

ROAD AND AIR TRANSPORT COMMISSION.

No. 64 of 1970.

**AN ACT to amend the Road and Air Transport
Commission Act, 1966-1968.**

[Assented to 17th November, 1970.]

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:—

Short title
and citation.

1. (1) This Act may be cited as the *Road and Air Transport Commission Act Amendment Act, 1970.*

(2) In this Act the Road and Air Transport Commission Act, 1966-1968, is referred to as the principal Act.

(3) The principal Act as amended by this Act may be cited as the *Transport Commission Act, 1966-1970.*

2. This Act shall come into operation on a date to be fixed by proclamation after the Queen's approval thereto has been proclaimed in the State.

Commencement. *Vide* Royal Instructions of 29/10/1900 Cl. VII(5) U.K. Merchant Shipping Act 1894 s. 736.

3. The long title to the principal Act is amended by adding after the word "Air" in line three the words "and to control the operation of ships engaged in the coasting trade".

Amendment to long title.

4. Section 3 of the principal Act is amended—

(a) by adding after the figure "47" in line nine the letter "F"; and

(b) by adding after line fifteen the following passage "Division 5—Ships—Ss. 47A-47F".

Amendment to s. 3. (Parts and Divisions.)

5. Section 32 of the principal Act is amended by deleting the words "as an omnibus" in lines two and three.

Amendment to s. 32. (Omnibuses to be registered as motor vehicles.)

6. The principal Act is amended by adding after section 47 the following heading and section—

Division 5 and s. 47A added.

Division 5.—Ships.

Interpretation.

47A. (1) In this Division, unless the contrary intention appears—

"master" in relation to a ship means the person having command or charge of the ship but does not include the pilot thereof;

"port" includes place and harbour;

"ship" means any vessel of a registered tonnage of not less than eighty tons that is used in sea navigation and includes barge, lighter or other floating vessel.

(2) A ship shall be deemed to be engaged in the coasting trade, within the meaning of this Division, if the ship takes on board cargo at any port in the State to be carried to, and delivered at, any other port in the State.

(3) For the purposes of this Division, each ship operated by or on behalf of the Western Australian Coastal Shipping Commission established under the Western Australian Coastal Shipping Commission Act, 1965, shall while it is so operated, be deemed to be authorized under this Division to engage in the coasting trade and no licence or permit is required thereunder for such a ship while it is being so operated.

S. 47B
added.

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

Authority
for ships to
engage in
coasting
trade.

47B. (1) Subject to this Division, a ship shall not engage in the coasting trade unless it is authorized to do so pursuant to a licence or permit granted under this Division.

(2) The master, owner, charterer or agent of a ship that—

- (a) engages in the coasting trade without the ship being so authorized; or
- (b) engages in the coasting trade contrary to the licence or permit authorizing it to engage in the coasting trade,

commits an offence against this Act.

Penalty: One thousand dollars.

(3) An application for a licence or permit for a ship to engage in the coasting trade may be made to the Commissioner in the prescribed form by the master, owner, charterer or agent of the ship.

(4) (a) The application shall specify—

- (i) the name, port of registry and official number of the ship;
- (ii) the name of its registered owner and master;
- (iii) the ports in the State between which it is desired to trade;

- (iv) whether the licence or permit to which the application relates is desired for the carriage of cargo only or both cargo and passengers and the kind and amount of cargo intended to be carried;
and
- (v) such other particulars as may be prescribed;

(b) Where an application is for a permit, the application shall also specify the voyage for which the permit is desired.

(5) Where a licence has been granted under this Division in respect of a ship, the master, owner, charterer or agent thereof may, from time to time, make application to the Commissioner in the prescribed form for a renewal of the licence and the application shall be made not less than thirty days before the expiration of the period for which the licence was granted or renewed.

(6) A licence or a renewal of a licence may be granted by the Commissioner for such period not exceeding three years as the Commissioner determines and specifies in the licence except where in relation to any particular licence or particular renewal of a licence, the Minister by instrument in writing directs that the licence or the renewal shall be granted for such period in excess of three years as the Minister specifies in the instrument.

(7) A permit may be granted by the Commissioner in respect of a single voyage only and between such two or more ports in the State as are specified in the permit.

(8) Such fee as may be respectively prescribed shall be payable for a licence, for a renewal of a licence or for a permit granted under this section. .

