

ROAD MAINTENANCE (CONTRIBUTION) ACT.

Act No. 6, 1958.

Elizabeth II, An Act to impose a charge on the owners of certain motor vehicles as a contribution to the maintenance of public streets; to amend the Main Roads Act, 1924, and certain other Acts in certain respects; and for purposes connected therewith. [Assented to, 8th April, 1958.]
No. 6, 1958.

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
and com-
mencement.

1. (1) This Act may be cited as the "Road Maintenance (Contribution) Act, 1958".

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

Administra-
tion.

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

Interpreta-
tion.

cf. Viet. Act
No. 5931,
s. 2;
Act No. 5,
1909, ss. 2
8c (c).

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

"Authorised officer" means any person authorised by the Commissioner (whether generally or in any particular case) and includes any member of the police force.

"Commissioner"

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“Commissioner” means the Commissioner for No. 6, 1958.
Motor Transport constituted under the
Transport (Division of Functions) Further
Amendment Act, 1952, as amended by the State
Transport (Co-ordination) Amendment Act,
1954.

“Commercial goods vehicle” or “vehicle” means
any motor vehicle (together with any trailer)
which is used or intended to be used for carrying
goods for hire or reward or for any considera-
tion or in the course of any trade or business
whatsoever.

“Goods” includes livestock, commodities and all
chattels personal.

“Load capacity”, in the case of a motor vehicle or
trailer, means—

- (a) the load or carrying capacity thereof
as shown in the certificate of registra-
tion issued in respect thereof under the
Motor Traffic Act, 1909, as amended by
subsequent Acts, or under any corre-
sponding legislation or ordinance of any
State or Territory of the Common-
wealth; or
- (b) where in such certificate there is shown
the tare weight of the motor vehicle or
trailer and either the maximum per-
missible gross weight of the motor
vehicle or trailer together with the load
which may be carried thereon or the
aggregate weight of the motor vehicle
or trailer, the difference between such
gross or aggregate weight and the tare
weight; or
- (c) where no such load or carrying capacity
or weights are shown in such certificate
or no such certificate is in force, the
load or carrying capacity aforesaid of

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a similar motor vehicle or trailer registered under the Motor Traffic Act, 1909, as amended by subsequent Acts.

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

“Owner”, in relation to a commercial goods vehicle or vehicle, includes—

- (a) every person who is the owner or joint owner or part owner thereof;
- (b) any person who has the use thereof under a hiring or hire-purchase agreement; and
- (c) any person in whose name the vehicle is registered under the Motor Traffic Act, 1909, as amended by subsequent Acts, or under any corresponding legislation or ordinance of any State or Territory of the Commonwealth,

but does not include an unpaid vendor of the vehicle under a hire-purchase agreement.

“Public street” means any street, road, lane, bridge, thoroughfare, footpath, or place open to or used by the public, and includes any place at the time open to or used by the public on the payment of money or otherwise.

“Schedule” means a Schedule to this Act.

“Tare weight”, in the case of a motor vehicle or trailer, means—

- (a) the tare weight or unladen weight thereof as shown in the certificate of registration issued in respect thereof under the Motor Traffic Act, 1909, as amended

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amended by subsequent Acts, or under No. 6, 1958. any corresponding legislation or ordinance of any State or Territory of the Commonwealth; or

- (b) where no such tare weight or unladen weight is shown in such certificate or no such certificate is in force—
 - (i) where the vehicle is not a trailer, the gross weight of the vehicle laden with the tools and accessories usually carried, with such fuel, water and oil as may be in or upon the vehicle but otherwise unladen; and
 - (ii) where the vehicle is a trailer, the gross weight of the trailer (including any article affixed thereto) unladen ready for attachment to a motor vehicle.

(2) This Act shall be read and construed subject to the Commonwealth of Australia Constitution Act and so as not to exceed the legislative power of the State to the intent that where any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the remainder of this Act and the application of such provision to other persons or circumstances shall not be affected.

