

WESTERN AUSTRALIA

LEGISLATIVE ASSEMBLY

**TRANSPORT CO-ORDINATION
AMENDMENT BILL 1998**

A BILL FOR

**AN ACT to amend the *Transport Co-ordination Act 1966*
and to validate certain past acts.**

The Parliament of Western Australia enacts as follows:

Short title

1. This Act may be cited as the *Transport Co-ordination Amendment Act 1998*.

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Commencement

2. This Act comes into operation on the day on which it receives the Royal Assent.

Principal Act

5 3. In this Act the *Transport Co-ordination Act 1966** is referred to as the principal Act.

[* Reprinted as at 9 September 1997.
For subsequent amendments see 1997 Index to
Legislation of Western Australia, Table 1, pp. 237-8.]

10 **Long title amended**

4. The long title to the principal Act is amended by inserting after “**State,**” the following —

15 “ **in certain circumstances to provide or to arrange for
the provision of certain forms of public transport,** ”.

Section 7 amended

5. Section 7 of the principal Act is amended by inserting after subsection (3) the following subsections —

20 “ (4) The Minister may, by writing under the Minister’s
seal, empower a person, either generally or in respect of a
specified matter or specified matters, as the agent or
25 attorney of the Minister to execute deeds or other
instruments on the Minister’s behalf, and a deed or other
instrument executed by such an agent or attorney on behalf
of the Minister binds the Minister and has the same effect
as if it were under the seal of the Minister.

(5) For the purposes of this Act, the Minister may make use of a facsimile of —

- 5 (a) the Minister's seal; or
(b) the signature of the Minister or of an agent or attorney empowered to execute deeds or other instruments on the Minister's behalf under subsection (4),

10 and a deed or other instrument purporting to be endorsed with such a facsimile shall, until the contrary is shown, be deemed to have been sealed or signed by the Minister, or by an agent or attorney, referred to in paragraph (b), as the case requires.

”.

Section 15A amended

15 **6.** Section 15A of the principal Act is amended by inserting after subsection (6) the following subsection —

“ (7) The due payment of moneys payable by the Treasurer under a guarantee under this section is to be charged to and paid out of the Consolidated Fund, and this subsection appropriates that fund accordingly.

20

”.

Section 18C amended

7. Section 18C of the principal Act is amended —

25 (a) by repealing subsection (1) and substituting the following subsection —

“ (1) It is a function of the Minister to do any, or a combination of any, of the following —

30 (a) to provide reliable, efficient and economic passenger services by omnibus, ferry and train in the metropolitan area;

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5 (b) to arrange, manage, facilitate and promote the provision of reliable, efficient and economic passenger services by omnibus, ferry and train in the metropolitan area,

so far as in the Minister's opinion it is practicable to do so.

”;

and

10 (b) by inserting after subsection (2) the following subsections —

“

15 (3) Without limiting subsection (2), for the purpose of the performance of one or more of the functions described in subsection (1), the Minister may —

20 (a) acquire, hold, give security over, or dispose of real and personal property (including disposal for the purpose of subsequently acquiring the same property or any part of, or interest in, the property); and

25 (b) enter into any agreement, arrangement or transaction, financial or otherwise, that the Minister thinks is expedient.

(4) In this section —

30 “**acquire**” includes taking on lease or licence or in any other manner in which an interest in property may be acquired;

“dispose of” includes dispose of by way of
lease, licence or bailment or in any
other manner in which an interest in
property may be disposed of.

5

”.

Section 18D amended

8. Section 18D (1) of the principal Act is amended —

(a) by inserting after “the Minister may” the following —

“ , without limiting section 18C (3), ”;

10 (b) in paragraph (b) by deleting the full stop and
substituting a comma; and

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

15 “ and, for the purposes of this subsection, may
exercise all or any of the powers of the Minister
under section 18C (2) or (3).

”.

Section 18G inserted

20 9. After section 18F of the principal Act the following section is
inserted —

“
Guarantee by Treasurer

25 **18G.** (1) The Treasurer may, in the name and on behalf
of the Crown in right of the State, guarantee the payment
of any financial obligations of the Minister under an
agreement, arrangement or transaction entered into under
section 18C (3).

(2) A guarantee is to be in such form and subject to
such terms and conditions as the Treasurer determines.

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(3) The due payment of moneys payable by the Treasurer under a guarantee is to be charged to and paid out of the Consolidated Fund, and this subsection appropriates that fund accordingly.

5 (4) The Treasurer is to cause to be credited to the Consolidated Fund any amounts received or recovered from the Minister or otherwise in respect of any payment made by the Treasurer under a guarantee.

”.

10 Section 26 amended

10. Section 26 of the principal Act is amended —

(a) by deleting “and” after paragraph (d); and

(b) by inserting after paragraph (d) the following —

15 “ (da) the ability of the applicant to comply with standards prescribed by regulations made under section 60 (2b); and

”.

Section 29 amended

20 **11.** Section 29 (1) of the principal Act is amended —

(a) in paragraph (e) by deleting “General,” and substituting the following —

“ General; ”; and

25 (b) by inserting after paragraph (e) the following paragraph —

“ (f) standards prescribed by regulations made under section 60 (2b) be complied with,

”.

Section 50 amended

12. Section 50 (1) of the principal Act is amended by deleting the penalty at the end of the subsection and substituting the following penalty —

5 “
Penalty for an individual: \$2 500.
Penalty for a body corporate: \$10 000.
”.

Section 56 amended

10 **13.** Section 56 of the principal Act is amended —

- (a) by deleting “\$200” and substituting the following —
“ \$2 000 ”; and
- (b) by deleting “\$40” and substituting the following —
“ \$400 ”.

