

**TRAFFIC AMENDMENT (PUBLIC VEHICLES)
ACT 1983**

No. 19 of 1983

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**TRAFFIC AMENDMENT (PUBLIC VEHICLES)
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No. 19 of 1983

AN ACT to amend the Traffic Act 1925 for the purpose of making further provision with respect to certain classes of public vehicle licences under that Act and for related purposes.

[Royal Assent 13 July 1983]

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 (Public Vehicles) Act 1983*. Short title.

2—(1) This section and sections 1, 3, 4, and 5 (a) and (b) shall commence on the day on which this Act receives the royal assent. Commencement.

(2) Sections 17, 18, and 19 shall commence on such day as may be fixed by proclamation, being a day that is the same as, or that is subsequent to, the day on which a notice is published in the *Gazette* pursuant to section 14AB (8) of the Principal Act.

(3) Except as provided in subsections (1) and (2), this Act shall commence on such day as may be fixed by proclamation, being a day that is subsequent to the day fixed under subsection (2).

Principal Act.

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

Amendment of section 14AB of Principal Act (Interpretation of Part III).

4—(1) Section 14AB (1) of the Principal Act is amended as follows:—

(a) by inserting the following definitions before the definition of “excluded roads” :—

“adjustment rate”, in relation to a year, means (subject to section 28 (2)) the rate calculated in accordance with section 28 for that year;

“Cab and Hire-Car Trust Fund” means the Fund established and maintained under section 17B of the *Transport Act* 1981;

(b) by inserting the following definition after the definition of “excluded roads” :—

“Hobart zone” means the area defined as the Hobart zone in regulations made for the purposes of this Part;

(c) by inserting the following definitions after the definition of “permit” :—

“prescribed licence” means a cab or hire-car licence issued in respect of the Hobart zone and notified in the *Gazette* as being a prescribed licence for the purposes of this Part;

“September quarter”, in relation to a year, means the period commencing on and including 1st July in that year and ending on and including 30th September in that year;

* 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, and No. 99 of 1982.

(d) by omitting from the definition of “triennial date” “thereafter.” and substituting “thereafter;”;

(e) by inserting the following definition after the definition of “triennial date”—

“year”, for the purposes of calculating the adjustment rate for a year, means—

(a) the period of 12 months commencing on 1st January 1984; or

(b) a subsequent period of 12 months commencing on 1st January.

(2) Section 14AB of the Principal Act is further amended by inserting the following subsections after subsection (7):—

(8) The Commission may cause a notice to be published in the *Gazette* declaring a cab or hire-car licence issued in respect of the Hobart zone to be a prescribed licence for the purposes of this Part.

(9) A notice under subsection (8) is not a statutory rule within the meaning of the *Rules Publication Act* 1953.

(10) Where an amount is to be adjusted under this Part by reference to the adjustment rate for a year, a reference (however expressed) in this Part to adjusting the amount is a reference to increasing or reducing the amount, as the case may require, according to whether the adjustment rate represents an overall increase or reduction.

5—Section 15 of the Principal Act is amended as follows:—

(a) by inserting in paragraph (d) of subsection (3) “or parcels not exceeding 35 kilograms in the aggregate” after “passengers”; Amendment of section 15 of Principal Act (Public vehicle licences).

(b) by inserting in subparagraph (i) of paragraph (e) of that subsection “or parcels not exceeding 35 kilograms in the aggregate” before “between any place”;

(c) by inserting the following subsections after subsection (7):—

(7A) A prescribed licence shall not be held by a body corporate.

(7B) The authority of a prescribed licence shall be effective only in respect of a vehicle that is registered in the name of the holder of the licence.

(d) by inserting in subsection (10) “ or a prescribed licence ” after “ ancillary licence ”.

Amendment of section 16 of Principal Act (Temporary licences).

6—Section 16 of the Principal Act is amended as follows:—

(a) by omitting “ The Commission ” and substituting “(1) Subject to subsection (2), the Commission ”;

(b) by adding the following subsection as subsection (2) of that section:—

(2) The Commission shall not issue a temporary cab or hire-car licence in respect of a vehicle for the Hobart zone.

Amendment of section 16A of Principal Act (Applications for issue, &c., of licences).

7—Section 16A (2) of the Principal Act is amended by inserting “ or a prescribed licence ” after “ ancillary licence ”.

Amendment of section 16B of Principal Act (Period of licences).

