

TRAFFIC AMENDMENT ACT (No. 2) 1987

No. 41 of 1987

TABLE OF PROVISIONS

- | | |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <ol style="list-style-type: none"> 1. Short title. 2. Commencement. 3. Principal Act. 4. Amendment of section 3 of Principal Act (Interpretation). 5. Amendment of section 9 of Principal Act (Administration of Act). 6. Amendment of section 43H of Principal Act (Service and acceptance of traffic infringement notices). 7. Amendment of section 43J of Principal Act (Withdrawal of traffic infringement notices). 8. Amendment of section 43K of Principal Act (Effect of undertaking to pay a prescribed penalty). | <ol style="list-style-type: none"> 9. Amendment of section 43L of Principal Act (Service of notices). 10. Amendment of section 43M of Principal Act (Application of penalties in respect of traffic infringement notices). 11. Insertion in Principal Act of new section 49A.
49A. Installation of road humps: special provisions. 12. Amendment of section 54 of Principal Act (Proceedings in relation to parking offences). 13. Schedule of further amendments. 14. Amendment of <i>Local Government (Highways) Act 1982</i>. |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

SCHEDULE 1

FURTHER AMENDMENTS



TRAFFIC AMENDMENT ACT (No. 2) 1987

No. 41 of 1987

AN ACT to amend the Traffic Act 1925 and the Local Government (Highways) Act 1982.

[Royal Assent 8 May 1987]

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:—

1—This Act may be cited as the *Traffic Amendment Act* Short title. (No. 2) 1987.

2—This Act shall commence on the day on which it receives Commencement. the Royal Assent.

3—In this Act, the *Traffic Act 1925** is referred to as the Principal Act. Principal Act.

4—Section 3 (1) of the Principal Act is amended as follows:— Amendment of section 3 of Principal Act (Interpretation).
 (a) by inserting in the definition of “authorized officer” “or a local authority” after “the Commission”;

*16 Geo. V No. 38. For this Act, as amended to 1st October 1979, see the continuing Reprint of Statutes. Subsequently amended by No. 76 of 1979, Nos. 10, 11, 74, and 107 of 1980, Nos. 13, 19, 34, and 69 of 1981, No. 99 of 1982, Nos. 9 and 19 of 1983, Nos. 29, 55, and 80 of 1984, No. 35 of 1986, and No. 34 of 1987.

(b) by inserting the following definition after the definition of “owner”:

“parking offence” means an offence arising by reason of a vehicle being placed, left, or allowed to remain in a stationary position in any street or part of a street contrary to the regulations made under this Act;

Amendment of section 9 of Principal Act (Administration of Act).

5—Section 9 of the Principal Act is amended as follows:—

(a) by inserting in subsection (2) “or of a local authority” after “Commission” where first occurring;

(b) by inserting the following subsection after subsection (2):—

(3) The Commission may only authorize an officer of a local authority to exercise a power or right in respect of, or in respect of the prevention of, parking offences within the municipal area of that local authority.

Amendment of Section 43H of Principal Act (Service and acceptance of traffic infringement notices).

6—Section 43H of the Principal Act is amended as follows:—

(a) by omitting from subsection (1A) “A traffic” and substituting “Except where a traffic infringement notice is being served in respect of a parking offence, a traffic”;

(b) by inserting in subsection (4) “or council clerk” after “sessions”, where twice occurring;

(c) by inserting in subsection (4A) “or council clerk” after “sessions”;

(d) by omitting from subsection (6A) “Any sum” and substituting “Except where a traffic infringement notice was in respect of a parking offence, any sum”.

Amendment of section 43J of Principal Act (Withdrawal of traffic infringement notices).

7—Section 43J of the Principal Act is amended as follows:—

(a) by omitting from subsection (1A) “or some police officer authorized by him in that behalf”, and substituting “, some police officer authorized by him in that behalf, or, as the case may require, the council clerk designated in the infringement notice,”;

(b) by inserting in subsection (2) “or a council clerk” after “of petty sessions” where first occurring;

(c) by omitting from subsection (2) “of petty sessions”, where secondly occurring.

8—Section 43K (1) of the Principal Act is amended by inserting “or a council clerk” after “sessions”.

