

TRAFFIC.

5° GEO. VI., No. XVI.

No. 16 of 1941.

AN ACT to amend the Traffic Act, 1919-1935.

[Assented to 7th November, 1941.]

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:—

1. This Act may be cited as the *Traffic Act Amendment Act*, 1941, and shall be read as one with the Traffic Act, 1919-1935 (No. 60 of 1919 as reprinted in the Appendix to the Sessional Volume of the Statutes for the year 1935), hereinafter referred to as the principal Act.

Short title.

2. Section four of the principal Act is amended by adding to the definition of "owner" a proviso as follows:—

Amendment of s. 4.

Provided that—

- (a) where a vehicle is owned or used as aforesaid by more than one person as owner or hirer or otherwise, one only of such persons, to be nominated by all such persons, by notice in

writing given to the local authority by which such vehicle is licensed, shall for the purposes of this Act be deemed to be the owner of such vehicle; and

- (b) any rebates or concessions in respect of license fees in relation to a vehicle, of which only one person is deemed to be the owner as aforesaid, which may be claimed under this Act upon the basis of the purpose for which such vehicle is used, shall be assessed only upon the basis of the purpose for which such vehicle is used by the person who is deemed to be the owner of such vehicle as aforesaid.

**Amendment
of s. 9; re-
peal and new
section.**

**Periods for
which licenses
may be
issued.**

3. Section nine of the principal Act is repealed and a new section is inserted in lieu thereof as follows:—

9. (1) In this section—

“financial year” means the period of twelve months ending on the thirtieth day of June.

“first quarter,” “second quarter,” “third quarter,” and “fourth quarter” respectively mean the three-monthly periods ending on the last days of September, December, March, and June.

“first half year” means the period of six months ending on the thirty-first day of December.

“second half year” means the period of six months ending on the thirtieth day of June.

(2) Subject to the provisions of this section, any license or licenses required for a vehicle may be granted—

- (a) for the full financial year; or
- (b) for the first half year; or
- (c) for the second half year; or
- (d) for any quarter; or
- (e) for any unexpired portion of any of the periods aforesaid, at the time when the application is made; or
- (f) in respect of a trailer, for such period, not being less than one month or

greater than three months from the date on which the application is made.

- (3) Application for a license may be made in the month preceding or during the financial year or half year or quarter in which the license is to have effect.
- (4) (a) Where in any financial year neither a first half year's license nor any license for the first or second quarter has been issued for a vehicle, no license shall be issued for the vehicle either for the second half year or for the third or fourth quarter of that financial year in any case where the vehicle was licensed—
- (i) for the preceding financial year; or
 - (ii) for the second half of the preceding financial year; or
 - (iii) for the fourth quarter of the preceding financial year—
- unless the number plates of the vehicle were deposited with the local authority which issued the same within fourteen days after the expiration of such preceding financial year or half year or fourth quarter as the case may be.
- (b) Where in any financial year a license for a vehicle has been issued for the first quarter but not for the second quarter, no license shall be issued for the vehicle either for the second half year or for the third or fourth quarter unless the number plates of the vehicle were deposited with the local authority which issued the same within fourteen days after the expiration of the said license for the first quarter.
- (c) Where in any financial year a license for a vehicle has been issued either for the first half year or for the second quarter, but not for the second half year or for the third quarter, no license shall be issued for the vehicle for the fourth quarter of such financial year unless the number plates of the vehicle were deposited with the local authority which issued the same

within fourteen days after the expiration of the said license for the first half year or second quarter.

- (d) The holder of a license for a vehicle for the first half year who does not require a license for the vehicle for the second half year, and the holder of a license for a vehicle for any quarter who does not require a license for the vehicle for the next succeeding quarter in the same financial year, shall return the number plates of the vehicle to the local authority which issued the same not later than fourteen days after the expiration of the license which he holds as aforesaid; and if any such holder fails to do so he shall be liable to pay the local authority, in the case of the holder of a license for the first half year, the fee payable for a license for the second half year, and, in the case of the holder of a license for a quarter, the fee payable for a license for the next succeeding quarter, notwithstanding in either case that such holder may not have obtained such license or have ceased to be the owner of the vehicle.
- (e) The holder of a license for a vehicle which expires on the thirtieth day of June in any year, who does not require a license for the vehicle for the next following year, or the first half year or the first quarter of the next following year, shall return the number plates of the vehicle to the local authority which issued the license expiring as aforesaid not later than the fifteenth day of July next following the date of the expiration of the said license, and if he fails to do so he shall be liable to pay to the said local authority the fee which would be payable for a license for the first quarter of the year next following the date of the expiration of the said first-mentioned license, notwithstanding he may not have obtained such license for such first quarter or have ceased to be the owner of the vehicle.
- (f) Any fee payable by the owner of a vehicle under the provisions of this subsection may be re-

