

## MOTOR TRAFFIC (AMENDMENT) ACT.

Act No. 29, 1937.

George VI,  
No. 29, 1937.

An Act to provide for the more effective control of the speed of motor vehicles upon public streets; to validate certain matters; for these and other purposes to amend the Motor Traffic Act, 1909-1930, the Metropolitan Traffic Act, 1900, the Transport Act, 1930, and certain other Acts in certain respects; and for purposes connected therewith. [Assented to, 22nd December, 1937.]

**B**E it enacted by the King'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.** (1) This Act may be cited as the "Motor Traffic (Amendment) Act, 1937."

(2) The Motor Traffic Act, 1909-1930, as amended by subsequent Acts and by this Act, may be cited as the Motor Traffic Act, 1909-1937.

Amendment  
of Act No. 5,  
1909.  
New secs. 4A and  
4B.

**2.** (1) The Motor Traffic Act, 1909-1930, as amended by subsequent Acts, is amended by inserting next after section four the following new sections:—

Speed limits.  
cf. 24 and 25  
Geo. V, c. 50,  
s. 1.

4A. (1) (a) Any person who drives a motor vehicle at a speed exceeding thirty miles per hour upon any public street in a built-up area shall be guilty of an offence under this Act.

(b) Any person who drives a motor vehicle at a speed exceeding fifty miles per hour upon any public street (not being a public street in a built-up area) shall be guilty of an offence under this

this Act unless he proves to the satisfaction of the court that the speed at which the vehicle was being driven was not dangerous to the public, having regard to all the circumstances of the case, including the nature, condition and use of the public street upon which such offence is alleged to have been committed, and to the amount of traffic which actually is at the time, or which might reasonably be expected to be, upon such public street.

(2) For the purposes of this section a length of public street shall be deemed to be a public street in a built-up area—

- (a) if there is provision for the lighting thereof by means of street lighting, unless a direction that it shall be deemed not to be a public street in a built-up area is in force under this section; or
- (b) if a direction that it shall be deemed to be a public street in a built-up area is in force under this section.

(3) The Minister may, at any time, give a direction—

- (a) that a length of public street shall be deemed to be a public street in a built-up area notwithstanding that there is no provision for the lighting thereof by means of street lighting; or
- (b) that a length of public street shall be deemed not to be a public street in a built-up area notwithstanding that there is provision for the lighting thereof by means of street lighting.

The Minister may, at any time, revoke or vary any direction given under this subsection.

(4) The regulations shall provide for the display of signs to indicate any length of a public street which, by virtue of a direction under this section, is deemed to be or not to be (as the case may require) a public street in a built-up area and may provide for the

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the display of any other signs necessary or convenient for carrying this section into effect, and may prescribe any matter necessary or convenient to be prescribed in relation to any such signs.

(5) In any proceedings in any court evidence that the prescribed signs are displayed as prescribed shall be prima facie evidence that a length of public street is, by virtue of a direction under this section, deemed to be or not to be (according to the indication given by such prescribed signs) a public street in a built-up area.

(6) Nothing in this section shall be construed to justify the driving of any motor vehicle upon a public street at a speed which—

- (a) having regard to all the circumstances of the case, is dangerous to the public, whether or not such speed is less than the limit fixed by this section; or
- (b) exceeds any maximum speed applicable to such vehicle and fixed by or under any Act, regulation or ordinance.

(7) The provisions of subsection one of this section shall not apply to the driver of—

- (a) any motor vehicle whilst conveying a member of the police force on urgent duty connected with the prevention or investigation of any offence or suspected offence against the law or with the apprehension of offenders against the law;
- (b) any fire engine, reel or other similar vehicle whilst proceeding to a fire; or
- (c) any ambulance vehicle whilst proceeding to the scene of an accident or to a hospital with an injured person,

if the observance of those provisions would be likely to hinder the use of the vehicle for any purpose aforesaid: Provided that such driver shall give the best practicable warning so as to enable way to be made for such vehicle.

(8)

(8) The provisions of subsection one of this section shall not apply to the driver of a motor vehicle which is being used in accordance with an approval given and any conditions imposed by the Commissioner of Police pursuant to section 4B of this Act.

