

TRAFFIC (No. 3).**No. 93 of 1963.**

AN ACT to amend the *Traffic Act 1925.*
 [17 December 1963.]

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—(1) This Act may be cited as the *Traffic Act (No. 3)* 1963. Short title, citation, and commencement.

(2) The *Traffic Act 1925*, as subsequently amended, is in this Act referred to as the Principal Act.

(3) This Act shall commence on a date to be fixed by proclamation.

2 Section three of the Principal Act is amended by inserting in subsection (1), after the definition of "Owner", the following definition:— Interpretation.

“ ‘provisional licence’ means a driver’s licence issued as a provisional licence pursuant to regulations made for the purposes of section ten AA, or a driver’s licence that is ordered by a court to have effect as a provisional licence;”.

3 After section ten of the Principal Act the following section is inserted:—

“ 10AA—(1) Regulations made under section ten may declare that drivers’ licences, or drivers’ licences of any particular class or kind, may be issued as provisional licences and where, in pursuance of those regulations, a driver’s licence may be so issued it shall not, except in such cases or in such circumstances as may be prescribed, otherwise be issued unless the person to whom it is issued holds such a provisional licence as may be prescribed and has held that licence as a provisional licence for a continuous period of at least three years. Provisional licences.

“(2) In determining, for the purpose of subsection (1) of this section, the period for which a person has held a provisional licence the periods respectively elapsing between the issue of the licence and the date on which it first falls due to be renewed, and between a date on which it falls due to be renewed and the date on which it next falls due to be renewed, shall each be deemed to be a period of one year.

“(3) For the purposes of this section a person shall be treated as holding the same provisional licence throughout any period notwithstanding that, during that period, any change is made in the class of motor vehicles that he is authorized to drive in pursuance of the licence or in the purposes for which he is so authorized to drive any motor vehicle or any change is made in the conditions or restrictions subject to which he is so authorized to drive any motor vehicle.

“(4) A person who holds a driver’s licence shall, on being required to do so by a police officer or an authorized officer, inform him whether or not that licence is a provisional licence”.

Production
of licence
court.

4 Section thirty-five of the Principal Act is amended by inserting in subsection (1), after the word “driver”, the words “or person in charge”.

5 Section thirty-six of the Principal Act is repealed and the following section substituted therefor:—

Disqualifi-
cation of
drivers, &c.

“36—(1) Subject to subsection (2) of this section, where a person, being a person who does not hold a driver’s licence or who holds a provisional licence, is convicted of a prescribed offence, he is disqualified for holding or obtaining a driver’s licence for a period of three months or such longer period as the court may order.

“(2) Notwithstanding anything in subsection (1) of this section, where such a person as is referred to therein is convicted of such a prescribed offence as is referred to in paragraph (b) of subsection (5) of this section, and the court, on his application, is satisfied that, having regard to the circumstances in which the offence was committed, including the nature, condition and use of the public street in which it was committed and the traffic that actually was at the time, or might reasonably be expected to be at the time, on that public street, there are grounds for mitigating the consequences of the conviction that would otherwise arise under subsection (1) of this section, it may order that he be not disqualified for holding or obtaining a licence or order that he be so disqualified for a period of less than three months.

“(3) Except in a case where subsection (1) or subsection (2) of this section applies, where a person is convicted of an offence against this Act as the driver or person in charge of a motor vehicle, except an offence against subsection (1) of section forty-one, the court may order that he be disqualified

for obtaining or holding a driver's licence for such period as the court may specify, and the court may, if it does not so order or orders him to be so disqualified for a period not exceeding three months, order that any driver's licence held by him shall take effect as a provisional licence.

“(4) The powers of a court under this section in relation to the conviction of a person for an offence may be exercised in addition to or in lieu of the exercise of any other powers that the court may have in relation to that conviction.

“(5) For the purposes of this section, ‘prescribed offence’ means—

- (a) an offence against subsection (4) of section ten AA, section thirteen, section thirteen A, subsection (1) or subsection (2) of section thirty-two, subsection (1) of section thirty-three, or section thirty-seven; or
- (b) an offence against the regulations made under this Act that is prescribed by those regulations to be a prescribed offence for the purposes of this section.

“(6) The provisions of the fourth schedule have effect as if they were regulations made under this Act for the purposes of subsection (5) of this section, and may be rescinded or amended accordingly.

“(7) No regulation made after the commencement of the *Traffic Act (No. 3) 1963* for the purposes of subsection (5) of this section shall be made otherwise than in the terms of a draft regulation that has been laid before each House of Parliament and has been approved by an affirmative resolution by each House of Parliament.

“(8) Subsection (4) of section forty-seven of the *Acts Interpretation Act 1931* does not apply to regulations made for the purposes of subsection (5) of this section.”.

6 Section thirty-six A of the Principal Act is amended— Effect of
disqualifica-
tion, &c.

- (a) by omitting subsection (1) and substituting therefor the following subsections:—

“(1) Where a person is disqualified for obtaining or holding a driver's licence for a period of less than three months any driver's licence held by him is suspended for so long as the disqualification remains in force and, while it remains so suspended, is of no effect.

“(1A) Where a person is disqualified for obtaining or holding a driver's licence for a period of not less than three months any driver's licence held by him is cancelled.”;

- (b) by omitting from subsection (3) the words “suspended under this section” and substituting therefor the words “cancelled, suspended, or ordered to take effect as a provisional licence”;

- (c) by omitting from subsection (4) the words "by an order of a court"; and
 (d) by adding at the end thereof the following subsections:—

"(6) For so long as a person is disqualified for obtaining or holding a driver's licence under this Act any licence or authority issued elsewhere than in this State by virtue of which, if he were not so disqualified, he would be authorized to drive a vehicle in this State is of no effect.

