

TASMANIA.



1937.

ANNO PRIMO

GEORGII VI. REGIS.

No. 74.

## ANALYSIS.

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|--|---|
| <p>1. Short title.<br/>         2. Amendment of 16 Geo. V. No.<br/>            38<br/>            Section 3.<br/>            Section 15.<br/>            Section 18.<br/>            Section 19.<br/>            Section 20.<br/>            Section 24.<br/>            Section 30.<br/>            Section 31.<br/>            Section 35.<br/>            Section 51.</p> | <p>New section 53.<br/>            Proceedings against owner<br/>            in certain cases.<br/>            Section 59.<br/>            Section 64.<br/>            New section 65.<br/>            Conditions excluding lia-<br/>            bility avoided.<br/>            Section 66.<br/>            Section 75.<br/>            Second schedule.<br/>            Third schedule.</p> |
|  | <p>3. Expiry of Act.</p>  |

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AN ACT to amend the *Traffic Act 1925*.  
 [20 December, 1937.]

A.D.  
 1937.  
 —

**B**e 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 Act 1937*.

Short title.

6d.]

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Amendment  
of 16 Geo.  
V. No. 38.  
Section 3.**2** The Principal Act is hereby amended—

## I. By deleting in section three thereof—

(a) “ seven ” in the definitions of “ Cab ” ;  
“ General hire autocar ” ; and  
“ Omnibus ” respectively, and sub-  
stituting “ eight ” :

(b) “ eight ” in the definition of “ Omni-  
bus ” and substituting “ nine, ”

## II. By inserting—

(a) In section three thereof—

(i) “ air-craft and vehicles licensed  
as ” (after “ includes ” in  
the definition of “ public  
vehicle ”) ; and

(ii) “ except as may be expressly pre-  
scribed by regulations ” (after  
“ but ” in the definition of  
“ vehicle ”) :

Section 15.

(b) “ air-craft ” (before “ carriers ”) in the  
first line of subsection (5) of section  
fifteen thereof ; and deleting “ route  
or ” in the third line of that subsection,  
and inserting “ or for the carriage of  
any particular articles or goods speci-  
fied therein (after ‘ occasions ’ at the  
end of subsection (7) thereof) ” :

Section 18

(c) In paragraph 1. of subsection (1) of section  
eighteen thereof—

(i) “ an aircraft, or is ” (before  
“ licensed ”) :

(ii) “ or is operating under permit  
outside the area or route in  
respect of which it is licen-  
sed ” (after “ area ” in line  
2) :

(iii) “ but this provision shall not  
apply in respect of a vehicle  
which is being used in pur-  
suance of a permit issued  
under section twenty ” (after  
“ required ” at the end of  
division (c) ) : and

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(iv) “ and for the purposes of this paragraph. where any goods are carried without charge in a vehicle licensed as a public vehicle in respect of a route not wholly comprised within one traffic area, or in any vehicle operating outside the area or route in respect of which it is licensed in pursuance of a permit for that purpose, freight at the rate of one shilling per ton for each mile such goods are carried shall be deemed to have been paid, and the prescribed percentage shall be payable in respect thereof” (at the end thereof in alignment with the commencement):

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(d) “ with the approval of the Committee” after “ Commissioner ” in subsection (3) of section nineteen thereof: Section 19.

(e) “ in accordance with such general or special directions, if any, as the Committee may give ” (at the end, and in alignment with the commencement, of subsection (2) of section twenty): Section 20.

(f) The following new paragraph v. and subsection (13)— Section 24.

“ v. Use any public vehicle for the transport of passengers or goods on any agreement, arrangement, or understanding that such passengers or goods will be transferred to, or picked up by, some other vehicle for transport to some place beyond the limits of the area in respect of which such firstmentioned vehicle is licensed.

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“(13) No person shall operate, drive or use an aircraft as a public vehicle for the purpose of making any journey from any point in this State to any other point in this State unless such aircraft is licensed as a public vehicle but this provision shall not apply to any journey made in any special emergency if full particulars thereof are furnished in the prescribed form to the Commissioner within seven days after the completion of such journey.”

after paragraph iv. of subsection (12) of and at the end of, section twenty-four respectively :

Section 30.

(g) The following new paragraph xvii.—

“xvii. Prescribe the cases in which the owner of any aircraft shall be required to take out and keep on foot a policy of insurance for a prescribed sum against liability in respect of any claim in relation to the death of, or bodily injury to, any person carried in, entering, or alighting from such aircraft; and prohibit the use of such vehicle unless such policy is in force.

after paragraph xvi. of section thirty :  
and the following new subsection (2)—

“(2) No regulation shall be made under paragraphs i. to v., viii., ix., xi. or xiii. of subsection (1) hereof to apply to any vehicle used on railway or tramway” (at the end); and insert ing “(1)” (at the commencement of the section

Section 31.

