

STATE TRANSPORT (CO-ORDINATION) AMENDMENT ACT.

Act No. 48, 1954.

Elizabeth II, An Act to amend the State Transport (Co-ordination) Act, 1931, the Transport (Division of Functions) Further Amendment Act, 1952, and certain other Acts in certain respects; to validate certain matters; and for purposes connected therewith. [Assented to, 16th December, 1954.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

Short title and citation.

1. (1) This Act may be cited as the "State Transport (Co-ordination) Amendment Act, 1954."

(2) The State Transport (Co-ordination) Act, 1931, as amended by subsequent Acts and by this Act, may be cited as the State Transport (Co-ordination) Act, 1931-1954.

Amendment of Act No. 32, 1931.

2. (1) (a) The State Transport (Co-ordination) Act, 1931, is amended—

**Sec. 22.
(Permit to use vehicle for carriage of passengers or goods.)**

(i) by inserting in subsection one of section twenty-two after the word "persons" the words "or goods";

(ii) by inserting at the end of the same section the following new subsection:—

(4) Without prejudice to the generality of subsection one of this section the conditions that may be prescribed or imposed by the board may include

include a condition of the permit that the holder **No. 48, 1954.** of the permit shall pay to the board—

- (a) in the case of a public motor vehicle carrying passengers or passengers and goods a sum for each and every passenger carried by the public motor vehicle not exceeding one penny per mile or part thereof of his journey upon any public street; and
- (b) in the case of a public motor vehicle carrying goods or goods and passengers a sum not exceeding an amount calculated at the rate of threepence per ton or part thereof of the aggregate of the weight of the vehicle unladen and of the weight of the loading the vehicle is capable of carrying (whether such weight is carried or not) for each mile or part thereof travelled by the vehicle upon any public street.

For the purposes of paragraph (b) of this subsection the weight of the vehicle unladen and the weight of loading the vehicle is capable of carrying shall be as mentioned in the permit or as determined by the board.

The sums payable to the board under this subsection shall be paid to the prescribed persons on behalf of the board as and when prescribed by the regulations and shall constitute a debt due to and recoverable by the board from the holder of the permit.

The board may in their discretion require any applicant to give reasonable security in the prescribed form for due compliance with the conditions imposed or to be imposed in or attached to the permit pursuant to this section in such amount as the board may require in the particular case.

(b)

No. 48, 1954.

(b) This subsection shall be deemed to have commenced on the thirty-first day of August, one thousand nine hundred and thirty-one.

(2) A person shall not, by reason of the operation of the amendments made by subsection one of this section, be guilty of an offence against section twenty-two of the State Transport (Co-ordination) Act, 1931, as amended by subsequent Acts, in respect of anything done or omitted to be done by him before the commencement of this subsection if he would not have been so guilty had such amendments not been made.

(3) The Transport (Division of Functions) Further Amendment Act, 1952, is amended by omitting section seven.

3. The State Transport (Co-ordination) Act, 1931, as amended by subsequent Acts, is further amended—

(a) (i) by inserting in subsection one of section twelve after the word “vehicle” where firstly occurring the words “in the course and for the purposes of intra-state trade”;

(ii) by inserting in the same subsection after the word “board” the words “for operation as aforesaid”;

(b) (i) by inserting in paragraph (b) of subsection two of section seventeen after the words “in which” the words “and the days and times on which”;

(ii) by omitting paragraphs (e) and (f) of subsection three of the same section and by inserting in lieu thereof the following paragraphs:—

(e) the condition and suitability of the roads to be traversed with regard to their capacity to carry proposed public vehicular traffic—

(i) without unreasonable damage to such roads; or

(ii)

Amendment
of Act No.
24, 1952.
Sec. 7.
(Consequen-
tial.)

Further
amendment
of Act No.
32, 1931.

Sec. 12.
(Public
motor
vehicle not
to be
operated
unless
vehicle
licensed.)

