

PARKS AND RESERVES.

No. 50 of 1978.

AN ACT to amend the Parks and Reserves Act, 1895-1972.

[Assented to 6th September, 1978.]

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 *Parks and Reserves Act Amendment Act, 1978.*

Short
title and
citation.

(2) In this Act the Parks and Reserves Act, 1895-1972 is referred to as the principal Act.

Reprinted
as approved
for
reprint
30th June,
1960 and
amended
by Acts Nos.
40 of 1963
and 4 of 1972.

(3) The principal Act as amended by this Act may be cited as the Parks and Reserves Act, 1895-1978.

Section 2
amended.

2. Section 2 of the principal Act is amended—

(a) by inserting before the interpretation “Board” an interpretation as follows—

“authorised person” in relation to any park or reserve committed to a Board, or any by-laws made by a Board, means—

(a) any member of the Police Force;

(b) any member of the Board; or

(c) any ranger appointed by the Board pursuant to section seven of this Act. ;

(b) by adding after the interpretation “function” an interpretation as follows—

“owner” of a vehicle means the person who is the holder of the requisite vehicle licence or permit under the Road Traffic Act, 1974 in respect of that vehicle, or if the vehicle is not the subject of a licence or permit under that Act, the person who owns the vehicle or is entitled to its possession. ; and

(c) by adding after the interpretation “The Treasurer” an interpretation as follows—

“vehicle” includes any vehicle that comes within the interpretation of that term in the Road Traffic Act, 1974. .

Section 5
amended.

3. Section 5 of the principal Act is amended—

(a) by deleting the passage commencing with the word “the” in line five of subsection (3) and ending with the word “forty-two” in line eight of that subsection;

(b) by adding after the word “reserve” in paragraph (b) of subsection (3) the passage “(other than a part mentioned in subsection (4) or (5) of this section)”;

- (c) by deleting the passage "Notwithstanding the provisions of subsection (3) of this section, the" in lines one and two of subsection (4) and substituting the word "The"; and
- (d) by adding after subsection (4) a subsection as follows—

(5) It is hereby declared that the portions of class "A" Reserve No. 1720 King's Park, Perth, surveyed as Perth Town Lots 772, 786 and 801, that were respectively vested pursuant to the provisions of—

- (a) section twenty-two of the Reserves Act, 1952;
- (b) subsection (2) of section thirteen of the Reserves Act, 1955; and
- (c) section thirteen of the Reserves Act, 1959,

in the Board constituted a body corporate under this Act under the name King's Park Board, are vested under those provisions and shall be deemed to have been so vested on and from the commencement of those provisions, in trust for the purpose of a Public Park, with power to lease those lots for the purposes of a tearoom, restaurant, and kiosk for the sale of refreshments, for any term not exceeding twenty-one years and under such terms and conditions as the Governor may approve. .

4. Section 7 of the principal Act is amended—

Section 7
amended.

- (a) by adding after the section designation "7." the subsection designation "(1)"; and
- (b) by adding a subsection as follows—

(2) A person appointed to the office of ranger under subsection (1) of this section may hold that office in conjunction with any other office under that subsection. .

Sections 7A
and 7B
added.

5. The principal Act is amended by adding after section 7 sections as follows—

Powers of
authorised
persons.

7A. (1) An authorised person who is not a member of the Police Force and who finds a person committing an offence against any by-law made by a Board, or who on reasonable grounds suspects that such an offence has been committed or is about to be committed, may without warrant other than the provisions of this section—

- (a) remove any vehicle, animal or other thing from a park or reserve;
- (b) stop, detain and search any vehicle, vessel or conveyance;
- (c) enter and search any hut, tent, caravan or other erection which is not a permanent residence; and
- (d) require any person to give to him the person's name and address and detain the person if, when required to do so, he does not give to the authorised person his name and address, or gives to the authorised person a false name and address, until he can be delivered to a member of the Police Force, or the authorised person may take him into custody himself to be dealt with according to law pursuant to section fifty of the Police Act, 1892, as if he had not given his name and address, or had given a false name and address to a member of the Police Force,

but an authorised person shall not exercise any power specified in paragraph (a), (b) or (c) of this subsection unless he has first taken all reasonable steps to communicate to the owner or person in charge of the vehicle, animal, vessel, conveyance, hut, tent, caravan or other thing concerned his intention to exercise the power and his reasons for believing that he is authorised to exercise the power.