8—Section 16B of the Principal Act is amended as follows:—

(a) by inserting in subsection (2) “, a prescribed licence,” after “ ancillary licence ”;

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

(2A) Subject to this section, a prescribed licence, unless renewed or further renewed, expires with respect to the holder of the licence on the expiration of 12 months from the date on which it was issued or last renewed.

(2B) Notwithstanding the expiry of a prescribed licence, the holder of the licence may, within 7 days after the expiry of the licence, surrender the licence to the Commission.

(2C) Where a prescribed licence has been surrendered to the Commission and the term of the licence, had it not been surrendered, would have expired before it is re-issued by the Commission the licence shall be deemed to continue to have effect until the day that it is re-issued, and shall, for the purpose of determining the fees and levies payable under this Part, be deemed to have been issued on that day.

(2D) Where the term of a prescribed licence which has been surrendered to the Commission has not expired before it is re-issued by the Commission, it shall be re-issued for its unexpired term.

(c) by inserting in subsection (5) “and, in the case of a prescribed licence, the levy” after “fee”.

9—Section 16c of the Principal Act is repealed and the following section is substituted:—

Substitution of section 16c of Principal Act.

16c—(1) The Commission shall not issue a licence specified in Part I of Schedule 3, other than a prescribed licence, unless there is paid to the Commission the annual fee that is specified in relation to that licence in that Part. Fees.

(2) The Commission shall not issue a prescribed licence unless there is paid to the Commission—

- (a) the amount specified in item 1 of Schedule 4;
- (b) the relevant portion of the prescribed annual levy determined in accordance with subsection (3); and
- (c) the annual fee that is specified in relation to that licence in Part I of Schedule 3.

(3) For the purposes of paragraph (b) of subsection (2), the relevant portion shall be—

- (a) except as provided by section 16B (2c), where the issue is as a re-issue of a licence that has been cancelled by, or surrendered to, the Commission, the amount calculated in accordance with the following formula:—

$$a = \frac{n}{365} \times l$$

where—

- “a” is the amount to be calculated;
- “n” is the number of days remaining of the unexpired term of the licence on its re-issue;
- “l” is the prescribed annual levy; or
- (b) in any other case, the prescribed annual levy.

(4) The Commission shall not renew a prescribed licence unless there is paid to the Commission—

(a) the prescribed annual levy; and

(b) the annual fee that is specified in relation to that licence in Part I of Schedule 3.

(5) The Commission shall not issue or renew an ancillary licence unless there is paid to the Commission the fee that is specified in relation to that licence in Part II of Schedule 3.

(6) The Commission shall not issue a temporary licence unless there is paid to the Commission the fee that is specified in relation to that licence in Part II of Schedule 3.

(7) The Commission shall not transfer a licence other than a prescribed licence unless there is paid to the Commission by the transferee the transfer fee that is specified in Part II of Schedule 3.

(8) The Commission shall not transfer a prescribed licence unless there is paid to the Commission by the transferee the transfer fee that is specified in Part II of Schedule 3, and—

(a) in the case of a licence that is, at the time that the application for transfer was made, subject to a restriction referred to in section 17 (4)—135 per cent of the transfer levy that is specified in item 2 of Schedule 4; or

(b) in any other case—the transfer levy that is specified in item 2 of Schedule 4.

(9) The Commission may waive payment of the amount referred to in paragraph (a) or, as the case may be, paragraph (b), of subsection (8) if it is satisfied that the licence is to be transferred to a near relative of the holder of the licence, whether or not the holder of the licence is alive at the time that the application to transfer the licence is made.

(10) A person holding a licence (other than an ancillary licence, a prescribed licence, or a temporary licence) shall pay to the Commission such annual fees as are specified in Part I of Schedule 3 with respect to that licence.

(11) An annual fee required to be paid in respect of a licence under subsection (10) becomes due on each 31st July during which the licence remains in force except that 31st July which falls within the same month as that in which the licence is issued.

(12) A licence is of no effect during any period in which an annual fee or levy required to be paid in respect of that licence is due and remains unpaid.

(13) In this section, "near relative" means husband, wife, child, step-child, parent, step-parent, sister, brother, grandparent, and grandchild.

10—After section 16C of the Principal Act the following section is inserted:—

Insertion in
Principal Act
of new
section 16D.

