

TRAFFIC.

No. 35 of 1968.

AN ACT to amend the Traffic Act, 1919-1967.

[Assented to 4th November, 1968.]

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 *Traffic Act Amendment Act, 1968*.

Reprinted as
approved for
reprint the
31st August,
1966, and
further
amended by
Acts Nos. 57
and 87 of
1966 and 56
of 1967.

(2) In this Act the Traffic Act, 1919-1967, is referred to as the principal Act.

(3) The principal Act as amended by this Act may be cited as the Traffic Act. 1919-1968.

2. (1) Subject to subsection (2) of this section, this Act shall come into operation on a date to be fixed by proclamation. Commence-
ment.

(2) It is not necessary that the whole of this Act be proclaimed to come into operation on the one day and the several sections may be proclaimed to come into operation on such respective dates as are fixed by proclamation.

3. Section four of the principal Act is amended— S. 4
amended.

(a) by substituting for the interpretation, “district”, the following interpretation—

“district” means the district of a municipality; and, for the purposes of section twenty-two of this Act, the term includes a county district or a regional district constituted under the Local Government Act, 1960, for the local government purpose of controlling traffic; ;

(b) by substituting for the interpretation, “local authority”, the following interpretation—

“local authority”, in relation to—

(a) a district or part of a district that is outside the metropolitan area, means the council of the district;

(b) the metropolitan area, means the Commissioner of Police;

and, for the purposes of section twenty-two of this Act, the term includes the county council of a county district and the regional council of a regional district constituted under the Local Government Act, 1960, for the local government purpose of controlling traffic; ;

and

(c) by substituting for the interpretation, "vehicle", the following interpretation—

"vehicle" includes—

- (a) every conveyance, not being a train, vessel or aircraft, and every object capable of being propelled or drawn, on wheels or tracks, by any means; and
- (b) where the context permits, an animal being driven or ridden; .

S. 16
amended.

4. Section sixteen of the principal Act is amended by adding, immediately after the word, "refused", being the last word in the section, the passage, "and may be refused where the applicant has not complied with the provisions of the Stamp Act, 1921, relating to the transfer of motor vehicle licenses".

S. 25A subs.

5. Section twenty-five A of the principal Act is repealed and re-enacted as follows—

Learners'
permits.

25A. (1) The Commissioner may, on payment of a fee of twenty-five cents and subject to such conditions as he sees fit to impose, issue a permit authorising a person—

- (a) who has attained the age of sixteen years, to drive a motor vehicle of the class specified in the permit, in the course of driving instruction under a youth driver education course, conducted or supervised by the body known and incorporated as the National Safety Council of Western Australia;
- (b) who has attained the age of sixteen years and nine months, to drive a motor vehicle of the class specified in the permit, in the course of driving instruction by a person who is the holder of a license issued under the Motor Vehicle Drivers Instructors Act, 1963;

- (c) who has attained the age of seventeen years, to drive a motor vehicle of the class specified in the permit, in the course of driving instruction by the holder of a license such as is mentioned in paragraph (b) of this subsection or by a person who has held a driver's license appropriate to the class of vehicle specified in the permit for at least four years and who is approved by the Commissioner of Police.

(2) The Commissioner of Police shall cause a permit issued under this section to be indorsed with any conditions to which its issue is subject and with the name of the person or the names of the persons who are to give the driving instruction; and the holder of the permit shall not drive a motor vehicle except in conformity with those conditions and unless accompanied by the person or one of the persons so named, seated beside him or, in the case of a permit to drive a motor cycle, riding in a side car attached, or on a pillion seat fitted, to the motor cycle or riding on an accompanying motor cycle.

Penalty: Forty dollars.

(3) A permit issued under this section is, unless sooner cancelled, valid, in the case of a permit for the taking of driving instruction in the manner mentioned in paragraph (a) of subsection (1) of this section, for a period of twelve months, and, in any other case, for a period of three months, from the date of issue and may, on payment of a further fee of twenty-five cents, be from time to time renewed for a like period.

