

MOTOR VEHICLE DRIVING INSTRUCTORS ACT.

Act No. 60, 1961.

An Act to provide for the licensing of instructors engaged, for reward, in the teaching of persons to drive motor vehicles; to amend the Transport Act, 1930-1961; and for purposes connected therewith. [Assented to, 11th December, 1961.]

Elizabeth II,
No. 60, 1961

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

1. (1) This Act may be cited as the "Motor Vehicle Driving Instructors Act, 1961".

(2) This Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

Short title
and com-
mencement.

2. (1) This Act shall be administered in the Department of Motor Transport by the Commissioner.

(2) The Commissioner of Police shall be charged with the enforcement of the provisions of this Act and the regulations and the conducting, for the purposes of this Act, of the enquiries and tests referred to in subsection three of section five of this Act.

Administra-
tion and
enforcement
of Act.

3. In this Act, unless the context or subject-matter otherwise indicates or requires,—

Interpreta-
tion.

"Commissioner" means the Commissioner for Motor Transport constituted under the Transport (Division of Functions) Further Amendment Act, 1952, as amended by the State Transport (Co-ordination) Amendment Act, 1954.

"Driving

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“Driving instructor” means—

(a) any person who—

- (i) on his own account or in conjunction with any other person, for reward, whether monetary or otherwise; or
- (ii) as an employee or servant or agent of any person, for remuneration by way of salary, wages, commission or otherwise,

and for the purpose of teaching any person to drive a motor vehicle, gives advice, instructions or demonstrations to such person; and

(b) such other person or class of persons as may be prescribed.

“License” means a valid and unexpired license issued under this Act authorising the holder thereof to act as a driving instructor, and any renewal of such a license.

“Motor vehicle” means any motor car, motor carriage, motor cycle, tractor, or other vehicle propelled wholly or partly by any volatile spirit, steam, gas, oil or electricity, or by any means other than human or animal power, and constructed for use upon a public street, and includes a trailer, but does not include any vehicle used on a railway or tramway.

“Permit” means a valid and unexpired permit issued under this Act authorising the holder thereof to act as a driving instructor, and any renewal of such a permit.

“Prescribed” means prescribed by this Act or the regulations.

“Regulations” means regulations made under this Act.

Licenses.

4. (1) A license shall be in or to the effect of the form prescribed and may authorise the holder thereof to act as a driving instructor in respect of any class of motor vehicles specified therein, or in respect of all classes of motor vehicles, and

and where no class of motor vehicles is specified in a license, No. 60, 1961 the license shall be deemed to authorise the holder thereof to act as a driving instructor in respect of all classes of motor vehicles.

(2) A license shall, unless sooner suspended or cancelled, be in force for a period of twelve months from the date of its issue.

(3) A license may be renewed, and on each renewal shall take effect for a further period of twelve months.

5. (1) An application for a license shall be in or to the ^{Application} effect of the prescribed form and shall be lodged with the ^{for license.} Commissioner.

(2) The application shall be accompanied by the prescribed fee. Different fees may be prescribed in respect of licenses and renewals of licenses.

(3) The Commissioner shall, upon the receipt of an application for a license, and may, upon receipt of an application for the renewal of a license, notify the Commissioner of Police who, upon being so notified, shall cause enquiries to be made as to the character of the applicant and may, if the Commissioner of Police considers it necessary to do so, require the applicant to submit himself to a test of his competency as a driver of motor vehicles, or of motor vehicles of the class in respect of which he has applied for a license or renewal of a license, and to a test of his knowledge of such of the provisions of the Motor Traffic Act, 1909, as amended by subsequent Acts, and of the regulations made thereunder, as relate to drivers of motor vehicles.

The Commissioner of Police shall, as soon as practicable after being so notified, furnish to the Commissioner a report on the character of the applicant and where the applicant is not required by the Commissioner of Police to submit himself to any test referred to in this subsection, or where he has been so required and has completed the test, a report—

(a) on the competency of the applicant as a driver of motor vehicles, or of motor vehicles of the class in respect of which the applicant has applied for a license or renewal of a license; and

(b)

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- (b) on the applicant's knowledge of such of the provisions of the Motor Traffic Act, 1909, as amended by subsequent Acts, and of the regulations made thereunder, as relate to drivers of motor vehicles.