Sec. 17.
(Certain
conditions
of license.)

(ii) without creating or intensifying conditions endangering the safety of persons or vehicles using such roads; or

(iii) without creating or intensifying conditions which interfere with the reasonable use of such roads by other traffic;

(f) the character, suitability and fitness of the applicant to hold the license applied for.

(c) by inserting next after subsection seven of section twenty-six the following new subsection:—

(7A) Whenever any amount is paid to the Country Main Roads Fund established under the Main Roads Act, 1924-1954, pursuant to this section, as amended in the manner set forth in the Third Schedule to this Act, the Commissioner for Motor Transport shall, subject to subsection five of this section, also pay the prescribed amount to that Fund out of the moneys in the State Transport (Co-ordination) Fund that are not the proceeds of charges paid pursuant to subsection four of section eighteen as amended in the manner set forth in that Schedule.

The prescribed amount shall be an amount equivalent to that which would have been payable in respect of motor vehicles engaged in intra-state trade had the rate or scale of rates of charge determined in respect of motor vehicles engaged in inter-state trade been applicable to motor vehicles engaged in intra-state trade.

4. (1) This section shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

(2)

No. 48, 1954.Further
amendment
of Act No.
32, 1931.Sec. 3.
(Interpre-
tation.)New
Schedule.

(2) The State Transport (Co-ordination) Act, 1931, as amended by subsequent Acts, is further amended—

(a) by inserting at the end of section three the following new subsection:—

(3) For the purposes of the application of this Act to or in respect of any person operating or intending to operate a public motor vehicle in the course and for the purposes of inter-state trade, and to or in respect of a public motor vehicle so operated the provisions of this Act shall be deemed to be amended in the manner set out in the Third Schedule to this Act.

(b) by inserting next after the "Further Schedule" the following new Schedule:—

THIRD SCHEDULE.

Sec. 12. Section twelve—

subsection one to be omitted and the following subsection to be inserted in lieu thereof:—

(1) Any person who operates a public motor vehicle in the course and for the purposes of inter-state trade shall, unless such vehicle is licensed under this Act by the Commissioner for Motor Transport for operation as aforesaid and unless he is the holder of such license, be guilty of an offence against this Act: Provided that this subsection shall not apply to a public motor vehicle that is being operated under and in accordance with a permit granted under section twenty-two of this Act.

Sec. 16. Section sixteen—

(a) subsections one, two and three to be omitted and the following subsection to be inserted in lieu thereof:—

(1) A license issued under this Act shall expire on the anniversary of the date upon which it is issued.

(b) subsections seven and eight to be omitted and the following subsections to be inserted in lieu thereof:—

(7) A license granted to any person under this Act may not be transferred by the licensee but he or his legal personal representative may apply to the Commissioner for Motor Transport to transfer his license to a person nominated by him.

(8)

(8) The Commissioner for Motor Transport may **No. 48, 1954.** refuse such application if he is satisfied that the person so nominated is not a fit and proper person to hold a license; but except as aforesaid, shall grant such application.

Sec. 17. Section seventeen—

subsections two, three and four to be omitted and the following subsections to be inserted in lieu thereof:—

(2) The Commissioner for Motor Transport may determine what terms and conditions (being terms and conditions of a regulatory character) shall be applicable to or with respect to a license, including the use of such motor vehicle as to whether passengers only or goods only or goods of a specified class or description only shall be thereby conveyed and as to the circumstances in which and the days and times on which such conveyance may be made or may not be made (including the limiting of the number of passengers or the quantity, weight or bulk of the goods that may be carried on the vehicle).

