

**TRAFFIC (No. 2).**

7° Elizabeth II., No. LIX.

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No. 59 of 1958.

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**AN ACT to amend the Traffic Act, 1919-1957.**

[Assented to 23rd December, 1958.]

**B**<sup>E</sup> 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 *Traffic Act Amendment Act (No. 2)*, 1958.

Short title  
and citation.

(2) In this Act the Traffic Act, 1919-1957, is referred to as the principal Act.

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(3) The principal Act as amended by this Act may be cited as the Traffic Act, 1919-1958.

S. 8 amended.

## 2. Section eight of the principal Act is amended—

- (a) by substituting for the passage commencing with the first word, “Subject” and ending with the word, “State” in line three, the passage, “Subject to the provisions of this Act, every vehicle license granted under this Act is effective and operative throughout the State, whilst that license remains in force, but the person in whose name the vehicle is licensed may apply to the licensing authority which issued the vehicle license to cancel the vehicle license and where the person surrenders the vehicle license and the identification tablets issued in relation to the vehicle the subject of the vehicle license the licensing authority shall cancel the license”; and
- (b) by adding to the second proviso a paragraph as follows—
  - (d) The number of licenses which may be issued in respect of taxi-cars within the metropolitan area as defined by this Act shall not at any time exceed one such license for every six hundred of the population of the said metropolitan area as estimated or declared from time to time by the Government Statistician, but the provisions of this paragraph shall not be construed to require the cancellation of or the refusal to renew any taxi-car license which has been issued prior to the coming into operation of this paragraph.

Except that notwithstanding the foregoing where in the opinion of the Commissioner of Police the circumstances of an applicant for a taxi-car license are such as to warrant it the Commissioner

of Police may in his absolute discretion issue not more than one taxi-car license in any month under such circumstances.

Provided further that

- (a) no taxi-car license which has been issued on or since the first day of November, one thousand nine hundred and fifty-six shall be permitted to be transferred; and
- (b) no taxi-car license which was issued before the first day of November, one thousand nine hundred and fifty-six shall be permitted to be transferred after the thirtieth day of June, one thousand nine hundred and sixty.

3. Section eleven of the principal Act is repealed and re-enacted as follows—

S. 11  
amended.

11. (1) Subject to the exemptions and concessions provided in this section, fees shall be paid to local authorities for licenses or renewals of licenses granted, or for transfers of licenses effected, after the coming into operation of the Traffic Act Amendment Act (No. 3), 1956, in accordance with the appropriate scale prescribed in the Third Schedule to this Act.

Fees.

(2) Where, in the opinion of a local authority, exceptional circumstances require it, and where the local authority has obtained the approval of the Minister to do so, it may grant a vehicle license subject to such conditions as it attaches to the vehicle license, to the owner of the vehicle without requiring payment of the appropriate fee for that vehicle license.

(3) A local authority shall issue a vehicle license without requiring the payment of a license fee where the vehicle—

- (a) belongs to the Crown;

- (b) belongs to a local authority;
- (c) belongs to the Western Australian Fire Brigades Board, or any other fire brigade, if the vehicle is used exclusively for purposes connected with the prevention and extinguishing of fires;
- (d) is used exclusively as an ambulance;
- (e) is owned and used by a minister of religion, but this exemption applies to only one vehicle where the minister owns more than one vehicle;
- (f) is not a tractor referred to in subsection (6) of this section and is owned by a person who carries on the business of farming or grazing and is used solely on his farm or pastoral holding and is not used on a road otherwise than in passing from one portion of the farm or holding to another portion of the farm or holding;
- (g) is a trailer constructed and used solely for the purpose of carrying a gas producer or other motive power producing plant to propel a vehicle, and to carry fuel for that vehicle.

(4) Where a trailer or semi-trailer is used or intended to be used exclusively on roads outside the South-West Land Division of the State, the local authority shall issue a vehicle license for the trailer or semi-trailer upon payment by or on behalf of the owner of one-half of the appropriate vehicle license fee payable according to the scale in the Third Schedule to this Act.

