

**MOTOR VEHICLE (THIRD PARTY
INSURANCE).**

8° and 9° GEO. VI., No. XL.

No. 40 of 1944.

AN ACT to amend the Motor Vehicle (Third Party Insurance) Act, 1943.*[Assented to 11th January, 1945.]*

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.

1. This Act may be cited as the *Motor Vehicle (Third Party Insurance) Act Amendment Act, 1944*, and shall be read as one with the Motor Vehicle (Third Party Insurance) Act, 1943 (No. 32 of 1943), hereinafter referred to as the principal Act.

Amendment
of s. 3.

2. Section three of the principal Act is amended by adding to the definition of "Motor Vehicle" a paragraph as follows:—

"The term includes a caravan, a trailer or semi-trailer which is drawn or hauled by a motor vehicle."

Amendment
of s. 4.

3. Section four of the principal Act is amended as follows:—

(a) by deleting from subsection (8) the whole of paragraph (a);

(b) by adding at the end of subparagraph (ii) of paragraph (b) of subsection (8) the word "or";

(c) by adding to paragraph (b) of subsection (8) a new subparagraph as follows:—

(iii) Such other documentary evidence as the local authority to which the application is made deems sufficient to show that there is in force in relation to the vehicle a policy of insurance complying with this Act issued by an approved insurer which will, unless lawfully cancelled, remain in force during the whole of the currency of the term of the license for which the application is made.

4. Section six of the principal Act is amended as follows:— Amendment
of s. 6.

(a) by adding at the end of paragraph (b) of subsection (1) the words "in any part of the Commonwealth";

(b) by deleting paragraph (b) of subsection (2);

(c) by deleting subsection (3).

5. Section seven of the principal Act is amended as follows:— Amendment
of s. 7.

(a) by deleting paragraph (a) of subsection (6);

(b) by deleting from paragraph (c) of subsection (8) the word "Treasurer" in line two of the said paragraph (c) and inserting in lieu thereof the word "Minister."

6. Section twelve of the principal Act is amended by inserting in subsection (6) after the word "authority" in line one of the said subsection the words "within the meaning of the Traffic Act, 1919-1941." Amendment
of s. 12.

7. Sections are inserted in the principal Act after section nineteen as follows:— New sections.

19A. (1) Notwithstanding any agreement to the contrary, a policy of insurance issued under and for the purposes of this Act—

(a) shall not be deemed to be cancelled or otherwise deemed to terminate solely by reason of a change of ownership of the vehicle in relation to which the policy was issued; but Policy of
insurance to
continue not-
withstanding
change of
ownership of
vehicle.
See S.A. Road
Traffic Act,
1934-1943,
s. 70 C B.

(b) shall, subject to any lawful termination thereof, enure in favour of every person who during the period for which the policy was granted or renewed becomes an owner for the time being of the vehicle in relation to which the policy was issued and in favour of every person who during that period drives that vehicle whether with or without the consent of the owner.

(2) So long as a policy of insurance is in force as aforesaid every owner of the vehicle in relation to which the policy was issued (whether originally a party to the policy or not) shall be bound by all the terms warranties and conditions in the policy as if he had expressly agreed to them.

Term of
Policy of
insurance
deemed to
be extended
in certain
cases.

19B. (1) Where a policy of insurance complying with this Act would, but for this section, expire by effluxion of time on the same day as the license then last issued and in force in respect of the motor vehicle in relation to which such policy was issued will expire by effluxion of time, the term of such policy of insurance shall, notwithstanding anything to the contrary contained in the policy, by virtue of this Act continue and be extended for a further fifteen days after the date upon which but for this section it would have expired by effluxion of time.

(2) Nothing in subsection (1) of this section shall operate or be deemed or construed to operate so as to render any policy of insurance aforesaid liable to payment of further stamp duty in consequence of the currency of such policy being extended by the operation of this section.

Provision
regarding
motor
vehicle of
employee
used by
employee in
employer's
business.

19C. (1) Where the owner of a motor vehicle in respect of which a policy of insurance complying with this Act is in force uses such vehicle in connection with or for the purpose of the performance of his service as a servant of the employer of such owner, and the employer acquiesces in such use of the vehicle as aforesaid, the said policy of insurance shall, subject to any lawful termination thereof, when such vehicle is being so used enure in favour of the employer as well as of the owner to the same extent

as if the employer were an owner of such vehicle, and the employer shall be bound by all the terms warranties and conditions in the policy as if he had expressly agreed to them.

(2) Where the owner of a motor vehicle in respect of which a policy of insurance complying with this Act is in force uses the vehicle in connection with or for the purposes of the performance of his service as a servant of the employer of such owner, without the knowledge or contrary to the instructions of the employer, the employer shall not in any manner whatsoever be liable in respect of any claim for damages or compensation by any person injured by such vehicle whilst being so used by the owner thereof as such servant.

19D. When any Act comes into operation which alters the insurance required to be given by a policy of insurance complying with this Act or the rights or liabilities of the insurer under any such policy, every policy of insurance which has been issued for the purpose of providing insurance required by this Act and is in force when the said Act comes into operation or at any time thereafter shall be deemed to be altered so as to provide the insurance required by this Act as altered by the said first mentioned Act.

Policies to give cover required by amending Acts. See S.A. Road Traffic Act, 1934-1943, s. 70 C.A.

19E. Where in any provision of this Act reference is made to the issue of a policy of insurance complying with this Act such reference shall extend to and include the issue of a renewal of such policy of insurance.

Reference to issue of policy to extend to renewal of policy.

8. (1) Section twenty-four of the principal Act is amended by deleting therefrom the words "within one month after the date of the accident out of which such claim for damages arises" in the last two lines of the section, and inserting in lieu thereof words as follows:—"as soon as practicable after the happening of the accident out of which such claim for damages arises and the claim for damages has been made within twelve months from the happening of the said accident, or, in case of death, within twelve months from the date of death of

Amendment of s. 24.

the person in respect of whom the claim is made. Provided that—

(a) the want of or any defect or inaccuracy in such notice shall not be a bar to the maintenance of such action, if it is found in such action that the defendant is not or would not if a notice or any amended notice were then given and the hearing of the action postponed, be prejudiced in his defence by the want, defect or inaccuracy, or that such want, defect or inaccuracy was occasioned by mistake, absence from the State or other reasonable cause; and

(b) the failure to make the claim for damages within the period above specified shall not be a bar to the maintenance of such action if it is shown that the defendant has not been prejudiced in his defence by such failure or if it is found that the failure was occasioned by mistake, absence from the State, or other reasonable cause.”

(2) Subsection (1) of this section shall have effect and shall be deemed to have had effect and to have been in operation as from and including the date of the commencement of the principal Act.

Citation of
principal
Act as
amended.

9. The principal Act as amended by this Act may be cited as the Motor Vehicle (Third Party Insurance) Act, 1943-1944.