

# TRANSPORT (AMENDMENT) ACT.

Act No. 22, 1945.

**George VI.** **An** Act to make further provision as to the transfer of registrations and licenses and the grant, renewal or cancellation of registrations for public vehicles; to regulate the hours of employment of certain drivers of taxi-cabs and private hire cars; for these and other purposes to amend the Transport Act, 1930-1943; the State Transport (Co-ordination) Act, 1931; and the Motor Traffic Act, 1909-1937; and for purposes connected therewith. [Assented to, 5th April, 1945.]

**B**E it enacted by the King'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.** **I.** (1) This Act may be cited as the "Transport (Amendment) Act, 1945."

(2) (a) The Transport Act, 1930, as amended by subsequent Acts, is in this Act referred to as the Principal Act.

(b)

(b) The Principal Act, as amended by this Act, No. 22, 1945. may be cited as the Transport Act, 1930-1945.

(3) 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, 1931-1945.

(4) The Motor Traffic Act, 1909, as amended by subsequent Acts and by this Act, may be cited as the Motor Traffic Act, 1909-1945.

2. This Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette. Commence-  
ment.

3. The Principal Act is amended—

(a) by inserting next after the definition of "Prescribed" in section four the following new definition:— Amendment of  
Act No. 18,  
1930.  
Sec. 4.  
(Defini-  
tions.)

"Private hire car" means a public motor vehicle (not being a motor omnibus) used for the conveyance of persons which does not stand or ply for hire in a public street.

(b) by omitting from subsection three of section two hundred and sixty-four the definition of "Private hire car". Sec. 264.  
(Regulations  
on recommen-  
dation of  
Trust.)

4. The Principal Act is further amended—

(a) by inserting next after section one hundred and seventy-one the following new sections:— Further  
Amendment of  
Act No. 18,  
1930.  
New secs.  
171A and  
171B.

171A. (1) In this section—

"Commissioner" means the Commissioner for Road Transport and Tramways. Transfers of  
registra-  
tions of  
taxi-cabs  
and private  
hire cars.

"Private hire car" does not include any motor vehicle used solely or partly as an undertaker's mourning coach.

(2) (a) Except as hereinafter provided, a taxi-cab or private hire car registration whether granted before or after the commencement of the Transport (Amendment) Act, 1945, shall not be transferable.

(b)

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(b) A transfer of a taxi-cab or private hire car registration granted before the commencement of the Transport (Amendment) Act, 1945, or of a taxi-cab or private hire car registration renewing or replacing such a registration, and for the time being in force, may be granted to a person, or his legal personal representative, if the Commissioner is satisfied that at such commencement such person had the use, control and management of the vehicle referred to in the registration issued in respect thereof and in force at such commencement. Where such a transfer is granted, the transferee shall, for the purposes of paragraph (d) of this subsection, be deemed to be a person who held the registration at the commencement of the Transport (Amendment) Act, 1945.

(c) A transfer of a taxi-cab or private hire car registration may in any case be granted to the legal personal representative of the person to whom such registration has been issued.

(d) For each or any taxi-cab or private hire car registration held by any person at the commencement of the Transport (Amendment) Act, 1945, or taxi-cab or private hire car registration renewing or replacing such a registration, and for the time being in force, the Commissioner shall, subject to the provisions of this Act and the regulations, grant one application only for the transfer of such registration from the person who held such registration at such commencement or his legal personal representative to an applicant who satisfies the Commissioner that he is a fit and proper person to be the holder of a registration certificate of a taxi-cab or private hire car and that he will, if the application be granted, have the use, control and management of the vehicle to which the application relates.

(3) Where, under subsection two of this section, a transfer of a taxi-cab or private hire  
**car**

car registration granted before the commencement of the Transport (Amendment) Act, 1945, or of a taxi-cab or private hire car registration renewing or replacing such a registration, is granted and, within a period of three years from the date of such transfer, the holder of the registration (being the first person to whom any such registration has been transferred since such commencement) applies to the Commissioner for the transfer of such registration which is for the time being in force, the Commissioner may, in his absolute discretion, grant such application if it is proved to the satisfaction of the Commissioner that undue hardship (due to circumstances arising since the date of the first-mentioned transfer) would be caused to the said holder of the registration if the application were refused.

No. 22, 1945.

171b. (1) Registration of a taxi-cab or private hire car shall not be granted under this Act in the name of any applicant unless the Commissioner for Road Transport and Tramways is satisfied that such applicant has complied with the provisions of section eighteen of the Workers' Compensation Act, 1926-1944, in respect of every driver of such vehicle who is a worker within the meaning of that Act.