covered as a penalty by complaint before any two justices of the peace and may be added to any other penalty imposed on the owner in connection with the failure to license the vehicle, but in no case shall the minimum penalty be increased beyond the amount applicable to the case under subsection (2) of section five of the principal Act.

- (5) (a) The fee for a half year's license shall be one half of the prescribed fee (including any additional fees prescribed by Part II. of the Third Schedule to this Act) for a full year's license plus one shilling.
- (b) The fee for a license for a quarter shall be one-fourth of the prescribed fee (including any additional fees prescribed by Part II. of the Third Schedule to this Act) for a full year's license plus one shilling.
- (6) (a) When at any time in the course of a financial year a full year's license is granted in respect of a vehicle, which is new when purchased by the owner applying for the license and has never previously been licensed, the local authority may charge in respect of such license a fee assessed upon the basis of one-twelfth part of the full year's prescribed license fee for such vehicle for and in respect of each and every month or part of a month of the then current financial year which is unexpired at the date when such license is granted.
- (b) When a full year's license is granted in respect of a vehicle (not being a vehicle to which paragraph (a) hereof applies) by a local authority after the first quarter of the financial year, the local authority may, except insofar as it may be otherwise prescribed, grant a rebate of the prescribed fee as set out in the following table—

When the license is granted—	The rebate of the prescribed license fee shall be—
In the second quarter one-fourth
In the third quarter one-half
In the fourth quarter three-fourths.

- (7) When a license is granted for a trailer pursuant to paragraph (f) of subsection (2) of this section, the fee for such license shall be that proportion of the prescribed annual license fee for a trailer that the period for which the license is applied for bears to a full year.

**Amendment
of s. 10.**

4. Section ten of the principal Act is amended as follows:—

- (a) by inserting in the first proviso to subsection (1) of the section after the word “purpose” in lines eleven and twelve of the said proviso the words “or any trailer constructed and used solely for carrying any gas producer or other motive power producing plant for the driving or propelling of a motor vehicle together with the fuel necessary for the same;”
- (b) by inserting in paragraph (1) of the fourth proviso to subsection (1) of the said section, after the words “semi-trailer” in lines two and three of the said paragraph (1), the words “or any vehicle used for the purpose of hauling such trailer or semi-trailer;”
- (c) by inserting after subsection (1) a subsection as follows:—

(1a) Notwithstanding anything to the contrary contained in subsection (1) of this section, in the case of every vehicle in which the fuel used to generate the motive power is petroleum spirit only, the following provisions shall apply—

- (i) the license fee normally payable in respect of such vehicle in accordance with subsection (1) of this section, having regard to the kind of license granted and the purpose for which the vehicle is used, shall be reduced by an amount equal to one quarter of such license fee;
- (ii) the provisions of paragraph (1) hereof shall apply in respect of all licenses granted for the class of vehicle aforesaid for and in respect of any period commencing on or after the first day of January, one thousand nine hundred and forty-two:

Provided that, where prior to the first day of January, one thousand nine hundred and forty-two, any person has obtained a full year's license for the year ending on the thirtieth day of June, one thousand nine hundred and forty-two, for a vehicle to which this subsection applies, such person shall, in respect of the period of such license which commences on the first day of January, one thousand nine hundred and forty-two, be entitled to a reduction of the amount of the full year's license fee paid by him for such license equal to one-eighth of such full year's license fee, and may apply in writing to the local authority which granted the said license either—

(a) for a refund to him of the amount of the reduction to which he is entitled under this proviso; or

(b) for a credit of the amount of such reduction on account of the license fee which will become payable by the applicant in respect of the next license required to be obtained by him for the said vehicle,

and such local authority, on receipt of such application, shall forthwith give effect thereto in accordance with the tenor thereof.

