



TRAFFIC AMENDMENT ACT (No. 3) 1981

No. 69 of 1981

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AN ACT to amend the Traffic Act 1925 for the purpose of making provision for the determination of gross vehicle mass or gross combination mass in respect of certain kinds of motor vehicles and for related purposes.

[Royal Assent 30 November 1981]

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 (No. 3)* Short title. 1981.

Commence-
ment.

2—(1) Except as provided in subsection (2), this Act shall commence on the day on which it receives the Royal Assent.

(2) Section 6 shall commence on such date as may be fixed by proclamation.

Principal Act.

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

Amendment of
section 3 of
Principal Act
(Interpre-
tation).

4—Section 3 (1) of the Principal Act is amended as follows:—

(a) by inserting the following definition after the definition of “beach”:—

“commercial goods vehicle” has the meaning assigned to that expression by the *Motor Vehicles Taxation Act 1981*;

(b) by inserting the following definition after the definition of “registering authority”:—

“the regulations” means regulations made and in force under this Act;

(c) by omitting from the definition of “withdrawal notice” “section 43J (1).” and substituting “section 43J (1);”;

(d) by inserting the following definition after the definition of “withdrawal notice”:—

“work vehicle” means a motor vehicle (not being a motor vehicle used or designed to be used primarily for the carriage of goods) which has as its primary function—

(a) the lifting, moving, excavating, compressing, rolling, or laying of material of any description;

(b) the manufacturing or processing of goods of any description; or

(c) the performing of any other task or function prescribed in the regulations for the purposes of this definition.

* 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, and Nos. 13, 19, and 34 of 1981.

5—After section 11 of the Principal Act, the following sections are inserted:—

Insertion in
Principal Act
of new sections
11A, 11B,
and 11C.

11A—(1) In making an application for the registration or renewal of registration of a commercial goods vehicle or work vehicle after the commencement of the *Traffic Amendment Act (No. 3) 1981*, the applicant—

Determination
of gross
vehicle mass
or gross
combination
mass.

(a) shall, if the vehicle is one to which subsection (2) (b) applies; and

(b) may, if the vehicle is one to which subsection (2) (c) applies,

include in the application the particulars of the trailer used or intended to be used in conjunction with the vehicle.

(2) Subject to this section, where after the commencement of the *Traffic Amendment Act (No. 3) 1981* an application is made to the Commission in accordance with the regulations and, where applicable, in accordance with subsection (1) for the registration or renewal of registration of a commercial goods vehicle or work vehicle, the Commission shall, before issuing a certificate of registration in respect of the vehicle, determine in respect of the vehicle—

(a) if the vehicle is not one to which paragraph (b), (c), or (d) applies—a gross vehicle mass in accordance with subsection (3) or, as the case may be, subsection (5);

(b) if the vehicle is used or is designed to be used only in conjunction with a trailer—a gross combination mass in accordance with subsection (4) or, as the case may be, subsection (5);

(c) if the vehicle is one that may be used or is designed to be used either in conjunction with a trailer or without a trailer and the applicant does not make a declaration as referred to in paragraph (d)—

(i) a gross vehicle mass in accordance with subsection (3), or, as the case may be, subsection (5); and

(ii) a gross combination mass in accordance with subsection (4) or, as the case may be, subsection (5); or

- (d) if the vehicle is one that may be used or is designed to be used either in conjunction with a trailer or without a trailer but the applicant declares in his application that, during the period of 12 months for which the certificate of registration is proposed to be issued, he does not intend to use the vehicle in conjunction with a trailer—a gross vehicle mass in accordance with subsection (3) or, as the case may be, subsection (5).