(3) In dealing with an application for a license the Commissioner for Motor Transport shall have regard to—

- (a) the suitability of the route or road on which a service may be provided under the license;
- (b) the condition and suitability of the roads to be traversed with regard to their capacity to carry proposed public vehicular traffic
 - (i) without unreasonable damage to such roads; or
 - (ii) without creating or intensifying conditions endangering the safety of persons or vehicles using such roads; or
 - (iii) without creating or intensifying conditions which interfere with the reasonable use of such roads by other traffic;
- (c) the character, suitability and fitness of the applicant to hold the license applied for;
- (d) the construction and equipment of the vehicle and its fitness and suitability for a license:

Provided that a registration of the motor vehicle under any other Act of the State may be accepted as sufficient evidence of fitness and suitability of the vehicle.

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(4) The Commissioner for Motor Transport may refuse the application if satisfied that—

- (a) the applicant is not a fit and proper person to hold the license; or
- (b) the vehicle is not properly constructed or adequately equipped or is otherwise unfit or unsuitable for the license; or
- (c) the operation of the vehicle, if the license were granted, would create or intensify conditions giving rise to—
 - (i) unreasonable damage to the roads; or
 - (ii) danger to persons or vehicles using the roads; or
 - (iii) unreasonable interference with other traffic on the roads.

(4A) Except as provided in subsection four of this section the Commissioner for Motor Transport shall grant the application.

Where the Commissioner for Motor Transport grants an application he may, in addition to any conditions imposed under subsection two of this section, impose conditions necessary for the preservation of public safety, the regulation of traffic and the preservation and maintenance of the roads and the use and enjoyment by the public of the roads.

Sec. 18. Section eighteen—

(a) subsections four and five to be omitted and the following subsections to be inserted in lieu thereof:—

(4) Every license for a public motor vehicle issued under this Act shall, after the first determination by the Commissioner for Motor Transport of the rate or scale of rates of charge has been notified pursuant to subsection (5F) of this section, be subject to a condition that the holder shall in respect of each journey pay to the Commissioner for Motor Transport a reasonable charge for the use by the vehicle of public streets over which it travels on such journey and for an appropriate part of the cost of administration of this Act.

(5) The amount payable in respect of such charge for any journey shall be assessed on the rate or scale of rates of charge hereinafter referred to and the amount so assessed shall be paid by the holder of the license

license before the commencement of the journey and **No. 48, 1954.** the Commissioner for Motor Transport shall on payment thereof issue to the holder a receipt containing particulars of the journey and the charge paid.

(5A) The rate or scale of rates of charge shall be applied equally to all persons in respect of all public motor vehicles of the same description or weight passing over the same route and under the same circumstances: Provided however that—

- (a) no such charge shall be payable when public motor vehicles of the same description or weight engaged in intra-state trade and passing over the same route and under the same circumstances are not subject to charges imposed under or by virtue of any condition imposed pursuant to subsection four or subsection five of section eighteen of this Act (the amendments thereto effected by the State Transport (Co-ordination) Amendment Act, 1954, being disregarded); and
- (b) in no case shall such charge exceed the charge imposed under or by virtue of any condition imposed pursuant to subsection four or subsection five of section eighteen of this Act (the amendments thereto effected by the State Transport (Co-ordination) Amendment Act, 1954, being disregarded) in respect of public motor vehicles engaged in intra-state trade over the same route and under the same circumstances.

(5B) The rate or a scale of rates of charge shall be determined from time to time by the Commissioner for Motor Transport. The first determination shall be made as soon as practicable after the commencement of this subsection and a determination shall be made in each subsequent period of twelve months. The rate or scale of rates of charge so determined may be on the basis of a mileage rate varying with the description or weight of the vehicle and such weight may be calculated either on the basis of the laden or unladen weight of the vehicle.

Before making any determination of the rate or scale of rates of charge the Commissioner for Motor Transport shall take into account the recommendation of the Advisory Committee referred to in subsection (5c) of this section and the rate or scale of rates of charge so determined shall not exceed the respective rate or scale of rates of charge recommended by the Advisory Committee.

(5c)

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(5c) There shall be an Advisory Committee consisting of the Commissioner for Motor Transport, the Commissioner for Main Roads, and the Under Secretary, the Treasury.

