
METROPOLITAN TRANSPORT AMENDMENT ACT 1988

No. 40 of 1988

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METROPOLITAN TRANSPORT AMENDMENT ACT 1988

No. 40 of 1988

AN ACT to amend the Metropolitan Transport Act 1954.

[Royal Assent 10 November 1988]

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 *Metropolitan Transport Amendment Act 1988*. Short title.

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

(2) Sections 4 (d), 9, 13, and 14 shall commence on such day as may be fixed by proclamation.

3—In this Act, the *Metropolitan Transport Act 1954** is referred to as the Principal Act. Principal Act.

* No. 77 of 1954. For this Act, as amended to 1959, see the Reprint of Statutes (1826-1959), Vol. 4, p. 119. Subsequently amended by Nos. 31 and 40 of 1961, No. 1 of 1962, No. 55 of 1965, No. 15 of 1971, No. 75 of 1973, No. 1 of 1977, No. 53 of 1980, No. 17 of 1981, Nos. 10 and 99 of 1982, Nos. 22 and 29 of 1984, and No. 31 of 1985.

Amendment of section 2 of Principal Act (Interpretation).

4—Section 2 (1) of the Principal Act is amended as follows:—

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

“by-laws” means by-laws made and in force under section 52;

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

“general manager” means the person for the time being holding, or acting in, the office of general manager of the Trust;

(c) by omitting the definition of “industrial award”;

(d) by inserting the following definition after the definition of “principal loan”:—

“property offence” means an offence under section 51 (1) or (2) (a);

(e) by inserting the following definition before the definition of “securities”:—

“secretary” means the person for the time being holding, or acting in, the office of secretary of the Trust;

Amendment of section 9 of Principal Act (Vacation of office).

5—Section 9 (1) of the Principal Act is amended as follows:—

(a) by omitting from paragraph (c) “State; or” and substituting “State;”;

(b) by inserting the following paragraph after paragraph (c):—

(ca) being a member of a city council referred to in subsection (3) of section 3 who was nominated by that council pursuant to that subsection, ceases to be a member of that council; or

Amendment of section 23 of Principal Act (Appointment of general manager, secretary, and employees).

6—Section 23 of the Principal Act is amended by inserting the following subsection after subsection (1):—

(1A) Subject to and in accordance with the *Tasmanian State Service Act 1984*, a secretary of the Trust may be appointed for the purposes of this Act.

Amendment of section 35 of Principal Act (Power of Trust to borrow moneys on overdraft).

7—Section 35 of the Principal Act is amended by omitting “one hundred thousand dollars” and substituting “\$500 000”.

8—Section 39 (1) of the Principal Act is amended as follows:—

Amendment of section 39 of Principal Act (Application of the moneys of the Trust).

(a) by omitting paragraph (b) and substituting the following paragraph:—

(b) in the payment of the remuneration payable to members, the general manager and the secretary, and persons appointed or employed pursuant to section 23 (2); and

(b) by omitting “trustees.” and substituting “trustees and in such other manner as the Treasurer may from time to time approve.”.

9—After Part IV of the Principal Act, the following Part is inserted:—

Insertion in Principal Act of new Part IVA.

PART IVA

INFRINGEMENT NOTICES

43A—In this Part, unless the contrary intention appears—

Interpretation: Part IVA.

“authorized officer” means a person authorized as provided in section 43B;

“infringement notice” means a notice served on a person under section 43C;

“prescribed offence” means—

(a) a property offence;

(b) an offence under section 51 (2) (b), (c), or (d), (3), or (4); or

(c) an offence prescribed by the by-laws;

“withdrawal notice” means a notice served on a person under section 43D.

43B—The Trust may authorize a person appointed or employed pursuant to section 23 to act as an authorized officer for the purposes of this Part.

Power of Trust to appoint persons to act as authorized officers.

43C—(1) Where an authorized officer is satisfied that a person has committed a prescribed offence or offences, he may serve on that person an infringement notice in respect of that offence or those offences.

Service and acceptance of infringement notice.

(2) An infringement notice served on a person shall—

(a) relate only to a property offence or offences or only to any other prescribed offence or offences;

(b) indicate the property offence or offences or the other prescribed offence or offences to which it relates;

(c) specify the penalty or penalties for the property offence or offences or the other prescribed offence or offences to which it relates, being, in the case of a property offence, the penalty prescribed by section 51 (1) or (2), as the case requires, or, in the case of any other prescribed offence, the appropriate penalty prescribed by the by-laws; and

(d) be in such form, or contain such information, or other matter, as may be prescribed by the by-laws.

(3) The by-laws may prescribe different forms of infringement notices for the purposes of subsection (2) (a) or prescribe different information or other matter to be contained in different forms of infringement notices for those purposes.

(4) An infringement notice served on a person—

(a) that relates to any property offence or offences shall clearly indicate to that person that he may be prosecuted before a court for the offence or offences; or

(b) that relates to any other prescribed offence or offences shall clearly indicate to that person that he may disregard the notice but, if he does so, he may be prosecuted before a court for the offence or offences to which it relates.