(5) A local authority shall, in respect of one vehicle owned by any person, and may in its discretion, in respect of any additional vehicle owned by that person, charge only one-half of

the fee payable according to the scale in the Third Schedule to this Act where it is proved to the satisfaction of the local authority—

- (a) that the license applied for is required for a motor wagon, motor carrier, trailer, semi-trailer, or any vehicle, other than a tractor referred to in subsection (6) of this section, used for the purpose of hauling the trailer or semi-trailer which is owned by a person carrying on the business of farming or grazing on any farm or other land and will be used during the currency of the license solely or mainly for the carriage of the products of or requisites for that business, or, if the farm or land is north of the twenty-sixth parallel of south latitude, between the farm or land and the nearest shipping port; if the distance measured by the length of existing roads to that port is less than the distance measured by the length of existing roads to the nearest railway station or siding; or
- (b) that the license is required for a vehicle which is owned by a *bona fide* prospector, or a person other than a company as defined in the Companies Act, 1943, who searches for or produces metals or minerals from land in which he holds an interest and which will be used by that prospector or person during the currency of the license, solely or mainly in connection with his occupation of prospecting; or
- (c) that the license is required for a vehicle which is owned by a *bona fide* sandalwood puller and which will be used by that person during the currency of the license solely or mainly in connection with the occupation of sandalwooding; or

- (d) that the license is required for a vehicle which is owned by a *bona fide* kangaroo-hunter, and which is used by that person during the currency of the license solely or mainly in connection with the occupation of kangaroo-hunting; or
- (e) that the license is required for a vehicle which is owned by a person who—
  - (i) is a beekeeper within the meaning of the Bees Act, 1930; and
  - (ii) is *bona fide* engaged in the keeping of bees substantially as a means of livelihood;and which is used by that person during the currency of the license solely or mainly in connection with the occupation of beekeeping.

(6) (a) A local authority shall issue a license for any tractor, other than a prime mover, used for a purpose described in this subsection at the appropriate rate or proportion of license fee prescribed by paragraph (b) of this subsection.

(b) Where it is proved to the satisfaction of the local authority that—

- (i) a tractor owned by a person who carries on the business of farming or grazing is used solely on his farm or pastoral holding and is not used on a road otherwise than in passing from one portion of the farm or holding to another portion of the farm or holding, no vehicle license fee is payable for that tractor; or
- (ii) a tractor with an unladen weight of not more than two tons, is owned by a person carrying on the business of farming or grazing and will be used during the currency of the license for the carriage or hauling of the products or requisites of that business, and not

in any way for hire or reward, the vehicle license fee is one-half the fee prescribed in the Third Schedule to this Act for the tractor or the fee at the rate of five pounds per annum whichever is the lesser fee; or

- (iii) a tractor with an unladen weight exceeding two tons, is owned by a person carrying on the business of farming or grazing and will be used during the currency of the license for the carriage or hauling of the products or requisites of that business, and not in any way for hire or reward, the vehicle license fee is one-half the fee prescribed in the Third Schedule to this Act for that tractor or the fee at the rate of ten pounds per annum whichever is the lesser fee; or
- (iv) any tractor is designed and is used primarily for earth moving or road making, the vehicle license fee is at a rate of twenty-five per centum of the fee prescribed in the Third Schedule to this Act for that tractor; or
- (v) any other tractor is not generally used on roads, the vehicle license fee is at a rate of twenty-five per centum of the fee prescribed in the Third Schedule for that tractor.

(7) The maximum vehicle license fee payable for any tractor operated on motor spirit as defined in paragraph (d) of subsection (11) of this section shall not in any event exceed fifty pounds per annum, and subject to the provisions of subsection (9) of this section, the maximum fee for any tractor operated on fuel other than motor spirit as so defined shall not in any event exceed one hundred pounds per annum.

(8) Where a vehicle license has been issued by a local authority without payment of a fee, or upon payment of a reduced fee as provided

by this section or subject to such conditions as may be approved by the Minister and stated in the license, and it appears to the local authority that the vehicle is not being used for the purpose for which the vehicle license was granted, or the conditions as stated in the vehicle license are not being observed, the local authority may by notice in writing sent to the holder of the license at his last known place of abode, revoke the license and the revocation shall have effect unless and until the person to whom the notice was sent pays the fee prescribed for a license for the vehicle in the Third Schedule to this Act.

(9) The Minister may, in such cases as he thinks proper, by notice published in the *Gazette* reduce any fee referred to in Item fifteen of the Third Schedule to this Act, and the fee as so reduced shall be payable in accordance with that notice.

(10) Where a vehicle license is issued pursuant to the provisions of this Act and the fees paid in respect of the license are subsequently found to be either in excess of or less than the fees which are properly payable in respect of the license, the local authority which issued the license—

- (a) shall forthwith upon demand refund the amount of the excess to the person to whom the license was issued;
- (b) may recover the deficiency in a court of competent jurisdiction from the person to whom the license was issued, if that person fails to pay the deficiency to the local authority within seven days after the amount of the deficiency has been demanded in writing from him.

