

MOTOR VEHICLE DRIVERS INSTRUCTORS.

12° Elizabeth II., No. X.

No. 10 of 1963.

AN ACT to provide for the Licensing of Instructors engaged, for reward, in the teaching of persons to drive Motor Vehicles and for incidental and other purposes.

[Assented to 15th October, 1963.]

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. This Act may be cited as the *Motor Vehicle Drivers Instructors Act, 1963.* Short title and citation.

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

Interpre-
tation.

3. In this Act, unless the contrary intention appears—

“Commissioner” means the person for the time being holding office of Commissioner of Police under the Police Act, 1892, or the person duly acting in that office;

“driving instructor” means a person who—

- (i) on his own account or in conjunction with another; or
- (ii) as an employee, servant or agent of a person,

for fee, reward, salary, wages or other remuneration or for any consideration whatever, by whomsoever paid or payable, gives advice, instructions or demonstrations to a person for the purposes of teaching him to drive a motor vehicle;

“license” means a valid and current license issued under this Act authorising the holder thereof to act as a driving instructor and any renewal of the license;

“motor vehicle” means any motor car, motor carriage, motor cycle, tractor or other vehicle propelled wholly or partly by any volatile spirit, steam, gas, oil or electricity, or by any means other than human or animal power, and constructed for use upon a road, and includes a trailer but does not include any vehicle used on a railway or tramway;

“permit” means a valid and current permit issued under this Act authorising the holder thereof to act as a driving instructor and any renewal of the permit;

“road” includes a street, highway and thoroughfare that the public are allowed to use;

“section” means a section of this Act.

4. Subject to the directions of the Minister, the Commissioner shall administer this Act in the Police Department of the State.

Adminis-
tration of
Act.

5. (1) After the expiration of three months from the coming into operation of this Act, a person shall not—

Driving
instructors
required to
have license
or permit.

- (a) act as a driving instructor in respect of a motor vehicle of any class, unless he is the holder of a license or permit authorising him to so act in respect of that class;
- (b) advertise, notify or state that he acts or is willing to act as a driving instructor unless the advertisement, notification or statement specifies the class of motor vehicles in respect of which the person acts or is willing to act as a driving instructor and the person is the holder of a license or permit authorising him to act as a driving instructor in respect of that class;
- (c) if he is the holder of a license or permit, act as a driving instructor in contravention of any conditions attached to the license or permit; or
- (d) while acting as a driving instructor, use upon a road a motor vehicle that is not equipped as required by the regulations or that does not comply with the provisions of the Traffic Act, 1919, and the regulations made under that Act, applicable to the motor vehicle and relating to the construction and equipment of motor vehicles.

Offences.

(2) Without affecting the liability of any other person, where a person commits an offence under subsection (1) of this section and that person is

Offence by
employer,
master or
principal.

then acting as the employee, servant or agent of another person, that other person is guilty of an offence against this Act but if the offence committed by the employee, servant or agent is an offence under paragraph (a), (b) or (c) of that subsection that other person is not guilty of an offence against this Act, if he proves to the satisfaction of the Court before which he is charged that he did not know and could not with reasonable diligence have discovered, as the case may be, that the employee, servant or agent—

- (a) was not the holder of a license or permit authorising him to act as a driving instructor in respect of the class of motor vehicles concerned; or
- (b) acted as a driving instructor in contravention of any conditions attached to the license or permit held by the employee, servant or agent.

Penalty—One hundred pounds.

Particulars
of offences
to be sent to
Commis-
sioner.

(3) A Court before whom a person is convicted of an offence against this Act shall cause particulars of the conviction to be forwarded to the Commissioner.

Licenses.
See s. 25,
Act No. 30
of 1918.

6. (1) A license shall be in the form prescribed.

(2) A license may authorise the holder thereof to act as a driving instructor in respect of any class of motor vehicles specified therein, or in respect of all classes of motor vehicles.

(3) Where no class of motor vehicles is specified in a license the license shall be deemed to authorise the holder thereof to act as a driving instructor in respect of all classes of motor vehicles.

(4) A license remains in force for a period of twelve months from the date of its issue, unless sooner suspended or cancelled.

(5) A license may be renewed and on each renewal the license remains in force for a further period of twelve months, unless sooner suspended or cancelled.

7. (1) An application for a license or a renewal thereof shall be in the prescribed form and shall be lodged with the Commissioner together with the appropriate prescribed fee which shall not exceed five pounds in either case.

Application
for license.
See s. 25,
Act No. 30
of 1918.