Amendment of section 43K of Principal Act (Effect of undertaking to pay a prescribed penalty).

9—Section 43L of the Principal Act is amended as follows:—

Amendment of section 43L of Principal Act (Service of notices).

(a) by omitting from subsection (1) “A traffic” and substituting “Except as provided in subsection (1A), a traffic”;

(b) by inserting the following subsections after subsection (1):—

(1A) A traffic infringement notice in respect of a parking offence may be served by affixing the notice to the vehicle or other thing in respect of which the offence occurred.

(1B) A person who removes a traffic infringement notice affixed to a vehicle or other thing under subsection (1A) so that its contents do not become known to the person in charge of the vehicle is guilty of an offence and is liable on summary conviction to a penalty not exceeding one penalty unit.

(c) by inserting in subsection (3) “or a council clerk” after “sessions”.

10—Section 43M of the Principal Act is amended by omitting subsections (2) and (3) and substituting the following subsections:—

Amendment of section 43M of Principal Act (Application of penalties in respect of traffic infringement notices).

(1A) Any sums paid to a council clerk under this Part by way of prescribed penalty or pursuant to subsection (2) shall constitute part of the fund mentioned in section 108 (1) of the *Local Government (Highways) Act 1982* which is deemed to exist in respect of the local authority of which the council clerk is an officer, and shall only be expended in accordance with that section.

(2) Where a person has been summarily convicted of a parking offence in respect of which a traffic infringement notice was served by an authorized officer who was an officer of a local authority, any penalty which is paid to a clerk of petty sessions in respect of that conviction shall be paid, out of the Consolidated Revenue (which, to the necessary extent, is appropriated accordingly), to the relevant local authority.

Insertion in
Principal Act of
new section 49A.

11—After section 49 of the Principal Act, the following section is inserted:—

Installation of
road humps:
special
provisions.

49A (1) The Commission may give its approval for a person to install a road hump in—

- (a) a car park which is a public street;
- (b) a public street leading to or from a car park;
- (c) an area set aside for recreational purposes which is a public street; or
- (d) a public street which is in a residential area.

(2) A road hump installed pursuant to an approval given by the Commission under subsection (1) shall—

- (a) be of a design approved by the Commission;
- (b) be installed in a manner approved by the Commission; and
- (c) be installed in a specific location within the park, street, or area referred to in subsection (1) that is approved by the Commission.

(3) No action, liability, claim, or demand lies or shall be allowed by or in favour of any person against the Commission or any person involved in the installation of a road hump in a public street in respect of any damage done to a vehicle or injury to a person or animal by reason of the installation of the road hump in the public street if the road hump—

- (a) was installed pursuant to an approval given under subsection (1) and in accordance with subsection (2); and
- (b) was installed after the commencement of the *Traffic Amendment Act (No. 2) 1987*.

(4) Notwithstanding subsection (3), if a road hump was installed in a public street on or before the commencement of the *Traffic Amendment Act (No. 2) 1987*, no action, liability, claim, or demand lies or shall be allowed by or in favour of any person against the Commission or any person involved in the installation of the road hump in respect of any damage done to a vehicle or injury to a person or animal by reason of the installation of the road hump in the public street if the road hump—

- (a) was installed in a park, street, or area referred to in subsection (1); and

(b) has been examined by the Commission and the Commission—

(i) has approved the design and manner of installation of the road hump; and

(ii) has approved the specific location within the park, street, or area where the road hump has been installed.

(5) In this section, “road hump” means a raised portion of the surface of the carriageway of a street.

12—Section 54 (8) of the Principal Act is amended by omitting the definition of “parking offence”.

Amendment of section 54 of Principal Act (Proceedings in relation to parking offences).

13—The Principal Act is further amended as set out in Schedule 1.

Schedule of further amendments.

14—(1) Section 31 of the *Local Government (Highways) Act 1982* is amended by inserting the following subsections after subsection (3):—

Amendment of *Local Government (Highways) Act 1982*.

(4) The Transport Commission may give its approval under this section for a corporation to install a road hump in—

(a) a local highway leading to or from a car park; or

(b) a local highway which is in a residential area.