4. This Act shall not apply with respect to any vehicle the load capacity of which (together with any trailer for the time being attached thereto) is not more than four tons. Exemption. cf. Vict. Act No. 5931, s. 25 (a).

5. (1) The owner of every commercial goods vehicle shall as provided by this Act pay to the Commissioner towards compensation for wear and tear caused thereby to public streets in New South Wales a charge at the rate prescribed in the First Schedule. Contribution towards wear and tear of public streets. cf. *Ibid.* s. 26.

(2) Such charge shall become due at the time of the use of any public street by the vehicle and if not then paid shall be paid and recoverable as in this Act provided. (3)

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(3) Any charge payable under this Act shall be a civil debt due to the Commissioner by the owner of the vehicle concerned and, without affecting any other method of recovery provided by this Act, may be recovered by the Commissioner in any court of competent jurisdiction.

Records of
journeys of
vehicles.
cf. Vict. Act
No. 5931,
s. 27.

6. (1) The owner of the vehicle shall keep in duplicate in or to the effect of the form in the Second Schedule an accurate daily record of all journeys of the vehicle along public streets in New South Wales.

(2) The owner of the vehicle shall retain for a period of six months after the completion of any journey, and on demand make available to the Commissioner or an authorised officer, a copy of each such record for inspection when so required.

Returns and
payments to
be made to
Commis-
sioner.
cf. *Ibid.*
s. 28.

7. (1) Subject to this Act, not later than the fourteenth day following a date to be fixed by the Governor and notified by proclamation published in the Gazette each owner of a commercial goods vehicle which has, during the period commencing on the commencement of this Act and ending on the last day of the month immediately preceding the month that forms part of the date proclaimed under this subsection, travelled on any public street in New South Wales shall deliver to the Commissioner at his office in Sydney in respect of each such vehicle—

- (a) the record for such period which the owner is required to keep pursuant to section six of this Act certified as correct; and
- (b) the amount of all moneys owing by way of charges payable in respect of such period pursuant to the provisions of this Act in so far as not already paid to the Commissioner.

(2) Subject to this Act, not later than the fourteenth day of the month next succeeding the month that forms part of the date proclaimed under subsection one of this section, and not later than the fourteenth day of each

each month thereafter, each owner of a commercial goods vehicle which has, during the preceding month, travelled on any public street in New South Wales shall deliver to the Commissioner at his office in Sydney in respect of each such vehicle—

- (a) the record for the previous month which the owner is required to keep pursuant to section six of this Act certified as correct; and
- (b) the amount of all moneys owing by way of charges payable in respect of such previous month pursuant to the provisions of this Act in so far as not already paid to the Commissioner.

(3) It shall be sufficient delivery, for the purposes of this Act, of any record or payment of moneys owing by way of charge if such record or payment is sent by prepaid registered letter through the post addressed to the Commissioner at his office in Sydney and such letter is posted not later than the day on which such record or payment is by subsection one or two of this section required to be delivered to the Commissioner.

8. Any owner of a vehicle may make arrangements in writing with the Commissioner as to the time and place and manner when, where or in which he shall pay the charges which by this Act he is required to pay and as to the records to be made and kept in relation thereto and the delivery thereof to the Commissioner, whereupon the provisions of this Act shall apply in respect of such vehicle subject to such arrangement; but nothing in this section shall affect the amount of charge payable under this Act or shall postpone the payment of any charge for more than three months after the date on which it would otherwise be payable.

Alternative provision as to records, etc.
cf. Vict. Act No. 5931, s. 29.

9. (1) The Commissioner shall pay—

- (a) one-fifth of all moneys received by him by way of charges under this Act into the County of Cumberland Main Roads Fund to the credit of a special account to be called the "Roads Maintenance Account";

Payments to Road Maintenance Accounts.

(b)

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(b) four-fifths of all moneys received by him by way of charges under this Act into the Country Main Roads Fund to the credit of a special account to be called the "Roads Maintenance Account".