III. By inserting in paragraph xvii. of subsection (1) of section thirty-one thereof the words “by prescribed officer or otherwise” (after “permitted” in the eighth line) :

Section 35.

IV. By deleting “guilty” to “Act” at the end section thirty-five thereof and substituting “liable to be punished as provided by section twenty-eight” :

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V. By inserting the following new paragraph VIII.— A.D. 1937.

‘ VIII. Proof that any goods carried on any vehicle, and claimed by the owner or user of such vehicle to be his property, were—

Section 51.

- (a) Purchased or acquired by such owner or user prior to the commencement of the journey over which such goods were so carried : and
- (b) Sold or delivered to any person after the completion of such journey—

shall be evidence that such vehicle was used as a public vehicle and that such goods were carried for hire unless such owner or user proves that he purchased or acquired such goods in good faith for his own use and that the same were not purchased or acquired in order that they should be transported for some other person—

(at the end of subsection (1) of section fifty-one) ; and by deleting “ public ” (secondly occurring in the third line of subsection (2) thereof) :

VI. By substituting for repealed section fifty-three thereof the following new section fifty-three :—

New section 53.

“ 53—(1) If in any proceedings in respect of an offence against this Act—

Proceedings against owner in certain cases.

1. The offence charged is in relation to driving or using a motor vehicle which, or any prescribed equipment of which, is alleged to have been in an unsafe condition, or to have been lacking : and
- II. The court is of opinion, on the evidence before it, that the offence has been caused by any neglect or default of the owner of such vehicle—

the court, before disposing of the original proceedings, may direct that proceedings be taken against such owner, and that a summons be issued calling upon him to show cause against

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the infliction upon him of a penalty for having caused or procured the commission of the offence charged in the original proceedings.

“(2) Upon the hearing of such proceedings against such owner, the court may impose on him any penalty which it might have imposed on the defendant in the original proceedings, unless such owner satisfies the court that he had taken reasonable precautions to ensure compliance with the provisions of this Act in respect of the matter in relation to which such proceedings were initiated; and may order him to pay the costs of all or any of such proceedings as aforesaid.

“(3) Where the owner is punished as aforesaid, the court may dismiss the complaint against the original defendant.”:

Section 59

VII. By deleting “him” and substituting “it” in subsection (3) of section fifty-nine thereof and adding at the end of that subsection “and shall provide all such posts, holders, and appliances as may be necessary for that purpose”:

Section 64.

VIII. By inserting in subsection (2) of section sixty-four thereof “or was being operated under a permit for that purpose” (after “passengers” in division c) of paragraph ii.):

New section 65.

IX. By repealing section sixty-five thereof and substituting therefor the following new section sixty-five—

“**65**—(1) No condition in any policy issued for the purposes of this Act, which provides—

- i. For the cancellation of such policy or avoidance of liability thereunder on the ground of any misrepresentation, or breach of any condition precedent: or
- ii. That no liability shall arise under such policy, or that any liability so arising shall cease in the event of the occurrence of any act or omission on the part of any person after the occurrence of an accident—

Conditions excluding liability avoided.

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shall have the effect of relieving the insurer from any such liability as is described in paragraph ii. of subsection (1) of section sixty-four in relation to any accident which occurs while such policy remains in force. A.D. 1937.

(2) The provisions of this section shall not prejudice or effect the right of the insurer to—

- i. Cancel any policy in conformity with any condition contained therein, but no such cancellation shall take effect until the expiration of seven days after notice thereof has been served by the insurer on the Commissioner and on the insured respectively, either personally or by registered post: or
- ii. Recover from the insured, in accordance with any condition of the policy, any moneys which the insurer has been required to pay, and has paid, in pursuance of the provisions of this Act under such policy.” :

X. By inserting in section sixty-six thereof—

Section 66.

(a) “(1)” (at commencement): and

(b) “(2) Where the policy upon production of a certificate of which any motor-vehicle has been registered is cancelled as provided by section sixty-five the registration of such vehicle shall cease to have effect”—

and by renumbering original subsection (2) as (3):

XI. By deleting “in accordance” to “seventy-four” (in the first and second lines of section seventy-five thereof); and by inserting “or charged” (after “prescribed” in the third line thereof):

Section 75.

XII. By inserting in the second schedule thereto the following new item—

Second schedule.

“Temporary licence not exceeding  
three months for visiting motorist  
from beyond the State . . . . . 2 6”  
(after “Renewal of licence”): and

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Third  
schedule.

XIII. By inserting in the third schedule thereto the following new paragraph iv.—

“ iv. Aircraft . . . . . One pound.”  
(after paragraph iii. under “ motor-vehicles ”.)Expiry of  
Act.

**3** This Act shall expire on the date of the gazettal of a proclamation made under section eight of the *Statute Law Revision Act 1934* effecting in the Principal Act, as from the date of such gazettal, the amendments made by this Act with such alterations, if any, as may be required to adapt the same for incorporation in the reprint of the Principal Act.