

## TRANSPORT (No. 3).

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No. 70 of 1981.

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AN ACT to amend the Transport Act 1966-1981.

[Assented to 30 October 1981.]

**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 (No. 3) 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 and 93 of  
1979, 47 and  
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.

2. This Act shall come into operation on a day to be fixed by proclamation.

Commence-  
ment.

Part IIIB  
inserted.

3. The principal Act is amended by inserting after section 47Y the following Part—

“ PART IIIB.—TAXI-CARS IN COUNTRY DISTRICTS.

Interpreta-  
tion.

47Z. (1) In this Part unless the contrary intention appears—

“control area” means a part of the State to which the Taxi-cars (Co-ordination and Control) Act 1963 from time to time applies;

“district” means the district of a municipality;

“Local Court” means a Local Court established under the Local Courts Act 1904;

“municipality” has the same meaning as that expression has in, and for the purposes of, the Local Government Act 1960;

“operate”, as applied to a taxi-car, means—

(a) to drive; or

(b) to permit, cause or employ another person to drive,

that taxi-car; and cognate expressions shall be construed accordingly;

“owner”, as applied to a taxi-car, means a person being the sole, part or joint owner of the vehicle and includes a person having the use of the vehicle under an agreement for its hire, lease or loan under a hire purchase agreement and also includes a person repossessing or purporting to repossess, the vehicle under any such agreement;

“subsection” means a subsection of the section wherein the term is used;

“taxi-car” means a vehicle, not being an omnibus within the meaning of the Road Traffic Act 1974 which—

- (a) is equipped to carry not more than 7 passengers; and
- (b) is used for the purpose of standing or plying for hire, or otherwise for the carrying of passengers for reward;

“taxi-stand” means a position or group of positions set apart by a competent authority, by means of a sign on or near a road, for the standing of disengaged taxi-cars.

(2) In this Part unless the contrary intention appears a reference to “this Part” includes a reference to the regulations made under this Part.

(3) For the purposes of this Part, the term “carrying of passengers for reward” includes any case where the owner or driver of the vehicle used—

- (a) offers that carriage as an inducement in respect of an agreement for the provision of other services or goods; or
- (b) receives any consideration in respect of an arrangement whereby that carriage is effected or to which that carriage is related.

(4) For the purposes of this Part, the carrying of passengers—

- (a) into a district from a place outside that district; or
- (b) from within a district to a place outside the district on the return journey by a direct route to the place from which the passengers were brought into the district,

shall not be taken as operating within the district.

(5) For the purposes of section 49 in relation to this Part, the term "owner" in that section shall have the meaning that it has for the purposes of this Part.

Application  
of Part.

47ZA. This Part applies only outside a control area.

Functions  
of the  
Commis-  
sioner.

47ZB. It shall be a function of the Commissioner to keep under continuous review in the public interest the conduct of the taxi-car industry outside a control area, to make recommendations to the Minister for amendments to this Part where required, and generally in the administration of this Part to initiate and implement such actions as will in the opinion of the Commissioner assist in providing an adequate and efficient taxi-car service to the public in areas outside a control area.

Delegation  
to officers.

47ZC. (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 other than this power of delegation; and

(b) vary or revoke any delegation.

(2) A function or power delegated by the Commissioner pursuant to subsection (1) 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), 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.

47ZD. (1) No taxi-car shall be operated within a district unless the owner is the holder of a taxi-car licence under this Part issued in respect of that vehicle for that district.

Taxi-cars  
to be  
licensed  
under this  
Part.

(2) When first required to be licensed under subsection (1) a taxi-car is deemed, subject to the payment of any prescribed fees, to be so licensed, if it is immediately before the coming into operation of the Transport Amendment Act (No. 3) 1981 licensed as a taxi-car under the Road Traffic Act 1974; but, on the expiry of the licence under that Act, that licence, if renewed, shall be renewed under this Part, and, in either case, the licence shall be taken to be subject to such conditions as are prescribed or the Commissioner may impose.

(3) The Commissioner may attach such conditions as he thinks fit to any licence granted or renewed under this section.

(4) Where a vehicle is owned by more than one person as owner or hirer or otherwise, the person who is deemed to be the owner pursuant to a notice given to the Road Traffic Authority for the purposes of the Road Traffic Act 1974, shall be deemed also to be the owner for the purposes of this section unless the Commissioner consents to another of such persons being deemed to be the owner for the purposes of this section.

(5) A person shall not, in any district or portion of a district, operate any taxi-car that is not licensed under this section for that district or portion of a district or in respect of which such a licence is not in force.

