

ROAD MAINTENANCE (CONTRIBUTION) AMENDMENT ACT.

Act No. 26, 1964.

Elizabeth II,
No. 26, 1964 An Act to enable the Road Maintenance (Contribution) Act, 1958, to be applied in certain circumstances to any vehicle not otherwise subject to the Act; to make provision for the imposition on any director, member of the governing body or manager of a body corporate of certain obligations and liabilities where the body corporate has failed to comply with certain provisions of the said Act; for these and other purposes to amend the said Act; and for purposes connected therewith. [Assented to, 12th May, 1964.]

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
citation.

1. (1) This Act may be cited as the "Road Maintenance (Contribution) Amendment Act, 1964".

(2) The Road Maintenance (Contribution) Act, 1958, as amended by this Act, may be cited as the Road Maintenance (Contribution) Act, 1958-1964.

Amendment
of Act No.
6, 1958.

2. The Road Maintenance (Contribution) Act, 1958, is amended—

Sec. 3.
(Interpre-
tation.)

- (a) (i) by inserting in paragraph (a) of the definition of "Load capacity" in section three after the word "thereof" where secondly occurring the words ", or on the records kept,";
- (ii) by omitting from paragraph (c) of the same definition the word "or" where secondly occurring and by inserting in lieu thereof the words "is shown in such certificate or on such records or where no such";

(b)

- (b) by inserting next after section four the following new section :—

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New sec. 4A.

4A. Notwithstanding the provisions of section four of this Act, the Governor may, on the recommendation of the Commissioner, apply, by proclamation published in the Gazette, the provisions of this Act to any vehicle the load capacity of which is not more than four tons, where the Commissioner certifies that such vehicle (together with any trailer for the time being attached thereto) is, in his opinion, being used frequently for the carriage of a loading in excess of four tons.

Application of Act to certain vehicles otherwise exempt.

The Commissioner shall, before so certifying, send a letter by post to the owner of such vehicle, informing him that he proposes to so certify and his reasons therefor, and that he will so certify unless, within fourteen days or such longer period as the Commissioner may specify in such letter, such owner satisfies the Commissioner that there is sufficient cause to the contrary.

Upon the publication of any such proclamation, the provisions of this Act (section four excepted) shall apply with respect to any vehicle specified therein and to the owner thereof.

The Governor may, from time to time, alter, revoke or vary any such proclamation.

- (c) by omitting subsection two of section ten and by inserting in lieu thereof the following subsection :—

Sec. 10.

(Offences.)

(2) Every person who is guilty of an offence against this Act shall for every such offence be liable to a penalty not exceeding two hundred pounds.

- (d) by inserting next after section ten the following new section :—

New sec. 10A.

10A. (1) Where the owner of a commercial goods vehicle is a body corporate and such owner fails to deliver to the Commissioner in accordance with

Liability of director, etc., of corporate body.

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with the provisions of section seven of this Act the record referred to in paragraph (a) of subsection two of that section or, as the case may be, with those provisions as modified by any arrangement made under section eight of this Act, the Commissioner may serve a notice on any director, member of the governing body or manager, of such body corporate informing him that unless such record is delivered to the Commissioner within such period, not being less than fourteen days after the service of such notice, as may be specified therein, such director, member or manager shall be guilty of an offence against this Act.

If any record referred to in any such notice is not delivered to the Commissioner within the period specified in the notice, the director, member or manager on whom the notice was served shall be guilty of an offence against this Act.

(2) Where any such owner fails to pay any amount payable by it to the Commissioner in accordance with the provisions of paragraph (b) of subsection two of section seven of this Act, or, as the case may be, with those provisions as modified by any arrangement made under section eight of this Act, the Commissioner may by notice in writing served on such director, member or manager require such director, member or manager to pay such amount to the Commissioner within such period not being less than fourteen days after the service of the notice as may be specified therein.

Any such notice may require the payment of all moneys owing by way of charges in respect of any one or more vehicles or months.

Upon the expiration of the period specified in the notice, the director, member or manager on whom it was served shall be liable to pay such amount to the Commissioner.

Nothing

Nothing in this subsection affects the liability of a body corporate to pay any amount to the Commissioner in accordance with any of the provisions of this Act, but—

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- (a) where any such amount is paid to the Commissioner in accordance with the provisions of this subsection the liability under this Act of the body corporate shall be reduced by the same amount; and
- (b) where, after a notice has been served in accordance with the provisions of this subsection on a director, member of the governing body or manager, of a body corporate, any such amount is paid by the body corporate the amount for which any such director, member or manager is liable under this subsection shall be reduced by the amount paid by the body corporate.

(3) Any amount not paid to the Commissioner in accordance with the requirements of any notice served under subsection two of this section shall be a civil debt due to the Commissioner by the director, member or manager on whom the notice was served and, without affecting any other method of recovery provided by this Act, may be recovered by the Commissioner in any court of competent jurisdiction.

(4) If any amount required to be paid by the director, member of the governing body or manager, of a body corporate in accordance with the requirements of a notice served on him under subsection two of this section is not paid within the period specified in the notice, such director, member or manager shall be guilty of an offence against this Act.

Nothing in this subsection affects the liability of any such director, member or manager under any other provision of this section.

(5)

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(5) Any notice under this section may be served—

- (a) personally; or
- (b) by sending it by pre-paid letter post to the director, member or manager to whom it is addressed at the registered office of the body corporate.

Service of the notice may be proved by the oath of the person who served it, or by affidavit or otherwise.

(6) (a) Where any amount is paid to the Commissioner by a director or member of the governing body of a body corporate in accordance with the requirements of a notice served on him under subsection two of this section or pursuant to an order made under section twelve of this Act, such director or member shall have a right of contribution against any other person who is a director or member of the governing body of such body corporate.

(b) Where any amount is so paid by a person who is a manager of a body corporate, every person who is a director or member of the governing body of such body corporate shall be jointly and severally liable to reimburse him for such amount.

Sec. 13.
(Evidentiary
provisions.)

(e) (i) by inserting in subsection one of section thirteen next after the words “this Act” where firstly occurring the words “or in any proceedings for the recovery of any moneys payable under this Act”;

(ii) by inserting next after paragraph (c) of the same subsection the following new paragraph :—

- (f) a certificate purporting to be signed by the officer for the time being in charge of the records kept under the Companies Act, 1961, or under any corresponding legislation or ordinance
of

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of any State or Territory of the Commonwealth, stating that on any date or during any period any person specified therein was a director, member of the governing body or manager of any body corporate named in such certificate, shall be prima facie evidence of the matters so stated.

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