

MOTOR TRAFFIC (AMENDMENT) ACT.

Act No. 59, 1951.

An Act to amend the Motor Traffic Acts, 1909-1949, the Crimes Act, 1900, the Motor Vehicles (Third Party Insurance) Act, 1942, and certain other Acts; and for purposes connected therewith. [Assented to, 28th December, 1951.]

George VI.
No. 59, 1951.

BE 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:—

1. (1) This Act may be cited as the "Motor Traffic (Amendment) Act, 1951".

Short title
and
citation.

(2) The Motor Traffic Act, 1909, as amended by subsequent Acts and by this Act, may be cited as the Motor Traffic Act, 1909-1951.

(3) The Motor Vehicles (Third Party Insurance) Act, 1942, as amended by this Act, may be cited as the Motor Vehicles (Third Party Insurance) Act, 1942-1951.

(4) The State Transport (Co-ordination) Act, 1931, as amended by subsequent Acts and by this Act, may be cited as the State Transport (Co-ordination) Act, 1931-1951.

2. (1) The Motor Traffic Act, 1909, as amended by subsequent Acts, is amended—

Amendment
of Act No.
5, 1909.

(a) by inserting at the end of section four the following new subsection:—

Sec. 4.
(Negligent,
furious or
reckless
driving.)

(3) A person convicted of an offence under this section shall be liable to—

(a) a penalty not exceeding fifty pounds, where the conviction is for the offence of driving a motor vehicle upon a public street negligently;

(b)

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(b) a penalty not exceeding one hundred pounds or imprisonment for a period not exceeding six months or both such penalty and imprisonment, where the conviction is for the offence 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.

Sec. 5 (2).
(Driver intoxicated or under influence of a drug.)

(b) by omitting from subsection two of section five the words "twelve months" and by inserting in lieu thereof the words "six months";

Sec. 5A.
(Detention of vehicle in certain cases.)

(c) by omitting from section 5A the words "or section 526B of the Crimes Act, 1900";

New sec. 7A.

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

Offences committed by disqualified drivers, etc.

7A. (1) In this section "driver's license" means a driver's license under this Act or the Transport Act, 1930, as amended by subsequent Acts.

(2) Where by or under any Act a person is disqualified for holding or obtaining a driver's license or his driver's license is suspended or cancelled or an application by him for a driver's license is refused and he—

- (a) during the period of disqualification drives a motor vehicle upon a public street;
- (b) during the period of suspension drives upon a public street a motor vehicle of the class to which the driver's license so suspended relates;
- (c) after such cancellation or refusal drives upon a public street a motor vehicle of the class to which the license so cancelled or the application so refused related without having subsequently obtained a driver's license for a motor vehicle of that class;

(d)

- (d) during the period of disqualification ^{No. 59, 1951.}
makes application for a driver's license
and in respect of the application states
his name falsely or incorrectly or omits
to mention such disqualification;
- (e) during the period of suspension makes
application for a driver's license for a
motor vehicle of the class to which the
driver's license so suspended relates
and in respect of such application states
his name falsely or incorrectly or omits
to mention such suspension; or
- (f) after such cancellation or refusal makes
application for a driver's license for a
motor vehicle of the class to which the
license so cancelled or the application so
refused related and in respect of the
application states his name falsely or
incorrectly or omits to mention such
cancellation or refusal,

he shall be liable to a penalty not exceeding
one hundred pounds or to imprisonment for a
period not exceeding six months or to both such
penalty and imprisonment:

Provided that where after such cancellation
or refusal a person has obtained a driver's
license for a motor vehicle of the class to which
the license so cancelled or the application so
refused related by means of an application which
stated his name correctly and mentioned such
cancellation or refusal, it shall not be necessary
for such person to mention such cancellation or
refusal in any application for a driver's license
for a motor vehicle of that class made by him
after he has so obtained the driver's license.

(3) Where a person is convicted of an
offence under paragraph (a) or paragraph (b)
or paragraph (d) or paragraph (e) of subsection
two of this section, he shall be disqualified by
such conviction and without any specific order
for a period of six months from the date of
expiration

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expiration of the existing disqualification or suspension or from the date of such conviction, whichever is the later, for holding a driver's license and may also be disqualified, for such additional period as the court may order, for holding a driver's license.

