

**MOTOR VEHICLES AND GOVERNMENT RAILWAYS
(MISCELLANEOUS PROVISIONS) ACT.**

New South Wales



ANNO OCTAVO DECIMO

ELIZABETHÆ II REGINÆ

Act No. 32, 1969.

An Act to remove the restrictions on the transfer of licenses under the State Transport (Co-ordination) Act, 1931, as subsequently amended, of taxi-cabs and private hire cars; to make further provision with respect to the purposes for which the Road Transport and Traffic Fund established under the Transport Act, 1930, as subsequently amended, may be expended; to empower certain members of the police force to enter certain premises and places on which certain repairs to motor vehicles are ordinarily carried out; to make provision with respect to tax payable under the Transfer of Public Vehicles (Taxation) Act, 1969;

for

- No. 32, 1969 for these and other purposes to amend the Transport Act, 1930, the Motor Traffic Act, 1909, the State Transport (Co-ordination) Act, 1931, the Motor Vehicles (Third Party Insurance) Act, 1942, the Road Maintenance (Contribution) Act, 1958, the Motor Vehicles Taxation Management Act, 1949, and the Government Railways Act, 1912, as subsequently amended; to validate certain matters; and for purposes connected therewith. [Assented to, 9th April, 1969.]

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:—

Short title,
citation and
commence-
ment.

1. (1) This Act may be cited as the "Motor Vehicles and Government Railways (Miscellaneous Provisions) Act, 1969".

(2) The Transport Act, 1930, as subsequently amended and as amended by this Act, may be cited as the Transport Act, 1930–1969.

(3) The Motor Traffic Act, 1909, as subsequently amended and as amended by this Act, may be cited as the Motor Traffic Act, 1909–1969.

(4) The State Transport (Co-ordination) Act, 1931, as subsequently amended and as amended by this Act, may be cited as the State Transport (Co-ordination) Act, 1931–1969.

(5) The Motor Vehicles (Third Party Insurance) Act, 1942, as subsequently amended and as amended by this Act, may be cited as the Motor Vehicles (Third Party Insurance) Act, 1942–1969.

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(6) The Road Maintenance (Contribution) Act, No. 32, 1969 1958, as subsequently amended and as amended by this Act, may be cited as the Road Maintenance (Contribution) Act, 1958–1969.

(7) The Motor Vehicles Taxation Management Act, 1949, as subsequently amended and as amended by this Act, may be cited as the Motor Vehicles Taxation Management Act, 1949–1969.

(8) The Government Railways Act, 1912, as subsequently amended and as amended by this Act, may be cited as the Government Railways Act, 1912–1969.

(9) Except as provided in subsection ten of this section, this Act shall commence upon the day on which it receives the Royal assent.

(10) Paragraph (c) of subsection one of section two of this Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

2. (1) The Transport Act, 1930, as subsequently amended, is amended—

(a) by omitting subsection twelve of section one hundred and fifty-two; Amendment of Act No. 18, 1930. Sec. 152. (Applications.)

(b) by omitting section 171A; Sec. 171A. (Transfers of registrations of taxi-cabs and private hire cars.)

(c) by inserting next after section 171B the following new section :— New sec. 171c.

171c. (1) The provisions of section one hundred and fifty-four of this Act apply, subject to the modifications specified in subsection two of this section, to and in respect of taxi-cabs and private hire Insurance of taxi-cabs and private hire cars against damage to property.

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hire cars and owners and authorised insurers thereof in the same way as they apply to and in respect of motor omnibuses and owners and authorised insurers thereof.

(2) For the purposes only of that application, the provisions of section one hundred and fifty-four of this Act shall be deemed to be modified as follows :—

- (a) by omitting the words “motor omnibus” wherever occurring and by inserting in lieu thereof the words “taxi-cab or private hire car”;
- (b) by omitting from paragraph (d) of subsection (3B) the words “Motor Vehicles (Third Party Insurance) Amendment Act, 1963” and by inserting in lieu thereof the words “paragraph (c) of section two of the Motor Vehicles and Government Railways (Miscellaneous Provisions) Act, 1969”;
- (c) by omitting from subsection nine of the same section the words “a service license may be suspended or revoked by the Commissioner” and by inserting in lieu thereof the words “the license for the taxi-cab or private hire car, as the case may be, under the State Transport (Co-ordination) Act, 1931, as subsequently amended, may be cancelled by the Commissioner”;

Sec. 202.
(Fund to be established.)