"(7) Where a driver's licence held by a person is ordered to have effect as a provisional licence that licence ceases to have effect, but, on its surrender to the Commission, the Commission shall, if he is not disqualified for obtaining or holding a driver's licence, cause to be issued to him a provisional licence that, except for the fact that it is a provisional licence issued on the date on which it is in fact issued, is to the same effect as the licence that is surrendered."

Indorsement
of drivers'
licences.

7 Section thirty-six B of the Principal Act is amended by inserting in subsection (1) after the word "driver" the words "or person in charge".

8 Section thirty-eight of the Principal Act is repealed and the following section substituted therefor:—

Temporary
closure of
public streets.

"38—(1) The Commissioner of Police where he considers it desirable so to do for the purpose of facilitating the holding of any public event or the carrying out of any arrangements in connection therewith may, by notice in a newspaper circulating in the area in which the public event is to be held, give authority for—

(a) the closing of any street; or

(b) the prohibition of the use of any public street by traffic of any class or kind,

at or during such times as may be specified in the notice and subject to such conditions, restrictions, or exceptions as may be so specified.

"(2) Without prejudice to the generality of the provisions of subsection (1) of this section the holding of any motor vehicle race or reliability trial wholly or partly on a public street shall, for the purposes of this section, be regarded as the holding of a public event.

"(3) An authority granted under this section in relation to a public event may be granted on the condition that there is entered into such a policy of insurance with respect to any death or bodily injury, or any damage or injury to property, that may arise from the holding of that public event as the Commissioner of Police may approve or direct.

“(4) For the purpose of giving effect to an authority given under this section a police officer or, with the approval of the Commissioner, any other person, may place or erect in a public street any barriers, signs, or other devices or things and may give directions to any person in relation to the use of the public street to which the authority relates.

“(5) Where the Commissioner of Police or a police officer is satisfied that there exists in a public street an obstruction or danger to traffic or that such an obstruction or danger is likely to arise, he may give, or cause to be given, such directions, or take, or cause to be taken, such action, as he considers necessary or desirable in the circumstances to close that street or to prevent or restrict its use.

“(6) A person who disobeys or fails to comply with any directions given to him by a police officer in pursuance of subsection (4) or subsection (5) of this section is guilty of an offence under this Act.

“(7) In this section ‘public event’ includes any event that the public are intended or are invited to view or in which the public are invited to take part, whether on payment or otherwise.

“(8) This section does not apply to the cities of Hobart and Launceston.”.

9 Section forty-one of the Principal Act is amended by omitting subsection (3) and substituting the following subsection:—

Driving, &c.,
under the
influence of
liquor or
drugs.

“(3) Subsection (2) of this section does not apply in respect of the conviction of a person of an offence under subsection (1) of this section where the offence arose from the administration of a drug and that person has not been previously convicted of an offence under that subsection arising from the administration of a drug, but where that subsection does not so apply section thirty-six has effect in relation to the conviction as if the offence were a prescribed offence within the meaning of that section and the words ‘except an offence against subsection (1) of section forty-one’ were omitted from subsection (3) of that section.”.

10 The second schedule to the Principal Act is amended by omitting the first item under the heading “*Driver of motor vehicle—*” and substituting therefor the following item:—

The second
schedule.

“Issue of a licence 1 10 0.”.

11 The schedule contained in the schedule to this Act is added after the third schedule to the Principal Act as the fourth schedule to that Act.

The fourth
schedule.

12 Section three hundred and ninety-one A of the *Criminal Code* is amended by omitting from subsection (1) all the words after the numerals “1925” and substituting therefor

Consequential
amendment
of *Criminal
Code*.

the words "section thirty-six of that Act has effect in relation to the conviction as if it were a conviction for an offence under that Act that is a prescribed offence within the meaning of that section and as if references in that section to a court included references to the trial judge."

Transitory provisions.

13 Where, before the commencement of this Act, a person had been disqualified for obtaining or holding a driver's licence for a period of not less than three months and that period had not come to an end before the commencement of this Act, any driver's licence held by that person shall be deemed to have been cancelled.

THE SCHEDULE.

(Section 11.)

"THE FOURTH SCHEDULE.

"(Section 36 (6).)

"The following offences are prescribed offences for the purposes of section thirty-six, that is to say:—

"(1) Any offence committed by a person as the driver or person in charge of a motor vehicle against any of the following provisions of the *Traffic (General and Local) Regulations 1956*, that is to say:—

Regulation 5 except paragraphs (f) and (fa) of sub-regulation (1);

Regulations 6 and 7;

The following provisions of regulation 8, that is to say:—

Paragraph (a) of sub-regulation (1);

Paragraphs (a), (b), and (c) of sub-regulation (2);

Paragraphs (a), (b), and (c) of sub-regulation (5);

Sub-paragraphs (iv) and (v) of paragraph (e) of sub-regulation (5);

Paragraph (f) of sub-regulation (5);

Sub-regulations (6) and (6A);

Paragraphs (b) and (c) of sub-regulation (7);

Paragraphs (a) and (b) of sub-regulation (8); and

Sub-regulation (9);

Paragraphs (b) and (d) of regulation 9;

Regulations 11 and 14;

Sub-regulation (2) of regulation 14A;

Regulations 16, 17, 21, and 22;

Regulation 25, except so far as it relates to sign No. 16 referred to in the table contained in sub-regulation (3) of that regulation;

Regulation 26 so far as it relates to sign No. 25 referred to in the table contained in sub-regulation (5) of that regulation;

Regulations 27, 28, 29, 29A, 29B, 36 and 38; and

"(2) An offence committed by a person as the driver of a motor vehicle against regulation 79 of the *Traffic Regulations 1943*."