15 **Section 58A inserted**

14. After section 58 of the principal Act the following sections are inserted —

“
Infringement notices

20 **58A.** (1) A reference in subsection (2), (3), (5) or (7) to an “**authorized person**” is a reference to a person appointed under subsection (10) to be an authorized person for the purposes of the subsection in which the term is used.

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5 (2) Subject to section 58B, an authorized person who has reason to believe that a person has committed a prescribed offence against this Act or the regulations may, within 28 days after the alleged offence is believed to have been committed, give an infringement notice to the alleged offender.

(3) An infringement notice is to be in the prescribed form and is to —

- 10 (a) contain a description of the alleged offence;
- 15 (b) advise that if the alleged offender does not wish to have a complaint of the alleged offence heard and determined by a court, the amount of money specified in the notice as being the modified penalty for the offence may be paid to an authorized person within a period of 28 days after the giving of the notice; and
- (c) inform the alleged offender as to who are authorized persons for the purposes of receiving payment of modified penalties.

20 (4) In an infringement notice the amount specified as being the modified penalty for the offence referred to in the notice is to be the amount that was the modified penalty prescribed by regulation at the time the alleged offence is believed to have been committed.

25 (5) An authorized person may, in a particular case, extend the period of 28 days within which the modified penalty may be paid and the extension may be allowed whether or not the period of 28 days has elapsed.

30 (6) Where the modified penalty specified in an infringement notice has been paid within 28 days or such further time as is allowed and the notice has not been withdrawn, the bringing of proceedings and the imposition of penalties are prevented to the same extent as they would be if the alleged offender had been convicted by a court of, and punished for, the alleged offence.

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5 (7) An authorized person may, whether or not the modified penalty has been paid, withdraw an infringement notice by sending to the alleged offender a notice in the prescribed form stating that the infringement notice has been withdrawn.

(8) If an infringement notice is withdrawn after the modified penalty has been paid, the amount is to be refunded.

10 (9) Payment of a modified penalty is not to be regarded as an admission for the purposes of any proceedings, whether civil or criminal.

15 (10) The Director General may, in writing appoint persons or classes of persons to be authorized persons for the purposes of subsection (2), (3), (5) or (7) but a person who is authorized to give infringement notices under subsection (2) is not eligible to be an authorized person for the purposes of any of the other subsections.

20 (11) The Director General shall issue to each person who is authorized to give infringement notices under this section a certificate stating that the person is so authorized, and the authorized person is to produce the certificate whenever required to do so by a person to whom he or she has given or is about to give an infringement notice.

Owner onus in relation to motor vehicles

25 **58B.** (1) If an allegation is made of a prescribed offence against this Act or the regulations where an element of that offence is the use, driving, parking, standing or leaving of a motor vehicle, and the identity of the driver or person in charge of the motor vehicle at the time of the commission of
30 that offence cannot be immediately established, an

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infringement notice in respect of that allegation may be served under section 58A (2) on the owner of the motor vehicle —

- 5 (a) at the owner's last known place of residence or business; or
- (b) by leaving the infringement notice in or on, or attaching it to, the motor vehicle.

10 (2) When an infringement notice is served on the owner of a motor vehicle in the circumstances referred to in subsection (1), then, unless within the period stated in the infringement notice or that period as extended —

- (a) the modified penalty is paid; or
- (b) the owner —
- 15 (i) identifies to an authorized person the person who was the driver or person in charge of the motor vehicle at the relevant time; or
- (ii) satisfies an authorized person that, at the relevant time, the motor vehicle had been
- 20 stolen or unlawfully taken or was being unlawfully used,

the owner is deemed to be the driver or person in charge of the motor vehicle at the time of the commission of the alleged offence.

25 (3) In this section —

“authorized person” means an authorized person appointed under section 58A (10) for purposes other than to serve infringement notices under section 58A (2);

“**motor vehicle**” has the meaning given by the
Road Traffic Act 1974;

5 “**owner**” in relation to a vehicle means the person
who is the holder of the requisite vehicle licence
under the *Road Traffic Act 1974* in respect of
that vehicle, or, if the vehicle is not licensed
under that Act, the person who owns the vehicle
or is entitled to its possession.

”.

10 **Section 60 amended**

15. Section 60 of the principal Act is amended —

(a) in subsection (2) by inserting after paragraph (o) the
following paragraphs —

15 “ (oa) the prescription of offences for which an
infringement notice may be given under
section 58A;

20 (ob) the prescription of a modified penalty not
exceeding \$500 for an offence prescribed
under paragraph (oa);

”;

(b) by inserting after subsection (2a) the following
subsections —

25 “ (2b) Without limiting subsection (1), the
Governor may make regulations prescribing
standards to be observed in the provision of
passenger services by omnibuses including
standards in respect of —

30 (a) safety, comfort, maintenance and
presentation of vehicles;

(b) management of those services;

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- (c) education and training;
- (d) the competence of drivers; and
- (e) the competence of the providers of those services.

5 (2c) Without limiting subsection (1), the Governor may make regulations with respect to passenger services provided in accordance with Division 4 of Part II, and in particular —

- 10 (a) providing for the setting of fares for those services by the Director General and prescribing the manner in which the fares are to be set;
- 15 (b) providing the conditions under which persons may use the facilities of those services; and
- (c) regulating the conduct of persons using those services.

”;

and

20 (c) in subsection (3) (b) by deleting “\$500” and substituting the following —

“ \$2 000 ”.

Validation

25 **16.** For the avoidance of doubt, any thing done by the Minister before the coming into operation of section 7 that the Minister would have been empowered to do if section 18C of the principal Act as amended by that section had then been in force is declared to be, and to have always been, valid.