

STATE TRANSPORT CO-ORDINATION.

2° and 3° GEO. VI., No. XLVII.

No. 47 of 1938.

AN ACT to amend the State Transport Co-ordination Act, 1933.

[Assented to 31st January, 1939.]

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

Short title.

1. This Act may be cited as the *State Transport Co-ordination Act Amendment Act, 1938*, and shall be read as one with the State Transport Co-ordination Act, 1933 (No. 42 of 1933), hereinafter referred to as the principal Act.

Amendment of s. 3.

2. Section three of the principal Act is amended by deleting from the definition of "owner" the words "is let on hire, or" in line two of the said definition.

New section.

3. A section is inserted in the principal Act after section eleven as follows:—

Conditions of tender.

11A. (1) Any tenders called either under section ten or section eleven of this Act may be so called subject to all or any of the following conditions as the Board may deem necessary or expedient to be imposed as conditions precedent to the acceptance of any tender, that is to say:—

If his tender be accepted, the tenderer shall and will—

(a) provide a minimum service as specified by the Board;

(b) provide such minimum service for a minimum period as specified by the Board;

(c) execute jointly and severally, with sureties of a number and kind to be approved by the Board, a bond in favour of the Board, binding the tenderer and the sureties aforesaid to the Board in an amount to be specified by the Board for the due performance of any of the said conditions imposed by the Board as aforesaid.

(2) Where the Board has imposed any of the conditions aforesaid under the authority of subsection (1) of this section, the Board may, upon granting to the tenderer whose tender is accepted the license tendered for, impose, as conditions of such license, any of the conditions imposed as aforesaid in addition to any other conditions permitted by this Act to be imposed by the Board in relation to such license.

(3) Where a tenderer has been granted a license subject to conditions, including the execution of a bond imposed under the authority of this section, and thereafter he fails in any respect duly to perform any one of the conditions aforesaid, then without prejudice to the right or power of the Board under this Act to cancel the license granted to such tenderer, the Board may take any proceedings at law or in equity in any court of competent jurisdiction to enforce payment under the bond held by the Board under this section against all or any of the persons bound thereby.

4. Section thirty-three of the principal Act is amended as follows:—

Amendment
of s. 33.

by adding to the section new subsections as follows:—

(2) Notwithstanding anything to the contrary contained elsewhere in this section, a license shall be necessary under this Act in respect of a vehicle mentioned in this section not operating in the manner specified in paragraphs (a) or (b) of subsection (1) of this section to which but for this subsection the provisions of this section as to exemp-

tion would apply, if in relation to such vehicle the following circumstances exist, that is to say:—

- (a) there are more persons than three holding separate share interests in the vehicle; and
- (b) such share interest is not held as a partner in a partnership, or is held as a partner in a limited partnership within the meaning of the Limited Partnership Act, 1909; and
- (c) any one of the persons holding a share interest in the vehicle is not himself the owner of any business in or for which such vehicle operates, or is not a partner or is only a limited partner in any firm which is the owner of any business in or for which such vehicle operates; or
- (d) the vehicle is operated or intended to be operated or available for operation by or for any one of such persons having a share interest therein as aforesaid, for the direct benefit of such one person as an individual, when being so operated, and not for the direct benefit of all the other persons holding share interests in such vehicle.

(3) the burden of proving that in respect of any vehicle mentioned in this section, subsection (2) of this section does not apply, and that a license in respect of such vehicle is not necessary shall lie upon the person claiming the exemption under this section.

Amendment
of s. 47.

5. Section forty-seven of the principal Act is amended by deleting from subsection (1) the word "Part" in line five of the subsection, and inserting in lieu thereof the word "Act."

Amendment
of s. 59.

6. Section fifty-nine of the principal Act is amended by adding to subsection (1) a paragraph as follows:—

(c) Any moneys recovered by the Board by the enforcement of bonds as provided for in section eleven A of this Act.

7. The First Schedule to the principal Act is repealed, and a schedule is inserted in lieu thereof as follows:—

Amendment
of First
Schedule,
repeal, and
new Schedule.

FIRST SCHEDULE.

1. The carriage of produce of farms or forests or farming requisites or requisites for the production of timber between any farm or forest and the railway station or town nearest to such farm or forest.

For the purpose of this item the term "farm" shall include a sheep station or a cattle station.

2. The carriage of produce and goods between the station property of any person engaged in the pastoral industry between such property and the railway station or town nearest to such property.

3. The carriage of livestock, poultry, fruit, vegetables, dairy produce or other perishable commodities or wheat or oats from the place where they are produced to any other place in a vehicle owned by the producer thereof and on the return journey the carriage of requisites for the domestic use of such producer or for use by him in the production of the commodities herein named.

4. The carriage of grain in a vehicle owned by the producer of such grain to a flour mill for the purpose of being gristed, milled, or treated, and the carriage from such mill of flour, meal, bran, pollard, or offal received in exchange for such grain for use on the farm where the grain was produced.

5. The carriage of ore from mines and mining requisites within any one prescribed mining district.

6. By the Crown or any local authority for its own purposes.

7. The carriage of samples of goods for exhibition to prospective purchasers and not for sale.

8. The carriage of livestock to or from agricultural shows or exhibitions.

9. The carriage of milk or cream to the nearest factory.

10. The carriage of shearing employees and their luggage to any place or places where they are to

carry out any shearing contract and the return by the same vehicle of such employees to their places of residence on completion of the contract.

11. The carriage of goods off any route or outside any area in respect of which the Board has granted a license pursuant to its acceptance of a tender called for by it under the provisions of the Act and within a radius of thirty-five miles from any one country railway station or railway siding: Provided always, that such goods have been or are to be transported by railway for a distance of not less than twelve miles to or from such railway station or siding as the case may be.

12. Any special purpose for which, in the opinion of the Board, it is necessary, either generally or subject to conditions, to grant an exemption from the provisions of section thirty-two of this Act.

For the purpose of this Schedule the term "the railway station or town nearest to such property" shall mean that station or town most accessible to the property or farm, as the case may be, and the term "railway station" shall, notwithstanding the definition of "railway" in this Act include any railway station whatsoever.

Citation of
principal Act
as amended.

8. The principal Act as amended by this Act may be cited as the State Transport Co-ordination Act, 1933-1938.