

TRANSPORT (FEES AND CHARGES) AMENDMENT ACT 1985
No. 139

New South Wales



ANNO TRICESIMO QUARTO

ELIZABETHÆ II REGINÆ

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Act No. 139, 1985

An Act to amend the Transport Act 1930 with respect to the determination of certain fees and charges payable to the Commissioner for Motor Transport, and for other purposes. [Assented to, 25th November, 1985.]

See also Miscellaneous Acts (Motor Transport Fees and Charges) Amendment Act 1985.

Transport (Fees and Charges) Amendment 1985

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

1. This Act may be cited as the "Transport (Fees and Charges) Amendment Act 1985".

Commencement

2. (1) Sections 1 and 2 shall commence on the date of assent to this Act.

(2) Except as provided by subsection (1), this Act shall commence on such day as may be appointed by the Governor and notified by proclamation published in the Gazette.

Schedules

3. This Act contains the following Schedules:

SCHEDULE 1—AMENDMENTS TO THE TRANSPORT ACT 1930

SCHEDULE 2—SAVINGS

Amendment of Act No. 18, 1930

4. The Transport Act 1930 is amended in the manner set forth in Schedule 1.

Savings

5. Schedule 2 has effect.

SCHEDULE 1

(Sec. 4)

AMENDMENTS TO THE TRANSPORT ACT 1930

(1) Section 4 (2)—

At the end of section 4, insert:

(2) A reference in this Act to a determined fee or charge is a reference to a fee or charge of an amount determined by an order in force under section 265B.

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SCHEDULE 1—*continued*AMENDMENTS TO THE TRANSPORT ACT 1930—*continued*

(2) Sections 143 (1), 152 (2)—

Omit “prescribed” wherever occurring, insert instead “determined”.

(3) (a) Section 152 (4)—

Omit the subsection.

(b) Section 152 (7)—

Omit “prescribed”, insert instead “determined under section 265B”.

(c) Section 152 (10)—

Omit “prescribed” where secondly occurring, insert instead “determined”.

(4) Section 175 (3)—

Omit the subsection.

(5) Part XIX_A—

After Part XIX, insert:

PART XIX_A

FEES AND CHARGES

Interpretation

265A. In this Part, “prescribed Act” means—

- (a) the Air Transport Act 1964;
- (b) the Motor Traffic Act 1909;
- (c) the Motor Vehicle Driving Instructors Act 1961;
- (d) the Motor Vehicles Taxation Management Act 1949;

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SCHEDULE 1—*continued*

AMENDMENTS TO THE TRANSPORT ACT 1930—*continued*

- (e) the Motor Vehicles (Third Party Insurance) Act 1942;
- (f) the Recreation Vehicles Act 1983;
- (g) the State Transport (Co-ordination) Act 1931; and
- (h) any other Act prescribed for the purposes of this section.

Determination of fees and charges

265B. (1) The Commissioner may, by order made with the concurrence of the Minister, determine the fees and charges payable under this Act or a prescribed Act.

(2) In subsection (1), a reference to fees and charges payable under an Act includes a reference to fees and charges payable under regulations made under the Act but does not include a reference to any tax.

(3) An order under this section shall be published in the Gazette and shall take effect on and from the date of publication of the order or a later date specified in the order.

(4) A fee or charge may be determined by an order under this section so as—

- (a) to apply generally or be limited in its application by reference to specified exceptions or factors;
- (b) to apply differently according to different factors of a specified kind; or
- (c) to provide for a maximum or a minimum fee or charge,

or so as to do any combination of those things.

(5) Nothing in this section empowers the Commissioner to determine a fee or charge which is required by or under this or any other Act to be determined otherwise than by an order under this section.

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SCHEDULE 1—*continued*AMENDMENTS TO THE TRANSPORT ACT 1930—*continued***Commissioner to submit proposals for adjustments annually**

265C. (1) In this section—

“adjustment percentage”, in relation to a year, means the percentage for that year, calculated in accordance with subsection (3);

“year” means—

(a) the period commencing on and including 1 March 1985 and ending on and including 28 February 1986; or

(b) a subsequent period commencing on and including 1 March and ending on and including the day immediately preceding the next following 1 March.