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4B. (1) (a) Any person who organises or promotes or takes part in—

Races, attempts on speed records, etc. cf. 20 and 21 Geo. V; c. 43; s. 13.

- (i) any race between motor vehicles upon a public street; or
- (ii) any attempt to break any motor vehicle speed record upon a public street; or
- (iii) any trial of the speed of a motor vehicle upon a public street for a distance exceeding one mile,

shall be guilty of an offence under this Act, unless the approval in writing of the Commissioner of Police to the holding or making of the race, attempt or trial has been obtained.

(b) The Commissioner of Police shall have power to grant or refuse such approval.

(c) The Commissioner of Police may in any such approval impose any conditions he deems necessary in the interests of public safety and convenience.

Any such approval or conditions may be of general or limited application.

(d) Where any person taking part in any such race, attempt or trial fails to observe or comply with any condition imposed as aforesaid, such person and the organiser or promoter of such race, attempt or trial shall be guilty of an offence under this Act.

(e) This subsection shall not apply to any test of the slow running of a motor vehicle.

(2) Where a person taking part in a race between motor vehicles or in an attempt to break a motor vehicle speed record or in a trial of the speed of a motor vehicle is convicted of any offence under subsection one of this section such conviction shall operate to suspend his license (if any) under this Act, and his license (if any) under the Transport Act,

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Act, 1930, as amended by subsequent Acts, and to disqualify him for obtaining a license under either such Act for a period of twelve months from the date of conviction unless the court thinks fit to order a shorter or longer period of suspension and/or disqualification.

Such suspension and/or disqualification shall be in addition to any pecuniary penalty for which the person convicted may be liable under any other provision of this Act.

(3) There shall be an appeal to a court of petty sessions holden before a stipendiary or police magistrate whose decision shall be final against—

- (a) the refusal to grant any approval under subsection one of this section;
- (b) any condition imposed upon the grant of any approval under such subsection.

The regulations may prescribe the manner of appeal and the court to which it is to be brought.

(2) The Metropolitan Traffic Act, 1900, as amended by subsequent Acts, is amended by inserting next after section thirteen the following new section:—

13A. (1) (a) Any person who organises or promotes or takes part in—

- (i) any race between vehicles upon a public street; or
- (ii) any attempt to break a vehicle speed record upon a public street; or
- (iii) any trial of the speed of a vehicle upon a public street for a distance exceeding one mile,

shall be guilty of an offence against this Act, unless the approval in writing of the Commissioner of Police to the holding or making of the race, attempt or trial has been obtained.

(b) The Commissioner of Police shall have power to grant or refuse such approval.

(c) The Commissioner of Police may in any such approval impose any conditions he deems necessary in the interests of public safety and convenience.

Any

Amendment  
of Act No. 8,  
1900.  
New sec. 13A.

Races,  
attempts on  
speed  
records, etc.  
cf. 20 & 21  
Geo. V, c. 43,  
s. 13.

Any such approval or conditions may be of general or limited application.

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(d) Where any person taking part in any such race, attempt or trial fails to observe or comply with any condition imposed as aforesaid, such person and the organiser or promoter of such race, attempt or trial shall be guilty of an offence against this Act.

(2) There shall be an appeal to a court of petty sessions holden before a stipendiary or police magistrate whose decision shall be final against—

- (a) the refusal to grant any approval under subsection one of this section;
- (b) any condition imposed upon the grant of any approval under such subsection.

The regulations may prescribe the manner of appeal and the court to which it is to be brought.

(3) The Local Government Act, 1919, as amended by subsequent Acts, is amended by inserting at the end of paragraph (v) of section two hundred and forty-nine the following proviso:—

Amendment  
of Act No.  
41, 1919,  
s. 249.  
(Consequen-  
tial.)

Provided that—

- (i) where the speed contest is a speed contest for motor vehicles, permission shall not be given unless the provisions of section 4B of the Motor Traffic Act, 1909-1937, are complied with;
- (ii) where the speed contest is a speed contest for vehicles other than motor vehicles, permission shall not be given—
  - (a) in any case where the public road upon which the speed contest is to be held is situated within the metropolitan traffic area or within any district to which the Metropolitan Traffic Act, 1900, as amended by subsequent Acts, has been applied—unless the provisions of section 13A of that Act are complied with;

(b)

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- (b) in any other case—unless the council has obtained and given consideration to the views of the Commissioner of Police as to whether permission should be given and if so as to the nature of the precautions to be taken in the interests of public safety.