(4) Where the Commissioner, after considering the report of the Commissioner of Police made under subsection three of this section in respect of any applicant, and such other matters as the Commissioner thinks fit, is satisfied that the applicant—

- (a) has attained the age of twenty-one years ;
- (b) is a person of good character ;
- (c) is a fit and proper person to act as a driving instructor ;
- (d) has such competency as a driver of motor vehicles, or motor vehicles of the class in respect of which the applicant has applied for a license, and such knowledge of the provisions, referred to in subsection three of this section, of the Motor Traffic Act, 1909, as amended by subsequent Acts, and of the regulations made thereunder, as would justify the grant to the applicant of a license ;
- (e) is competent to teach persons to drive motor vehicles, or motor vehicles of the class in respect of which he has applied for a license ;
- (f) is the holder of a license under the Motor Traffic Act, 1909, as amended by subsequent Acts, to drive all classes of motor vehicles or motor vehicles of the class in respect of which he has applied for a license and has, for a period of not less than three years during the period of four years next preceding the date of his application, held such a license, or a license under the law for the time being in force in any State or country to drive all classes of motor vehicles or motor vehicles of the class, in respect of which he has applied for a license, as the case may be ; and
- (g) has completed a course in driving instruction conducted by the Department of Technical Education or by such other authority as may be prescribed or has such

such other qualifications and experience, as a driving instructor, as would justify the grant to him of a license without his having completed any such course,

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the Commissioner may grant the application.

Paragraph (g) of this subsection shall not apply to any application granted before a day to be appointed by the Governor and notified by proclamation published in the Gazette, nor to any application for a renewal of a license granted after that day. The day so appointed shall be not earlier than three months after the day appointed pursuant to subsection two of section one of this Act.

(5) (a) A license may be issued subject to such conditions as the Commissioner may determine and as may be specified in the license.

(b) The Commissioner, by notice sent to the holder of a license, may, during the currency of the license, revoke or vary any conditions attached to the license or attach new conditions to the license.

6. (1) The Commissioner may cancel or suspend any license if—

Cancellation or suspension of licenses.

- (a) the license was issued erroneously or granted in consequence of any false or fraudulent document, statement or representation;
- (b) any prescribed fee for the license is due and unpaid;
- (c) the holder thereof is convicted of an offence against this Act or the regulations;
- (d) the Commissioner is not satisfied that the holder of the license complies with any of the requirements applicable to him and specified in paragraphs (a), (b), (c), (d), (e), (f) and (g) of subsection four of section five of this Act.

(2) Where any license has been cancelled or suspended, the person to whom the license was issued shall deliver up the license to the Commissioner within such time as may be specified in a notice given by the Commissioner to that person for the purpose.

(3)

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(3) Particulars of the cancellation or suspension of a license shall be entered in the record of licenses and permits referred to in section eleven of this Act.

Appeal
against
decision of
Com-
missioner.

7. (1) (a) Where the Commissioner refuses an application for a license or cancels or suspends a license, or issues a license subject to any conditions, he shall notify the person making the application or the driving instructor, as the case may be, of his decision and of the grounds therefor.

(b) Such person or driving instructor may in the prescribed manner appeal to a court of petty sessions against the Commissioner's decision.

(c) Notice of any such appeal shall be lodged with the clerk of the court of petty sessions to which the appeal is being made and with the Commissioner within one month after the person or driving instructor, as the case may be, was notified of the decision of the Commissioner as directed by paragraph (a) of this subsection. The notice shall specify the grounds of appeal.

(2) Any report furnished to the Commissioner by the Commissioner of Police in relation to the person making an appeal under this section shall be admissible in evidence in that appeal.

(3) The decision of the court given in any appeal under this section shall be final and shall be deemed to be the decision of the Commissioner and be carried into effect accordingly.

(4) Every appeal under this section shall be in the nature of a rehearing and shall be heard before a court of petty sessions holden before a stipendiary magistrate.

Permits.

