

CLEAN AIR (FURTHER AMENDMENT) ACT.

New South Wales



ANNO VICESIMO PRIMO

ELIZABETHÆ II REGINÆ

Act No. 60, 1972.

An Act to prohibit the sale or use of motor vehicles that emit excessive air impurities; to enable regulations to be made requiring that motor vehicles be fitted with prescribed anti-pollution devices; for these and other purposes to amend the Clean Air Act, 1961; and for purposes connected therewith. [Assented to, 13th November, 1972.]

BE

Clean Air (Further Amendment).

BE it enacted by the Queen's Most Excellent Majesty, by **No. 60, 1972** 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. This Act may be cited as the "Clean Air (Further Short title. Amendment) Act, 1972".

2. This Act shall commence on such day as may be **Commence-** appointed by the Governor in respect thereof and as may be **ment.** notified by proclamation published in the Gazette.

3. The Clean Air Act, 1961, is amended—

Amendment
of Act No.
69, 1961.

(a) by inserting in section 1 (3) next after the matter **Sec. 1.** relating to Part IV the following new matter :— **(Short title, commencement and division into Parts.)**

PART IV_A.—MOTOR VEHICLES.

(b) (i) by omitting from section 4 (1) the words **Sec. 4.** "the Navigation Act, 1901, the Motor Traffic **(Certain Acts not affected.)** Act, 1909, or the Transport Act, 1930," and by inserting instead the words "or the Navigation Act, 1901,";

(ii) by inserting in section 4 (2) after the words "Local Government Act, 1919," the words "the Motor Traffic Act, 1909, the Transport Act, 1930,";

(iii) by omitting from section 4 (2) the word "either" and by inserting instead the word "any";

(c)

Clean Air (Further Amendment).

No. 60, 1972

Sec. 5.

(Interpretation.)

- (c) (i) by omitting from the definition of "Control equipment" in section 5 (1) the word "pollution" where lastly occurring and by inserting instead the following words :—

pollution,

but does not include a prescribed anti-pollution device;

- (ii) by omitting from the definition of "Fuel burning equipment" in section 5 (1) the word "vehicle,";
- (iii) by inserting at the end of the same definition the words "but does not include a motor vehicle";
- (iv) by omitting from the definition of "Industrial plant" in section 5 (1) the words "locomotives, cranes or other machines" and by inserting instead the words "railway locomotives, cranes or other machines (not being motor vehicles)";
- (v) by inserting next after the definition of "Master" in section 5 (1) the following new definition :—
- "Motor vehicle" means any motor car, motor carriage, motor cycle, motor omnibus, motor lorry or other vehicle propelled wholly or partly by any volatile spirit, steam, gas, or oil, or by any means other than human or animal power, but does not include a railway locomotive.
- (vi) by inserting next after the definition of "Prescribed" in section 5 (1) the following new definition :—
- "Prescribed anti-pollution device" means a device specified or described in the regulations and therein described as

being

being a device designed or intended to No. 60, 1972
minimise pollution of the air caused by
motor vehicles.

- (d) by inserting next after section 21 the following new Part :— New Part
IVA.

PART IVA.

MOTOR VEHICLES.

21A. In this Part, “owner”, in relation to a motor Definition.
vehicle, includes—

- (a) every person who is the owner or joint owner or part owner of the motor vehicle and any person who has the use of the motor vehicle under a hire-purchase agreement, but not the lessor under any such agreement;
- (b) the person in whose name the motor vehicle is registered under the Motor Traffic Act, 1909, except where that person has sold or otherwise disposed of the vehicle and has complied with the regulations under that Act, applicable to him in regard to the sale or disposal; and
- (c) where a trader's plate issued under those regulations is affixed to the motor vehicle, the person to whom the trader's plate is on issue.

21B. A person—

- (a) shall not, whether on his own behalf or on behalf of another person, sell, exhibit or offer for sale, or conduct negotiations for the sale of, a motor vehicle; or
- (b) who is the owner of a motor vehicle, shall not use the motor vehicle or cause or allow it to be used,

Require-
ments with
respect to
sale, use,
etc., of
motor
vehicles.

if,

No. 60, 1972

if, when in operation, it emits at any point specified in or determined in accordance with the regulations air impurities in excess of the standard of concentration and the rate, or the standard of concentration or the rate, prescribed in respect of the class of motor vehicles to which that motor vehicle belongs.