(5) Unless it has been withdrawn, an infringement notice served on a person that relates to a prescribed offence other than a property offence may, subject to subsection (6), be accepted by that person either—

(a) by the payment, within 21 days of the service of the notice, to the clerk of petty sessions at the place specified in the notice of the penalty specified in the notice in relation to that prescribed offence; or

(b) by lodging, within 21 days of the service of that notice, with that clerk of petty sessions a written undertaking by that person to pay that penalty by such instalments or within such time as the clerk may direct.

(6) Where an infringement notice served on a person that relates to a prescribed offence referred to in subsection (5) has not been accepted by that person in either of the ways prescribed in that subsection at the expiry of the appropriate period prescribed in that subsection, the clerk of petty sessions at the place specified in the notice may, by written notification to that person, allow that person an additional period of 14 days commencing on the expiry of the first-mentioned period in which to accept the infringement notice in relation to that prescribed offence.

(7) Where an infringement notice that relates to a prescribed offence referred to in subsection (5) has been served on a person, no proceedings shall be brought against that person for that prescribed offence if the notice has been accepted and has not been withdrawn, and, whether or not the notice is accepted, no such proceedings shall be brought within the period of—

(a) 28 days following the service of the notice, if the person has not been allowed an additional period pursuant to subsection (6); or

(b) 42 days following the service of the notice, if the person has been allowed such an additional period,

unless the notice has been withdrawn.

(8) Where an infringement notice that relates to a prescribed offence referred to in subsection (5) has been accepted by a person and has not been withdrawn, that acceptance shall, in relation to proceedings for any other prescribed offence, be treated as a conviction for the prescribed offence in respect of which the notice was served unless the court before which those proceedings are taken is satisfied that it is unjust that it should be so treated.

(9) Acceptance of an infringement notice shall not be regarded as an admission of liability for the purpose of, nor in any way affect or prejudice, any civil claim, action, or proceeding.

Withdrawal of
infringement
notices.

43D—(1) An infringement notice that has been served on a person—

- (a) being a notice that relates to a property offence or offences, may be withdrawn as provided in subsection (2) at any time within the period of 28 days following the service of the notice; or
- (b) being a notice that relates to any other prescribed offence or offences may, whether or not it has been accepted, be withdrawn as provided in subsection (2) at any time within the period of—

- (i) 28 days following the service of the notice, if the person has not been allowed an additional period pursuant to section 43C (6); or

- (ii) 42 days following the service of the notice, if the person has been allowed such an additional period.

(2) For the purposes of subsection (1), an infringement notice served on a person shall be withdrawn by the service on that person of a withdrawal notice in the form prescribed by the by-laws and signed by the secretary or some person authorized by him stating that the infringement notice has been withdrawn.

(3) Where an infringement notice has been withdrawn under this section and any sums have been paid to a clerk of petty sessions by way of penalty in pursuance of that notice, that clerk shall repay the sums so paid to the person on whom the notice was served.

(4) Where an infringement notice has been served in respect of a prescribed offence and has been withdrawn, no evidence of the service, acceptance, or withdrawal of the notice is admissible in any proceedings for that prescribed offence.

(5) References in this Part to the withdrawal of an infringement notice shall be construed as references to the withdrawal of that notice under this section.

Effect of
undertaking to
pay a prescribed
penalty.

43E—(1) Where such an undertaking as is referred to in section 43C (5) (b) is lodged with a clerk of petty sessions, the clerk shall give directions to the person by whom the undertaking is given requiring that person to pay the penalty to which the undertaking relates in such instalments or within such time as may be specified in the directions.

(2) No directions shall be given under subsection (1) that would have the effect of allowing any part of the penalty to which they relate being paid after the expiration of 63 days from the date on which the infringement notice was served.

(3) Before giving directions under subsection (1) with respect to a person, a clerk of petty sessions shall consider any representations made to him by or on behalf of that person, whether at the time the undertaking is lodged or otherwise, with respect to his financial circumstances, and shall give such directions as, having regard to those representations and all the circumstances of the case, he considers just and reasonable.

(4) Where a person fails to comply with any directions given to him under subsection (1), the like proceedings may be had in respect of so much of the penalty to which the directions relate as remains unpaid as if the penalty were a penalty imposed on him on his summary conviction for an offence.

43F—(1) An infringement notice shall be served on a person by an authorized officer delivering it to him in person at or as near as practicable to the place of the commission of the prescribed offence.

Service of notices and notifications.

(2) A withdrawal notice shall be served on a person by delivering it to him in person or by sending it by post addressed to that person at the place shown as the address of that person in the relevant infringement notice.

(3) A notification under section 43C (6) by a clerk of petty sessions shall be served on a person by sending it by post addressed to that person at the place shown as the address of that person in the relevant infringement notice.

43G—A clerk of petty sessions shall cause the sums paid to him by way of penalty pursuant to infringement notices served under this Part to be paid quarterly into the Consolidated Fund.

Application of penalties in respect of infringement notices.

10—Section 49 of the Principal Act is amended as follows:—

Amendment of section 49 of Principal Act (Indemnity).