(3) In relation to a vehicle for which a gross vehicle mass is required to be determined for the purposes of subsection (2) (a), (c), or (d), the gross vehicle mass shall, except as provided in subsection (5), be—

- (a) 38 tonnes;
- (b) the mass prescribed in the regulations by reference to the distance between the extreme axles of the vehicle as the maximum permissible laden mass of the vehicle;
- (c) the mass determined by reference to the regulations as the maximum permissible aggregate of the axle load applicable to the vehicle; or
- (d) where the manufacturer of the vehicle issued, at the time of manufacture, a document containing specifications of the vehicle which included a gross vehicle mass for the vehicle and the vehicle has not been modified since the date of its manufacture so as to increase the load carrying capacity of the vehicle—a mass equal to—
- (i) where the mass included in those specifications is less than 2.7 tonnes—1.05 times that mass; or
- (ii) where the mass included in those specifications is 2.7 tonnes or more—1.1 times that mass,

whichever is the least.

(4) In relation to a vehicle for which a gross combination mass is required to be determined for the purposes of subsection (2) (b) or (c), the gross combination mass shall, except as provided in subsection (5), be—

- (a) 38 tonnes;

- (b) the mass determined by reference to the regulations as the maximum permissible aggregate of the axle load applicable to the vehicle and the trailer particulars of which have been included in the application or, if no such particulars have been included in the application, a trailer having the greatest load carrying capacity that, in the opinion of the Commission, might be expected to be used in conjunction with the vehicle; or
- (c) where the manufacturer of the vehicle issued, at the time of manufacture, a document containing specifications of the vehicle which included a gross combination mass for the vehicle and the vehicle has not been modified since the date of its manufacture so as to increase the load carrying or load pulling capacity of the vehicle—a mass equal to 1.1 times the mass included in those specifications, whichever is the least.

(5) Where—

- (a) in relation to a motor vehicle for which a gross vehicle mass or a gross combination mass is required to be determined for the purposes of subsection (2)—
 - (i) a document of a kind referred to in subsection (3) (d) or (4) (c) does not exist; or
 - (ii) such a document exists, but since the date of the vehicle's manufacture the vehicle has been modified so as to increase its load carrying or load pulling capacity; and
- (b) the gross vehicle mass or the gross combination mass determined in respect of the vehicle under subsection (3) or (4) would, in the opinion of the Commission, be greater than that which is consistent with the safe use of the vehicle on public streets,
the Commission may determine in respect of the vehicle a gross vehicle mass or gross combination mass that is lower than that which would, but for this subsection, be so determined.

(6) A gross vehicle mass or gross combination mass determined in respect of a vehicle under this section or under section 11c shall, unless a fresh determination is subsequently made in respect of that vehicle in accordance with section 11c, remain in force for the period for which the vehicle is registered and shall then expire, but the Commission, when renewing the registration of the vehicle, may, if it thinks fit, adopt that determination as its determination in respect of the vehicle for the period of renewed registration.

(7) On determining the gross vehicle mass, the gross combination mass, or the gross vehicle mass and the gross combination mass of a vehicle, and before issuing a certificate of registration in respect of the vehicle, the Commission shall—

- (a) endorse on the certificate the gross vehicle mass, the gross combination mass, or, as the case may be, the gross vehicle mass and the gross combination mass determined in respect of that vehicle; and
- (b) enter the particulars of the gross vehicle mass, the gross combination mass, or, as the case may be, the gross vehicle mass and the gross combination mass in the record kept in respect of that vehicle under section 11.

(8) Notwithstanding anything to the contrary in this section, where after calculating the gross vehicle mass or gross combination mass of a vehicle there remains after subtracting the number of whole tonnes and whole tenths of a tonne an amount less than 10 hundredths of a tonne, then—

- (a) if the number of hundredths of a tonne is less than 5, that number shall be disregarded; or
- (b) if the number of hundredths of a tonne is 5 or more but is less than 10, that number shall be deemed to be one-tenth of a tonne.

11B—(1) Where the owner of a commercial goods vehicle or work vehicle is aggrieved by the determination by the Commission under section 11A or 11C of a gross vehicle mass or gross combination mass in respect of the vehicle, he may appeal to a magistrate against the determination as provided by this section.