Fitting of prescribed anti-pollution devices to motor vehicles.

21c. (1) A person who is the owner of a motor vehicle shall not, where the regulations require motor vehicles of the class to which that motor vehicle belongs to be fitted with prescribed anti-pollution devices, use the motor vehicle or cause or allow it to be used unless it is fitted, in the prescribed manner, with such a device which is maintained in accordance with the regulations.

(2) A person shall not, whether on his own behalf or on behalf of another person, sell, exhibit or offer for sale, or conduct negotiations for the sale of, a motor vehicle belonging to a class of motor vehicles required by the regulations to be fitted with prescribed anti-pollution devices unless it is fitted, in the prescribed manner, with such a device which is maintained in accordance with the regulations.

Penalties for offences under sections 21B and 21c.

21d. A person who contravenes any of the provisions of section 21B or 21c is guilty of an offence against this Act and is liable—

- (a) if a corporation, to a penalty not exceeding \$1,000 and, in the case of a continuing offence, to a daily penalty not exceeding \$100 for each day the offence continues; and
- (b) if any other person, to a penalty not exceeding \$400 and, in the case of a continuing offence, to a daily penalty not exceeding \$10 for each day the offence continues.

21E.

Clean Air (Further Amendment).

21E. It is a sufficient defence to a prosecution No. 60, 1972
for an offence—

Defences to
prosecutions
for offences
under sec-
tion 21B or
21C.

- (a) arising under paragraph (a) of section 21B, or under subsection (2) of section 21C, if the defendant proves that the offence was committed by him in the course of his employment by another person or that, upon, or in the event of, the sale of the motor vehicle, he received or was to receive remuneration, by way of commission, from a person other than the owner of the motor vehicle; or
- (b) arising under paragraph (a) or (b) of section 21B if the defendant proves—
 - (i) that a certificate, relating to the motor vehicle referred to in the information for the offence, was issued by a person of a prescribed class within the prescribed period before the commission of the offence, certifying that the motor vehicle had been tested in the prescribed manner on the date which the certificate bears and that that test showed that it had not then emitted at any point referred to in that section air impurities in excess of the standard of concentration and the rate, or the standard of concentration or the rate, prescribed in respect of the class of motor vehicles to which that motor vehicle belonged; and

(ii)

Clean Air (Further Amendment).

No. 60, 1972

- (ii) that he had not, since the date which the certificate bears, failed to take all reasonable and practicable steps to prevent the commission of the offence.

Minister's
power to
prohibit
use of motor
vehicles in
certain cir-
cumstances.

21F. (1) The Minister may, by order in writing, prohibit the use of all motor vehicles, any specified class of motor vehicles or all motor vehicles except a specified class of motor vehicles, as may be specified in the order, in any area so specified and at all times, or during particular times, as may be so specified.

(2) Any such order shall have effect—

- (a) upon its publication in such manner as may be specified in the regulations; and
- (b) for such period as may be specified in the order or, if no period is so specified, until the order is revoked.

(3) The regulations may provide for the publication of any such order by means of a newspaper, by radio or television, by the display of notices or by any other method specified in the regulations.

Sec. 22.
(Powers of
Depart-
ment.)

- (e) by omitting from section 22 (b) the word "vehicle" where firstly occurring and by inserting instead the words "motor vehicle";

Sec. 34.
(Regula-
tions.)

- (f) (i) by inserting next after section 34 (1) (f) the following new paragraphs :—

(f1) the installation, maintenance, testing, inspection and operation of prescribed anti-pollution devices;

(f2)

Clean Air (Further Amendment).

- (f2) the operation of motor vehicles and the fuels to be used in the operation of motor vehicles; No. 60, 1972
 - (f3) the inspection of motor vehicles, and requiring motor vehicles to be tested, for the purpose of determining the concentration or rate, or the concentration and rate, of air impurities emitted by them;
 - (f4) prohibiting the registration under the Motor Traffic Act, 1909, of any motor vehicle that does not comply with the regulations;
- (ii) by omitting from section 34 (2) the matter “paragraphs (a) to (f)” and by inserting instead the matter “paragraphs (a) to (f4)”;
 - (iii) by omitting from section 34 (3) the words “or industrial plants” where secondly occurring and by inserting instead the words “, industrial plants or motor vehicles”.
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FORESTRY.