

**ROAD MAINTENANCE (CONTRIBUTION)  
AMENDMENT ACT, 1978, No. 119**

**New South Wales**



**ANNO VICESIMO SEPTIMO**

**ELIZABETHÆ II REGINÆ**

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**Act No. 119, 1978.**

An Act to amend the Road Maintenance (Contribution) Act, 1958, with respect to the recovery of road maintenance contributions imposed under corresponding laws of certain other States. [Assented to, 21st December, 1978.]

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*Road Maintenance (Contribution) Amendment.*

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**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.

**1.** This Act may be cited as the "Road Maintenance (Contribution) Amendment Act, 1978".

Commencement.

**2.** (1) Except as provided in subsection (2), this Act shall commence on the date of assent to this Act.

(2) Section 3 and Schedule 1 shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

Amendment  
of Act No.  
6, 1958.

**3.** The Road Maintenance (Contribution) Act, 1958, is amended in the manner set forth in Schedule 1.

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Sec. 3.

SCHEDULE 1.

AMENDMENTS TO THE ROAD MAINTENANCE (CONTRIBUTION)  
ACT, 1958.

(1) Part I, heading—

Before section 1, insert :—

PART I.

PRELIMINARY.

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*Road Maintenance (Contribution) Amendment.*

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**SCHEDULE 1—continued.**

**AMENDMENTS TO THE ROAD MAINTENANCE (CONTRIBUTION)  
ACT, 1958—continued.**

(2) Section 2A—

After section 2, insert :—

2A. This Act is divided as follows :—

Arrange-  
ment.

**PART I.—PRELIMINARY—ss. 1—4A.**

**PART II.—ROAD MAINTENANCE CONTRIBUTIONS—  
ss. 5—13.**

**PART III.—RECIPROCAL ENFORCEMENT AGAINST  
DIRECTORS OF BODIES CORPORATE—ss. 14—19.**

**SCHEDULES.**

(3) Part II, heading—

Before section 5, insert :—

**PART II.**

**ROAD MAINTENANCE CONTRIBUTIONS.**

(4) Section 5 (1)—

Omit “the First Schedule”, insert instead “Schedule 1”.

(5) Section 6 (1)—

Omit “the Second Schedule”, insert instead “Schedule 2”.

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SCHEDULE 1—*continued.*AMENDMENTS TO THE ROAD MAINTENANCE (CONTRIBUTION)  
ACT, 1958—*continued.*

## (6) Part III—

After section 13, insert :—

## PART III.

RECIPROCAL ENFORCEMENT AGAINST DIRECTORS OF  
BODIES CORPORATE.Interpre-  
tation.

14. (1) In this Part, except in so far as the context or subject-matter otherwise indicates or requires—

“clerk of petty sessions” means the person for the time being holding office as clerk of petty sessions at the court of petty sessions situated at Redfern in the State of New South Wales;

“director”, in relation to a body corporate, includes—

(a) a person occupying the position of director of the body corporate by whatever name called; and

(b) a person in accordance with whose directions or instructions the directors of the body corporate are accustomed to act;

“fine” includes a pecuniary penalty, pecuniary forfeiture or pecuniary compensation, charges, fees or costs;

“reciprocating court” means a court, or a court belonging to a class or description of courts, of another State of the Commonwealth declared by order under section 15 to be a reciprocating court or a class of reciprocating courts.

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE ROAD MAINTENANCE (CONTRIBUTION)  
ACT, 1958—*continued.*

(2) A reference in this Part to a State or another State includes a reference to a Territory of the Commonwealth.

15. The Governor may, by order published in the <sup>Declaration of reciprocating courts.</sup> Gazette, declare a court having summary jurisdiction in another State of the Commonwealth, being a State which has laws containing provisions corresponding to this Part, to be a reciprocating court for the purpose of this Part or declare a class or description of courts having summary jurisdiction in another such State to be a class or description of reciprocating courts for the purposes of this Part.

