

# TRANSPORT.

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No. 30 of 1985.

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## AN ACT to amend the Transport Act 1966.

[Assented to 24 April 1985.]

**B**E 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 *Transport Amendment Act 1985*.

Short title  
and principal  
Act.

(2) In this Act the Transport Act 1966 is referred to as the principal Act.

Reprinted as  
approved  
19 July 1983.

Commence-  
ment.

2. The provisions of this Act shall come into operation on such day or days as is or are respectively fixed by proclamation.

Section 4  
amended.

3. Section 4 of the principal Act is amended in the definition of "omnibus" by deleting "the Road Traffic Act 1974" and substituting the following—

“ Part IIIB ”.

Section 15B  
amended.

4. Section 15B of the principal Act is amended in subsection (2)—

(a) by deleting "to —" and substituting the following—

“ to maintain a general overview of transport services in this State and to monitor the effectiveness of existing transport services in meeting the needs of the people of this State and for those purposes to— ”; and

(b) by inserting after subparagraph (iii) of paragraph (a) the following subparagraph—

“ (iv) determining the need of, and level of, any subsidy to ensure that transport services for a particular district are adequate; ”.

Section 16  
amended.

5. Section 16 of the principal Act is amended—

(a) in subsection (1) by deleting "call tenders for the provision of road transport" and substitute the following—

“ enter into negotiations or invite tenders, or both, for the provision of transport services ”; and

(b) by inserting the following subsection—

“ (1a) The Commissioner having considered the tenders submitted in response to an invitation to tender for the provision of transport services may, and on the direction of the Minister shall, enter into negotiations with all or any of the persons who have responded to the invitation in question or with any other person for the purpose of ensuring the provision of the transport services of the kind referred to in the invitation to tender. ”.

6. Section 19 of the principal Act is amended by repealing subsection (2) and substituting the following subsections— Section 19  
amended.

“ (2) The Minister may by Order published in the *Government Gazette* grant exemptions from the provisions of this Part.

(3) An Order made under subsection (2) may be amended or revoked by the Minister by an Order published in the *Government Gazette*.

(4) Section 43 (7), (8) and (9) of the Interpretation Act 1984 applies to an Order made under this section as though the Order were subsidiary legislation. ”.

7. Section 27 of the principal Act is amended by inserting after subsection (2) the following subsection— Section 27  
amended.

“ (2a) In addition to the powers conferred on the Commissioner under subsection (2), the Commissioner may grant a licence in respect of the operation of a vehicle on a particular route on the condition that the crew of any vehicle operated by virtue of the

licence shall disembark from the vehicle at such places on the route as are specified in the licence and shall be replaced by other crew who shall embark on the vehicle only at the places so specified. ”.

Section 33  
amended.

8. Section 33 of the principal Act is amended—

- (a) by repealing subsection (4) and substituting the following subsection—

“ (4) A licence is not required for a commercial goods vehicle that is being used solely for any carriage specified in the First Schedule. ”; and

- (b) by inserting after subsection (5) the following subsection—

“ (6) Where in any proceedings for an offence against this Act the defendant proposes to claim an exemption from the provisions of this Part under subsection (4) the defendant shall, not later than 14 days before the date appointed for the hearing of the complaint, give the Commissioner written details of the exemption claimed. ”.

Section 45  
amended.

9. Section 45 of the principal Act is amended—

- (a) by inserting after the section designation “45.” the subsection designation “(1)”;

- (b) by inserting the following subsections—

“ (2) The Commissioner shall in considering any application for a licence for an aircraft have regard to government policy as directed by the Minister from time to time.

(3) Notwithstanding anything in this section, but subject to any direction given by the Minister, the Commissioner may at any stage, for any reason, defer an application or refrain from dealing with an application. ”.

10. Section 47Z of the principal Act is amended by deleting the definition of “taxi-car” and substituting the following definition—

Section 47Z  
amended.

“ “taxi-car” means a vehicle that is used for the purpose of standing or plying for hire or otherwise for the carrying of passengers for reward; ”.

11. Section 48 of the principal Act is amended by inserting after subsection (2) the following subsection—

Section 48  
amended.

“ (3) Where an employee is obliged by his employer to drive a commercial goods vehicle so as to contravene any or all of the provisions of this section that contravention shall not be pleaded in bar to any claim for the recovery of any wages or other remuneration due by the employer to the employee. ”.

12. Section 49 of the principal Act is amended in subsection (2) by inserting after “so required,” the following—

Section 49  
amended.

“ or fails to stop a vehicle when required to do so pursuant to this section, ”.

13. Section 51 of the principal Act is repealed and the following section substituted—

Section 51  
substituted.

“ 51. In any prosecution for an offence under this Act, an averment in the complaint that—

Proof on  
averment.

(a) a person is, or was, the owner of a public vehicle; or

(b) a public vehicle is or was unlicensed,  
is deemed to be proved, in absence of proof to  
the contrary. ”.

Section 56  
amended.

14. Section 56 of the principal Act is amended—

(a) by deleting “fifty dollars” and substituting  
the following—

“ \$200 ”; and

(b) by deleting “ten dollars” and substituting  
the following—

“ \$40 ”.

Section 62  
amended.

15. Section 62 of the principal Act is amended in  
subsection (2) by inserting after “fees” in paragraph  
(a) the following—

“ and charges ”.

First  
Schedule  
amended.

16. The First Schedule to the principal Act is  
amended—

(a) by inserting before clause 1 the following—

“ For the purposes of this Schedule a vehicle  
shall not be regarded as being owned by the  
producer of the goods being carried unless—

(a) where the vehicle is owned by a  
natural person, that person is the  
producer of the goods being carried on  
the vehicle or is operating the vehicle  
for, or on behalf of, another person  
who is the producer of the goods being  
carried under a *bona fide* agreement  
or arrangement that relates to the  
production of the goods and not only  
to the transport thereof;

- (b) where the vehicle is owned by more than 1 person, those persons are *bona fide* the producers of the goods being carried;
- (c) where the vehicle is owned by a body corporate, the membership of the body corporate consists of natural persons who are *bona fide* the producers of the goods being carried,

and that person or one of those persons or one of the members of the body corporate, as the case requires, is registered as the owner of the vehicle under the Road Traffic Act 1974. ”; ”.

- (b) in clause 3, by deleting “wheat or oats” and substituting the following—

“ grain or seed ”.

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