(5) A road hump installed pursuant to an authority given by the Transport Commission under subsection (4) shall—

(a) be of a design approved by the Transport Commission;

(b) be installed in a manner approved by the Transport Commission; and

(c) be installed in a specific location on the local highway referred to in subsection (4) that is approved by the Commission.

(6) No action, liability, claim, or demand lies or shall be allowed by or in favour of any person against the Transport Commission, a corporation, or any person involved in the installation of a road hump in a local highway in respect of any damage done to a vehicle or injury to a person or animal by reason of the installation of the road hump in the local highway if the road hump—

(a) was installed pursuant to this section; and

(b) was installed after the commencement of the *Traffic Amendment Act (No. 2) 1987*.

(7) In this section, “road hump” has the meaning assigned to that expression by section 49A of the *Traffic Act 1925*.

(2) Section 108 (2) of the *Local Government (Highways) Act 1982* is amended as follows:—

(a) by omitting from paragraph (a) “parking spaces with parking meters or voucher machines” and substituting “restricted on-street parking”;

(b) by omitting from paragraph (a) “those spaces” and substituting “restricted on-street parking”;

(c) by omitting from paragraph (b) “parking spaces, parking meters, and voucher machines” and substituting “restricted on-street parking”;

(d) by omitting from paragraph (c) “parking spaces and the collecting of money from parking meters and voucher machines” and substituting “restricted on-street parking and the collecting of money in respect of restricted on-street parking”.

SCHEDULE 1
FURTHER AMENDMENTS

Section 13

1—Section 10 is amended by omitting subsection (7) and substituting the following subsection:—

(7) Any regulations under subsection (1) (*ra*) may provide that it is an offence, punishable on summary conviction, for a person to contravene any of those regulations and may provide in respect of any such offence a penalty not exceeding 5 penalty units for a first offence and a penalty not exceeding 10 penalty units for a second or subsequent offence.

2—Section 11C (4) is amended by omitting “\$500” and substituting “5 penalty units”.

3—Section 11D (8) is amended by omitting “\$1 000” and substituting “10 penalty units”.

4—Section 13A is amended as follows:—

(a) by omitting from subsection (1) “this Act.” and substituting “this Act and is liable on summary conviction to—

(a) a penalty not exceeding 10 penalty units, or to imprisonment for a term not exceeding 6 months, for a first offence; and

(b) a penalty not exceeding 20 penalty units, or to imprisonment for a term not exceeding 12 months, for a second or subsequent offence.”;

(b) by omitting from that subsection the passage beginning with “Penalty:—” and ending with “subsequent offence.”.

5—Section 14AA (3) is amended as follows:—

(a) by omitting “of \$200” and substituting “not exceeding 2 penalty units”;

(b) by omitting “of \$500” and substituting “not exceeding 5 penalty units”.

6—Section 24 is amended as follows:—

(a) by omitting from subsections (1), (4), (8), (11), (12), and (13) “No person shall”, wherever occurring, and substituting “A person shall not”;

(b) by omitting from subsection (1) the passage beginning with “Penalty:—” and ending with “subsequent offence.”;

(c) by omitting from subsection (3B) “No person, driving or using a motor vehicle constructed primarily for the carriage of goods shall,” and substituting “A person who drives or uses a motor vehicle constructed primarily for the carriage of goods shall not”;

(d) by omitting from subsection (4) “Penalty: \$200 and a daily penalty of \$50.”;

(e) by omitting subsection (5) and substituting the following subsection:—

(5) A person who is required under this Act to furnish or supply any return or information shall not furnish or supply any such return or information that, to his knowledge, is false in a material particular.