16. (1) Where the clerk of petty sessions receives from the clerk or other principal administrative officer of a reciprocating court—

(a) a document signed by the clerk or other principal administrative officer of the reciprocating court—

(i) stating that, under a conviction or order made by the reciprocating court in the exercise of its summary jurisdiction under a law referred to in Schedule 3, a fine is payable by a body corporate;

(ii) stating that it appears from information furnished to him that a specified person, being the person or one of the persons certified by the certificate referred to in paragraph (d) to have been a director, or, as the case may be, the directors, of the body corporate, is normally permanently or temporarily resident in New South Wales or is then in New South Wales;

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*Road Maintenance (Contribution) Amendment.*

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SCHEDULE 1—*continued.*AMENDMENTS TO THE ROAD MAINTENANCE (CONTRIBUTION) ACT, 1958—*continued.*

(iii) stating that no proceedings for the enforcement of payment of the fine or any part of the fine against the body corporate or any director of the body corporate are in progress in the State in which the conviction or order was made;

(iv) stating that no request has been made to any other State for the enforcement of the conviction or order or that any request so made has been or is withdrawn; and

(v) requesting that the conviction or order be enforced against the person specified in the statement referred to in subparagraph (ii);

(b) a certified copy of the conviction or order;

(c) a certificate under the hand of the clerk or other principal administrative officer making the request certifying the amount of the fine outstanding under the conviction or order; and

(d) a certificate purporting to be signed by the Commissioner for Corporate Affairs holding office under the Securities Industry Act, 1975, or by the officer holding the corresponding office under any law for the time being in force in another State certifying that it appears from a return or returns lodged with him pursuant to the relevant law relating to companies that, on any date or during any period on or during which the offence to which the conviction or order relates

*Road Maintenance (Contribution) Amendment.*

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**SCHEDULE 1—continued.**

**AMENDMENTS TO THE ROAD MAINTENANCE (CONTRIBUTION) ACT, 1958—continued.**

was committed, a specified person was a director, or specified persons were directors, of the body corporate,

he shall register the conviction or order, by filing in the court of petty sessions at which he is the clerk of petty sessions, the certified copy of the conviction or order and shall note the date of registration on the copy.

(2) Upon the registration of a conviction or order under subsection (1), the clerk of petty sessions shall, if he has been notified by the clerk or other principal administrative officer of the reciprocating court of any address at which the person referred to in subsection (1) (a) (v) resides or carries on business, and against whom enforcement of the conviction or order is requested, send by post a notice addressed to that person at that address or, if the clerk of petty sessions is aware of another address at which the person so referred to resides or carries on business, that other address, informing him that if the amount specified in the notice (being the amount certified as outstanding in the certificate referred to in subsection (1) (c)) is not paid to the clerk of petty sessions by a specified date (being the date that is 14 days after the registration of the conviction or order) a warrant committing him to prison may be issued under the Justices Act, 1902.

(3) Where a period of 14 days has elapsed since the registration of the conviction or order, the amount of the fine has not been paid to the clerk of petty sessions and he has not received a notice from the clerk or other principal administrative officer of a reciprocating court withdrawing the request for the enforcement of the conviction or order—

(a) the conviction or order shall for the purposes of this Part be deemed to be a conviction or order

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SCHEDULE 1—*continued.***AMENDMENTS TO THE ROAD MAINTENANCE (CONTRIBUTION) ACT, 1958—*continued.***

made by a justice, or justices, of the peace under the Justices Act, 1902—

- (i) requiring payment by the person referred to in subsection (1) (a) (v) against whom enforcement of the conviction or order is requested of the amount certified as outstanding in the certificate referred to in subsection (1) (c); and
- (ii) adjudging that, in default of the payment of the amount so certified, that person shall be imprisoned for a period calculated in accordance with section 82 (2) of that Act; and
- (b) the provisions of the Justices Act, 1902, relating to the enforcement of convictions or orders apply to and in respect of the enforcement of that conviction or order with all necessary adaptations and as if an application for the issue of a warrant of commitment of the person referred to in paragraph (a) (i) for non-payment of the amount certified as outstanding in the certificate referred to in subsection (1) (c) had, upon the expiration of that period, been made to the clerk of petty sessions in his capacity as a justice of the peace.