Provided that, where a local authority is satisfied that by reason of its expenditure and/or commitments it has not funds available sufficient to make refunds in cash, it shall be lawful for such local authority, with the consent of the Minister, not to make any such refund until after the first day of July, one thousand nine hundred and forty-two.

(iii) where, during the currency of any license granted for a vehicle to which this subsection applies and in respect of which a reduction has been made in the amount of the license fee payable as provided for in this subsection, any appliance is fitted to or installed in such vehicle to enable some fuel other than petroleum spirit to be used to generate the motive power for such vehicle, such vehicle shall, forthwith, upon such appliance being fitted or installed as aforesaid, cease to be a vehicle to which this subsection applies, and any reduction allowed in the license fee paid for such current license shall be deemed to have been improperly allowed, and the holder of the said license shall be liable to pay forthwith to the local authority which granted the license the amount of the reduction previously allowed as aforesaid, and until the amount of such reduction is paid to such local authority the vehicle in respect of which the license was granted shall, for the purposes of this Act, be deemed to be an unlicensed vehicle.

Amendment
of s. 18.

5. Section eighteen of the principal Act is amended by adding to paragraph (a) thereof a proviso as follows:—

Provided that—

(i) this paragraph shall not apply where the vehicle is being driven on a road within the district of one local authority for the purpose of obtaining a license therefor from another local authority, unless the owner of the vehicle has obtained from the local authority in whose district the journey on which the vehicle is being driven commences a permit to drive the vehicle on such journey for the purpose aforesaid; and

- (ii) every local authority shall have power to issue permits under and for the purposes of paragraph (1) of this proviso in the prescribed form.

6. Section twenty-two of the principal Act is amended by inserting at the end of subsection (1) thereof a further proviso as follows:—

Amendment
of s. 22.

Provided also that, where any application is made for a license to drive an omnibus or other passenger vehicle, the examiner referred to in the next preceding proviso to this subsection shall, in addition to any other examination conducted in accordance with the provisions of the said next preceding proviso, satisfy himself, by means of the special tests (if any) prescribed by regulations made under section forty-six of this Act, that the applicant is qualified to drive the particular type of omnibus or other passenger vehicle in respect of which the license is applied for.

7. Section twenty-four of the principal Act is amended by deleting the second proviso to subsection (1) and inserting in lieu thereof a proviso as follows:—

Amendment
of s. 24.

Provided also that—

- (i) a learner's permit shall not be issued to any learner unless such learner, when applying for the permit, satisfies the authority to which the application for the learner's permit is made that the person who will sit beside him when the learner is learning to drive will be a person who has, for a period of at least one year, been licensed to drive the class of vehicle which the learner will drive under the authority of the permit; and
- (ii) a learner shall not drive the motor vehicle (not being a motor cycle) specified in the learner's permit held by him, on a road unless, while he is so driving, a person who has, for a period of at least one year, been licensed to drive the class of vehicle specified in the said permit, sits beside the learner.

Amendment
of s. 25.

8. Section twenty-five of the principal Act is amended by adding at the end thereof a subsection as follows:—

- (3) Any person who was present at the scene of any accident in which a vehicle was involved, and who, in the opinion of a member of the police force or of an inspector, may be able to give information or evidence in relation to such accident, shall, if requested so to do by such member of the police force or by such inspector, furnish to him particulars of his name and place of abode, and if any such person refuses to furnish any such particulars when requested so to do as aforesaid, or furnishes particulars of his name or place of abode which are false or untrue he shall be guilty of an offence.

Penalty—Ten pounds.

Amendment
of s. 28.

9. Section twenty-eight of the principal Act is amended by deleting subsection (1) of the said section and inserting in lieu thereof a subsection as follows:—

- (1) Where any vehicle or animal, which is in the course of being driven or ridden, is involved in any accident by reason whereof any person is injured or the property of any person is damaged, the person driving or riding or otherwise for the time being having the care of such vehicle or animal shall stop immediately after the occurrence of such accident, and, if required, shall produce his license and give his name and address, and also the name and address of the owner of the vehicle or animal, to any person who has been injured or whose property has been damaged, or to a member of the police force, or an inspector, or to any person representing a person who has been injured, or the owner of any property which has been damaged.