(2) The Commissioner shall, upon the receipt of an application for a license, and may, upon receipt of an application for the renewal of a license, cause enquiries to be made as to the character of the applicant.

(3) Subject to subsection (4) of this section, the Commissioner shall require the applicant for a license and may require the applicant for a renewal thereof to submit himself to a test—

- (a) of his competency as a driver of motor vehicles, or of motor vehicles of the class in respect of which he has applied for a license or renewal of a license; and
- (b) of his knowledge of such of the provisions of the Traffic Act, 1919 and of the regulations made under that Act as relate to drivers of motor vehicles.

(4) When an applicant for a license or the renewal thereof has duly obtained from the body known as The National Safety Council of Western Australia Incorporated or any other body prescribed for the purposes of this section, a certificate that the applicant is competent to act as a driving instructor in respect of motor vehicles of the class for which he has applied for a license or a renewal thereof the Commissioner shall in respect of the applicant dispense with the tests referred to in subsection (3) of this section.

(5) Where the Commissioner is satisfied that the applicant for a license—

- (a) has attained the age of twenty-one years;
- (b) is a person of good character;

- (c) is a fit and proper person to act as a driving instructor;
- (d) is competent to teach persons to drive motor vehicles of the class in respect of which he has applied for a license or is the holder of the certificate referred to in subsection (4) of this section or has such other qualifications and experience, as a driving instructor, as in the opinion of the Commissioner justifies a grant to him of a license without his having obtained that certificate;
- and
- (e) is the holder of a current and valid license under the Traffic Act, 1919, to drive motor vehicles of the class in respect of which he has applied for a license and has held a license to the like effect, whether in this State or elsewhere for a continuous period of not less than three years then last past;

the Commissioner shall grant the application.

(6) A license may be issued subject to such conditions as the Commissioner may determine and as may be specified in the license.

(7) The Commissioner may, by notice sent to the holder of a license, revoke or vary any conditions attached thereto or attach new conditions to the license.

Tests and
course of
training
required
to obtain
certificate.

8. (1) The National Safety Council of Western Australia Incorporated or other prescribed body referred to in subsection (4) of section seven shall not grant the certificate referred to in that subsection to a person until he—

- (a) has passed such tests or course of training as the Council or the body may prescribe; and
- (b) has paid to the Council or the body the prescribed fee for the tests or the course.

(2) The tests and course of training referred to in subsection (1) of this section—

- (a) may be written, oral or practical and shall in particular include examination in the following matters namely: such provisions of the Traffic Act, 1919, and the regulations made thereunder as relate to drivers of motor vehicles, driving practices, vehicle manipulation and teaching technique; and
- (b) shall be approved by the Commissioner.

9. (1) The Commissioner may, by notice sent to the holder of a license, cancel or suspend the license if—

Cancellation
and sus-
pension of
licenses.

- (a) the license was issued erroneously or granted in consequence of a false or fraudulent document, statement or representation;
- (b) any prescribed fee for the license is due and unpaid;
- (c) the holder of the license is convicted of an offence against this Act; or
- (d) the Commissioner is no longer satisfied that the holder of the license complies with any of the requirements applicable to him and specified in subsection (5) of section seven.

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

(2) When a license is cancelled or suspended under this section the person to whom the license was issued shall deliver the license to the Commissioner within such period as may be specified in the notice referred to in subsection (1) of this section.

(3) The Commissioner shall enter or cause to be entered in the record of licenses and permits referred to in section twelve particulars of the cancellation or suspension of a license under this section.

Appeal
against
decision of
Commis-
sioner.

10. (1) Where the Commissioner—

- (a) refuses an application for a license;
- (b) cancels or suspends a license;
- (c) issues a license subject to any conditions;
- (d) revokes or varies any conditions attached to a license; or
- (e) attaches new conditions to a license,

he shall notify in writing the person making the application or the person to whom the license was issued of his decision and of the grounds therefor.

(2) (a) The applicant or person to whom the license was issued may in the prescribed manner appeal to a Court of Petty Sessions against the decision of the Commissioner.

(b) The appellant shall lodge with—

- (i) the Clerk of the Court of Petty Sessions to which the appeal is to be made; and
- (ii) the Commissioner,

within one month after the applicant or person to whom the license was issued was notified of the decision of the Commissioner as directed by subsection (1) of this section, a notice of appeal specifying the grounds of appeal.

(3) Any report furnished under this Act to the Commissioner by any police officer in relation to the appellant is admissible in evidence in the appeal.