- (f) by omitting from subsection (5A) "No person" and substituting "A person";
- (g) by omitting from that subsection "shall make" and substituting "shall not make";
- (h) by omitting from that subsection the passage after "material particular.";
- (i) by omitting from subsection (6) "No person" and substituting "A person";
- (j) by inserting in that subsection "not" before "carry";
- (k) by omitting from subsection (7) "No person owning or operating public vehicles shall" and substituting "A person who owns or operates public vehicles shall not";
- (l) by omitting from that subsection "Penalty: \$200, and a daily penalty of \$50";
- (m) by omitting from subsection (10) "No person hiring or using a vehicle that is being used as a public vehicle shall—" and substituting "A person who hires or uses a vehicle that is being used as a public vehicle shall not—";
- (n) by omitting from subsection (10A) "No person hiring or using a vehicle or aircraft that is being used as a public vehicle shall—" and substituting "A person who hires or uses any vehicle or aircraft that is being used as a public vehicle shall not—";
- (o) by omitting from subsection (12) the passage after paragraph (e);
- (p) by omitting from subsection (13) the passage after "that manner.";
- (q) by adding the following subsection after subsection (14):—

(15) A person who contravenes a provision of subsection (1), (4), (5), (5A), (7), (12), or (13) is guilty of an offence and is liable on summary conviction—

(a) in the case of an offence under subsection (1), (5), (5A), (12), or (13) to—

(i) a penalty not exceeding 5 penalty units for a first offence; and

(ii) a penalty not exceeding 10 penalty units, or to imprisonment for a term not exceeding 6 months, for a second or subsequent offence; or

(b) in the case of an offence under subsection (4) or (7), to a penalty not exceeding 2 penalty units and, in the case of a continuing offence, to a further penalty not exceeding 0.5 penalty unit for each day during which the offence continues.

7—Section 31 (4) is amended by omitting paragraph (a) and substituting the following paragraph:—

(a) may provide that it is an offence, punishable on summary conviction, for a person to contravene any of those regulations and may provide in respect of any such offence a penalty not exceeding 5 penalty units for a first offence and a penalty not exceeding 10 penalty units for a second or subsequent offence; and

8—Section 32 is amended as follows:—

(a) by omitting from subsection (1) “this Act.” and substituting “this Act and is liable on summary conviction to—

(a) a penalty not exceeding 10 penalty units, or to imprisonment for a term not exceeding 2 years, or both, for a first offence; and

(b) a penalty not exceeding 20 penalty units, or to imprisonment for a term not exceeding 4 years, or both, for a second or subsequent offence.”;

(b) by omitting from that subsection and subsection (2) the passage beginning with “Penalty:—” and ending with “subsequent offence.”, wherever occurring;

(c) by omitting from subsection (2) “this Act.” and substituting “this Act and is liable on summary conviction to—

(a) a penalty not exceeding 5 penalty units for a first offence; and

(b) a penalty not exceeding 10 penalty units, or to imprisonment for a term not exceeding 6 months, for a second or subsequent offence.”.

9—Section 36 is amended by omitting subsection (10A) and substituting the following subsection:—

(10A) A person in respect of whom an order is in force under this section and who drives a motor vehicle in a public street otherwise than in accordance with the conditions or restrictions contained in the order is guilty of an offence and is liable on summary conviction to a penalty not exceeding 5 penalty units or to imprisonment for a term not exceeding 3 months or both.

10—Section 37 is amended by omitting subsection (1) and substituting the following subsection:—

(1) A person who drives a motor vehicle in a public street while he is disqualified under this Act or any other Act for holding or obtaining a driver’s licence is guilty of an offence and is liable on summary conviction to—

(a) a penalty not exceeding 5 penalty units, or to imprisonment for a term not exceeding 3 months, or both, for a first offence; and

(b) a penalty not exceeding 10 penalty units, or to imprisonment for a term not exceeding 6 months, or both, for a second or subsequent offence.

11—Section 52 is repealed and the following section is substituted:—

52—(1) Except where elsewhere specially provided by this Act, a ^{Penalties.} person who contravenes a provision of this Act is guilty of an offence against this Act.

(2) Except where otherwise specially provided by this Act, a person who is guilty of an offence against this Act is liable on summary conviction to—

- (a) a penalty not exceeding 5 penalty units for a first offence; and
- (b) a penalty not exceeding 10 penalty units, or to imprisonment for a term not exceeding 3 months, for a second or subsequent offence.

(3) The foregoing provisions of this section do not apply to contraventions of the regulations under this Act and, except as otherwise provided in this Act, any regulations made under this Act may provide that it is an offence, punishable on summary conviction, for a person to contravene any of those regulations and may provide in respect of any such offence a penalty not exceeding 5 penalty units.