8. (1) Where—

(a) an application is made for a license; and

(b) the Commissioner is making, but has not completed, enquiries as to whether the applicant complies with the requirements applicable to him and specified in paragraphs (a), (b), (c), (d), (e), (f) and (g) of subsection four of section five of this Act, or is not

satisfied

satisfied that the applicant complies with all or any No. 60, 1961 of the requirements applicable to him and specified in those paragraphs; and

- (c) the applicant so requests and pays the prescribed fee,

the Commissioner may issue to the applicant a permit authorising the holder thereof to act as a driving instructor.

(2) Any such permit—

- (a) shall be in force for such period, not exceeding six months, as the Commissioner determines and specifies in the permit;
- (b) shall be subject to such conditions as may be so specified; and
- (c) may on payment of the prescribed fee be renewed for such period, not exceeding six months for any one renewal, as the Commissioner may determine and specify in the renewed permit.

(3) The Commissioner may at any time during the currency of any such permit revoke the permit, vary any conditions attached to the permit or attach new conditions to the permit.

(4) The Commissioner shall, where a license is issued to the holder of any such permit, revoke such permit, and may refund to such holder such portion of the fee paid for the permit, as the Commissioner thinks fit.

9. (1) After the expiration of three months from the commencement of this Act no person shall— **Offences.**

- (a) act as a driving instructor in respect of a motor vehicle of any class, unless he is the holder of a license or permit authorising him to act as a driving instructor in respect of that class;
- (b) advertise, notify or state that he acts or is willing to act as a driving instructor unless the advertisement, notification or statement specifies the class of motor vehicles in respect of which such person acts or is willing

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willing to act as a driving instructor and such person is the holder of a license or permit authorising him to act as a driving instructor in respect of that class ;

- (c) if he is the holder of a license or permit, act as a driving instructor in contravention of any conditions attached to such license or permit; or
- (d) while acting as a driving instructor, use upon a public street any motor vehicle which is not equipped as required by the regulations or which does not comply with the provisions of the Motor Traffic Act, 1909, as amended by subsequent Acts, and the regulations made thereunder, applicable thereto and relating to the construction and equipment of motor vehicles.

(2) Without limiting the liability of any other person, where any person commits an offence under subsection one of this section and such person is acting as the employee, servant or agent of any other person, such other person shall be guilty of an offence against this Act unless, where the offence committed by the employee, servant or agent, as the case may be, is under paragraph (a), (b) or (c) of subsection one of this section, he proves to the satisfaction of the court before which he is charged that he did not know and could not with reasonable diligence have discovered that, as the case may be, such employee, servant or agent was not the holder of a license or permit authorising him to act as a driving instructor in respect of the class of motor vehicles concerned, or acted as a driving instructor in contravention of any conditions attached to the license or permit held by such employee, servant or agent.

(3) Any person guilty of an offence against this section shall for every such offence be liable to a penalty not exceeding one hundred pounds.

Recovery
of
penalties.

10. (1) Any penalty imposed by this Act or the regulations may be recovered in a summary manner before a stipendiary magistrate or any two justices in petty sessions.

(2)

(2) Any court before whom a person is convicted of an offence against this Act or the regulations shall cause particulars of such conviction to be forwarded to the Commissioner.

11. (1) The Commissioner shall keep records of licenses and permits and matters pertaining thereto, including, but without limiting the generality of the foregoing, particulars in relation to the grant, refusal, renewal, suspension and cancellation of licenses and the grant, refusal and revocation of permits. Records and evidence.

(2) A certificate purporting to be signed by a prescribed officer certifying that on any date or during any period specified in the certificate the particulars set forth in the certificate as to any of the matters specified in subsection one of this section did or did not appear on or from such records shall, in all courts and upon all occasions whatsoever, without proof of the signature or of the official character of the person purporting to have signed the certificate and without the production of any record or document upon which the certificate is founded, be prima facie evidence of the particulars certified in and by the certificate.

12. (1) The Commissioner may delegate to any officer nominated by him any of his powers, authorities, duties or functions under this Act, other than this power of delegation. Delegation of powers, &c.