(4) Where the clerk of petty sessions receives, subsequent to the request for the enforcement of the conviction or order and before a warrant of commitment issued pursuant to the provisions of the Justices Act, 1902, referred to in subsection (3) (b) for the enforcement of the conviction or order is executed, a notification from the clerk or other principal administrative officer of a

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*Road Maintenance (Contribution) Amendment.*

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE ROAD MAINTENANCE (CONTRIBUTION)  
ACT, 1958—*continued.*

reciprocating court of payment by or on behalf of the body corporate, or by or on behalf of a director of the body corporate, of any sum of money in satisfaction in whole or in part of the amount certified as outstanding in the certificate referred to in subsection (1) (c), he shall—

- (a) note the particulars of the payment on the certified copy of the conviction or order filed in the court; and
- (b) arrange for the return of any warrant issued pursuant to those provisions of the Justices Act, 1902, and—
  - (i) if the amount so certified has been paid in full, cancel it; or
  - (ii) if part of the amount so certified remains outstanding, amend the warrant so that it shows the amount still outstanding and the period of default imprisonment calculated in accordance with section 82 (2) of the Justices Act, 1902, on the basis of the amount still outstanding, and thereafter the warrant may be enforced as amended.

(5) Where a warrant of commitment referred to in subsection (4) is executed against a person and before the expiration of the period for which the person is to be imprisoned under the warrant, the clerk of petty sessions receives a notification from the clerk or other principal administrative officer of a reciprocating court stating that payment has been made by or on behalf of the body corporate, or by or on behalf of a director of the body corporate, of any sum of money in satisfaction in whole

*Road Maintenance (Contribution) Amendment.*SCHEDULE 1—*continued.*AMENDMENTS TO THE ROAD MAINTENANCE (CONTRIBUTION)  
ACT, 1958—*continued.*

or in part of the amount certified as outstanding in the certificate referred to in subsection (1) (c), he shall forthwith cause a copy of the notification to be delivered to the keeper of the prison in which that person is imprisoned and, for the purposes of section 94 of the Justices Act, 1902, that person shall be deemed to have paid the sum of money stated in the notification to the keeper of that prison.

(6) The reference in subsection (4) or (5) to a sum of money paid in satisfaction in whole or in part of the amount certified as outstanding in the certificate referred to in subsection (1) (c) includes a reference to any part of the amount so certified that is remitted or otherwise forgiven by the State in which the relevant conviction or order was actually made.

Disposition  
of moneys  
by clerk of  
petty  
sessions.

17. (1) A sum of money paid to or received by the clerk of petty sessions in satisfaction in whole or in part of a fine payable under a conviction or order registered under section 16 (1) shall, subject to subsection (2), be remitted forthwith to the clerk or other principal administrative officer of the reciprocating court by which the conviction or order was made.

(2) Where the total of—

(a) any sum of money paid to or received by the clerk of petty sessions in satisfaction in whole or in part of the amount certified as outstanding in the certificate referred to in section 16 (1) (c); and

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*Road Maintenance (Contribution) Amendment.*

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SCHEDULE 1—*continued.*AMENDMENTS TO THE ROAD MAINTENANCE (CONTRIBUTION) ACT, 1958—*continued.*

(b) any amount notified to the clerk of petty sessions by the clerk or other principal administrative officer of a reciprocating court as having been paid in satisfaction in whole or in part of the amount so certified,

exceeds the amount so certified, the clerk of petty sessions shall, on application in writing made to him by the person by whom the amount referred to in paragraph (a) was paid, refund to that person—

(c) the amount of that excess; or  
(d) the amount referred to in that paragraph,

whichever is the lesser.

## 18. Where—

Request to  
recipro-  
cating  
court for  
enforce-  
ment.