(a) by omitting paragraph (b) and substituting the following paragraph:—

(b) matter or thing done by the general manager or the secretary or a person appointed or employed pursuant to section 23 (2),

(b) by omitting “, or that officer or employee,” and substituting “, the general manager or the secretary, or the person so appointed or employed”.

Amendment of section 50 of Principal Act (Service of notices, &c.).

11—Section 50 of the Principal Act is amended by omitting “some officer or employee of the Trust” and substituting “the secretary or a person appointed or employed pursuant to section 23 (2)”.

Amendment of section 51 of Principal Act (Offences).

12—Section 51 of the Principal Act is amended as follows:—

(a) by omitting subsections (1), (2), and (3) and substituting the following subsections:—

(1) A person shall not damage or destroy any premises owned or occupied by the Trust or any vehicle or other personal property, or any works, of the Trust.

Penalty: Fine not exceeding 5 penalty units.

(2) A person shall not, without lawful excuse—

(a) interfere with, remove, or alter any works of the Trust;

(b) do, or cause to be done, anything in such a manner as to obstruct any vehicle of the Trust, endanger the safety or lives of persons on or in any such vehicle, or damage any goods being carried on or in a vehicle of the Trust;

(c) obstruct or impede, in any way, a person getting into or out of a vehicle of the Trust or entering or leaving any premises owned or occupied by the Trust; or

(d) refuse to get out of a vehicle of the Trust, or leave any premises owned or occupied by the Trust, when requested to do so by a person appointed or employed pursuant to section 23 (2).

Penalty: Fine not exceeding 5 penalty units.

(3) A person shall not place on or in, bring on to, send on to, or carry on a vehicle of the Trust any goods that—

(a) may be dangerous or obnoxious to a person appointed or employed pursuant to section 23 (2) or to a passenger; or

(b) may injure or endanger the vehicle or any part of it.

Penalty: Fine not exceeding 5 penalty units.

(b) by omitting from subsection (4) “No person shall—” and substituting “A person shall not—”;

(c) by omitting from subsection (4) (a) “tram or other”;

(d) by omitting paragraphs (b), (c), (d), and (e) of subsection (4) and substituting the following paragraphs:—

(b) travel on a ticket for a greater distance or a greater number of times than is authorized by the ticket or travel on a ticket in any other way that is not authorized by the ticket;

(c) having travelled beyond the distance, or more than the number of times, authorized by a ticket held by him or having travelled in any other way that is not authorized by such a ticket, fail to pay the additional fare payable by him in respect of the additional distance, the additional number of times, or the other way travelled by him that is not so authorized;

(e) by omitting from paragraphs (f) and (g) of subsection (4) “periodical”, wherever occurring;

(f) by omitting from paragraph (h) “him;” and substituting “him; or”;

(g) by omitting from subsection (4) (i) “behalf; or” and substituting “behalf.”;

(h) by omitting paragraph (j) of subsection (4);

(i) by omitting from subsection (4) “Four dollars” and substituting “Fine not exceeding 5 penalty units”;

(j) by inserting the following subsection after subsection (4):—

(4A) In subsection (4), “ticket” means a ticket of a kind or class prescribed by the by-laws which is issued by or on behalf of the Trust and which authorizes travel on a vehicle of the Trust in accordance with that ticket.

- (k) by omitting from subsection (6) “tram or other”;
- (l) by omitting from subsection (6) “tram, vehicle,” and substituting “vehicle”.

Insertion in
Principal Act of
new section 51A.

13—After section 51 of the Principal Act, the following section is inserted:—

Compensation
payable in
respect of
property offences.

51A—(1) Where a person is convicted of a property offence, the court by which that person is convicted may, in addition to, or in lieu of, imposing any penalty or making any other order on that conviction, order him to pay to the Trust such sum as it thinks reasonable by way of compensation for the damage or destruction caused by him when committing the offence under section 51 (1) or (2) (a).

(2) A sum ordered to be paid to the Trust by a person pursuant to subsection (1) may include the whole or part of the costs or expenses incurred in or about the prosecution and conviction for the property offence of which that person is convicted.

(3) Where, pursuant to subsection (1), a court orders a person to pay a sum to the Trust, the court may include in its order an amount of interest payable on and from the date of the commission of the relevant property offence to and including the date on which that sum is paid by that person.

Amendment of
section 52 of
Principal Act
(By-laws).

14—Section 52 (2) of the Principal Act is amended as follows:—

(a) by omitting from paragraph (f) “account; and” and substituting “account;”;

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

(g) prescribe offences for the purposes of Part IVA that are offences under the by-laws;

(ga) prescribe the penalty for each offence that is a prescribed offence within the meaning of section 43A, other than a property offence; and

(c) by omitting from paragraph (h) “one hundred dollars” and substituting “5 penalty units”.

15—The person who, on the day on which this Act receives the Royal assent, holds the position of secretary of the Metropolitan Transport Trust shall be deemed to have been appointed to that position pursuant to subsection (1A) of section 23 of the Principal Act, as inserted by this Act.

Provision relating
to secretary of
the Metropolitan
Transport Trust.