(2) A delegation may be made in respect of any matter or any class of matters or generally, or may be limited to any part of the State, and may be made subject to, or on such terms and conditions as the Commissioner thinks fit.

(3) Every delegation under this section shall be revocable at the will of the Commissioner, but no delegation shall prevent the exercise of any power, authority, duty or function by the Commissioner.

13.

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No. 60, 1961 **13.** (1) The Transport Act, 1930, as amended by subsequent Acts, is amended—

Amendment
of Act No.
18, 1930.
Sec. 202.
(Road
Transport
and Traffic
Fund.)

(a) by inserting at the end of subsection one of section two hundred and two the following new paragraph :—

(e) all fees charged under the Motor Vehicle Driving Instructors Act, 1961 ;

(b) by inserting at the end of subsection two of the same section the following new paragraphs :—

(g) all administrative and other expenses of the Commissioner in respect of the Motor Vehicle Driving Instructors Act, 1961 ;

(h) an amount agreed upon by the Commissioner and the Commissioner of Police in respect of the duties of the Commissioner of Police referred to in subsection two of section two of the Motor Vehicle Driving Instructors Act, 1961.

(2) The Transport Act, 1930, as amended by subsequent Acts and by this Act, may be cited as the Transport Act, 1930-1961.

Conse-
quential.

(3) The Government Railways and Transport (Amendment) Act, 1961, is amended by omitting subsection three of section one.

Regulations. **14.** (1) The Governor may make regulations, not inconsistent with this Act, for or with respect to—

(a) prescribing any forms to be used under this Act ;

(b) prescribing the fees to be paid under this Act ;

(c) the renewal of licenses and permits and the return of expired licenses and permits ;

(d) the display on or within any motor vehicle being used by a driving instructor for the purpose of giving instruction in the driving of the motor vehicle of the license or permit held by such driving instructor and of any photograph of, or other means of identifying, such driving instructor ;

(e)

- (e) the production to prescribed persons of licenses and No. 60, 1961 permits;
- (f) regulating advertisements, notices or claims, relating to the driving of any motor vehicles or the giving of instruction in the driving of any motor vehicles by driving instructors and persons carrying on the business of providing instruction in the driving of motor vehicles;
- (g) the use of and the carriage of persons in any motor vehicles used for the purpose of giving instruction in the driving of motor vehicles;
- (h) the provision and use of special equipment on any motor vehicle used by a licensed driving instructor upon any public street for the purpose of giving instruction in the driving of such motor vehicle;
- (i) the production to the Commissioner by any applicant for a license or by any applicant for a permit or by any holder of a license or permit, of—
 - (i) evidence of the medical fitness of such applicant or holder to be the holder of a license or permit;
 - (ii) evidence of the fitness and qualifications of such applicant or holder to act as a driving instructor;
 - (iii) copies of a photograph of, or of other means of identifying, such applicant or holder;
- (j) the granting of exemption or conditional exemption from compliance with all or any of the provisions of this Act or the regulations;
- (k) the granting of duplicate licenses or permits and matters connected with such licenses or permits;
- (l) prescribing all matters which by this Act are required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to this Act;

(m)

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No. 60, 1961 (m) imposing any penalty, not exceeding fifty pounds, for any breach of any regulation.

(2) A regulation may be of general or specially limited application according to time, place or circumstances, and may be general or restricted to any specified class of subject matter.

(3) A regulation may authorise any matter or thing to be from time to time determined, applied or regulated by the Commissioner or by the Commissioner of Police either generally or for any class of cases or in any particular case.

(4) Any regulation may confer on the Commissioner, or on any prescribed person, any power or authority required for the carrying into effect of all or any of the provisions of that or any other regulation.

(5) All regulations made under this Act shall—

- (a) be published in the Gazette;
- (b) take effect from the date of publication or from a later date to be specified in the regulations;
- (c) be laid before both Houses of Parliament within fourteen sitting days after the publication thereof if Parliament is then in session, and, if not, then within fourteen sitting days after the commencement of the next session.

If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after the regulations have been laid before such House disallowing any regulation or part thereof, such regulation or part shall thereupon cease to have effect.

PUBLIC