Workers' compensation insurance for drivers of taxi-cabs and private hire cars.

(2) Where registration of a taxi-cab or private hire car under this Act has been granted and the holder of the registration certificate issued in respect of such vehicle fails to satisfy the Commissioner for Road Transport and Tramways, when requested so to do, that the provisions of section eighteen of the Workers' Compensation Act, 1926-1944, are being complied with by such holder in respect of every driver of such vehicle who is a worker within the meaning of that Act, the said Commissioner may suspend, for such period as he thinks fit, such registration and registration certificate.

(3) In this section "registration" includes renewal of registration.

(b)

**Transport (Amendment) Act.**

No. 22, 1945.

Sec. 169.

New heading.

- (b) by inserting immediately before section one hundred and sixty-nine the following new heading:—

PART XIII A.—Appeals relating to registrations and drivers' and conductors' licenses.

Sec. 2.

(Consequential.)

- (c) (i) by omitting from section two the words and symbols "DIVISION 7.—Appeals—ss. 167-169" and by inserting in lieu thereof the following words and symbols:—

DIVISION 7.—Appeals—ss. 167, 168.

PART XIII A.—Appeals relating to registrations and drivers' and conductors' licenses—s. 169.

- (ii) by omitting from the same section the symbols "170, 171" and by inserting in lieu thereof the symbols "170-171B."

Further Amendment of Act No. 18, 1930.  
New sec. 239A.

Hours of employment of drivers of taxi-cabs and private hire cars.

5. The Principal Act is further amended by inserting next after section two hundred and thirty-nine the following new section:—

239A. (1) Where the hours of employment of the drivers of any class of taxi-cabs or private hire cars are regulated by the provisions of an award or industrial agreement such provisions regulating hours of employment shall, mutatis mutandis, extend and apply to drivers of any corresponding class of taxi-cabs or private hire cars, to whom such award or industrial agreement does not apply, and for the purposes of such provisions regulating hours of employment any driver to whom such provisions are extended and applied by virtue of this section shall be deemed to be an employee.

(2) Where any driver fails to comply with or observe any provision which, by virtue of this section, extends and applies to him, he shall be guilty of an offence against this Act.

Further amendment of Act No. 18, 1930.

Sec. 262.  
(Regulations.)

6. The Principal Act is further amended—

- (a) (i) by inserting at the end of subsection five of section two hundred and sixty-two the words "or classes of subject-matter other than those specified"; (ii)

- (ii) by inserting next after the same subsection **No. 22, 1945.**  
the following new subsection:—

(5A) Any regulation may authorise any matter or thing to be from time to time determined, applied or regulated by the Commissioner for Road Transport and Tramways either generally or for any class of cases or in any particular case.

cf. Act No.  
5, 1909,  
s. 3 (2) (c).

- (b) (i) by inserting next after subparagraph (v) of paragraph (t) of subsection one of section two hundred and sixty-four the words “Without limiting the generality of the powers conferred by subparagraph (iii) of this paragraph the regulations may authorise the Commissioner for Road Transport and Tramways to refuse any application by any person for registration or renewal of registration of a public vehicle, or to cancel any registration of a public vehicle in the name of any person in any case where he is not satisfied that such person has the use, control and management thereof”;
- (ii) by inserting at the end of paragraph (aa) of the same subsection the words “Any regulation under this paragraph may provide for the issue of a restricted license authorising the licensee to drive subject to compliance with any special terms or conditions set forth in such license by the Commissioner for Road Transport and Tramways”;
- (iii) by inserting in paragraph (af) of the same subsection next after the word “luggage” the words “or other goods”;
- (iv) by omitting paragraph (ai) of the same subsection and by inserting in lieu thereof the following paragraph:—
- (ai) the fixing, publication, or collection of fares, freights, or charges, or of maximum and/or minimum fares,

Sec. 264.  
(Regulations made on recommendation of Commissioner.)

No. 22, 1945.

fares, freights or charges in respect of the carriage of passengers or of passengers' luggage or other goods by public vehicles (other than motor omnibuses), the furnishing by prescribed persons of returns, verified in such manner as may be prescribed, containing information (including particulars of income and expenditure in connection with the operations of such vehicles) necessary or convenient to be ascertained to enable such fares, freights or charges to be so fixed, and the imposition of penalties for charging fares, freights or charges other than those fixed as prescribed.

