

No. 5761.

An Act to amend the Transport Regulation Acts, and
for other purposes.

[22nd December, 1953.]

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 Victoria in this present Parliament assembled and by the authority of the same as follows (that is to say) :—

1. (1) This Act may be cited as the *Transport (Amendment) Act 1953* and shall be read and construed as one with the *Transport Regulation Act 1932* (hereinafter called the Principal Act) and any Act and enactment amending the same all of which Acts and enactments and this Act may be cited together as the Transport Regulation Acts.

Short title
construction
and citation.

Nos. 4100, 4198,
4298, 4663, 4753,
4819, 4870, 5110,
5220, 5559 Pts.
II. and III.,
5562, 5569, 5672.

(2) This Act shall come into operation on a day to be fixed by proclamation of the Governor in Council published in the *Government Gazette*.

Commencement.

2. Section five of the *Transport Regulation Act 1933* as amended by any Act is hereby amended as follows :—

Amendment of
No. 4198 s. 5
as amended by
Nos. 4663 s. 2,
4819 s. 3, 5220
s. 2, 5559 s. 14.

(a) In the interpretation of "Commercial goods vehicle" for the words "or in the course of trade" there shall be substituted the words "or for any consideration or in the course of any trade or business whatsoever";

Interpretation.
"Commercial
goods vehicle."

(b) In

“ Commercial passenger vehicle.”

(b) In the interpretation of “ Commercial passenger vehicle ” for the words “ for reward ” there shall be substituted the words “ for hire or reward or for any consideration or in the course of any trade or business whatsoever ” ;

(c) After the interpretation of “ Metropolitan area ” there shall be inserted the following interpretation :—

Motor car.”

“ ‘ Motor car ’ means motor car within the meaning of the *Motor Car Act 1951* ” ;

(d) For the interpretation of “ Operate ” there shall be substituted the following interpretation :—

‘ Operate.’”

“ ‘ Operate ’ means (in the case of any vehicle) carry passengers or goods for hire or reward or for any consideration or in the course of any trade or business whatsoever and ‘ operation ’ has a corresponding interpretation ” ;

‘ Operation.’”

‘ Primary production.’”

(e) In the interpretation of “ Primary producer ” after the word “ pursuits ” there shall be inserted the words “ and ‘ primary production ’ has a corresponding interpretation ” ;

(f) After the interpretation of “ Primary producer ” there shall be inserted the following interpretation :—

“ Public highway.”

“ ‘ Public highway ’ means any street road lane bridge thoroughfare or place open to or used by the public for passage with vehicles ” ;

Certain vehicles deemed to operate as commercial passenger vehicles.

(g) At the end of the section there shall be inserted the following sub-section :—

“ (2) A motor car shall be deemed to operate as a commercial passenger vehicle if any offer is made to carry passengers therein for hire or reward or for any consideration or in the course of any trade or business whatsoever.”

3. In paragraph (f) of sub-section (1) of section ten of the *Transport Regulation Act 1933* after the word "prescribed" there shall be inserted the words "or as are required by the Board in connexion with the application".

Amendment of No. 4198 s. 10. Particulars to be submitted with applications for passenger licences.

4. (1) For paragraphs (a) and (b) of sub-section (1) of section seventeen of the *Transport Regulation Act 1933* as amended by any Act there shall be substituted the words "temporarily in any manner not specified in the licence".

Amendment No. 4198 s. 17 as amended by Nos. 4819 s. 5, 5569 s. 2. Temporary permits for passenger vehicles.

(2) For paragraphs (a) (b) and (c) of sub-section (1) of section thirty-two of the *Transport Regulation Act 1933* as amended by any Act there shall be substituted the words "to operate temporarily in any manner not specified in the licence".

Amendment of No. 4198 s. 32 as amended by Nos. 4298 s. 3, 4819 s. 7, 5569 s. 2. Temporary permits for goods vehicles.

5. (1) In section twenty-two of the *Transport Regulation Act 1933* as amended by any Act—

Amendment of No. 4198 s. 22 as amended by Nos. 4819 s. 6, 5559 s. 14. Goods licences as of right.

(a) for paragraph (d) there shall be substituted the following paragraph :—

"(d) any commercial goods vehicle owned by any primary producer and used solely for the carriage of goods and produce in connexion with his business as a primary producer or goods for his own use or for the use of any member of his household or any person in his employ";

(b) paragraph (e) is hereby repealed;

(c) in paragraph (f) after the words "creamery to the factory" there shall be inserted the words—

" or

for the carriage, between a butter factory or cheese factory or milk factory and the nearest railway station or such railway station or wharf as in any particular case the Board approves in writing, of butter cheese milk or things necessary for the working of such factory".

(2) For

Amendment of No. 4198 Third Schedule as amended by Nos. 4819 s. 6, 5220 s. 9.

Goods that may be carried under licences as of right.

(2) For paragraph 1 of the Third Schedule to the *Transport Regulation Act 1933* as amended by any Act there shall be substituted the following paragraph:—

“1. The carriage of berries and other soft fruits, unprocessed market garden and orchard produce (other than potatoes onions and citrus fruit), ice, ice-cream, milk, cream, eggs, meat, fish, flowers and such other perishable goods as are prescribed for the purposes of this paragraph.”

