

TRANSPORT (No. 2).

No. 56 of 1981.

AN ACT to amend the Transport Act 1966-1981.

[Assented to 13 October 1981.]

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 *Transport Amendment Act (No. 2) 1981*. Short title and citation.

(2) In this Act the Transport Act 1966-1981 is referred to as the principal Act. Reprinted as approved 21 June 1977 and amended by Acts Nos. 53 of 1977, 9 of 1979, 93 of 1979, 47 of 1980, 48 of 1980 and 8 of 1981.

(3) The principal Act as amended by this Act may be cited as the Transport Act 1966-1981.

Commence-
ment.

2. (1) This Act, other than sections 10 and 11, shall come into operation on the day on which it is assented to by the Governor.

(2) Sections 10 and 11 of this Act shall come into operation on a day to be fixed by proclamation.

Section 3
repealed.

3. Section 3 of the principal Act is repealed.

Section 19A
inserted.

4. After section 19 of the principal Act the following section is inserted—

Delegation to
officers.

“ 19A. (1) The Commissioner may—

(a) delegate to any officer specified in the instrument of delegation, all or any of his powers and functions under this Part of this Act;

and

(b) vary or revoke any delegation.

(2) A function or power delegated by the Commissioner pursuant to subsection (1) of this section may be exercised or performed by the delegate in accordance with the instrument of delegation.

(3) If the exercise of a power or the performance of a function in relation to a matter is dependent upon the opinion, belief, or state of mind of the Commissioner and that power or function has been delegated under subsection (1) of this section, that power or function may be exercised or performed by the delegate upon the opinion, belief, or state of mind of the delegate in relation to that matter.

(4) A delegation under this section does not prevent the exercise of a power or the performance of a function by the Commissioner. ” .

5. Section 25 of the principal Act is amended— Section 25
amended.

(a) by inserting after the section designation "25." the subsection designation "(1)"; and

(b) by inserting the following subsections—

" (2) Where the application relates to a licence required for a particular purpose of limited duration, notwithstanding subsection (1) of this section the Commissioner may grant the licence without prior lodgement of the written application where he is satisfied that sufficient information has been made available to him to enable him so to do.

(3) A licence granted pursuant to subsection (2) of this section—

(a) shall be deemed to take effect upon verbal notification to the applicant that a licence will issue; but

(b) shall be deemed not to have taken effect if the written application relating thereto is not received by the Commissioner within 14 days of the Commissioner's decision or if the information contained in the written application differs in a material particular from the information made available to the Commissioner prior to his decision. " .

6. Section 31 of the principal Act is amended— Section 31
amended.

(a) by inserting after the section designation "31." the subsection designation "(1)";

(b) by deleting " , or a person authorised in that behalf by the Commissioner in writing (whether generally or in any particular case)," ; and

(c) by inserting the following subsections—

“ (2) Every application for a permit under subsection (1) of this section shall be in writing in the form prescribed.

(3) Notwithstanding subsection (2) of this section, the Commissioner may grant a permit without prior lodgement of the written application where he is satisfied that sufficient information has been made available to him to enable him so to do.

(4) A permit granted pursuant to subsection (3) of this section—

(a) shall be deemed to take effect upon verbal notification to the applicant that the permit will issue; but

(b) shall be deemed not to have taken effect if the written application relating thereto is not received by the Commissioner within 14 days of the Commissioner's decision or if the information contained in the written application differs in a material particular from the information made available to the Commissioner prior to his decision. ” .

Section 41
amended.

7. Section 41 of the principal Act is amended—

(a) by inserting after the section designation “41.” the subsection designation “(1)”;

(b) by deleting “, or a person authorised in that behalf by the Commissioner, in writing (whether generally or in any particular case),” ; and

(c) by inserting the following subsections—

“ (2) Every application for a permit under subsection (1) of this section shall be in writing in the form prescribed.

(3) Notwithstanding subsection (2) of this section, the Commissioner may grant a permit without prior lodgement of the written application where he is satisfied that sufficient information has been made available to him to enable him so to do.

(4) A permit granted pursuant to subsection (3) of this section—

(a) shall be deemed to take effect upon verbal notification to the applicant that the permit will issue; but

(b) shall be deemed not to have taken effect if the written application relating thereto is not received by the Commissioner within 14 days of the Commissioner's decision or if the information contained in the written application differs in a material particular from the information made available to the Commissioner prior to his decision. ” .

8. After section 43 of the principal Act the following sections are inserted—

Sections 43A
and 43B
inserted.

“ 43A. A licence for an aircraft may be granted for a period of one year or for a particular purpose of specified duration.

Period of
licence.

Permits.

43B. (1) The Commissioner may grant to the owner of any aircraft licensed under this Division a permit authorizing the aircraft to operate, subject to such conditions as may be imposed by the Commissioner,—

- (a) on any deviation from the routes specified in the licence; or
- (b) temporarily, on any route or in any area not specified in the licence.

(2) Every application for a permit under subsection (1) of this section shall be in writing in the form prescribed.

(3) Notwithstanding subsection (2) of this section, the Commissioner may grant a permit without prior lodgement of the written application where he is satisfied that sufficient information has been made available to him to enable him so to do.

(4) A permit granted pursuant to subsection (3) of this section—

- (a) shall be deemed to take effect upon verbal notification to the applicant that the permit will issue; but
- (b) shall be deemed not to have taken effect if the written application relating thereto is not received by the Commissioner within 14 days of the Commissioner's decision or if the information contained in the written application differs in a material particular from the information made available to the Commissioner prior to his decision. " .

Section 44
amended.

9. Section 44 of the principal Act is amended—

- (a) by inserting after the section designation "44." the subsection designation "(1)"; and

(b) by inserting the following subsections—

“ (2) Where the application relates to a licence required for a particular purpose of limited duration, notwithstanding subsection (1) of this section the Commissioner may grant the licence without prior lodgement of the written application where he is satisfied that sufficient information has been made available to him to enable him so to do.

(3) A licence granted pursuant to subsection (2) of this section—

(a) shall be deemed to take effect upon verbal notification to the applicant that a licence will issue; but

(b) shall be deemed not to have taken effect if the written application relating thereto is not received by the Commissioner within 14 days of the Commissioner's decision or if the information contained in the written application differs in a material particular from the information made available to the Commissioner prior to his decision. ” .

10. Section 47G of the principal Act is amended in subsection (1) in the definition of “wholesaling petroleum products”—

Section 47G
amended.

(a) in paragraph (a) by deleting “State; or” and substituting the following—

“ State; ” ;

(b) in paragraph (b) by deleting “vehicles,” and substituting the following—

“ vehicles; or ” ; and

(c) by inserting after paragraph (b) the following paragraph—

“ (c) in the case of a person who is required to hold a licence under section 47K, using motor spirit or diesel fuel for his own purposes in the course of his business, ” .

Section 47Y
inserted.

11. After section 47X of the principal Act the following section is inserted—

Validation
of licence
fees.

“ 47Y. Where before the coming into operation of section 10 of the Transport Amendment Act (No. 2) 1981 a payment was demanded or received by the Commissioner as being moneys payable by way of licence fees under this Part and the payment was not one which the Commissioner was authorized to require by virtue of this Act but which would have been lawful if section 10 of the Transport Amendment Act (No. 2) 1981 had been in force at the time of the demand or receipt, the payment shall be deemed to have been lawfully required and lawfully demanded or received by the Commissioner. ” .