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

(h) all moneys paid under the Transfer of Public Vehicles (Taxation) Act, 1969.

(ii)

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(ii) by inserting next after paragraph (d) of sub-section two of the same section the following new paragraphs :—

- (d1) the cost of providing and maintaining traffic control signs and notices, traffic control light signals and other traffic facilities for the guidance of drivers of motor vehicles and the protection of pedestrians on public streets and the cost of making essential or incidental alterations to public streets for that purpose;
- (d2) the cost or a contribution towards the cost of roadworks, other than those referred to in paragraph (d1) of this subsection, on public streets in connection with the installation of traffic or pedestrian facilities;
- (d3) a contribution towards the cost of erecting bridges or subways or other facilities for use by pedestrians over, across, under or alongside public streets;
- (d4) the payment of an annual grant, approved by the Minister, to the Road Safety Council of New South Wales;

(iii) by inserting next after the same subsection the following new subsection :—

(2A) No expenditure shall, after the day on which the Motor Vehicles and Government Railways (Miscellaneous Provisions) Act, 1969, receives the Royal assent, be made from the fund pursuant to paragraph (d2) or (d3) of subsection two of this section except with the approval in writing of the Minister.

(e)

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New sec.
202B.Accounts
of Road
Safety
Council of
New South
Wales.

(e) by inserting next after section 202A the following new section :—

202B. (1) Full and accurate accounts shall be kept by the Road Safety Council of New South Wales in respect of all moneys paid or received by it.

(2) The accounts of the Road Safety Council of New South Wales shall be audited by the Auditor-General who shall have in respect thereof all the powers conferred on him by any law from time to time in force relating to the audit of public accounts.

(3) As soon as practicable after the thirtieth day of June in each year the Road Safety Council of New South Wales shall prepare and transmit to the Minister statements of account in respect of the period of twelve months ended on that day in a form approved by the Auditor-General exhibiting a true and correct view of the financial position and transactions of the Council.

(4) The Audit Act, 1902, as subsequently amended, shall apply to directors and officers of the Road Safety Council of New South Wales in the same manner as it applies to accounting officers of public departments.

Sec. 250.
(Recovery
of fares,
&c.)

(f) by omitting from subsection one of section two hundred and fifty the words "All penalties" and by inserting in lieu thereof the words "Subject to section 254A of this Act, all penalties";

New sec.
254A.Recovery
of amounts
due to
Commis-
sioner or
Commis-
sioner for
Government
Transport.

(g) by inserting next after section two hundred and fifty-four the following new section :—

254A. (1) Any annual service license fee or instalment thereof and any additional charge in respect of an annual service license fee which becomes payable to, and any other fee or money due to or recoverable by, the Commissioner under this Act or the regulations may be recovered by him as a debt in any court of competent jurisdiction.

(2)

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(2) Any money or fee due to or recoverable under this Act or the regulations by the Commissioner for Government Transport may be recovered by him as a debt in any court of competent jurisdiction. No. 32, 1969

(3) For the purposes of subsections one and two of this section, the jurisdiction of a court of petty sessions shall not be ousted by reason of anything contained in paragraph one of section eleven of the Small Debts Recovery Act, 1912, as subsequently amended.

(2) Any expenditure that was incurred by the Commissioner out of the Road Transport and Traffic Fund before the day on which this Act receives the Royal assent and that would have been authorised had paragraph (d1), (d2), (d3) or (d4) of subsection two of section two hundred and two of the Transport Act, 1930, as subsequently amended (as inserted by subparagraph (ii) of paragraph (d) of subsection one of this section) been in force at the time when the expenditure was incurred is hereby validated.

3. The Motor Traffic Act, 1909, as subsequently amended, is amended— Amendment of Act No. 5, 1909.

(a) by inserting next after section 7B the following new section :— New sec. 7c.

7c. (1) A member of the police force authorised in that behalf by the Commissioner of Police may enter at any time any premises or place on which the business of carrying out repairs, resulting from accidents, to damaged motor vehicles is ordinarily carried on and may inspect any motor vehicle or part of a motor vehicle that is found by him in or upon those premises or that place for the purpose of ascertaining whether or not it is a stolen motor vehicle or part. Power of entry for tracing stolen motor vehicles or parts thereof.