- (v) by inserting in paragraph (aj) of the same subsection next after the word "fare" wherever occurring the words "freight or charge";
- (vi) by omitting paragraph (ao) of the same subsection and by inserting in lieu thereof the following paragraph:—
  - (ao) matters relating to insurance for the purposes of section one hundred and fifty-four of this Act.
- (vii) by inserting in the same subsection next after paragraph (ax) the following new paragraphs:—
  - (axi) the records to be kept by the drivers, owners or operators of public vehicles, the manner of keeping such records and the inspection thereof;
  - (axii) the furnishing by the drivers, owners or operators of public vehicles of prescribed particulars verified in such manner as may be prescribed.

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

No. 22, 1945.

(a) (i) by omitting from subsection four of section sixteen the words "The license shall expire on the anniversary of the date upon which it is issued";

Amendment of Act No. 32, 1931. Sec. 16. (Duration of license.)

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

(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 Road Transport and Tramways to transfer his license to a person nominated by him. Subject to section 17A of this Act the Commissioner for Road Transport and Tramways may, in his discretion, grant such application subject to such conditions, if any, as he shall deem fit, or refuse such application.

cf. Act No. 18, 1930, s. 139.

(8) In dealing with an application for transfer of a license the Commissioner for Road Transport and Tramways shall consider all such matters as he may think necessary or desirable including (but without in any way limiting the generality of the foregoing) the public interest, the suitability and fitness of the person nominated, whether he is the owner of the vehicle to which the application relates, and the extent, if any, to which he will, if the application be granted, have the use, control and management thereof;

(b) by inserting next after section seventeen the following new section:—

New sec. 17A.

17A. (1) In this section—

"Commissioner" means the Commissioner for Road Transport and Tramways.

Transfer of taxi-cab and private hire car licenses.

"Private hire car" does not include any motor vehicle used solely or partly as an undertaker's mourning coach.

(2)

No. 22, 1945.

(2) (a) Except as hereinafter provided, a taxi-cab or private hire car license whether granted before or after the commencement of the Transport (Amendment) Act, 1945, shall not be transferable.

(b) A transfer of a taxi-cab or private hire car license granted before the commencement of the Transport (Amendment) Act, 1945, or of a taxi-cab or private hire car license renewing or replacing such a license, and for the time being in force, may be granted to a person, or his legal personal representative, if the Commissioner is satisfied that at such commencement such person had the use, control and management of the vehicle referred to in the license issued in respect thereof and in force at such commencement. Where such a transfer is granted, the transferee shall, for the purposes of paragraph (d) of this subsection, be deemed to be a person who held the license at the commencement of the Transport (Amendment) Act, 1945.

(c) A transfer of a taxi-cab or private hire car license may in any case be granted to the legal personal representative of the person to whom such license has been issued.

(d) For each or any taxi-cab or private hire car license held by any person at the commencement of the Transport (Amendment) Act, 1945, or taxi-cab or private hire car license renewing or replacing such a license, and for the time being in force, the Commissioner shall, subject to the provisions of this Act and the regulations, grant one application only for the transfer of such license from the licensee of such taxi-cab or private hire car at such commencement or his legal personal representative to an applicant who satisfies the Commissioner that he is a fit and proper person to be the holder of a license for a taxi-cab or private hire car and that he will, if the application be granted

granted have the use, control and management of the vehicle to which the application relates. No. 22, 1945.

(e) This subsection shall apply only in respect of taxi-cabs or private hire cars which require to be registered under the Transport Act, 1930, as amended by subsequent Acts.

(3) Where, under subsection two of this section, a transfer of a taxi-cab or private hire car license granted before the commencement of the Transport (Amendment) Act, 1945, or of a taxi-cab or private hire car license renewing or replacing such a license, is granted and, within a period of three years from the date of such transfer, the licensee (being the first person to whom any such license has been transferred since such commencement) applies to the Commissioner for the transfer of such license which is for the time being in force, the Commissioner may, in his absolute discretion, grant such application if it is proved to the satisfaction of the Commissioner that undue hardship (due to circumstances arising since the date of the firstmentioned transfer) would be caused to the said licensee if the application were refused.

- (c) by omitting from subsection three of section twenty-one the word "license" where secondly occurring and by inserting in lieu thereof the word "registration"; Sec. 21.  
(Cancellation of license.)
- (d) by omitting from subparagraph (vii) of paragraph (a) of subsection eight of section forty-eight the words "and so that no license or permit shall be transferable except in accordance with such regulations"; Sec. 48.  
(Regulations.)

8. The Motor Traffic Act, 1909-1937, is amended by inserting at the end of paragraph (j) of subsection one of section three the following words: "Any regulation under this paragraph may provide for the issue of a restricted license authorising the licensee to drive subject to compliance with any special terms or conditions set forth in such license by the Commissioner for Road Transport and Tramways." Amendment of Act No. 5, 1909, s. 3.  
(Regulations.)