(2) An authorised person may examine any vehicle on a park or reserve and require the person apparently in charge of the vehicle to inform him whether the vehicle is the subject of a licence or permit under the Road Traffic Act, 1974 and to give to him the name and address of the owner of the vehicle.

(3) An authorised person who has reason to believe that a vehicle has been used, driven, parked, stood or left in breach of any by-law made by a Board may require the owner of the vehicle and any person to whom for the time being the possession or control of a vehicle may be entrusted to give any information which it is in his power to give, which may lead to the identification of any person who was driving or who was in charge of the vehicle when the offence is alleged to have been committed.

(4) As regards an authorised person who is a member of the Police Force, the provisions of this Act relating to authorised persons are not in derogation of but are in addition to those of other Acts relating to members of the Police Force.

7B. (1) A Board shall issue to—

- (a) each of its members; and
- (b) each ranger appointed by it pursuant to section seven of this Act,

a certificate in the form of the Schedule to this Act.

(2) An authorised person who is not a member of the Police Force shall produce the certificate issued to him under subsection (1) of this section whenever required so to do by any person in respect of whom he has exercised or is about to exercise any of his powers under this Act.

(3) In any proceedings under this Act production of a certificate in the form of the Schedule to this Act is conclusive evidence in any court of the appointment by reason of

Certificate of
authority.

which the person to whom the certificate relates became an authorised person within the meaning of this Act and of his authority to exercise the powers conferred on an authorised person under this Act. .

Section 8
amended.

6. Section 8 of the principal Act is amended—

- (a) as to subsection (1), by deleting the paragraph commencing with the word "Enabling" in line fifty-eight and substituting paragraphs as follows—

Enabling authorised persons to remove persons who have committed any breach of any by-law from the park lands and reserves;

Prohibiting the wilful obstruction of authorised persons acting in the execution of this Act and prescribing circumstances in which a person shall be treated as having wilfully obstructed an authorised person;

Prohibiting the impersonation of authorised persons;

Prescribing the circumstances in which where it is alleged that a vehicle has been used, driven, parked, stood or left in breach of any by-law and where—

- (a) the identity of the alleged offender is not known; and
- (b) the owner of the vehicle fails within the prescribed time to either satisfy the Board that the vehicle had been stolen or unlawfully taken, or was being unlawfully used, at the time the offence is alleged to have been committed or inform the Board or an authorised person as to the identity and address of the person whom he believed

was the driver or person in charge of the vehicle at the time the offence is alleged to have been committed,

the owner shall be deemed to have been the driver or person in charge of the vehicle at the time of the alleged offence;

Prohibiting any person other than the owner, driver or person in charge of a vehicle from removing any notice attached to, or left in or on, the vehicle pursuant to section fourteen of this Act; ; and

(b) by repealing subsection (2) and re-enacting that subsection as follows—

(2) A Board may, by such by-laws, impose pecuniary penalties, not exceeding a fine of one thousand dollars, for breach of any by-law and prescribe sums not exceeding fifty dollars payable by way of penalty by persons who proceed in the manner described in paragraph (d) of subsection (2) of section fourteen of this Act. .

7. The principal Act is amended by adding after section 12 a section as follows—

Section 12A
added.

12A. (1) Where any loss is suffered by a Board as a result of any damage or destruction occasioned—

Liability of
parents.

- (a) in a park or reserve committed to the Board; or
- (b) to any property owned by or under the care and control of the Board,

by the intentional or negligent act or omission of a child, the Board may recover the amount of that loss from the parent or guardian of that child by action in a court of competent jurisdiction unless the parent or guardian shows that he did not conduce to the act or

omission of the child by neglecting to exercise due care and control of the child.

(2) In subsection (1) of this section—

“child” means a person who has not attained the age of eighteen years;

“parent” has the same meaning as that term has in and for the purposes of section thirty-four E of the Child Welfare Act, 1947.

(3) The provisions of subsection (1) of this section are not in derogation of but are in addition to those of section thirty-four E of the Child Welfare Act, 1947.

Section 12B
added.

8. The principal Act is amended by adding after section 12 a section as follows—

Provisions
as to
ownership
and
control of
animals.