(2) (a) Money to the credit of the Roads Maintenance Account in the Country of Cumberland Main Roads Fund shall be applied only on the maintenance of public streets in the County of Cumberland (including grants to municipalities and shires for that purpose).

(b) Money to the credit of the Roads Maintenance Account in the Country Main Roads Fund shall be applied only on the maintenance of public streets outside the County of Cumberland (including grants to municipalities and shires for that purpose).

(3) The costs of administration of this Act shall be met—

(a) as to one-fifth part thereof—from such part of the proceeds of the taxes collected under the Motor Vehicles (Taxation) Act, 1951, or any Act imposing taxes upon motor vehicles in lieu of the taxes imposed upon motor vehicles by that Act, as would but for this paragraph be wholly payable to the County of Cumberland Main Roads Fund;

(b) as to four-fifth parts thereof—from such part of the proceeds of the taxes so collected as would but for this paragraph be wholly payable to the Country Main Roads Fund.

(4) The provisions of this section shall have effect notwithstanding anything contained in the Main Roads Act, 1924, as amended by subsequent Acts.

Offences.
cf. Vict. Act
No. 5931,
s. 31.

10. (1) Any person who—

(a) fails to keep any record as required by this Act or to retain a copy of any such record or to make a copy thereof available for inspection as required by this Act; or

(b) omits any item from any such record or copy thereof; or

(c)

- (c) makes any false or misleading statement in any such record or copy thereof; or
- (d) fails to deliver any such record to the Commissioner as required by this Act; or
- (e) fails to pay to the Commissioner as required by this Act any charges payable in respect of any vehicle,

shall be guilty of an offence against this Act.

(2) Every person who is guilty of an offence against this Act shall be liable in the case of a first offence to a penalty not exceeding fifty pounds, in the case of a second offence to a penalty not exceeding one hundred pounds and in the case of a third or any subsequent offence to a penalty not exceeding two hundred pounds.

11. (1) Any penalty incurred for breach of any provision of this Act may be recovered in a summary manner before a stipendiary magistrate or any two justices in petty sessions. Recovery of penalties.

(2) A prosecution for an offence against this Act may be commenced at any time within twelve months from the commission of the offence.

12. (1) Where any person is convicted of an offence against this Act the court before which he is so convicted may, in addition to imposing a penalty on such person for the offence, order him to pay to the clerk of the court within a time to be specified in the order any amount which from the evidence given during the proceedings the court is satisfied should have been, but has not been, paid by the person so convicted to the Commissioner by way of charge under this Act. Any amount paid to the clerk of the court under this subsection shall be paid by him to the Commissioner. Recovery of contributions. cf. Vict. Act No. 5931, s. 32.

(2) Any such order shall be deemed to be a conviction or order whereby a sum of money is adjudged to be paid within the meaning of the Justices Act, 1902, as amended by subsequent Acts.

13.

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Evidentiary provisions.
cf. Vict. Act No. 5931, s. 33.

(a) a certificate purporting to be signed by the officer for the time being in charge of the records kept under this Act stating that—

- (i) no record as prescribed by this Act has been received by the Commissioner in respect of the vehicle in respect of the period stated therein; or
- (ii) the records described therein are the only records as prescribed by this Act received by the Commissioner in respect of the vehicle in respect of the period stated therein; or
- (iii) the amount of the payment stated therein to have been made is the total amount of payment of charges under this Act received by the Commissioner in respect of the vehicle in respect of the period stated therein; or
- (iv) no charges under this Act have been received by the Commissioner in respect of the vehicle in respect of the period stated therein,

shall be prima facie evidence of the matters so stated;

