

## TRANSPORT.

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No. 47 of 1980

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AN ACT to amend the Transport Act 1966-1979.

[Assented to 19 November 1980.]

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. (1) This Act may be cited as the *Transport Amendment Act 1980*.

Short title  
and citation.

(2) In this Act the Transport Act 1966-1979 is referred to as the principal Act.

Approved for  
reprint 21  
June 1977  
and  
amended by  
Acts Nos. 53  
of 1977, 9 of  
1979 and 93  
of 1979.

(3) The principal Act as amended by this Act may be cited as the Transport Act 1966-1980.

Long title  
amended.

2. The long title to the principal Act is amended—

(a) by inserting after “appointment” the following—

“and functions” ; and

(b) by inserting after “sea” the following—

“and as to the construction or closure of railways” .

Section 3  
amended.

3. Section 3 of the principal Act is amended by deleting the reference to Division 2 of Part II and substituting the following—

*“Division 2.—Functions, Powers and Duties of the Commissioner.—Ss. 15B-18.*

*Division 3.—Construction or Closure of Railways.—S. 18A. ” .*

Section 4  
amended.

4. Section 4 of the principal Act is amended in subsection (1) by inserting after the definition of “section” the following definition—

“ “transport service” means any service for the carriage of passengers or goods, whether by road, rail, air, or sea; ” .

Section 7  
amended.

5. Section 7 of the principal Act is amended—

(a) in subsection (1) by deleting “For the purposes of this Act there” and substituting the following—

“There” ;

(b) by repealing subsection (2); and

(c) in subsection (3) by deleting “For the purposes of this Act the” and substituting the following—

“The” .

6. Part II of the principal Act is amended by inserting before "*Powers*" in the heading to Division 2 the following—

Heading to  
Part II  
Division 2  
amended.

*"Functions,"* .

7. Part II of the principal Act is amended by inserting after the heading "*Division 2.—Powers and Duties of the Commissioner.*" the following section—

Section 15B  
inserted.

" 15B. (1) Subject to this Act and to the general control of the Minister, the Commissioner is responsible for the administration of this Act.

Functions.

(2) It is the function of the Commissioner to—

(a) investigate and inquire into existing transport services for the purpose of—

(i) ascertaining the need of, and priorities for, the investment therein of public money;

(ii) determining the adequacy of existing services;

(iii) ensuring the impartial and equitable treatment of conflicting interests;

(b) recommend to the Minister the provision of new or additional road transport services and the calling of tenders;

(c) examine and report to the Minister on any proposal for the construction of a new railway;

- (d) recommend to the Minister the closure or partial suspension of any transport service, including a railway;
- (e) advise the Minister on the administration of—
  - (i) the Eastern Goldfields Transport Board Act 1946;
  - (ii) the Taxi-cars (Co-ordination and Control) Act 1963; and
- (f) perform duties as directed by the Minister relating to other matters associated with or affecting transport.

(3) Without affecting any other provision of this section, the Commissioner shall, as the Treasurer may from time to time require, report on, and make recommendations in respect of, the appropriation of moneys, the application of loan funds, and public borrowing, under, and for the purposes of, either of the Acts mentioned in paragraph (e) of subsection (2) of this section. ” .

Division 3  
of Part II  
inserted.

8. Part II of the principal Act is amended by inserting after section 18 the following heading and section—

“ *Division 3.—Construction or Closure of Railways.*

Minister to  
table report  
or recom-  
mendation.

18A. Before the second reading of a Bill for the construction, or for the closure, of a railway the Minister shall cause the report or the recommendation, as the case may be, made by the Commissioner in that regard pursuant to section fifteen B to be laid before each House of Parliament, in turn. ” .

9. Section 26 of the principal Act is amended— Section 26 amended.

(a) by deleting “and” after paragraph (c); and

(b) by deleting “applicant.” in paragraph (d) and substituting the following—

“ applicant; and

(e) the interests of persons requiring transport to be provided, and of the community generally. ” .

10. Section 35 of the principal Act is amended in subsection (3) by deleting “seven” in paragraph (b) and substituting the following— Section 35 amended.

“fourteen” .

11. Section 45 of the principal Act is amended— Section 45 amended.

(a) by deleting “and” after paragraph (c); and

(b) by deleting “applicant.” in paragraph (d) and substituting the following—

“ applicant; and

(e) the interests of persons requiring transport to be provided, and of the community generally. ” .

12. Section 47G of the principal Act is amended— Section 47G amended.

(a) in subsection (1) by deleting the definition of “motor spirit” and substituting the following definition—

“ “motor spirit” means petrol or other petroleum or shale spirit having a flashpoint of less than 23° Celsius when tested in an Abel Pensky

closed test apparatus but does not include—

- (a) aviation gasoline;
  - (b) solvents;
  - (c) special boiling point spirits;
  - (d) liquefied petroleum gas; or
  - (e) any substance prescribed under subsection (5);” ;
- and

- (b) by inserting after subsection (4) the following subsection—

“ (5) The Governor may by regulation prescribe any substance as not being a motor spirit for the purposes of this Part. ” .

Section 49  
amended.