Operation of section.

(3) The amendments effected by this section shall apply not only with respect to the issue of licences after the commencement of this Act but also as from the commencement of this Act with respect to licences which are current at the commencement of this Act.

Amendment of No. 4198 s. 23. Where goods transferred from one vehicle to another all vehicles deemed to have undertaken the whole journey.

6. At the end of section twenty-three of the *Transport Regulation Act 1933* there shall be inserted the following sub-section:—

“(2) Where in the course of the carriage of any goods such goods are transferred from one commercial goods vehicle to another whether directly or indirectly the combined operation of all the vehicles so involved shall be considered one operation and each such vehicle shall be deemed to have completed the whole of such combined operation.”

Amendment of No. 4198 s. 25. Publication of notice of applications.

7. In sub-section (2) of section twenty-five of the *Transport Regulation Act 1933* after the words “other than an application for” there shall be inserted the words “a licence under section twenty-two of this Act or”.

Amendment of No. 4198 s. 34 as amended by Nos. 5220 s. 7, 5559 s. 14, 5569 s. 3.

Application of Transport Regulation Fund.

8. In sub-section (6) of section thirty-four of the *Transport Regulation Act 1933* as amended by any Act for the words “there is a surplus in the said fund” there shall be substituted the expression “(after making such payments, if any, into the Trust Fund for any purpose for which money may be paid under paragraph (c) or paragraph (d) of the last preceding sub-section as the Minister on the recommendation of the Board approves) there is a surplus in the Transport Regulation Fund”.

9. In

9. In sub-section (1) of section thirty-seven of the *Transport Regulation Act 1933* as re-enacted by any Act after the word "suspending" there shall be inserted the words "for a period exceeding thirty days".

Amendment of No. 4198 s. 37 as re-enacted by No. 4298 s. 4.

Appeals on suspensions &c. of licences.

10. At the end of section forty-two of the *Transport Regulation Act 1933* there shall be inserted the following sub-section :—

Amendment of No. 4198 s. 42.

Power to seize certain equipment from unlicensed commercial passenger vehicles.

"(3) (a) Where in the opinion of any member of the police force or person authorized by the Board as aforesaid any vehicle is operating as a commercial passenger vehicle and is not duly licensed to operate as such a commercial passenger vehicle he may remove from such vehicle and seize any taxi-meter, 'for hire' sign, identification plate or other prescribed article carried on or attached to the vehicle.

(b) Any article so seized may on conviction of the owner or driver of the vehicle be forfeited by order of the court; but if the court does not convict the owner or driver or on conviction makes no order as aforesaid or if at the expiration of one month from such seizure no prosecution is instituted against the owner or driver the articles shall be returned to the owner of the vehicle."

11. (1) In section forty-five of the *Transport Regulation Act 1933*—

Amendment of No. 4198 s. 45.

Repeal of special penalty.

(a) the words commencing "and shall be liable" and ending "not less than Fifty pounds" are hereby repealed;

(b) the third proviso is hereby repealed.

(2) For section forty-eight of the *Transport Regulation Act 1933* there shall be substituted the following section :—

New section substituted for No. 4198 s. 48.

Increase of general penalties and additional penalties for evasion of fees.

"48. Every person guilty of an offence against this Part or any regulation for which a penalty is not expressly provided by or under this Part shall be liable in the case of a first offence to a penalty of not more than Fifty pounds, in the case of a second offence to a penalty of not less than Ten pounds and not more than One hundred pounds and in the case of a third or any subsequent offence to a penalty of not less than Fifty pounds and not more than Two hundred pounds, and, where the offence consists of doing

some

some action without the appropriate licence or permit, the court may add to and include in the fine to be paid, without regard to the limits hereinbefore provided, such further sum as the court thinks appropriate having regard to a certificate as to the amount of the appropriate fee payable for such operation signed by the secretary of the Board or the person for the time being performing the duties of that office :

No. 4198 ss. 45,
46.

Provided that in respect of any offence under section forty-five or forty-six of this Act by an owner the court shall impose a penalty of not less than the amount of the maximum fee that would be payable under section seventeen or (as the case requires) section thirty-two of this Act in respect of the operation in relation to which the offence was committed less the amount of any fee actually paid under the relevant section in respect of such operation :

No. 4198 ss. 17,
32.

Provided further that in respect of any offence by a driver who is not the owner of the vehicle in question, the court may in the case of a second or subsequent offence impose less than the minimum penalty hereinbefore provided."

Amendment of
No. 4198 s. 50.
Who may
prosecute.

12. For sub-section (3) of section fifty of the *Transport Regulation Act 1933* there shall be substituted the following sub-section :—

"(3) Any such proceedings may be taken by any member of the police force or by any inspector or officer of the Board and may in the absence of the informant be conducted before the court by any other member of the police force or any other inspector or officer of the Board."

Amendment of
No. 4100 s. 5
as amended by
Nos. 4198 s. 3,
5317 s. 2,
5513 s. 2.

Remuneration
of members.

13. For section five of the Principal Act as amended by any Act there shall be substituted the following section :—

"5. The members of the Board shall severally be entitled to receive—

(a) such remuneration ; and

(b) such reasonable travelling expenses—

as are for the time being fixed by the Governor in Council."