Further amend-  
ment of Act  
No. 5, 1909.  
Sec. 5.  
(Provisions  
relating to  
drivers.)  
Driver intoxi-  
cated or under  
influence of a  
drug.

3. The Motor Traffic Act, 1909-1930, as amended by subsequent Acts, is further amended by omitting subsections two and three of section five and by inserting in lieu thereof the following subsections:—

(2) Any person who whilst he is under the influence of intoxicating liquor or of a drug—

- (a) drives a motor vehicle; or  
(b) occupies the driving seat of a motor vehicle and attempts to put such motor vehicle in motion,

shall be guilty of an offence under this Act and shall be liable to a penalty not exceeding one hundred pounds or to imprisonment for a period not exceeding twelve months or to both such penalty and imprisonment.

In this subsection, "drug" means a drug to which Part VI of the Police Offences (Amendment) Act, 1908, as amended by subsequent Acts, applies.

(3) Where the driver of a motor vehicle is alleged to be guilty of an offence under this Act or any regulation—

- (a) the owner of the vehicle, or the person in whose name the vehicle is registered, or the person having the custody of the vehicle, shall give such information as he may be required by a member of the police force to give as to the identity of such driver, and if any such owner or person fails to do so he shall be guilty of an offence under this Act, unless he proves to the satisfaction of the court that he did not know and could not with reasonable diligence have ascertained who the driver was; and

(b)

Information to  
be given to  
identify driver.  
20 and 21  
Geo. V, c. 43,  
s. 113 (3).

(b) any other person shall, if required as aforesaid, give any information which it is in his power to give and which may lead to the identification of such driver and, if he fails to do so, he shall be guilty of an offence under this Act.

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4. (1) The Motor Traffic Act, 1909-1930, as amended by subsequent Acts, is further amended by omitting section eight and by inserting in lieu thereof the following section:—

Further amendment of Act No. 5, 1909. Substituted s. 8.

8. (1) Where, owing to the presence of a motor vehicle upon a public street, an accident occurs whereby the death of or injury to any person, is caused the driver of every motor vehicle concerned in the accident shall stop and give any assistance which may be necessary and which it is in his power to give.

Requirements in case of accident. cf. 20 and 21 Geo. V, c. 43, s. 22.

(2) Any person knowingly acting in contravention of subsection one of this section shall be guilty of an offence under this Act and shall be liable to a penalty not exceeding one hundred pounds or to imprisonment for a period not exceeding twelve months or to both such penalty and imprisonment.

(3) Where, owing to the presence of a motor vehicle upon a public street, an accident occurs whereby the death of or injury to any person is caused or whereby damage to an extent apparently in excess of five pounds is caused to any property (including an animal in charge of any person or a vehicle), the driver of every motor vehicle concerned in the accident shall, unless he is unable by reason of personal injury to do so, stop and shall—

(a) if required so to do by any person having reasonable grounds for so requiring produce his license and give particulars of his name and place of abode, the distinguishing number of the registration (if any) of the motor vehicle and the name and place of abode of the owner of such motor vehicle;

(b) if required so to do by any member of the police force, forthwith give such particulars as it is in his power to give as to the time, place



place and nature of the accident, the distinguishing number of the registration (if any) of every motor vehicle concerned therein, the name and place of abode of every person who was concerned in or who witnessed the accident, and the extent of any injury or damage caused by or resulting from the accident;

- (c) as soon as practicable and in any case within twenty-four hours after the accident give to the officer-in-charge of the police station nearest to the scene of the accident the particulars mentioned in paragraph (b) of this subsection, except where such particulars have already been given to a member of the police force.

(4) Where, owing to the presence of a motor vehicle upon a public street, an accident occurs whereby damage to an extent apparently not in excess of five pounds is caused to any property (including an animal in charge of any person or a vehicle), the provisions of subsection three of this section with the exception of paragraph (c) of that subsection shall apply to the driver of every vehicle concerned in the accident.