(a) under a conviction or order made by a court of petty sessions exercising jurisdiction under this Act, a fine is payable by a body corporate;

(b) an application is made by a person designated by an instrument in writing executed by the Commissioner for the purposes of this paragraph to the clerk of petty sessions at that court for him to make a request to the clerk or other principal administrative officer of the appropriate reciprocating court of another State for the enforcement against a person referred to in paragraph (c) of that conviction or order under a law, corresponding to this Part, of the other State;

(c) the applicant informs the clerk of petty sessions in the application that a specified person, being the person or one of the persons certified by the

*Road Maintenance (Contribution) Amendment.*SCHEDULE 1—*continued.*AMENDMENTS TO THE ROAD MAINTENANCE (CONTRIBUTION) ACT, 1958—*continued.*

certificate referred to in paragraph (d) to have been a director, or, as the case may be, the directors, of the body corporate is normally permanently or temporarily resident in the other State or is then in the other State; and

(d) the application is accompanied by a certificate purporting to be signed by the Commissioner for Corporate Affairs holding office under the Securities Industry Act, 1975, or by the officer holding the corresponding office under the law for the time being in force in another State certifying that it appears from a return or returns lodged with him pursuant to the relevant law relating to companies that, on any date or during any period on or during which the offence to which the conviction or order relates was committed, a specified person was a director, or specified persons were directors, of the body corporate,

the clerk of petty sessions shall make that request to the clerk or other principal administrative officer of that reciprocating court in such form and accompanied by such documents as would enable the conviction or order to be enforced under a law, corresponding to this Part, of the other State.

Effect of enforcement by reciprocating court.

19. (1) Where a request is made under section 18 for the enforcement, under a law of another State, against any person of a conviction or order whereunder a fine became payable by a body corporate and—

(a) a sum of money is received by the clerk of petty sessions at the court of petty sessions at which the conviction or order was made from a

*Road Maintenance (Contribution) Amendment.***SCHEDULE 1—continued.****AMENDMENTS TO THE ROAD MAINTENANCE (CONTRIBUTION) ACT, 1958—continued.**

reciprocating court of the other State in satisfaction in whole or in part of the amount payable by that person under that law, that amount shall be received and applied by the clerk of petty sessions as if the sum had been paid to him by the body corporate by which the fine was payable in satisfaction in whole or in part of the fine; or

- (b) the clerk of petty sessions at the court of petty sessions at which the conviction or order was made is notified in writing by the clerk or other principal administrative officer of a reciprocating court of the other State that the person against whom enforcement of the conviction or order was requested has, by reason that the fine had not been paid in full, been imprisoned in accordance with the law of the other State, the clerk of petty sessions shall make a record of that notification and the body corporate shall be deemed to have paid, in satisfaction in whole or in part of the fine, the amount by reference to which the period of imprisonment of that person was calculated in accordance with the law of the other State.

(2) Where the total of—

- (a) any sum of money received by a clerk of petty sessions in respect of a conviction or order, as referred to in subsection (1); and
- (b) any other sum of money received by the same clerk of petty sessions in respect of the same conviction or order,

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*Road Maintenance (Contribution) Amendment.*

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SCHEDULE 1—*continued.*AMENDMENTS TO THE ROAD MAINTENANCE (CONTRIBUTION) ACT, 1958—*continued.*

exceeds the amount payable in respect of that conviction or order, that clerk of petty sessions shall, on application in writing made to him by the person by whom the sum of money referred to in paragraph (a) was paid, refund to that person—

- (c) the amount of that excess; or
- (d) the amount referred to in that paragraph, whichever is the lesser.

## (7) First Schedule, heading—

Omit “FIRST SCHEDULE”, insert instead “SCHEDULE 1”.

## (8) Second Schedule, heading—

Omit “SECOND SCHEDULE”, insert instead “SCHEDULE 2”.

## (9) Schedule 3—

After the Second Schedule, insert :—

Sec. 16.

## SCHEDULE 3.

## LAWS OF OTHER STATES AND OF TERRITORIES.

Commercial Goods Vehicles Act 1958, as amended or as re-enacted with or without amendment from time to time, of Victoria.

Roads (Contribution to Maintenance) Act of 1957, as amended from time to time or as re-enacted with or without amendments from time to time, of Queensland.

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*Road Maintenance (Contribution) Amendment.*

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE ROAD MAINTENANCE (CONTRIBUTION)  
ACT, 1958—*continued.*

Road Maintenance (Contribution) Act 1963, as amended or as re-enacted with or without amendment from time to time, of South Australia.

Road Maintenance (Contribution) Act 1965, as amended or as re-enacted with or without amendment from time to time, of Western Australia.

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