



TRAFFIC AMENDMENT ACT (No. 4) 1980

No. 107 of 1980

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AN ACT to amend the Traffic Act 1925 for the purposes of amending the definition of motor vehicle and regulating the liability of owners of motor vehicles in respect of parking offences.

[Royal Assent 28 January 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. 4)* Short title. 1980.

Commence-
ment.

2—(1) This section, section 1, section 3, and section 4 shall commence on the date of assent to this Act.

(2) Section 5 shall commence 7 days after the date of assent to this Act.

Principal Act.

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

Amendment of
section 3 of
Principal Act
(Interpretation)

4—Section 3 (1) of the Principal Act is amended by omitting the definition of “motor vehicle” and substituting the following definition:—

“motor vehicle” means any motor car, automobile, motor carriage, traction engine, tractor, motor cycle, or other carriage or vehicle propelled or capable of being propelled by means of an engine powered wholly or partly by any volatile spirit, steam, oil, or electricity, or by any means other than animal power, but does not include—

(a) a vehicle constructed or adapted for propulsion only on rails; or

(b) a bicycle propelled or capable of being propelled by means of an internal combustion engine that is fitted to but detachable from the bicycle, being an engine the generating capacity of which does not exceed 200 watts;

Insertion in
Traffic Act
1925 of new
section 54.

5—After section 53 of the Principal Act, the following section is inserted:—

Proceedings
in relation
to parking
offences.

54—(1) Where a parking offence occurs in relation to a motor vehicle, the person who, at the time of the occurrence of the offence, was the owner of the motor vehicle, is, by virtue of this section, guilty of an offence under the regulations made under this Act as if he were the person driving or in charge of the motor vehicle at the time of the occurrence of the parking offence.

(2) It is a defence to proceedings in relation to an offence under subsection (1) for the defendant to establish that he was not driving or in charge of the motor vehicle at the time of the occurrence of the offence.

* 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 and Nos. 10, 11, and 74 of 1980.

(3) A person is not entitled to rely on a defence under subsection (2) unless he gives, within 21 days of the service on him of a complaint and summons relating to the parking offence, to the clerk of the court specified in the summons, written notice of his intention to rely on that defence, together with a statutory declaration stating that at the time of the occurrence of the offence—

- (a) the motor vehicle was being driven by some other person without his knowledge or consent;
- (b) the motor vehicle was in the charge of another person and stating the name of that person; or
- (c) he had no right or interest in the motor vehicle.

(4) Proceedings shall not be heard in relation to a parking offence under subsection (1) unless the defendant referred to in the complaint and summons relating to the parking offence was, at the time of the service of the complaint and summons on him, notified in writing of the provisions of this section.

(5) A complaint and summons to which this section relates shall contain an address at which a notice under subsection (3) may be lodged.

(6) Where—

- (a) a person on whom a complaint and summons relating to a parking offence has been served gives to the clerk of the court specified in the summons written notice of his intention to rely on the defence under subsection (2) together with a statutory declaration stating that the motor vehicle was in the charge of another person and stating the name of that person; and
- (b) proceedings in respect of that parking offence are taken against the person named in the statutory declaration as being in charge of the motor vehicle,

the statutory declaration is evidence that the person named in the statutory declaration as being in charge of the motor vehicle was in charge of the motor vehicle at all relevant times relating to the parking offence.

(7) Nothing in this section affects the liability of the actual offender but where a penalty has been imposed on or

recovered from any person in relation to a parking offence, a further penalty shall not be imposed on or recovered from any other person in relation to the offence.

(8) For the purposes of this section—

“owner” has the meaning assigned to that expression in section 3 (1) and includes a person who is registered as the owner of the motor vehicle under any law of any other State or any Territory of the Commonwealth requiring the registration of motor vehicles or motor vehicles of any particular kind;

“parking offence” means an offence arising by reason of a vehicle being placed, left, or allowed to remain in a stationary position in any street or part of a street contrary to the regulations made under this Act.