(2) A reference in this section to a fee or charge, as adjusted by the adjustment percentage for a year, is a reference to—

(a) where the adjustment percentage is calculated in accordance with the formula set out in subsection (3) (a)—the fee or charge increased by that percentage; or

(b) where the adjustment percentage is calculated in accordance with the formula set out in subsection (3) (b)—the fee or charge reduced by that percentage.

(3) For the purposes of the definition of “adjustment percentage” in subsection (1), the percentage for a year shall be calculated—

(a) if the maximum annual salary applicable in respect of the prescribed office on the last day of February in that year is greater than the maximum annual salary applicable in respect of that office on the last day of the preceding February, in accordance with the following formula:

$$P = \frac{100 (A-B)}{B}$$

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SCHEDULE 1—*continued*AMENDMENTS TO THE TRANSPORT ACT 1930—*continued*

- (b) if the maximum annual salary applicable in respect of the prescribed office on the last day of February in that year is less than the maximum annual salary applicable in respect of that office on the last day of the preceding February, in accordance with the following formula:

$$P = \frac{100 (B-A)}{B}$$

where—

P is the percentage to be obtained;

A is the maximum annual salary applicable in respect of the prescribed office on the last day of February in that year; and

B is the maximum salary applicable in respect of the prescribed office on the last day of the previous February.

(4) For the purposes of subsection (3), in determining the maximum annual salary applicable in respect of the prescribed office on any day, where that salary is altered after that day and the salary, as so altered, is payable in respect of a period occurring before or including that day, the maximum annual salary applicable in respect of that office on that day shall be deemed to be that salary before it was so altered.

(5) Where a percentage calculated under this section is or includes a fraction of one-tenth of one per cent—

(a) if that fraction is less than one-half of one-tenth—that fraction shall be disregarded; and

(b) if that fraction is not less than one-half of one-tenth—that fraction shall be treated as one-tenth.

(6) Where there is an adjustment percentage for a year, the Commissioner shall, before 30 April in the following year, submit to the Minister a list of the fees and charges determined for the time being under section 265B, as adjusted by that adjustment percentage.

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SCHEDULE 1—*continued*AMENDMENTS TO THE TRANSPORT ACT 1930—*continued*

(7) For the purposes of subsection (6), where a fee or charge, as adjusted by an adjustment percentage, is or includes a number of cents—

- (a) if that number is less than 50—that number of cents shall be disregarded; or
- (b) if that number is not less than 50—that number of cents shall be treated as \$1.

(8) After consideration of a list of fees and charges submitted under subsection (6), the Minister may, in respect of any adjusted fee or charge included in the list, decide—

- (a) to concur in the adjustment;
- (b) not to concur in the adjustment; or
- (c) to concur in the alteration of the fee or charge by reference to a different percentage or in any other manner,

and, where the Minister decides not to concur in any such adjustment or alteration having effect on and from 1 July in that following year, the Minister may concur in the adjustment or alteration taking effect on and from another specified date.

(9) The Commissioner shall carry into effect any decision made by the Minister under subsection (8) with respect to a fee or charge by—

- (a) making an appropriate order under section 265B; and
- (b) ensuring that any such order is published in the Gazette so that the fee or charge shall take effect on and from 1 July in that following year or on the other specified date, as the case may require.

(10) Nothing in this section affects the power of the Commissioner, with the concurrence of the Minister, to determine any fee or charge under section 265B otherwise than pursuant to this section.

(6) Schedule 2—

Omit the Schedule.

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SCHEDULE 2

(Sec. 5)

SAVINGS

General

1. The amendment of a provision of the Transport Act 1930 by this Act or of a provision of a regulation by reason of any such amendment shall not affect—

- (a) the previous operation of the provision or anything duly commenced to be done or done under the provision;
- (b) any right or liability acquired or incurred under the provision; or
- (c) any legal proceeding or remedy in respect of any such right or liability,

and any such legal proceeding or remedy may be instituted, continued or enforced as if the provision had not been amended.

Regulations

2. This Act does not repeal any regulation—

- (a) which was, immediately before the commencement of this Act, in force under the Transport Act 1930; and
 - (b) which could be made under that Act, as amended by this Act.
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