13. Section 49 of the principal Act is amended—

- (a) by repealing subsection (1) and substituting the following subsections—

“ (1) For the purpose of ascertaining whether the provisions of this Act or of any regulation made under this Act are being or have been contravened, a member of the Police Force or any person authorised in that behalf in writing by the Commissioner (whether generally or in any particular case) may—

- (a) require the owner and the driver of a vehicle, and any other person whom he has reasonable grounds to believe may have information as to the operation of any vehicle, —
  - (i) to produce for inspection any licence, permit, or other document that, by

this Act or the regulations,  
is required to be obtained in  
respect of a vehicle or its  
operation or carried on a  
vehicle;

- (ii) to state his name and place  
of abode;
- (iii) to permit an inspection to  
be made of any vehicle or of  
any load; or
- (iv) to give information in  
respect of any load, its  
despatch and receipt,  
including the identity of the  
person who hired the vehicle  
for the carriage of that load  
and the identity of the  
consignor and consignee of  
any of the goods which that  
load contains;
- (b) at any time stop and detain  
any vehicle and inspect any goods  
which the load of that vehicle  
contains or any documents  
pertaining thereto;
- (c) having lawfully entered upon any  
premises where he has reasonable  
cause to suspect that any vehicle,  
goods or documents concerned in  
any offence or suspected offence or  
attempt to commit an offence may  
be found, thereon search for and  
inspect any such vehicle, goods or  
documents;
- (d) take copies of or extracts or notes  
from, any accounts, records, books  
or other documents, so inspected;  
and
- (e) be accompanied and assisted by an  
interpreter,

and a person disclosing information pursuant to a requirement under this subsection or permitting inspection of, or the taking of copies, extracts, or notes of, any document under this subsection does not thereby commit a breach of any duty of secrecy however imposed.

(1a) If a justice is satisfied on oath by a person who is a member of the Police Force or is authorised in writing by the Commissioner to exercise the power conferred by paragraph (c) of subsection (1) of this section that—

(a) there is reasonable cause to suspect that any vehicle, goods or documents concerned in any offence or suspected offence or attempt to commit an offence may be found on any premises; and

(b) the issue of the warrant is reasonably required for the purpose referred to in subsection (1) of this section,

the justice may by warrant under his hand in the prescribed form authorise that person, together with any other person named in the warrant or any member, or as the case may be, other member, of the Police Force, to enter the premises, if necessary by force. ” ;

(b) in subsection (2)—

(i) by deleting “paragraph (d)” and substituting the following—

“subparagraph (iv) of paragraph (a)” ; and



- (ii) by inserting at the foot of the subsection the following—

“Penalty: For a first offence, not more than two hundred dollars, for a second offence, not more than three hundred dollars, and for a third or subsequent offence, not more than five hundred dollars, but, in the case of a fourth or subsequent offence committed within a period of three years since the date of the last conviction under this subsection where it is shown that the accused has engaged in a course of conduct in contravention of this Act, not less than two hundred dollars.” ;

and

- (c) in subsection (3)—

- (i) by inserting before “threaten” in paragraph (b) the following—

“assault,” ; and

- (ii) by deleting “One hundred dollars” and substituting the following—

“Four hundred dollars, or imprisonment for a term not exceeding six months”.

14. Section 50 of the principal Act is amended—

Section 50  
amended.

- (a) in subsection (1), as to the penalty—

- (i) by deleting “for a third offence, not more than five hundred dollars, and,

for any” and substituting the following—

“and for a third or subsequent offence, not more than five hundred dollars, but, in the case of a fourth or”; and

(ii) by deleting “and not more than five hundred dollars” ; and

(b) by repealing subsection (3) and substituting the following subsection—

“ (3) Where—

(a) the driver or the owner of a public vehicle is convicted of an offence under this section relating to the operation of the public vehicle; and

(b) there is before the court by or before which the person is convicted a certificate purporting to be signed by an officer authorised in that behalf by the Commissioner specifying the amount of the licence fee that the Commissioner would have determined to be payable in respect of an appropriate licence authorising such operation had such a licence been applied for and issued,

the certificate is conclusive evidence of the matter certified therein without proof of the signature of the officer purporting to have signed it or proof that the purported signatory was authorised in that behalf by the Commissioner, and the court shall, in addition to any other penalty inflicted for the offence, order the person convicted to pay to the Commissioner the amount specified in the certificate. ” .

## 16. Section 62 of the principal Act is amended—

Section 62  
amended.

- (a) by inserting after subsection (2) the following subsection—

“ (2a) A reference in subsection (2) of this section to moneys received by the Commissioner includes a reference to moneys, if any, received by the Commissioner by way of *ex gratia* payments. ” ;

- (b) in subsection (3) by inserting before “and” after paragraph (c) the following paragraph—

“ (ca) such amount as is, in the opinion of the Treasurer of the State, necessary or expedient to maintain a trust fund to be held by the Commissioner and applied, as and when the Commissioner thinks fit, towards the provision, maintenance or improvement of any aircraft landing ground or of any facilities thought necessary for the safe operation of any aircraft using or about to use any aircraft landing ground; ” ;  
and

- (c) in subsection (4)—

- (i) by deleting “three portions in the proportion that the licence fees derived respectively from licences issued for omnibuses, commercial goods vehicles and aircraft bear to the aggregate of all” and substituting the following—

“two portions in the proportion that the licence fees derived respectively from licences issued

for omnibuses and commercial  
goods vehicles bear to the  
aggregate of such" ;

(ii) by inserting "and" after paragraph  
(a);

(iii) by deleting "roads; and" before  
paragraph (c) and substituting the  
following—

"roads." ; and

(iv) by deleting paragraph (c).

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