(5) Any person who fails to comply with any provision of subsection three or subsection four of this section or who wilfully furnishes any false or misleading particulars in respect of any matter pursuant to either of such subsections shall be guilty of an offence under this Act.

Further  
amendment of  
Act No. 8, 1900.  
New sec. 13B.

(2) The Metropolitan Traffic Act, 1900, as amended by subsequent Acts, is further amended by inserting next after section 13A the following new section:—

Require-  
ments in  
case of  
accident.

13B. (1) Where, owing to the presence of a vehicle or horse upon a public street, an accident occurs whereby injury is caused to any person, the driver or rider of every vehicle or horse concerned in the accident shall stop and give any assistance which may be necessary and which it is in his power to give.

(2)

(2) Any person knowingly acting in contravention of subsection one of this section shall be guilty of an offence against this Act.

(3) Where, owing to the presence of a vehicle or horse upon a public street, an accident occurs whereby the death of or injury to any person is caused, or whereby damage to an extent apparently in excess of five pounds is caused to any property (including an animal in charge of any person or vehicle), the driver or rider of every vehicle or horse concerned in the accident shall, unless he is unable by reason of personal injury to do so stop and shall—

- (a) if required so to do by any person having reasonable grounds for so requiring give particulars of his name and place of abode and the name and place of abode of the owner of such vehicle or horse;
- (b) if required so to do by any member of the police force, forthwith give such particulars as it is in his power to give as to the time, place and nature of the accident, the distinguishing number of the registration (if any) of every motor vehicle concerned therein, the name and place of abode of every person who was concerned in or who witnessed the accident, and the extent of any injury or damage caused by or resulting from the accident;
- (c) as soon as practicable and in any case within twenty-four hours after the accident give to the officer-in-charge of the police station nearest the scene of the accident the particulars mentioned in paragraph (b) of this subsection, except where such particulars have already been given to a member of the police force.

(4) Where, owing to the presence of a vehicle or horse upon a public street, an accident occurs whereby damage to an extent apparently not in excess of five pounds is caused to any property (including an animal in charge of any person or a vehicle), the provisions

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provisions of subsection three of this section with the exception of paragraph (c) of that subsection shall apply to the driver or rider of every vehicle or horse concerned in the accident.

(5) Any person who fails to comply with any provision of subsection three or subsection four of this section or who wilfully furnishes any false or misleading particulars in respect of any matter pursuant to either of such subsections shall be guilty of an offence against this Act.

Further amendment of Act No. 5, 1909, s. 10. (Suspension of licenses, etc., by court.)

**5.** (1) The Motor Traffic Act, 1909-1930, as amended by subsequent Acts, is further amended—

- (a) by inserting in subsection one of section ten after the word "Act" where firstly occurring the words "for which no penalty is specifically provided";
- (b) by inserting in the same subsection after the words "offence and" the words "subject to subsection (3A) of this section";
- (c) by inserting in paragraph (b) of the same subsection after the words "suspend that license" the words "and his license (if any) under the Transport Act, 1930, as amended by subsequent Acts";
- (d) by omitting from paragraph (c) of the same subsection the words "license under this Act" and by inserting in lieu thereof the words "such license";
- (e) by inserting in subsection two of the same section next after the words "this Act" the words "or under the Transport Act, 1930, as amended by subsequent Acts";
- (f) by omitting subsection (2A) of the same section;
- (g) by inserting next after subsection three of the same section the following new subsections:—

(3A) (a) Where a person is convicted of the offence under section four of this Act of driving a motor vehicle upon a public street furiously or recklessly or at a speed or in a manner which is dangerous to the public or of an offence

offence under subsection two of section five of this Act or of an offence under subsection one of section eight of this Act, then—

(i) if, during the period of five years immediately before such conviction (whether such period commenced before or commences after the commencement of the Motor Traffic (Amendment) Act, 1937, such person has not been convicted of any offence (whether of the same or a different kind) of the class referred to in this paragraph—he shall be disqualified by such conviction and without any specific order for a period of one year from the date of such conviction or for such longer period as the court may specifically order, for holding a driver's license under this Act or under the Transport Act, 1930, as amended by subsequent Acts;

(ii) if, during the period of five years immediately before such conviction (whether such period commenced before or commences after the commencement of the Motor Traffic (Amendment) Act, 1937) such person has been convicted of one or more offences (whether of the same or a different kind) of the class referred to in this paragraph—he shall be disqualified by such conviction and without any specific order for a period of three years from the date of such conviction or for such longer period as the court may specifically order, for holding a driver's license under this Act or under the Transport Act, 1930, as amended by subsequent Acts.