(4) The disqualification referred to in subsection three of this section shall be in addition to any penalty imposed upon the conviction.

(5) If the person convicted is the holder of a driver's license 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.

Sec. 8.
(Requirements in case of accident.)

- (e) (i) by omitting from subsection two of section eight the words "twelve months" and by inserting in lieu thereof the words "six months";
- (ii) by omitting from subsection three of the same section the words "five pounds" and by inserting in lieu thereof the words "ten pounds";
- (iii) by inserting in paragraph (c) of the same subsection after the word "given" the words "by him";
- (iv) by omitting from subsection four of the same section the words "five pounds" and by inserting in lieu thereof the words "ten pounds";

Sec. 10.
(Offences involving automatic disqualification of drivers.)

- (f) (i) by inserting in subsection one of section ten after the words "subject to" the words "subsection three of section 7A of this Act and";
- (ii)

- (ii) by omitting paragraph (a) of subsection (3A) of the same section and by inserting in lieu thereof the following paragraph:—

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(a) Where a person is, in respect of the death of or bodily harm to any other person caused by or arising out of the use of a motor vehicle driven by such first-mentioned person at the time of the occurrence out of which such death or harm arose, convicted of the crime of murder or manslaughter or of an offence under section thirty-three, thirty-five, fifty-three or fifty-four or any other provisions of the Crimes Act, 1900, as amended by subsequent Acts, or 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 under subsection two of section five of this Act, or of an offence under subsection one of section eight of this Act, or is convicted of aiding, abetting, counselling or procuring the commission of, or being an accessory before the fact to, any such crime or offence then—

- (i) if, at the time of such conviction or 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, 1951), such person is not or has not been convicted of any other crime or 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 for holding a driver's license under this Act or under the Transport Act, 1930,

as

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as amended by subsequent Acts, and may also be disqualified for such additional period as the court may order for holding any such license;

- (ii) if, at the time of such conviction or 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, 1951), such person is or has been convicted of one or more other crimes or 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 for holding a driver's license under this Act or under the Transport Act, 1930, as amended by subsequent Acts, and may also be disqualified for such additional period as the court may order for holding any such license.

- (iii) by inserting at the end of the same section the following new subsection:—

Section 556A
of Crimes
Act, 1900,
not to
apply in
certain
cases.

(5) The provisions of section 556A of the Crimes Act, 1900, as amended by subsequent Acts, shall not apply where a person is charged before a court with 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 with an offence under subsection two of section five of this Act, or with an offence under subsection one of section eight of this Act, or with aiding, abetting, counselling or procuring the commission of any such offence,

offence, if at the time of or during the period of five years immediately before the court's determination in respect of the charge (whether such period commenced before or commences after the commencement of the Motor Traffic (Amendment) Act, 1951), the provisions of the said section 556A are or have been applied to or in respect of such person in respect of a charge for another offence (whether of the same or a different kind) of the class referred to in this subsection. No. 59, 1951.

- (g) by omitting from the Schedule the two items relating to traders' plates and by inserting in lieu thereof the following items:— Schedule.
(Fees for
traders'
plates.)

Trader's plate for use as prescribed on a motor vehicle other than a motor cycle—Fee, at the rate of thirteen pounds fifteen shillings yearly.

Trader's plate for use as prescribed on a motor cycle—Fee, at the rate of three pounds three shillings and six pence yearly.

(2) (a) Where at the commencement of the Motor Traffic (Amendment) Act, 1951, a trader's plate is in issue to any person the Commissioner for Road Transport and Tramways may request such person to pay to the Commissioner for Road Transport and Tramways, within a time specified in the request, an additional fee in respect of the trader's plate calculated at the rate of one-twelfth of the difference between the fee applicable thereto before such commencement and the fee applicable thereto after such commencement for each month or part thereof in the period between such commencement and the expiration of the period for which the trader's plate was issued. If such person fails to comply with such request he shall be liable to a penalty not exceeding twenty pounds.