16D—(1) Subject to this Part, the holder of a licence may, at any time, by notice in writing to the Commission, inform the Commission that he wishes to surrender a licence of which he is the holder, and, on receipt by the Commission of the notice and the licence, the licence shall cease to be in force in respect of that person.

Surrender of
licences.

(2) Where a prescribed licence is surrendered under this Part before the expiration of the period for which the licence has been issued or renewed, the Commission shall—

- (a) pay to the person who held the licence out of money in the Cab and Hire-Car Trust Fund—
- (i) the amount specified in item 1 (a) of Schedule 4; or
 - (ii) in the case of a prescribed licence subject to a restriction referred to in section 17 (4)—85 per cent of that amount; and
- (b) refund to him an amount calculated in accordance with the following formula:—

$$a = \frac{n}{365} \times l$$

where—

"a" is the amount to be calculated;

"n" is the number of days remaining of the unexpired term of the licence on the day on which the licence is surrendered to the Commission;

"l" is the prescribed annual levy paid to the Commission in respect of the licence.

(3) Where a prescribed licence is surrendered pursuant to section 16B (2B) the Commission shall pay to the person who held the licence out of money in the Cab and Hire-Car Trust Fund—

- (a) the amount specified in item 1 (a) of Schedule 4;
or
- (b) in the case of a prescribed licence subject to a restriction referred to in section 17 (4)—85 per cent of that amount.

Amendment of section 17 of Principal Act (Conditions in relation to licences).

11—Section 17 of the Principal Act is amended by inserting the following subsections after subsection (3):—

(4) After the commencement of section 11 of the *Traffic Amendment (Public Vehicles) Act 1983* the Commission shall not issue a prescribed licence subject to a restriction as to the area within the Hobart zone in which the vehicle in respect of which the licence is held can ply for hire.

(5) Where a prescribed licence issued before the commencement of section 11 of the *Traffic Amendment (Public Vehicles) Act 1983* was issued subject to a restriction referred to in subsection (4) is surrendered to the Commission, the Commission shall re-issue the licence free of that restriction.

(6) Where the Commission transfers a prescribed licence that was issued before the commencement of section 11 of the *Traffic Amendment (Public Vehicles) Act 1983* subject to a restriction referred to in subsection (4), the Commission shall transfer the licence free of that restriction.

Amendment of section 22 of Principal Act (Cancellation of licences).

12—Section 22 of the Principal Act is amended as follows:—

- (a) by inserting in subsection (6D) “and a levy” after “fees” where firstly occurring;
- (b) by inserting the following subsections after subsection (6D):—

(6E) Where a complaint under this section is made in respect of the holder of a prescribed licence the Commission shall not, until the decision of the Tribunal is given, transfer, or accept the surrender of, that licence

(6F) Where, under this section, the Tribunal cancels a prescribed licence the person who held the licence may, notwithstanding the decision of the Tribunal, inform the Commission by notice in writing within 7 days of the Tribunal giving its decision that he wishes to surrender the licence and, on receipt by the Commission of the notice and the licence, the licence shall cease to be in force in respect of that person.

(6G) Where the Commission accepts the surrender of a prescribed licence under this section it shall pay to the person who held the licence an amount equal to half the sum of the amounts calculated in accordance with section 16D.

13—The Principal Act is amended by inserting the following sections after section 27:—

Insertion in
Principal Act
of new
sections 28,
28A, and 28B.

28—(1) For the purposes of the definition of “ adjustment rate ” in section 14AB (1), the rate for a year shall be the ratio between the Consumer Price Index for Hobart published by the Australian Statistician under the authority of the *Census and Statistics Act* 1905 of the Commonwealth for the September quarter of that year and the Consumer Price Index for Hobart for the September quarter of the previous year.

Calculation of
adjustment
percentage.

(2) Where the rate calculated for a year in accordance with this section is 1 there shall be deemed to be no adjustment rate for that year.

(3) Where pursuant to subsection (2) there is deemed to be no adjustment rate for a year, then, for the purposes of calculating the adjustment rate for the next year the amount for the last year for which there was an adjustment rate shall be deemed also to be the amount for the first-mentioned year.

(4) If at any time, whether before or after the commencement of this section, the Australian Statistician has published for the September quarter of a particular year an amount in substitution for an amount previously published by him in respect of that particular year—

(a) except as provided in paragraph (b)—the publication of the later amount shall be disregarded; or

(b) if the Minister so directs—regard shall, after the direction is given, be had to the later and not to the earlier amount so published,

for the purposes of this Part.