(2) Any person who wilfully delays or obstructs a member of the police force in the exercise of his authority under subsection one of this section

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section shall be guilty of an offence under this Act and shall be liable to a penalty not exceeding two hundred dollars.

Sec. 20.
(Recovery
and
evidence.)

- (b) (i) by omitting from section twenty the words “and in any court of competent jurisdiction”;
(ii) by inserting at the end of the same section the following new subsections :—

(2) Any prescribed fee may be recovered by the Commissioner as a debt in any court of competent jurisdiction.

(3) For the purposes of subsection two of this section, the jurisdiction of a court of petty sessions shall not be ousted by reason of anything contained in paragraph one of section eleven of the Small Debts Recovery Act, 1912, as subsequently amended.

Amendment
of Act No.
32, 1931.

4. The State Transport (Co-ordination) Act, 1931, as subsequently amended, is amended—

Sec. 16.
(Registra-
tion of
license.)

- (a) (i) by omitting from subsection seven of section sixteen the words “Subject to section 17A of this Act the” and by inserting in lieu thereof the word “The”;

- (ii) by inserting at the end of the same section the following new subsections :—

(9) An application for the transfer of a license granted under this Act for a taxi-cab registered under the Transport Act, 1930, as subsequently amended, or a private hire car so registered shall not be granted by the Commissioner for Motor Transport unless—

- (a) there has been paid to him by the transferor tax at the rates calculated in accordance with the Transfer of Public Vehicles (Taxation) Act, 1969, or by any Act amending or replacing that Act; and

(b)

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(b) the application is accompanied by an application for the transfer of the registration under the Transport Act, 1930, as subsequently amended, of the taxi-cab or private hire car to the proposed transferee of the license granted under this Act. No. 32, 1969

(10) A transfer of license referred to in subsection nine of this section is exempt from tax under the Transfer of Public Vehicles (Taxation) Act, 1969, where the holder of the license has died and the transferee is entitled to the license under the will or on the intestacy of that holder.

(11) The surrender of a license and the issue of another license to a nominee of the holder of the firstmentioned license pursuant to an application made to the Commissioner for Motor Transport before the day on which this Act receives the Royal assent is, subject to section seventeen of this Act, hereby authorised and any such surrender and issue effected before that day is hereby validated.

(12) No tax under the Transfer of Public Vehicles (Taxation) Act, 1969, shall be payable in respect of—

- (a) the surrender and issue of a license authorised under subsection eleven of this section; or
- (b) the transfer of a license, the application for which transfer was lodged with the Commissioner for Motor Transport before the day on which this Act receives the Royal assent.

(13) Where the holder of a license for a public motor vehicle dies or becomes mentally ill, an incapable person or a protected person within

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within the meaning of the Mental Health Act, 1958, as subsequently amended, and an approval to operate the public motor vehicle is granted by the Commissioner for Motor Transport pursuant to an application made by any person under subsection fourteen of this section, that person shall, for the purposes of this Act, be deemed to be the holder of the license in respect of the public motor vehicle and shall, in respect of the public motor vehicle, be subject to the provisions of this Act and the regulations and the conditions attached to the license.

(14) An application for the approval of the Commissioner for Motor Transport to operate a public motor vehicle, the holder of the license for which has died or become mentally ill, an incapable person or a protected person within the meaning of the Mental Health Act, 1958, as subsequently amended—

- (a) shall be made in writing to the Commissioner for Motor Transport; and
- (b) may be granted or refused by the Commissioner for Motor Transport.

(15) An approval granted under subsection fourteen of this section shall, subject to subsection sixteen of this section, be in force for such period as the Commissioner for Motor Transport may determine and specify in the instrument of approval and may from time to time be extended by the Commissioner for Motor Transport.

(16) The Commissioner for Motor Transport may for any reason that to him seems sufficient at any time cancel an approval granted by him under subsection fourteen of this section.

(b)

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(b) by omitting section 17A;

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Sec. 17A.
(Transfer of
taxi-cab and
private hire
car licenses.)

(c) (i) by inserting in subsection four of section twenty-two after the words "holder of the permit" where secondly occurring the words "in any court of competent jurisdiction";

Sec. 22.
(Permits to
use vehicle
for carriage
of passengers
or goods.)