Penalty: Fifty pounds, or imprisonment for any term not exceeding six months.

10. Section forty-six of the principal Act is amended as follows:— Amendment of s. 46.

- (a) by inserting at the end of paragraph (i) of subsection (1) new subparagraphs as follow:—
- (ze) regulate the conveyance of petroleum spirit on roads, and, in relation thereto, prescribe conditions for protecting persons and property from risk of danger or injury likely to arise from the conveyance of petroleum spirit on roads: Provided that no regulations made under subparagraph (ze) shall apply to any vehicle which is owned by any of the persons, and used solely or mainly for any of the purposes, mentioned in subparagraphs (ii) to (iv), both inclusive, of the fourth proviso to subsection (1) of section ten of the principal Act, in respect to the carriage of petroleum spirit in metal drums or other similar containers;
 - (zf) regulate the construction of and the classes of vehicles specially constructed for the conveyance of petroleum spirit on roads;
 - (zg) regulate the construction and fitting and use upon or in connection with motor vehicles of attachments or appliances such as gas producers, filters, coolers, gas cylinders, gas bags, and other attachments and appliances which are not normally an integral part of the motor vehicle to which they are attached;
 - (zh) prescribe the maximum height for any vehicle and the maximum height of any load which may be carried in any vehicle;

(b) by inserting in paragraph (ii) of subsection (1), after subparagraph (b), a new subparagraph, as follows:—

(b1) Prescribe special tests in relation to any types of passenger vehicle for ascertaining the qualification of persons to drive any particular type of passenger vehicle.

Amendment of s. 50; repeal and new section.

Substitution of vehicle for vehicle whilst under repair.

11. Section fifty of the principal Act is repealed and a section is inserted in lieu thereof, as follows:—

50. Any license granted in respect of an omnibus, or passenger vehicle, or goods vehicle shall, during such time or times as such omnibus or vehicle is under repair, authorise the holder of such license, with the previous consent in writing of the Commissioner of Police or any officer acting for him, when the omnibus or passenger vehicle or goods vehicle is licensed within the metropolitan area or any outlying land, or with the previous consent in writing of the local authority in whose district the omnibus or passenger vehicle or goods vehicle is licensed, when such omnibus or passenger vehicle or goods vehicle is not licensed within the metropolitan area or any outlying land as aforesaid, to substitute another omnibus or vehicle for the bus or vehicle under repair, and to ply for hire therewith or otherwise use the same for profit without being required to pay a further license fee during only such period or periods as the first-mentioned omnibus or vehicle is under repair and not plying for hire or otherwise being used for profit.

New section.

12. A section is inserted in the principal Act, after section fifty-six, as follows:—

Regulation of lights affecting traffic on roads.
See Act. No. 15 of 1939, s. 3.
Interpretation.

56A. (1) For the purposes of this section—

“Commissioner” means the Commissioner of Police.

“Light” includes any fire, lamp, light, illuminated sign, street light, or other mechanical manufactured or constructed illumination and also the glow from any such light.

“Owner” includes the owner, lessee, tenant, purchaser, hirer, or other person in possession or entitled to the possession of a light, and, in the case of a street light, means the local government authority in whose district such street light is erected or installed.

(2) Where any light is used, kept, burnt, or exhibited between the hours of sunset and sunrise at any place or in such a manner as in the opinion of the Commissioner to be likely to confuse or create circumstances or conditions likely to interfere with adversely or to cause risk of danger to the traffic of persons, animals, or vehicles on any road, the Commissioner may by notice in writing require the owner of or the person in charge of such light or the occupier of the place or premises where such light is used, kept, burnt, or exhibited within a time specified in the notice to take effectual means—

Powers in relation to lights.

- (a) to extinguish the light; or
- (b) to remove the light entirely or to some other position; or
- (c) to modify the light or to alter its character or colour, or to screen the light to such an extent and in such manner as the Commissioner may direct; or
- (d) to refrain from using, keeping, burning, or exhibiting the light either entirely or for such period or during such hours as the Commissioner may direct; or
- (e) to do or refrain from doing such other act, matter, or thing in relation to using, keeping, burning, or exhibiting the light as the Commissioner may direct and in accordance with his directions.

