

TRAFFIC.

No. 36 of 1963.

AN ACT to amend the *Traffic Act 1925*. [18 September 1963.]

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

Short title,
citation, and
commence-
ment.

1—(1) This Act may be cited as the *Traffic Act 1963*.

(2) The *Traffic Act 1925*, as subsequently amended, is in this Act referred to as the Principal Act.

(3) This Act shall commence on the same day as the *Justices Act 1963*.

2 Section thirty-seven of the Principal Act is repealed and the following section is substituted therefor:—

Unauthorized
use of motor
vehicles.

“37—(1) No person shall drive or use any motor vehicle without the consent of—

(a) the owner of the vehicle; or

(b) some person lawfully in charge of the vehicle and having authority to give that consent,

unless he is a police officer or an authorized officer acting in the execution of his duty.

“(2) No person shall procure, or aid or abet any other person in procuring, the hire or use of a motor vehicle by means of fraud or misrepresentation.

Penalty: Fifty pounds.

“(3) The provisions of section fifty-five of the *Police Offences Act 1935* extend and apply where a person is found offending (within the meaning of that section) against subsection (1) of this section.

“(4) Notwithstanding any other law to the contrary, all proceedings in respect of offences against this section shall be heard and determined by a police magistrate sitting alone.

“(5) Subject to subsection (6) of this section, a person who is convicted of an offence under subsection (1) of this section is liable to a penalty—

- (a) for a first offence, of one hundred pounds or six months’ imprisonment; or
- (b) for a second or subsequent offence, of not less than twelve months’ imprisonment or more than two years’ imprisonment.

“(6) Notwithstanding the provisions of subsection (5) of this section, where a person is convicted of an offence under subsection (1) of this section, having previously been convicted of an offence thereunder, the police magistrate before whom he is convicted, if he thinks it reasonable so to do, having regard to all or any of the following matters, namely:—

- (a) The time that has elapsed since the commission of the previous offence;
- (b) The character, antecedents, age, health, or mental condition of that person; and
- (c) Any other special circumstances,

may impose on that person such penalty (being less than the penalty prescribed by paragraph (b) of subsection (5) of this section) as the police magistrate may consider just and reasonable in all the circumstances of the case, but the police magistrate shall not, in any such case, impose a penalty of lesser severity than the fine prescribed in respect of a first offence against subsection (1) of this section.

“(7) For the purposes of subsections (5) and (6) of this section—

- (a) a conviction recorded against a person before the commencement of section three of the *Traffic Act (No. 2) 1957* under section forty-two of the *Police Offences Act 1935* in respect of the taking or use of a motor vehicle shall be deemed to be a conviction for an offence against subsection (1) of this section; and
- (b) where it is proved to the satisfaction of the police magistrate before whom a person is convicted of an offence against subsection (1) of this section that that person has previously been convicted elsewhere than in this State of the same offence or of a similar offence under any law relating to the unlawful taking, driving, or using of motor vehicles, the last-mentioned conviction shall be deemed to be a conviction for an offence against subsection (1) of this section,

and subsections (5) and (6) of this section shall be construed accordingly.”.