(ii) by inserting at the end of the same section the following new subsection :—

(5) For the purposes of subsection four of this section, the jurisdiction of a court of petty sessions shall not be ousted by reason of anything contained in paragraph one of section eleven of the Small Debts Recovery Act, 1912, as subsequently amended.

(d) by omitting section thirty-nine and by inserting in lieu thereof the following section :—

Subst.
sec. 39.

39. (1) Any amount due to or recoverable under subsection four or five of section eighteen of this Act, any amount due under section thirty-seven of this Act, any other fees payable under this Act or the regulations and any tax payable under the Transfer of Public Vehicles (Taxation) Act, 1969, may be recovered by the Commissioner for Motor Transport as a debt in any court of competent jurisdiction.

Recovery of
amounts due.

(2) For the purposes of subsection one of this section, the jurisdiction of a court of petty sessions shall not be ousted by reason of anything contained in paragraph one of section eleven of the Small Debts Recovery Act, 1912, as subsequently amended.

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Amendment
of Act No.
15, 1942.Sec. 15.
(Entry of
judgment
against
authorised
insurer in
certain
events.)Sec. 30.
(Claims in
respect of
uninsured
and un-
identified
motor
vehicles.)New sec.
31A.Accounts
to be kept
by nominal
defendant.

5. The Motor Vehicles (Third Party Insurance) Act, 1942, as subsequently amended, is amended—

- (a) by inserting in subparagraph (ii) of paragraph (b) of subsection two of section fifteen after the words “as the” the words “authorised insurer or the nominal defendant, as the case may be, or the”;
- (b) (i) by inserting in subsection one of section thirty after the words “as the” the words “nominal defendant or the”;
- (ii) by inserting in subparagraph (ii) of paragraph (b) of subsection two of the same section after the words “as the” the words “nominal defendant or the”;
- (c) by inserting next after section thirty-one the following new section :—

31A. (1) Full and accurate accounts shall be kept by the nominal defendant in respect of all amounts paid or received by him.

(2) As soon as practicable after the thirty-first day of December, one thousand nine hundred and sixty-nine, and thereafter as soon as practicable after the thirty-first day of December in each year the nominal defendant shall prepare and transmit to the Minister for presentation to Parliament statements of accounts in respect of that year in a form approved by the Auditor-General exhibiting a true and correct view of the financial position and transactions of the nominal defendant.

(3) The accounts of the nominal defendant shall be audited by the Auditor-General who shall have in respect thereof all the powers conferred on him by any law from time to time in force relating to the audit of public accounts.

(4)

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(4) The Audit Act, 1902, as subsequently amended, shall apply to the nominal defendant in the same manner as it applies to accounting officers of public departments. No. 32, 1969

(5) For the purpose of meeting the costs and expenses of the audit the nominal defendant shall pay to the Treasurer for payment into the Consolidated Revenue Fund such sums at such times as the Treasurer may decide.

6. The Road Maintenance (Contribution) Act, 1958, as subsequently amended, is amended by inserting at the end of section five the following new subsection :— Amendment of Act No. 6, 1958.

(4) For the purposes of subsection three of this section, the jurisdiction of a court of petty sessions shall not be ousted by reason of anything contained in paragraph one of section eleven of the Small Debts Recovery Act, 1912, as subsequently amended. Sec. 5.
(Contribution towards wear and tear of public streets.)

7. The Motor Vehicles Taxation Management Act, 1949, as subsequently amended, is amended— Amendment of Act No. 34, 1949.

(a) by omitting from section thirteen the words “before a stipendiary magistrate or any two justices in petty sessions at any time or”; Sec. 13.
(Recovery of tax.)

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

(2) For the purposes of subsection one of this section, the jurisdiction of a court of petty sessions shall not be ousted by reason of anything contained in paragraph one of section eleven of the Small Debts Recovery Act, 1912, as subsequently amended.

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Amendment
of Act No.
30, 1912.

New sec.
147.

8. The Government Railways Act, 1912, as subsequently amended, is amended by inserting next after section one hundred and forty-six the following new section :—

Section 11
(1) of Small
Debts
Recovery
Act, 1912,
as amended,
not to apply
to certain
actions.

147. The provisions of paragraph one of section eleven of the Small Debts Recovery Act, 1912, as subsequently amended, do not apply to or in respect of any action by or on behalf of the Commissioner.