Where a member is unable to attend any meeting of the Advisory Committee he may appoint an officer of his Department to attend in his place, and the officer so appointed shall have all the powers and authorities of a member.

(5d) The Advisory Committee shall before making a recommendation give public notice of its intention so to do and shall fix a date before which any persons interested, including representative associations of operators of public motor vehicles, may make representations in writing to the Advisory Committee. The Advisory Committee shall not be bound by legal forms and procedures and may inform itself in such manner as it thinks fit but before making a recommendation it shall consider all written representations which may be made to it as aforesaid.

(5e) The Advisory Committee in making its recommendation and the Commissioner for Motor Transport in making his determination of the rate or scale of rates of charge shall have regard to all relevant matters including the cost of construction and maintenance of roads, the depreciation and obsolescence of roads, the necessity or desirability for the widening or reconstruction of roads, the wear and tear caused by vehicles of different weights, types, sizes and speeds, the moneys available for the purpose of construction, maintenance, widening and reconstruction of roads from sources other than charges imposed pursuant to subsection four of this section, and the amount expended or proposed to be expended from the Country Main Roads Fund established under the Main Roads Act, 1924-1954.

In this subsection "roads" includes bridges.

(5f) The rate or scale of rates of charge when determined by the Commissioner for Motor Transport shall be notified in the Gazette.

The rate or scale of rates of charge so notified shall be adopted as the basis for calculating amounts under subsection four of this section until varied by a subsequent notification.

- (b) subsections seven and eight to be omitted;
- (c) subsection nine to be amended by omitting the word "five" wherever occurring and by inserting in lieu thereof the word "four";

(d)

(d) subsection ten to be amended by omitting the words **No. 48, 1954.**
"subsection eight or";

(e) subsection eleven to be omitted and the following sub-section to be inserted in lieu thereof:—

(11) Where the Commissioner for Motor Transport is satisfied that, by reason of any change of circumstances since the license was granted, the continued operation of the public motor vehicle would create or intensify conditions giving rise to—

- (a) unreasonable damage to the roads; or
- (b) danger to persons or vehicles using the roads; or
- (c) unreasonable interference with other traffic on the roads,

he may—

- (i) suspend the license for such period as he may deem necessary having regard to the altered circumstances; or
- (ii) vary the terms and conditions of the license in such manner and to such extent as he may deem necessary to meet the altered circumstances.

Written notice of such suspension or variation shall be given to the holder as soon as practicable.

See. 19. Section nineteen—

section to be omitted.

See. 22. Section twenty-two—

section to be omitted and the following section to be inserted in lieu thereof:—

22. (1) Where application is made for a license the Commissioner for Motor Transport may, pending consideration of such application, grant to the applicant a permit to operate the public motor vehicle for a journey to be specified in the permit.

(2) The Commissioner for Motor Transport may refuse to issue a permit if satisfied that the operation of the vehicle, if the permit were granted, would create or intensify conditions giving rise to—

- (i) unreasonable damage to the roads; or
- (ii) danger to persons or vehicles using the roads; or
- (iii) unreasonable interference with other traffic on the roads.

(3)

No. 48, 1954.

(3) Except as provided in subsection two of this section the Commissioner for Motor Transport shall grant the permit.

Where the Commissioner for Motor Transport grants a permit he may impose any conditions he could have imposed if such permit were a license.

(4) Every permit granted under this Act shall, after the first determination by the Commissioner for Motor Transport of the rate or scale of rates of charge has been notified pursuant to subsection (5F) of section eighteen, be subject to a condition that the holder shall in respect of any such journey pay to the Commissioner for Motor Transport a reasonable charge for the use by the vehicle of public streets over which it travels on such journey and for an appropriate part of the cost of administration of this Act.

(5) The provisions of section eighteen of this Act shall apply, mutatis mutandis, to and in respect of such reasonable charge.