12B. (1) Where in any proceedings, whether civil or penal, instituted by a Board any animal, whether registered under any Act or not so registered, is shown to have been habitually in the apparent ownership of any person, that person is deemed, unless he can show cause to the contrary, to have been and to continue to be the owner of that animal and liable for the control of that animal.

(2) It shall not be a defence in any proceedings, whether civil or penal, instituted by a Board in relation to an animal for the person who is registered under any Act as, or is otherwise found to be, the owner to show that at the material time the animal was not in his possession or control unless he also shows that the animal in question was in the actual possession or control of some other person without his consent.

(3) Where in any proceedings instituted by a Board in relation to an animal a person is alleged to have permitted any act or thing it shall be a defence to any prosecution that the contravention or non-compliance occurred without his knowledge, consent or connivance

only if it is also shown that he exercised all due diligence to prevent it.

(4) The provisions of subsections (1), (2) and (3) of this section are not in derogation of but are in addition to those of sections twenty-three and twenty-five of the Dog Act, 1976.

(5) The provisions of section twenty-two of the Dog Act, 1976 relating to the concepts of ownership and liability for the control of dogs apply for the purposes of this Act.

9. Section 13 of the principal Act is amended by deleting the word "Offences" in line one and substituting the passage "Subject to section fourteen of this Act, offences".

Section 13
amended.

10. The principal Act is amended by adding after section 13 a section as follows—

Section 14
added.

14. (1) Where an authorised person finds a person committing an offence against any by-law made by a Board or suspects on reasonable grounds that a person has committed such an offence and, having regard to the nature of the alleged offence and the circumstances in which the alleged offence occurs or occurred, the authorised person believes that proceedings under this section are adequate he may upon ascertaining the name and address of the person give the notice specified in this section.

Proceedings
by way of
notice.

(2) The notice—

- (a) shall be identified by a serial number;
- (b) shall identify the person to whom it is given by his name and address;
- (c) shall state in general terms the offence that the person is alleged to have committed;
- (d) shall inform the person in general terms that if he does not desire the matter to be determined in a court

hearing he may complete the form attached to or appearing upon the notice and may forward or deliver that form together with a prescribed sum by way of penalty to the person named therein within the time appointed in the notice, which shall be not less than ten days from the date of giving the notice, whereupon he will not be liable to further costs or penalty in the matter;

(e) shall inform the person in general terms that he has a right to decline to proceed in the manner described in paragraph (d) of this subsection and to allow the matter to be determined in a court hearing—

(i) if he desires to contest the question whether the offence alleged was in fact committed; or

(ii) if he wishes to submit to the court matters in extenuation of of penalty; or

(iii) for any other reason,

in which event he need not reply or take further action in respect of the notice and that in such case court process will issue against him in due course.

(3) Notwithstanding subsection (1) and paragraph (b) of subsection (2) of this section, where it is alleged that a vehicle is being or has been used, driven, parked, stood or left in breach of any by-law made by a Board and the identity of the driver or person in charge of the vehicle is not known and cannot immediately be ascertained a notice pursuant to subsection (1) of this section may—

(a) in any case, be addressed and given to the owner of the vehicle within thirty days after the date on which the offence is alleged to have been committed; or

(b) where the allegation is of an offence of which the parking, standing or leaving of the vehicle is an element, be addressed to the owner of the vehicle, without naming him or stating his address, and be given to him by attaching it to the vehicle or leaving it in or on the vehicle.

(4) Where a person to whom notice is given pursuant to this section proceeds in the manner described in paragraph (d) of subsection (2) of this section within the time appointed in the notice a proceeding against him by way of prosecution for the offence alleged in the notice shall not be competent but otherwise such a proceeding may be commenced as if the notice had not been given.

11. The principal Act is amended by adding at the end thereof a schedule as follows—

Schedule added.

SCHEDULE.

S.7B.

CERTIFICATE OF AUTHORITY.

This is to certify that

..... is an

AUTHORISED PERSON

for the purposes of the

PARKS AND RESERVES ACT, 1895 (AS AMENDED)

and has legal authority to exercise the powers conferred on the holder of such office.

Issued by the Board this
(Name of Board)

..... day of19.....

Signed.....
For and on behalf of the Board.

.....
(Signature of holder)