(11) (a) Notwithstanding the provisions of subsection (1) of this section, if, by or under any law made after the commencement of the Traffic Act Amendment Act, 1948, and having



effect in the State, the quantity of motor spirit available or allowed for or for use in any or certain vehicles shall be reduced, the Governor, by Order in Council made prior to the first day of July, 1949, and published in the *Gazette*, may, in respect of any vehicle or class or type of vehicle specified in the Order in Council and in respect of any period or periods therein specified, reduce by a percentage not exceeding twenty-five per centum the amount of any license fee payable under this Act, and may fix different percentages and periods as aforesaid for or in relation to different vehicles or different classes or types of vehicles.

S. 22AO  
amended.

(b) The Governor may, by any subsequent Order in Council published as aforesaid, revoke or vary any Order in Council under this subsection.

(c) Any Order in Council made under this subsection shall, on publication as aforesaid or from such later date as may be fixed by the Order in Council, have effect according to its tenor.

(d) In this subsection the term, "motor spirit" means liquid petroleum products or similar hydrocarbons distilling completely below 225° C. and suitable for use as fuel in internal combustion engines, and includes motor benzole and power alcohol.

4. Section nineteen of the principal Act is amended by adding after the word, "completion" in line twelve of paragraph (b), the passage, ", on delivery to or from an agent,".

S. 19  
amended.

5. Section twenty-two of the principal Act is amended by adding after the third proviso to subsection (8) a subsection as follows—

S. 22  
amended.

(9) Any person who falsely represents himself to be a Traffic Inspector appointed under this Act is guilty of an offence.

Penalty—Fifty pounds.

6. Section twenty-two AC of the principal Act is amended—

(a) by substituting for the passage commencing with the word, “such” in line seven of paragraph (b) of subsection (3) and ending with the word “prescribed” in line nine, the passage, “a security prescribed in subsection (3a) of this section”;

(b) by adding after subsection (3) the following subsections—

(3a) A security required by paragraph (b) of subsection (3) of this section to be furnished by an applicant for a license or the renewal of a license shall be a fidelity bond and—

(a) shall be given to Her Majesty

(i) by an insurance company in the appropriate form prescribed by the regulations which company has complied with the requirements of the Insurance Companies Act, 1918; or

(ii) by some other surety in a form, of which surety and of which form the Treasurer approves and is hereby authorised to approve;

(b) shall be in the sum of three thousand pounds or such lesser sum as the Commissioner of Police approves and is hereby authorised to approve.

(3b) The conditions of a fidelity bond upon breach of which by a dealer the fidelity bond is defeasible are—

(a) Where the owner of a used motor vehicle authorises a dealer to sell or otherwise part with the possession of the used motor vehicle

upon such terms, conditions, and price as the owner and the dealer agree upon—

- (i) if the dealer sells or otherwise parts with the possession of the used motor vehicle and fails to pay to the owner the whole or any part of the price or other sum he has agreed to pay to him; and
- (ii) if the dealer sells or parts with the possession of the used motor vehicle otherwise than in accordance with the terms, conditions, and price agreed upon;
- (b) where the dealer purports to sell, hire with an option to purchase, or exchange, a used motor vehicle to or with a person and the dealer is unable to, or does not effectually transfer the property in the vehicle to that person when he is entitled to the transfer of that property;
- (c) where a dealer deliberately misrepresents the general efficiency, or mechanical condition of a used motor vehicle to any person and that person suffers damage;
- (d) where a dealer fraudulently removes any of the parts or accessories from a used motor vehicle after he sells or hires with an option to purchase the used motor vehicle to any person.  
and

(3c) A sum mentioned in a fidelity bond given under the provisions of this section shall not be deemed to be a penalty, but shall be recoverable in full

as a debt due to Her Majesty by the obligor company or, as the case may be, the other surety unless the company or other surety proves compliance with every condition on compliance with which the bond is defeasible.

(3d) A sum so recovered shall be paid into the Consolidated Revenue Fund and the balance of the sum, after deduction of the costs and other expenses of recovering it, may with the approval of the Treasurer who is hereby authorised to grant the approval, and without further appropriation than this Act, be held for a period of six months and be applied—

- (a) in compensating, at the expiration of that period, any person who, during that period, makes application to, and proves to the satisfaction of, the Treasurer that the person has sustained loss by reason of any breach of any condition of the bond; and
- (b) in refunding to the company or surety at the expiration of that period any balance left after payment of the compensation.

(3e) If at any time during the currency of a dealer's license the bond furnished by the dealer to the Commissioner of Police ceases to be of full force and effect, the dealer shall, until a bond of full force and effect is furnished by him, to the Commissioner of Police, be deemed to be unlicensed.

(3f) If a fidelity bond given under this Act so provides, the bond may enure not only during the term of the dealer's license in respect of which it was originally given, but during the term of any renewal of the dealer's license issued to the same person.