(4) The Commissioner of Police may, at any time, by notice in writing given to the holder, cancel a permit issued under this section.

6. Section thirty-four of the principal Act is amended—

S. 34
amended

- (a) by deleting the subsection designation, "(1)", in line one;

- (b) by substituting for the word, "fifty", in line eleven, the words, "one hundred";
- (c) by substituting for the word, "one", in line twelve, the word, "two"; and
- (d) by repealing subsection (2).

S. 35
amended.

7. Section thirty-five of the principal Act is amended, as to subsection (1),—

- (a) by deleting the passage, "section twenty-three, twenty-four or twenty-four A of", in lines five and six;
- (b) by deleting the passage, ", so long as it is in force and the person has not been served with a notice pursuant to subsection (2) of this section," in lines thirteen to sixteen; and
- (c) by substituting for the passage, "applicable.", being the concluding passage of the subsection, the following passage—

"applicable, until—

- (a) the expiration of one year after the holder's arrival in the State;
- (b) the license, equivalent of a license or permit expires; or
- (c) the authority to drive is withdrawn by notice served pursuant to subsection (2) of this section,

whichever first occurs."

S. 36
amended.

8. Section thirty-six of the principal Act is amended, as to subsection (1),—

- (a) by deleting the passage, ", so long as it remains in force," in lines twelve and thirteen; and

- (b) by substituting for the passage, “applicable.”, being the concluding passage of the subsection, the following passage—

“applicable, until—

- (a) the expiration of one year after the holder’s arrival in the State;
- (b) the license or permit expires; or
- (c) the authority to drive is withdrawn by notice served pursuant to subsection (2) of this section,

whichever first occurs.” .

9. Section sixty-nine of the principal Act is amended by adding, after subsection (3), the following subsection—

S. 69
amended.

(4) Where, in a complaint of an offence against this Act, the name of the person against whom the complaint is made is that given by the alleged offender at the time of, or immediately following, the occurrence giving rise to the complaint, there is a presumption, rebuttable by evidence to the contrary, that the person named in the complaint is the alleged offender. .

Cf. Act No.
30 of 1918,
S. 4.
“This Act”
includes
regulations.

10. The principal Act is amended by adding, after section seventy-three, the following section—

S. 74 added.

74. (1) Where a member of the Police Force or an inspector has reason to believe that a person has committed any such offence against this Act as is prescribed for the purposes of this section, he may serve on that person a notice, in the prescribed form, (in this section called a “traffic infringement notice”) informing the person that, if he does not wish to have a complaint of the alleged offence heard and determined by a court, he may pay to an officer

Traffic
infringe-
ment
notices.

Cf. Act No.
30 of 1918,
S. 4.
“This Act”
includes
regulations.

specified in the notice, within the time therein specified, the amount of the penalty prescribed for the offence, if dealt with under this section.

(2) A traffic infringement notice may be served on an alleged offender personally or by posting it to his address as ascertained from him, at the time of, or immediately following, the occurrence giving rise to the allegation of an offence, or as ascertained pursuant to an inquiry made under section thirty-four of this Act; and, where the allegation is of an offence of which the standing, parking or leaving of a vehicle is an element and the identity of the driver or person in charge of the vehicle is not known and cannot immediately be ascertained, the traffic infringement notice may be addressed to the owner of the vehicle, without naming him or stating his address, and be served by leaving it in or upon, or attaching it to, the vehicle.

(3) Where, under the provisions of subsection (2) of this section, a traffic infringement notice is addressed to the owner of a vehicle and served by leaving it in or upon, or attaching it to the vehicle, then, if—

- (a) the prescribed penalty is not paid within the period specified in the notice; or
- (b) the owner of the vehicle does not, within the period specified for the payment of the penalty,—
 - (i) identify the person who was the driver or person in charge of the vehicle at the relevant time to a prescribed officer; or
 - (ii) satisfy a prescribed officer that, at the relevant time, the vehicle had been stolen or unlawfully taken or used,

the owner is, in the absence of proof to the contrary, deemed to have committed the offence.