Sec. 26. Section twenty-six—

subsections six, seven, eight and nine to be omitted and the following subsection to be inserted in lieu thereof:—

(6) Any moneys in the fund which are the proceeds of charges paid pursuant to subsection four of section eighteen or section twenty-two of this Act shall, subject to subsection five of this section, be applied in making payments to the Country Main Roads Fund established under the Main Roads Act, 1924-1954, and for no other purpose.

Sec. 28. Section twenty-eight—

subsection one to be amended by omitting the words “or under an exemption granted or declared under this Act”.

Sec. 37. Section thirty-seven—

subsection one to be omitted and the following subsection to be inserted in lieu thereof:—

(1) If any person operates any public motor vehicle in contravention of this Act he shall be liable to pay to the Commissioner for Motor Transport such reasonable charge for the use by the vehicle of public streets over which it travels and for an appropriate part of the cost of administration of this Act as would have been payable had the person operating the vehicle been the holder of a license under this Act.

Sec.

Sec. 38A. Section 38A—

No. 48, 1954.

subsection one to be amended by omitting the words
"subsection four or subsection five of".

5. (1) (a) As from the commencement of this section the name of the Superintendent of Motor Transport shall be altered to the Commissioner for Motor Transport. The person who, immediately before the commencement of this section, held office as the Superintendent of Motor Transport shall be the Commissioner for Motor Transport and shall subject to this Act hold office for a period of seven years and be eligible for reappointment. Any successor in office shall subject to this Act hold office for a period of seven years and be eligible for reappointment.

The provisions of this paragraph shall have effect notwithstanding anything contained in paragraph (a) of subsection two of section three of the Transport (Division of Functions) Further Amendment Act, 1952.

(b) The provisions of sections eight and nine of the Transport (Division of Functions) Amendment Act, 1952, shall apply, mutatis mutandis, to and in respect of the Commissioner for Motor Transport.

(c) Paragraph (a) of subsection four of section three of the Transport (Division of Functions) Further Amendment Act, 1952, shall in its application to the person first holding office as Commissioner for Motor Transport under this Act be read and construed as if the words "immediately prior thereto" were omitted and the words "at any time prior thereto" were inserted in lieu thereof.

(2) As from the commencement of this section, in the construction, and for the purposes of any Act, by-law, regulation, ordinance, or any other instrument or document whatsoever, of the same or a different kind or nature, any reference to, or to be read, deemed and taken to refer to the Superintendent of Motor Transport shall be read, deemed and taken to refer to the Commissioner for Motor Transport.

(3)

No. 48, 1954.

(3) (a) As from the commencement of this section the name of the body corporate reconstituted by section six of the Transport (Division of Functions) Further Amendment Act, 1952, shall be "The Commissioner for Motor Transport".

(b) As from the commencement of this section, in the construction, and for the purposes of any Act, by-law, regulation, ordinance or any other instrument whatsoever of the same or a different kind or nature, any reference to, or to be read, deemed and taken to refer to the Superintendent of Motor Transport shall be read, deemed and taken to refer to the Commissioner for Motor Transport.

(c) Nothing contained in this subsection shall prejudice or affect in any way the continuity of the body corporate reconstituted by section six of the Transport (Division of Functions) Further Amendment Act, 1952, but the same shall continue notwithstanding the provisions of this subsection.

(d) The alteration of name of the body corporate reconstituted by section six of the Transport (Division of Functions) Further Amendment Act, 1952, effected by paragraph (a) of this subsection shall not affect any property, powers, rights, authorities, duties, functions, liabilities or obligations of such body corporate or render defective any legal or other proceedings instituted or to be instituted by or against such body corporate.

Any legal or other proceedings may be continued or commenced by or against the body corporate by the name of The Commissioner for Motor Transport that might have been continued or commenced by or against the body corporate by the name of The Superintendent of Motor Transport.