- (b) any record in respect of the vehicle received by the Commissioner shall unless the contrary is proved be deemed to be a record kept by the owner of the vehicle and delivered to the Commissioner pursuant to this Act;
- (c) a certificate purporting to be signed by the officer for the time being in charge of the records kept under the Motor Traffic Act, 1909, as amended by subsequent Acts, or under any corresponding legislation or ordinance of any State or Territory of the Commonwealth stating the

the load capacity of the motor vehicle or trailer, No. 6, 1958.
or the maximum permissible gross weight of the
motor vehicle or trailer together with the load
which may be carried thereon or the aggregate
weight of the motor vehicle or trailer, or the
tare weight of the motor vehicle or trailer shall
be prima facie evidence of the matters so stated;

- (d) any statement of weight painted on a motor vehicle or trailer and purporting to be the load or carrying capacity thereof or (where statements of weight are painted on a motor vehicle or trailer and purport to be respectively the tare weight of the motor vehicle or trailer and either the maximum permissible gross weight of such motor vehicle or trailer together with the load which may be carried thereon or the aggregate weight of the motor vehicle or trailer) the difference between such tare weight and either such maximum permissible gross weight of the motor vehicle or trailer together with the load which may be carried thereon or such aggregate weight of the motor vehicle or trailer, shall be prima facie evidence of the load capacity of the motor vehicle or trailer, as the case may be;
- (e) a certificate purporting to be signed by the officer for the time being in charge of the records kept under the Motor Traffic Act, 1909, as amended by subsequent Acts, or under any corresponding legislation or ordinance of any State or Territory of the Commonwealth stating that on any date or during any period—
 - (i) the vehicle was registered in the name of any person specified therein; or
 - (ii) the vehicle was not registered in New South Wales or the State or Territory in respect of which the certificate is issued,

shall be prima facie evidence of the matters so stated.

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cf. Act No.
32, 1931,
s. 44 (a).

(2) In any prosecution or proceedings for an offence against this Act or in any proceedings for the recovery of any moneys payable under this Act the allegation in the information, complaint or claim to the effect that a motor vehicle was a commercial goods vehicle shall be deemed proved in the absence of proof to the contrary.

SCHEDULES.
FIRST SCHEDULE.

Sec. 5.

cf. Vict. Act
No. 5931,
Sch. 4.

1. The rate of the charge to be paid in respect of every vehicle shall be one-third of a penny per ton of the sum of—

- (a) the tare weight of the vehicle; and
- (b) forty per centum of the load capacity of the vehicle,

per mile of public street along which the vehicle travels in New South Wales.

2. In assessing such charge fractions of miles and fractions of hundredweights shall be disregarded but hundredweights (in relation to both tare weight and load capacity) shall be taken into account as decimals of tons.

SECOND SCHEDULE.

Sec. 6.

cf. *Ibid.*
Sch. 5.

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Department of Motor Transport.

Certified Record of Journeys.

Owner

Address

.....
Description

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Description of Vehicle.

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Make of Truck..... Type..... Regd. No..... Tare Weight..... cwt.

Load Capacity..... cwt.

Trailer : Type..... Regd. No..... Tare Weight..... cwt.

Load Capacity..... cwt.

Statement of Journeys.

During month of 19.....

Date of Journey.	Time of Starting.	Was Trailer Used ? (Yes or No.)	Vehicle Travelled—			Time of Finishing.	Road Miles Travelled in N.S.W.
			From	Via	To		

Details of Charges Payable.

Vehicle.	Rate* per mile.		Miles Travelled =	Amount Payable.
Without Trailer		Multiplied by		
With Trailer		Multiplied by		
			Total...	

* Calculated in accordance with the First Schedule to the Act.

Landlord and Tenant (Amendment) Act.

No. 6, 1958. I, of
 (Name) (Address)

being the owner (or the authorised agent of the owner) of the vehicle described above and being aware that the inclusion of any false or misleading statement in this record or in the statement of journeys appearing in this document renders me guilty of an offence, hereby certify that this record contains a full and complete statement of all journeys made on public streets in the State of New South Wales during the period shown in the statement of journeys in this document, and I forward herewith a for the sum of such sum being the amount of all charges due and payable in respect of all journeys of the vehicle during such period in so far as not already paid by me.

Signature

Date

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