(4) The decision of a Court of Petty Sessions in an appeal under this section is final and conclusive and the Commissioner shall give effect to the decision.

(5) An appeal under this section shall be in the nature of a rehearing and shall be heard before a Court of Petty Sessions constituted by a stipendiary magistrate.

11. (1) Where—

Permits.

- (a) an application is made for a license; and
- (b) the Commissioner is making, but has not completed, enquiries for the purpose of satisfying himself that the applicant complies with the requirements applicable to him and specified in subsection (5) of section seven, or is not satisfied that the applicant complies with all or any of those requirements; and
- (c) the applicant requests a permit and pays the prescribed fee therefor,

the Commissioner may issue to the applicant a permit authorising the holder thereof during the currency of the permit to act as a driving instructor.

(2) The permit—

- (a) is in force for such period, not exceeding six months, as the Commissioner determines and specifies in the permit;
- (b) is subject to such conditions as may be so specified.

(3) The Commissioner may at any time revoke the permit, vary any conditions attached to the permit or attach new conditions thereto.

(4) The Commissioner shall, if a license is issued to the holder of a permit, revoke the permit and may refund to the holder such portion of the fee paid for the permit, as the Commissioner thinks fit.

12. (1) The Commissioner shall keep records of licenses and permits and of matters relating thereto including but without limiting the generality of the foregoing, particulars in relation to the grant, refusal, renewal, suspension and cancellation of licenses and the grant, refusal and revocation of permits.

Records and
evidence.

(2) A certificate purporting to be signed by the Commissioner or other prescribed officer certifying that on any date or during any period specified in the certificate the particulars set forth in the certificate as to any of the matters specified in subsection (1) of this section, did or did not appear on or from such records, is evidence of the particulars certified in and by the certificate without—

- (a) proof of the signature or of the official character of the person purporting to have signed the certificate; and
- (b) the production of any record or document upon which the certificate is founded.

Power to
Commis-
sioner to
delegate.

13. (1) The Commissioner may, either generally or in relation to a matter or class of matters, by writing under his hand, delegate to any officer of the Police Force any of his powers, authorities, duties or functions under this Act, except this power of delegation.

(2) A power so delegated may be exercised by the delegate in accordance with the instrument of delegation.

(3) Where the exercise of any power, authority, duty or function of the Commissioner under this Act is dependent upon the opinion, belief or state of mind of the Commissioner in relation to any matter or class of matters and that power, authority, duty or function has been delegated by the Commissioner, in pursuance of this section, that power, authority, duty or function may be exercised upon the opinion, belief or state of mind of the delegate.

Regulations.

14. (1) The Governor may make regulations prescribing all matters that by this Act are required or permitted to be prescribed, or that are necessary

or convenient to be prescribed, for carrying out or giving effect to this Act, and, in particular regulations may be made for or with respect to—

- (a) the renewal of licenses and permits and the return of expired licenses and permits;
- (b) the display on or in any motor vehicle used by a driving instructor for the purpose of giving instruction in the driving of the motor vehicle, of the license or permit held by the driving instructor and of any means of identifying him;
- (c) the production to prescribed persons of licenses and permits;
- (d) regulating the method and manner in which a driving instructor may make known the place where and the fact that he is a driving instructor or is willing to give instruction in the driving of motor vehicles;
- (e) the use of and the carriage of persons in any motor vehicles used for the purpose of giving instruction in the driving of motor vehicles;
- (f) the provisions and use of special equipment on any motor vehicle used by a driving instructor upon any road for the purpose of giving instruction in the driving of that vehicle;
- (g) the production to the Commissioner by an applicant for a license or a permit or by the holder of a license or permit of—
 - (i) evidence of the medical fitness of the applicant or holder to be the holder of a license or permit;
 - (ii) evidence of the fitness and qualifications of the applicant or holder to act as a driving instructor;
 - (iii) any prescribed means of identifying the applicant or holder;

“This Act”
includes
regulations.
See s. 4,
No. 30 of
1918.

- (h) notification to the Commissioner and such other persons as may be prescribed by the regulations of any injuries sustained by any person or of any damage occasioned to any property during the course of driving instruction;
- (i) the granting of exemption or conditional exemption from compliance with all or any of the provisions of this Act;
- (j) the granting of duplicate licenses or permits and matters connected with those licenses or permits; and
- (k) imposing a penalty not exceeding fifty pounds, for a breach of any regulation.

(2) A regulation may be of general or of limited application according to time, place or circumstances, and may be general or restricted to any specified class of subject matter.