(4) A person who receives a traffic infringement notice may decline to be dealt with under the provisions of this section and, where he fails to pay the prescribed penalty within the time specified in the notice or within such further time as may, in any particular case, be allowed, he is deemed to have declined to be dealt with under those provisions.

(5) A traffic infringement notice may, whether or not the prescribed penalty has been paid, be withdrawn, at any time within twenty-eight days after the service of the notice, by the sending of a notice, in the prescribed form, signed by a prescribed officer, to the alleged offender at his last known place of residence or business, advising the alleged offender that the traffic infringement notice has been withdrawn; and, in that event, the amount of any prescribed penalty that has been paid shall be refunded.

(6) Where a prescribed penalty has been paid pursuant to a traffic infringement notice and the notice has not been withdrawn as provided by subsection (5) of this section, proceedings shall not be brought against any person with respect to the offence alleged in the notice.

(7) The payment of a penalty pursuant to a traffic infringement notice shall, for the purposes of section seventy-five of this Act, constitute a conviction of an offence, but shall not be regarded as an admission of liability for the purpose of, nor in any way affect or prejudice, any civil claim, action or proceeding arising out of the occurrence by reason of which the traffic infringement notice was given.

(8) The Governor may make regulations for any purpose for which regulations are contemplated or required by this section and, in particular, may make regulations—

- (a) prescribing offences for the purposes of this section, not being offences punishable by imprisonment or

offences in respect of which a vehicle license or driver's license may be cancelled or suspended or a person may be disqualified from obtaining or holding a driver's license, by setting out the offences or by reference to the provision creating the offence or by reference to all or any offences in any one Part of any regulations made under this Act; and

- (b) prescribing a penalty not exceeding fifty dollars for any prescribed offence and different amounts of penalties for different prescribed offences or classes of prescribed offences, or for different prescribed offences or classes of prescribed offences according to time, place or circumstance. .

S. 75
repealed and
re-enacted.

11. Section seventy-five of the principal Act is repealed and re-enacted, as follows—

Disqualifica-
tion from
driving by
reason of
convictions.

75. (1) Subject to the succeeding provisions of this section, the Governor may make regulations providing—

Cf. Act No.
30 of 1918,
s. 4.
"This Act"
includes
regulations.

- (a) for a prescribed number of points to be recorded against every person convicted of any offence against this Act prescribed for the purposes of this section;
- (b) that, upon the points recorded against a person pursuant to the regulations amounting to a prescribed aggregate, the person's driver's license shall be suspended, and he shall be disqualified from holding or obtaining a driver's license, for a period not exceeding three months.

(2) The regulations may prescribe a different number of points for different prescribed offences or classes of prescribed offences, or for different prescribed offences or classes of prescribed offences according to time, place or circumstance.

(3) An offence shall not be taken into account for the purposes of regulations made under this section, unless the driving or use of a motor vehicle was an element of the offence; and, in assessing an aggregate of points, only those recorded within the period of three years immediately prior to the assessment shall be taken into account.

(4) A person's driver's license shall not be suspended, and a person shall not be disqualified from holding or obtaining a driver's license, pursuant to regulations made under this section, unless a notice has been sent to him, as the occasion may require, by prepaid post, to his last known place of residence or business, informing him—

- (a) of the first recording of points against him; and
- (b) of at least two progressive totals, being less than the prescribed aggregate mentioned in paragraph (b) of subsection (1) of this section, of the points recorded against him;

and the suspension and disqualification shall take effect when notice thereof has been personally served on the person and no sooner.

(5) A person who has been served with notice of the suspension of his driver's license and his disqualification from holding or obtaining a driver's license shall deliver up his driver's license, if then in his possession, to the person serving the notice, otherwise he shall deliver it up to the police station nearest to his place of residence together with the notice, as soon as may be practicable thereafter.

Penalty: Forty dollars.