(2) An appeal under this section—

- (a) shall be made within 28 days after the owner of the vehicle has been advised by the Commission of its determination; and
- (b) shall be by way of notice of appeal addressed to the clerk of petty sessions nearest to the appellant's place of business or employment, as the case may be, setting out the grounds of appeal.

(3) For the purposes of subsection (2) (a), the owner of a vehicle shall be deemed to have been advised by the Commission of its determination on the date on which he is issued with a certificate of registration, in respect of the vehicle.

(4) The clerk of petty sessions shall—

- (a) appoint a day and time for the hearing of the appeal;
- (b) notify the Commission and appellant of the day and time so appointed; and
- (c) transmit to the Commission a copy of the grounds of appeal.

(5) On the hearing of the appeal, the magistrate shall either confirm the determination of the Commission or quash that determination and substitute a determination that the Commission could have made in respect of the vehicle concerned and he may make such ancillary orders for the purpose of giving effect to his decision as he considers appropriate.

(6) The Commission shall give effect to the decision of the magistrate under subsection (5) and, where the magistrate substitutes a fresh determination for that of the Commission, that fresh determination shall be deemed to be the determination of the Commission under section 11A or 11C and the Commission shall—

- (a) make such amendments to the certificate of registration issued in respect of the vehicle concerned; and
- (b) make such entry in the record kept in respect of that vehicle under section 11, as appears to be appropriate, having regard to the fresh determination.

(7) Instead of making the amendments to the certificate of registration referred to in subsection (6) (a), the Commission may substitute for the existing certificate of registration a new certificate of registration specifying the new gross vehicle mass or gross combination mass of the vehicle.

Variation of gross vehicle mass or gross combination mass during currency of registration.

11c—(1) Subject to subsection (2), where—

(a) a commercial goods vehicle or a work vehicle—

(i) is modified in such a way as to increase the load carrying capacity of the vehicle; or

(ii) in the case of a vehicle that was not previously capable of being used in conjunction with a trailer, is modified in such a way as to make it capable of being so used; or

(b) in the case of a commercial goods vehicle or a work vehicle which is used or designed to be used in conjunction with a trailer—

(i) the trailer is modified in such a way as to increase the load carrying capacity of the trailer; or

(ii) a different trailer having an increased load carrying capacity is proposed to be used in conjunction with the vehicle,

the owner of the vehicle shall ensure that the vehicle is not driven or used on a public street unless there has previously been lodged with the Commission a notice in writing specifying the modification to the vehicle or trailer or, as the case may be, the different trailer proposed to be used in conjunction with the vehicle.

(2) Subsection (1) is not complied with unless and until the certificate of registration issued in respect of the vehicle concerned is lodged with the Commission.

(3) Where the owner of a vehicle of a kind referred to in subsection (1) has, in complying with section 7 (1) of the *Motor Vehicles Taxation Act 1981*, informed the Commission of the matters required to be notified under subsection (1) and has lodged the certificate of registration in respect of the vehicle with the Commission, he shall be deemed to have complied with that subsection.

(4) A person to whom subsection (1) applies who, without reasonable excuse, fails to comply with that subsection is guilty of an offence and is liable on summary conviction to a penalty not exceeding \$500.

(5) Where—

(a) a commercial goods vehicle or a work vehicle—

- (i) is modified in such a way as to reduce the load carrying or load pulling capacity of the vehicle; or
- (ii) in the case of a vehicle that was previously capable of being used in conjunction with a trailer—is modified in such a way as to be no longer capable of being so used; or

(b) in the case of a commercial goods vehicle, or a work vehicle, which is used or designed to be used in conjunction with a trailer—

- (i) the trailer is modified in such a way as to reduce the load carrying capacity of the trailer; or
- (ii) a different trailer having a reduced load carrying capacity is used or proposed to be used with the vehicle,

the owner of the vehicle may lodge with the Commission a notice in writing specifying the modification to the vehicle or trailer or, as the case may be, the different trailer used or proposed to be used in conjunction with the vehicle.

(6) A notice under subsection (5) is not effective unless it is accompanied by the certificate of registration issued in respect of the vehicle concerned.