S. 47C
added.

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

Granting of
licences and
permits in
certain
cases.

47C. (1) The Commissioner shall grant—

(a) a licence or permit under this Division for a ship, if he is satisfied that—

(i) the cargo to be carried by the ship in the course of the coasting trade to which the licence or permit will relate, and which is specified in the application for the licence or permit, is cargo of such a kind that none of the ships that are deemed to be authorized to engage in the coasting trade under this Division is technically suited to carry; or

(ii) the Commission that controls the ships so authorized does not wish any of the ships to carry the cargo; or

(iii) the cargo to be carried by the ship in the course of the coasting trade to which the licence or permit will relate and which is specified in the application for the licence or permit is cargo of such a kind that requires for the purpose of its loading onto, carriage in, or unloading from, the ship, specialised equipment that is in operation in the State for the purpose on the commencement of this section.

(b) a permit under this Division for a ship, if he is satisfied that—

(i) the cargo specified in the application for the permit is required for a purpose or operation that must be completed, continued or carried out without interruption;

- (ii) in order to prevent the interruption the cargo is required to be carried to a port so specified by a particular date or as near thereto as is practicable;
- (iii) the ship to which the application relates will be able to so carry the cargo; and
- (iv) none of the ships that are deemed to be authorized to engage in the coasting trade is available at the relevant time to so carry the cargo, or the Commission that controls the ships so authorized does not wish to arrange for the cargo to be so carried to that port.

(2) The Commissioner shall grant a licence or permit under this Division to engage in the coasting trade in any other case if, after considering the application and having regard to—

- (a) the extent to which the granting of the licence or permit is necessary or desirable in the public interest;
- (b) the needs of the port or ports specified in the application and the district in which they are situate in relation to the existing authorized coasting trade; and
- (c) the necessity, in the public interest, of protecting the public funds in operating ships deemed to be authorized to carry on the coasting trade, when the application is for a licence or permit to engage in the coasting trade in respect of a port or ports at which such ships call,

he is of opinion that it is necessary or desirable to grant the licence or permit. .

S. 47D
added.

9. The principal Act is amended by adding a section as follows—

Supervision.

47D. (1) For the purpose of ascertaining whether the provisions of this Division or any regulation relating thereto are being contravened, any person authorized for the purpose by the Commissioner by instrument in writing and whether so authorized generally or in any particular case, may go on board any ship and may request the person in charge or apparently in charge of the ship—

- (a) to produce for inspection any licence or permit, if any, granted under this Division in respect of the ship, the manifest of the ship and any other document that the person so authorized requires to inspect for the purpose;
- (b) to permit an inspection of the ship and the cargo loaded or being loaded into the ship; and
- (c) to state his name and address.

(2) A person who goes on board a ship pursuant to this section—

- (a) may be accompanied and assisted by an interpreter where the records of the ship are kept in a language other than English; and
- (b) may cause any licence, permit, manifest of a ship or other document inspected by him pursuant to this section, to be copied.

(3) A person who—

- (a) fails to produce the licence, permit, manifest of a ship or other document or does not allow any of them to be copied;
- (b) refuses to permit an inspection of a ship or its cargo;

- (c) refuses to state his name and address;
- (d) refuses to allow any person to go on board a ship who is authorized to do so under this Act,

after being requested so to do pursuant to this section, commits an offence against this Act.

Penalty: Three hundred dollars. .

10. The principal Act is amended by adding a section as follows— S. 47E added.

47E. A prosecution for an offence against this Act may be brought at any time. . No limitation from proceedings. "This Act" includes regulations. Vide s. 4 Act No. 30 of 1918.

11. The principal Act is amended by adding a section as follows— S. 47F added.

47F. This Division shall be read and construed as being in addition to and not in derogation of or in substitution for any of the provisions of the Western Australian Marine Act, 1948. . Construction of this Division.

12. Section 49 of the principal Act is amended by adding a subsection as follows— Amendment to s. 49. (Powers of members of Police Force and persons authorized by Commissioner for purpose of ascertaining whether provisions of Act or regulations are being contravened.)

- (3) A person shall not—
 - (a) hinder or obstruct any person in the execution of any power or duty conferred on him by this Act, or lawfully performing such power or duty;
 - (b) threaten or intimidate or use improper or abusive language to any person so acting.

Penalty: One hundred dollars. .