued shall comply with its terms and conditions and any variation thereof made pursuant to subparagraph (3) of this paragraph.

Vehicle to be operated according to permit.

6. The owner and the driver of a commercial motor vehicle to which a permit relates shall not operate or cause or permit such vehicle to be operated otherwise than in accordance with the terms and conditions of such permit, or any variation thereof made pursuant to paragraph 5 (3) of this Order.

Registrations and transfers of registrations.

7. Notwithstanding anything in any law of the State—

(a) a new commercial motor vehicle shall not be registered unless and until a permit authorising the acquisition of such vehicle by the applicant for registration is surrendered to the registration authority;

(b) the registration of a commercial motor vehicle in respect of which a permit is issued to any person shall not be transferred to any other person unless and until a permit authorising the acquisition of such vehicle by such other person is surrendered to the registration authority.

THIRD SCHEDULE.

Section 7.

CONTROL OF NEW MOTOR CARS ORDER.

1. This Order may be cited as the Control of New Motor Cars Order No. 1. Citation.
2. In this Order, unless the contrary intention appears— Definitions.
- “acquire” includes purchase, rent, hire, borrow and receive, and “acquisition” has a corresponding meaning;
- “motor car” includes any motor vehicle, other than a commercial motor vehicle within the meaning of the Control of New Commercial Motor Vehicles Order, and every chassis designed to form part of such a vehicle;
- “dispose” includes sell, lease, hire, give and deliver;
- “new motor car” means a motor car which has not, prior to the date of this Order, been registered under the law of the State relating to the registration of motor vehicles;
- “owner,” in relation to a motor car, includes—
- (a) every person in whose name the motor car is registered under the law of the State relating to the registration of motor vehicles; and
  - (b) every person who is the owner, joint owner, or part owner of the motor car, and any person who has the use of the motor car under a hiring or hire purchase agreement, but does not include an unpaid vendor of such a vehicle under a hire purchase agreement;
- “permit” means permit under this Order;
- “prescribed transport authority” means a person or body of persons authorised in writing by the Minister to act under this Order.
3. A person shall not dispose of or acquire a new motor car unless the person acquiring the new motor car is the holder of a permit authorising the acquisition. No disposal or acquisition without a permit.
4. (1) An application for a permit shall be in a form approved by the prescribed transport authority. Application for permit.
- (2) A person making application for a permit shall supply such particulars as a prescribed transport authority requires.
- (3) A person making application for a permit shall not knowingly make in the application any statement which is false or misleading in any particular.
5. (1) A prescribed transport authority may, in its discretion, issue a permit or may refuse to issue a permit. Permits.
- (2) A permit shall be subject to such terms or conditions as the prescribed transport authority issuing the permit determines.
- (3) A prescribed transport authority may at any time vary, revoke, or suspend a permit or may vary any term or condition thereof.



(4) A person to whom a permit is issued shall comply with its terms and conditions, including those terms and conditions as varied under the last preceding subparagraph.

Vehicle to be operated according to permit.

6. The owner and the driver of a motor car to which a permit relates shall not use the motor car, or cause or permit the motor car to be used, otherwise than in accordance with the terms and conditions of the permit, including those terms and conditions as varied under subparagraph (3) of the last preceding paragraph.

Registrations and transfers of registrations.

7. Notwithstanding anything in the law of the State—

(a) a new motor car shall not be registered unless and until a permit authorising the acquisition of the motor car by the applicant for registration is surrendered to the registration authority;

(b) the registration of a motor car in respect of which a permit is issued to any person shall not be transferred to any other person unless and until a permit authorising the acquisition of the motor car by that other person is surrendered to the registration authority.

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