(7) Where the Commission receives a notice under subsection (1) or (5) in respect of a vehicle, it may, if satisfied as to the truth and accuracy of the contents of the notice, make a fresh determination of the gross vehicle mass or gross combination mass of the vehicle and, on making such a determination, the Commission shall—

- (a) make such amendment to the endorsement of the gross vehicle mass or gross combination mass on the certificate of registration issued in respect of the vehicle; and

(b) make such entry in the record of motor vehicles kept in respect of that vehicle under section 11, as appears to it to be appropriate, having regard to the fresh determination.

(8) The provisions of section 11A (3), (4), (5), and (8), with any necessary modifications, apply to and in relation to the making of a fresh determination under subsection (7).

(9) Instead of making the amendment referred to in subsection (7) (a), the Commission may substitute for the existing certificate of registration a new certificate of registration specifying the new gross vehicle mass or new gross combination mass determined in respect of the vehicle under this section.

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

Insertion in
Principal Act
of new
section 11D.

Offences and
penalties in
relation to use
of commercial
goods vehicles
and work
vehicles.

11D—(1) Subject to subsection (5), a person shall not drive or use, or cause or permit to be driven or used, on a public street a commercial goods vehicle or a work vehicle—

(a) unless a gross vehicle mass or gross combination mass is determined in respect of the vehicle in accordance with section 11A or 11C; or

(b) where a gross vehicle mass or gross combination mass is, or both a gross vehicle mass and gross combination mass are, so determined—unless that gross vehicle mass or gross combination mass is or, as the case may be, that gross vehicle mass and gross combination mass are conspicuously displayed on the vehicle as prescribed in the regulations.

(2) Subject to subsection (6), a person shall not drive or use, or cause or permit to be driven or used, on a public street a commercial goods vehicle or a work vehicle in respect of which a gross vehicle mass is determined in accordance with section 11A or 11C when the aggregate of the axle loads, as determined by reference to the regulations, exceeds that gross vehicle mass.

(3) Subject to subsections (5) and (7), a person shall not drive or use, or cause or permit to be driven or used, on a public street a commercial goods vehicle or work vehicle to which a trailer is joined unless—

- (a) a gross combination mass is determined in respect of the vehicle in accordance with section 11A or 11C; or
- (b) where a gross combination mass is so determined—that gross combination mass is conspicuously displayed on the vehicle as prescribed in the regulations.

(4) A person shall not drive or use, or cause or permit to be driven or used, on a public street a commercial goods vehicle or work vehicle in respect of which a gross combination mass is determined in accordance with section 11A or 11C and to which a trailer is joined when the aggregate axle loads of the vehicle and trailer together, as determined by reference to the regulations, exceed that gross combination mass.

(5) Subsections (1) (b) and (3) (b) do not apply to or in relation to a commercial goods vehicle or work vehicle in respect of which the gross vehicle mass or gross combination mass is less than 3 tonnes.

(6) Where a gross combination mass is determined in respect of a commercial goods vehicle or work vehicle as well as a gross vehicle mass, subsection (2) does not apply to or in relation to that vehicle when it is being driven or used in conjunction with a trailer.

(7) Subsection (3) does not apply to or in relation to a commercial goods vehicle or work vehicle where a gross vehicle mass is determined in respect of the vehicle in accordance with section 11A or 11C and—

- (a) where that gross vehicle mass is less than 3 tonnes—the aggregate axle loads of the vehicle and trailer together, as determined by reference to the regulations, did not exceed that gross vehicle mass; or
- (b) where that gross vehicle mass is not less than 3 tonnes—
 - (i) that gross vehicle mass was conspicuously displayed on the vehicle as prescribed in the regulations; and
 - (ii) the aggregate axle loads of the vehicle and trailer, as determined by reference to the regulations did not exceed that gross vehicle mass.

(8) A person who contravenes subsection (1), (2), (3), or (4) is guilty of an offence and is liable on summary conviction to a penalty not exceeding \$1 000.