(6) Any person who contravenes, or who permits or suffers another person to contravene, this section commits an offence.

Penalty: For a first offence, \$80; for a second offence, \$200; and for a subsequent offence, \$400.

Drivers  
to be  
registered.

47ZE. (1) A person shall not drive a taxi-car within a district unless he is registered as a taxi-car driver under this Part and complies with the conditions of registration.

Penalty: \$100.

(2) When first required to be registered under subsection (1) a person is deemed, subject to the payment of any prescribed fees, to be so registered, if he is immediately before the coming into operation of the Transport Amendment Act (No. 3) 1981 licensed to drive a taxi-car under the Road Traffic Act 1974; but, on the expiry of the licence under that Act, that licence, if renewed, shall be in the form of registration under this Part, and, in either case, the licence or registration, as the case requires, shall be taken to be subject to such conditions as are prescribed or as the Commissioner may impose.

(3) The Commissioner may attach such conditions as he thinks fit to any registration granted or renewed under this section.

Regulations.

47ZF. (1) Without limiting the generality of section 60 the Governor may make regulations—

- (a) with respect to the issue, renewal and transfer of, licences and the manner of applying therefor;
- (b) fixing the term of licences;
- (c) prescribing the conditions under which licences of any kind may be issued, renewed or transferred under this Part; prohibiting, controlling or regulating dealings of any kind whatsoever with licences; and prescribing the qualifications of licensees;
- (d) providing that the Commissioner may attach such conditions as he thinks fit to the transfer of any licence under this Part;

- (e) with respect to the types of vehicles that may be licensed as taxi-cars, the pre-requisites for licensing and the construction of, minimum seating accommodation requirements, and equipment, including internal fittings and decorations, required or permitted to be carried on vehicles that may be licensed as taxi-cars;
- (f) with respect to the considerations to be taken into account by the Commissioner upon the issue, renewal or transfer of a licence under this Part;
- (g) with respect to the duties and obligations of holders of licences under this Part;
- (h) prescribing fees to be paid on the application for, issue, renewal or transfer of, or other dealing with, licences, or the examination or testing of any motor vehicle or any equipment carried on a motor vehicle, or for application for registration or renewal of registration as a taxi-car driver, or any other matter under this Part;
- (i) prescribing the characteristics of a private taxi-car; providing for the issue of licences for private taxi-cars and prescribing the conditions under which such licences may be issued and the qualifications of licensees of private taxi-cars;
- (j) providing the conditions upon which private taxi-cars may be operated;
- (k) providing for the cancellation or suspension of licences; and providing that the Commissioner may cancel or suspend any licence or may refuse to renew any licence under the circumstances prescribed by the

regulations after such disciplinary procedures as are prescribed by the regulations;

(l) providing for an appeal to a Local Court from a decision of the Commissioner—

(i) suspending, cancelling or refusing to renew a licence; or

(ii) suspending, cancelling or refusing to renew the registration of a taxi-car driver,

and providing for the conduct of such appeals;

(m) fixing fares and other charges to be taken or made for the hire of taxi-cars, including the occasions and conditions upon which the carriage of passengers at separate fares may be required or authorized and the method of calculation of such separate fares;

(n) prescribing the qualifications required for registration as a taxi-car driver; prescribing the method of applying for registration or renewal of registration as a taxi-car driver and the information to be supplied on such an application; with respect to the considerations to be taken into account by the Commissioner in relation to such an application; and providing for the suspension or cancellation of registration or the refusal to renew registration as a taxi-car driver, by the Commissioner;

(o) providing for registers of taxi-cars and taxi-car drivers to be kept and prescribing the particulars to be included in such registers;

(p) regulating the nature of engagement of taxi-cars;

- (q) regulating the conduct, behaviour and dress of drivers of taxi-cars in relation to the provision of taxi-car services;
- (r) prescribing the records to be kept and documents to be carried by owners, operators and drivers of taxi-cars;
- (s) providing for the condition of taxi-cars, the fitness, cleanliness, roadworthiness and mechanical standard to be observed in relation to taxi-cars and the examination of taxi-cars by the Commissioner or the Road Traffic Authority to ascertain the fitness of the vehicle or to check the equipment fitted to the taxi-car; and prohibiting the operation of a taxi-car which is unroadworthy;
- (t) providing that no alterations or modifications to a vehicle licensed as a taxi-car shall be made without the approval of the Commissioner;
- (u) prescribing means of identifying licensed taxi-cars and holders of taxi-car drivers' licences and the issue, use and withdrawal of number plates;
- (v) providing for the substitution of a vehicle for a taxi-car which is under repair and the conditions of such substitution;
- (w) prescribing specifications for taxi-meters; providing for the use and operation of taxi-meters; providing for the testing by officers or persons authorized by the Commissioner of taxi-meters; providing that the operator of a taxi-car shall maintain a taxi-meter; and prescribing offences relating to tampering with taxi-meters;
- (x) providing for the registration of radio facilities with the Commissioner and providing for the imposition of