(3g) If a fidelity bond is given by an insurance company, or, as the case may be, some other surety, and provides for the bond to enure in respect of the renewal or further renewal of a dealer's license, the company or other surety may at any time by notice in writing addressed to and served on the Commissioner of Police terminate the liability of the company or surety under the bond in respect of any act done or default made after the thirty-first day of December next following the date of the notice, in which case the Commissioner of Police shall not issue a renewal or further renewal of the dealer's license until another fidelity bond complying with the requirements of this Act has been furnished to him by the applicant for renewal or further renewal of the license.

7. Section thirty-two A of the principal Act is S 32A amended.  
amended—

- (a) by deleting the words, "by weight" in line ten, and again in line sixteen of paragraph (a) of subsection (3);
- (b) by substituting for the word, "or" being the last word in subparagraph (i) of paragraph (b) of subsection (3), the word, "and";
- (c) by deleting the words, "by weight" in line six, and again in line ten of subparagraph (ii) of paragraph (b) of subsection (3);
- (d) by deleting the words, "by weight"
  - in line two of paragraph (a);
  - in line two of paragraph (b); and
  - in line two of paragraph (c);of subsection (4);
- (e) by adding after the passage, "section," in line one of subsection (5), the following interpretation—
  - "percentage of alcohol in the blood"
  - means the number of grams of alcohol contained in one hundred millilitres of blood; ;

- (f) by substituting for the passage commencing with the word, "the" in line four of the interpretation, "properly qualified analyst" in subsection (5) and ending with the word, "Institute" being the last word in that interpretation, the words, "determining the percentage of alcohol in bodily substances"; and
- (g) by substituting for the passage, " , whether by weight or volume of alcohol" in lines two and three of subparagraph (iii) of paragraph (b) of subsection (8), the words, "of alcohol in the blood".

S. 43  
amended.

7A. Section forty-three of the principal Act is amended—

- (a) by adding after the word, "vehicle" in line six of subsection (1), the passage, " , or the gross weight supported by any axle, wheel, or tyre, on the vehicle";
- (b) by adding after the word, "load" in line three and again in line six of subsection (2), the passage, " , or gross weight supported by any axle, wheel, or tyre"; and
- (c) by adding after the word, "or" in line nine of subparagraph (i) of paragraph (a) of subsection (3), the passage, "if the weight supported by any axle, wheel, or tyre exceeds the weight prescribed by the regulations; or".

S. 47  
amended.

8. Section forty-seven of the principal Act is amended—

- (a) by adding after the word, "directions" being the last word in subparagraph (y) of paragraph (i) of subsection (1), the words, "and authorise the Commissioner of Main Roads or other person to exercise any of the powers contained in this subparagraph";

- (b) by adding after subparagraph (zm) of paragraph (i) of subsection (1), the following subparagraphs—

(zn) prohibit the use of a motor vehicle on a road unless the engine of that vehicle has affixed or attached to it a prescribed identification mark; and require a similar identification mark to be affixed or attached to every engine capable of being used in a vehicle; and prohibit the alteration or defacement of a prescribed identification mark on an engine;

(zo) require a local authority to maintain any official traffic sign erected by it and replace or amend a sign erected by it when the replacement or amendment is required by the regulations made from time to time under this Act;

(zp) empowering the Commissioner to carry into effect the provisions of paragraph (d) of the proviso to section eight of the principal Act;

and

- (c) by deleting the words, “respectively employed” in line three of subparagraph (d) of paragraph (ii) of subsection (1);

and

- (d) by adding after the passage, “road;” in line four of subparagraph (g) of paragraph (vii) of subsection (1), the passage, “or the gross weight supported by any axle, wheel, or tyre, on the vehicle;”.

9. Section fifty-six of the principal Act is amended by deleting the word, “extraordinary” in lines two and three of subsection (1).

S. 56  
amended.

Third  
Schedule  
amended.

10. Part I of the Third Schedule to the principal Act is amended—

- (a) by deleting the two provisoes which follow item ten;
  - (b) by deleting item eleven;
  - (c) by substituting for the figure, “3” in line three of paragraph (1) of item fifteen, the figure, “11”;
  - (d) by substituting for the passage, “subparagraph (2) of this paragraph” in lines four and five of paragraph (1) of item fifteen, the passage, “subsection (9) of section eleven of this Act”;
  - (e) by deleting the passage commencing, “: Provided” in line six of paragraph (1) of item fifteen and ending with the word, “pounds” being the last word in that paragraph; and
  - (f) by deleting paragraph (2) of item fifteen.
-