(b) The disqualification referred to in paragraph (a) of this subsection shall be in addition to any penalty imposed upon the conviction.

(c)

(c) If the person convicted is the holder of a driver's license under this Act or the Transport Act, 1930, as amended by subsequent Acts, such license shall, during the period of the disqualification, be of no effect and such person shall, forthwith after conviction, deliver the license to the Commissioner. If the license is not so delivered such person shall be guilty of an offence under this Act.

(3B) The regulations may provide that any driver's license held by a person who has been convicted of the offence of driving a motor vehicle upon a public street at a speed which is dangerous to the public or of any offence under section 4A of this Act, shall in all cases or in prescribed classes of cases, be subject to a condition limiting the license to the driving of a motor vehicle to which is affixed a sealed device which will prevent the engine from propelling the vehicle at a speed in excess of thirty miles per hour. The regulations may provide a penalty for any breach of such condition and may prescribe any matter necessary or convenient to be prescribed in relation to any such device.

(2) The Crimes Act, 1900, as amended by subsequent Acts, is amended—

(a) by omitting subsection two of section 526B and by inserting in lieu thereof the following subsection—

(2) (a) Such conviction shall operate, without any specific order, to disqualify the person convicted to hold any license for a period of three years from the date of the conviction, or for such longer period as the court before whom he is convicted may specifically order. Such disqualification shall be in addition to any punishment or penalty.

(b) If a person so disqualified holds a license the court shall order the license to be handed to the licensing authorities within a time to be specified in the order, and in default of compliance with the order may impose a penalty not exceeding twenty pounds.

(c)

Amendment  
of Act No.  
40, 1900,  
s. 526B.  
(Person  
drunk while  
driving  
vehicle.)

(e) Any license held by a person so disqualified shall, so long as the disqualification continues, be of no effect.

(b) by omitting from subsection four of the same section the words "and if the court orders a disqualification or suspension to be removed, the court shall order particulars of the order to be endorsed on the license, if any, held by the applicant";

(c) by inserting next after subsection four of the same section the following new subsection:—

(4A) The court shall cause particulars of each conviction or order under this section to be forwarded to the licensing authorities.

**6.** The Transport Act, 1930, as amended by subsequent Acts, is amended— Amendment of Act No. 19 1930.

(a) by omitting subsection three of section forty-nine; Sec. 49. (Purchase of electricity.)

(b) by inserting at the end of paragraph (t) of subsection one of section two hundred and sixty-four the following words:— Sec. 264. (Regulations.)

The regulations may provide that a license to drive a public motor vehicle granted to a person who has been convicted of the offence of driving a motor vehicle upon a public street at a speed which is dangerous to the public or of any offence under section 4A of the Motor Traffic Act, 1909-1937, may have set out therein or affixed thereto a condition limiting the license to the driving of a public motor vehicle to which is affixed a sealed device which will prevent the engine from propelling the public motor vehicle at a speed in excess of thirty miles per hour.

The regulations may provide a penalty for any breach of such condition and may prescribe any matter necessary or convenient to be prescribed in relation to any such device.

**7.** During the period commencing on the second day of March, one thousand nine hundred and thirty-seven, and ending on the ninth day of August, one thousand nine hundred Validation.

**University and University Colleges (Amendment)  
Act.**

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\_\_\_\_\_ hundred and thirty-seven, Charles Norman Neale, Esquire, shall be deemed to have had all the powers, rights, authorities, functions, privileges, immunities, duties, obligations and liabilities which, by or under any Act, are conferred or imposed on the Commissioner for Road Transport and Tramways notwithstanding that there was a vacancy in the office of the Commissioner for Road Transport and Tramways during that part of such period which commenced on the eighth day of April, one thousand nine hundred and thirty-seven.

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