(3) Any notice under subsection (2) of this section may be served, either personally or by delivery, at the place of abode of the person to be served, or by affixing it in some conspicuous place on or near the place or premises upon or in which the light to which the notice relates is used, kept, burnt, or exhibited.

(4) It shall be the duty of the owner or occupier or other person served with a notice under subsection (2) of this section to comply with such notice.

(5) Every owner, occupier, or other person on whom a notice is served under subsection (2) of this section who fails without reasonable cause (proof whereof shall lie upon him) to comply in all respects with the directions contained in the notice shall be guilty of an offence against this Act.

Penalty: One hundred pounds, and, in addition, a daily penalty of five pounds for every day or part of a day during which the directions contained in the notice are not complied with after the time specified in the notice for the compliance therewith.

Commissioner
may cause
requisitions of
notice to be
carried out.

(6) If any owner, occupier, or other person served with a notice under subsection (2) of this section fails in any respect to comply with the directions of such notice within the time specified in the notice for such compliance, the Commissioner or any person authorised in writing by the Commissioner may enter upon the place or premises whereon the light to which the notice relates is used, kept, burnt or exhibited, and forthwith take effectual means (but doing no unnecessary damage) to carry out and otherwise give effect to the directions contained in the notice which have not been complied with as aforesaid.

(7) Any expense incurred by the Commissioner or the person authorised by the Commissioner under subsection (6) of this section shall be a debt owing to the Commissioner by the person upon whom the notice was served as aforesaid and shall be recoverable at the suit of the Commissioner in any court of competent jurisdiction.

(8) If the owner, occupier, or other person upon whom a notice under subsection (2) of this section has been served, or any other person obstructs or hinders, prevents, or interferes with or attempts to obstruct, hinder, prevent, or interfere with the Commissioner or the person authorised by the Commissioner in the exercise of the power conferred by subsection (6) of this section, he shall be guilty of an offence against this Act.

Penalty: Fifty pounds.

(9) Where any owner, occupier, or other person upon whom a notice under subsection (2) of this section has been served has failed within the time specified in such notice to comply with the directions of such notice, and by reason of such non-compliance and by reason of the light to which the said notice relates confusing or creating circumstances or conditions which interfered with adversely or caused risk of danger to the traffic of persons, animals, or vehicles on a road, any person suffers injury to the person or damage to his property, the said non-compliance with the said notice shall, for the purpose of enabling the person who has suffered such injury or damage to recover compensation or damages in respect of the injury or damage suffered, be deemed to be a tort in the nature of a nuisance committed by such owner, occupier, or person aforesaid upon which an action for damages may be instituted.

Civil rights.

(10) The omission on the part of the Commissioner to give any notice under subsection (2) of this section, or the failure on the part of the Commissioner to exercise the power conferred by subsection (6) of this section shall not make the Commissioner in any respect responsible or liable for any injury to the person or damage to property suffered as the result of any light confusing or creating circumstances or conditions which interfered with adversely or caused risk of danger to the traffic of any person or vehicle on a road.

Saving provision.

13. The Third Schedule to the principal Act is amended—

Amendment of Third Schedule.

(1) by striking out all the words and figures in the last seven lines of Part I. of the said Schedule and inserting in lieu thereof the following:—

	s.	d.
Motor car, motor carrier, motor wagon, locomotive or traction engine	5	0
Motor cycle, trailer, carriage or cart	2	6
Hand cart	1	3
Transfer of passenger vehicle or carrier's license	2	6
and,		

(2) by adding at the end of clause 1 of Part III. of the said Schedule a proviso as follows:—

Provided that—

- (i) in the case of a vehicle in which the fuel normally used to generate the motive power is petroleum spirit only, but to which an appliance is fitted, or a trailer or other vehicle is attached carrying an appliance, which enables some fuel other than petroleum spirit to be used for generating the motive power of such vehicle, the weight of such appliance or the weight with such appliance of such trailer or other vehicle aforesaid shall not be taken into account when ascertaining the weight of such first-mentioned vehicle for the purpose of assessing the power weight thereof.
- (ii) This proviso shall have effect and be deemed to have had effect as from and including the first day of January, one thousand nine hundred and forty-two.

Citation of
principal Act
as amended.

14. The principal Act as amended by this Act may be cited as the Traffic Act, 1919-1941.