Adjustment of item 1 in Schedule 4.

28A—(1) Where there is an adjustment rate for a year, the amount specified in item 1 (a) of Schedule 4 is adjusted by virtue of this section, on and from 1st January in the following year, by that rate.

(2) Where an amount adjusted under subsection (1) comprises, in addition to a number of dollars, a number of cents that is not a multiple of 5, that number of cents shall be reckoned as the next higher number that is a multiple of 5.

Commission to publicize adjustment.

28B—Where there is an adjustment rate for a year, the Commission shall, before 1st November in that year, publish in the *Gazette* a notice of the amount payable in respect of the issue of a prescribed licence as a consequence of the adjustment made by the operation of section 28A on and from 1st January in the following year.

Amendment of section 30B of Principal Act (Appeals).

14—Section 30B (1) (a) of the Principal Act is amended as follows:—

(a) by inserting in subparagraph (i) “(other than the refusal of the Commission to re-issue him a prescribed licence where that licence has previously been surrendered by another person or cancelled)” after “Part III”;

(b) by inserting in subparagraph (ia) “or a prescribed licence” after “ancillary licence”.

Insertion in Principal Act of new section 57.

15—After section 56 of the Principal Act the following section is inserted in Part VI:—

Functions of Commission with respect to prescribed licences.

57—(1) In the exercise of its functions under this Act with respect to prescribed licences the Commission shall have an absolute discretion as to the order in which it pays any amounts out of money in the Cab and Hire-Car Trust Fund on the surrender of prescribed licences, the order in which it re-issues those licences, and the order of applicants to whom it re-issues those licences.

(2) The Commission shall not issue a prescribed licence while it has a prescribed licence available for re-issue.

16—After Schedule 3 to the Principal Act the following Schedule is inserted:—

Insertion in Principal Act of new Schedule 4.

SCHEDULE 4

Sections 16c (2) (a) and (8)

AMOUNTS AND LEVIES IN RESPECT OF PRESCRIBED LICENCES

1. Amount payable in respect of issue of a prescribed licence, being the sum of items (a) and (b)	(a) \$7 000
	(b) \$3 000
2. Levy on transfer of a prescribed licence	\$3 000

17—The Commission shall not, for a period of 12 months after the commencement of this section, re-issue a cab or hire-car licence in respect of the Hobart zone.

Suspension on re-issue of cab and hire-car licences in Hobart zone for 12 months.

18—(1) Where, on the commencement of this section, the holder of a prescribed licence is a body corporate the holder of the licence shall, within 28 days of the commencement of this section, apply to the Commission in writing for the transfer of the licence to a person other than a body corporate.

Transfer of prescribed licences held by bodies corporate.

(2) The Commission may, subject to the Principal Act, transfer a prescribed licence to a person so nominated by the holder of the licence.

(3) Where the holder of a licence fails to make an application to the Commission in accordance with subsection (1), the Commission may, subject to the Principal Act, transfer the licence to such person as it thinks most appropriate to hold the licence.

(4) Where a prescribed licence is transferred pursuant to this section, the fee referred to in section 16c (4) of the Principal Act shall not be payable in respect of the transfer.

Transfer of registration of vehicles owned by bodies corporate, &c.

19—(1) Where, on the commencement of this section, the authority of a prescribed licence is effective in respect of a vehicle that is registered in the name of a body corporate or a person who is not the holder of the licence, the Commission shall, within 28 days of the commencement of this section, transfer the registration of the vehicle into the name of the person nominated for the purposes of section 18 (1) or, as the case may be, determined by the Commission pursuant to section 18 (3).

(2) Where the registration of a vehicle is transferred pursuant to this section, no prescribed transfer fee shall be payable under the Principal Act and no stamp duty shall be payable pursuant to section 74 of the *Stamp Duties Act* 1931 on the transfer of registration.

Imposition of levy on holders of prescribed licences.

20—(1) The holder of a prescribed licence shall, within 28 days of the commencement of this section, pay to the Commission a levy of \$100.

(2) The Commission shall deposit any amount received pursuant to subsection (1) in the Cab and Hire-Car Trust Fund as if the amount was a payment received by way of annual levy pursuant to section 16c (4) (a) of the Principal Act.

(3) Where the holder of a prescribed licence fails to pay the amount referred to in subsection (1) within the period required by that subsection, the Commission may suspend the licence until the amount is paid to the Commission.