- conditions on such registration by the Commissioner; providing for the application for the registration or renewal of registration of radio facilities and the information to be supplied on such an application; fixing the term of registration of radio facilities; prescribing offences relating to radio facilities; and providing for the suspension or cancellation of, or the refusal to renew, the registration of radio facilities by the Commissioner;
- (y) providing for the registration and the cancellation of registration of taxi-meter mechanics and base radio operators with the Commissioner;
  - (z) regulating the conduct of passengers in taxi-cars and for punishing persons evading or attempting to evade the payment of fares or charges therefor;
  - (za) with respect to the establishment, in conjunction with the Main Roads Department or the appropriate local authority of stands for taxi-cars, providing for and controlling taxi-stands;
  - (zb) providing for the delivering over and disposal of articles left in taxi-cars;
  - (zc) with respect to—
    - (i) the powers of officers; and
    - (ii) the duties of members of the Police Force,in relation to taxi-cars, taxi-car drivers, operators, passengers and taxi-meters; requiring persons to comply with directions given by officers or members of the Police Force;
  - (zd) providing for disciplinary powers of the Commissioner over owners, operators and drivers of taxi-cars and owners and

operators of radio facilities and the procedure relating to the exercise of such disciplinary powers;

- (ze) providing that a person who contravenes or fails to comply with any regulation commits an offence;
- (zf) providing that a person shall, if required by the Commissioner, attend at a place nominated by the Commissioner;
- (zg) providing for the procedure to be adopted on the recovery of penalties imposed under this Part or the regulations made under this Part;
- (zh) prescribing forms for use under this Part;
- (zi) prescribing a requirement for the furnishing of statutory declarations; and
- (zj) notwithstanding paragraph (b) of subsection (3) of section 60, prescribing penalties not exceeding \$200 for the breach of any regulation.

(2) Regulations may be made under this section—

- (a) so as to require a matter affected by them to be—
  - (i) in accordance with a specified standard or specified requirement; or
  - (ii) as approved by, or to the satisfaction of, a specified person or body or a specified class of person or body;
- (b) so as to confer on a specified person or body or a specified class of person or body a discretionary authority; and

- (c) so as to provide that, in specified cases or a specified class of case or specified classes of cases whether on specified conditions or unconditionally, persons or things of a class or classes of persons or things may be exempted from the provisions of the regulations, either wholly or to such extent as is specified.

(3) In subsection (2) "specified" means specified in the regulations.

Powers of  
a local  
authority.

47ZG. (1) This section applies to any district other than a district in respect of which the Minister has published a notice under subsection (6).

(2) Notwithstanding this Part, the Commissioner shall not issue a taxi-car licence in a district to which this section applies without having first obtained the approval of the local authority or local authorities in whose district or districts the vehicle is to be operated as a taxi-car.

(3) A local authority in a district to which this section applies may, with the approval of the Governor, make by-laws regulating the fares for, and the driving and operation of, taxi-cars in its district and imposing penalties not exceeding \$200 for any breach thereof.

(4) Where there is any inconsistency between the regulations and any by-law made or preserved pursuant to this section, the regulations shall prevail and the by-law shall, to the extent of the inconsistency, be of no effect.

(5) Any by-laws made or continued under section 111 of the Road Traffic Act 1974 shall continue in force, but may be amended or repealed, as if made under subsection (3).

(6) The Minister may, at the request of a local authority, by notice published in the *Government Gazette*, declare that this section does not apply to a district specified in the notice, from a date specified in the notice or from the date of publication of the notice, and such a notice when so published is irrevocable.

(7) Where a notice is published pursuant to subsection (6) any by-laws made by the local authority for the district specified in the notice shall, by force of the notice, be deemed to be repealed on a date specified in the notice or on the date of publication of the notice. ” .

4. Section 57 of the principal Act is amended in subsection (7) by inserting after “Part IIIA” the following—

Section 57  
amended.

“ or Part IIIB ” .

5. Section 60 of the principal Act is amended in subsection (3) by deleting “under this section” and substituting the following—

Section 60  
amended.

“ under this Act ” .

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