(b) The provisions of section nineteen of the Motor Traffic Act, 1909-1951, shall apply to and in respect of the penalty imposed by paragraph (a) of this subsection as if such penalty were imposed by that Act.

(c)

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(c) The provisions of section twenty of the Motor Traffic Act, 1909-1951, shall apply to and in respect of any additional fee payable under paragraph (a) of this subsection as if the additional fee were a prescribed fee within the meaning of that section.

**Amendment
Sec. 13B
of Act No.
8, 1900.**

**(Require-
ments in
case of
accident.)**

3. The Metropolitan Traffic Act, 1900, as amended by subsequent Acts, is amended—

- (a) by omitting from subsection three of section 13B the words “five pounds” and by inserting in lieu thereof the words “ten pounds”;
- (b) by inserting in paragraph (c) of the same subsection after the word “given” the words “by him”;
- (c) by omitting from subsection four of the same section the words “five pounds” and by inserting in lieu thereof the words “ten pounds”.

**Amendment
of Act No.
40, 1900.**

**Sec. 437.
(Compensa-
tion to
person
aggrieved
by any
felony or
misdemeanour.)**

**Sec. 526B.
(Penalty for
drunkenness
while in
charge of a
motor
vehicle.)
(Repeal.)**

**Sec. 554.
(Damages
and com-
pensation.)**

4. The Crimes Act, 1900, as amended by subsequent Acts, is amended—

- (a) by omitting from section four hundred and thirty-seven the words “five hundred pounds” and by inserting in lieu thereof the words “one thousand pounds”;
- (b) by omitting section 526B and the short heading thereto;
- (c) by omitting from subsection three of section five hundred and fifty-four the words “fifty pounds” and by inserting in lieu thereof the words “one hundred and fifty pounds”.

**Amendment
of Act No.
15, 1942.**

**Sec. 15.
(Recovery
by insurer
from
owner.)**

5. The Motor Vehicles (Third Party Insurance) Act, 1942, is amended—

- (a) (i) by inserting in subsection four of section fifteen after the words “as the authorised insurer has” the word “properly”;
- (ii)

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- (ii) by inserting in subsection five of the same section after the words "as the authorised insurer has" the word "properly"; **No. 59, 1951.**
- (b) by inserting in paragraph (b) of section seven-teen after the words "any sum" the word "properly"; **Sec. 17.**
(Right of authorised insurers against unauthorised drivers.)
- (c) (i) by inserting in subsection one of section thirty after the words "an uninsured motor vehicle" the words "upon a public street"; **Sec. 30.**
(Claims in respect of uninsured and unidentified motor vehicles.)
- (ii) by inserting at the end of subsection one of the same section the following words:—
- Where the date of the occurrence out of which any such claim arises is not earlier than three months after the commencement of the Motor Traffic (Amendment) Act, 1951, no action to enforce such claim shall lie against the nominal defendant unless notice of intention to make a claim is given by the claimant to the nominal defendant—
- (a) in the case of an action for the recovery of any amount referred to in subsection one of section twenty-six of the Act—within the time prescribed by subsection two of that section;
- (b) in any other case—within a period of three months after the occurrence out of which the claim arose, or within such further period as the court, upon sufficient cause being shown, may allow.
- (iii) by inserting in paragraph (a) of subsection two of the same section after the words "a motor vehicle" the words "upon a public street";
- (d) (i) by inserting in subsection one of section thirty-two after the words "Any amount" the word "properly"; **Sec. 32.**
(Recovery from owner or driver.)
- (ii) by inserting in the same subsection after the word "expenses" the word "properly";
- (e)

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New sec.
38A.Payment
into court
excluded
in certain
cases.

(e) by inserting next after section thirty-eight the following new section:—

38A. (1) The provisions of the Common Law Procedure Act, 1899, as amended by subsequent Acts, the District Courts Act, 1912, as amended by subsequent Acts, and of any rule of court made under either of those Acts, as so amended, under which a defendant or one or more of several defendants may, with or without a defence denying liability or with or without filing a notice denying liability, pay into court a sum of money by way of compensation or amends or in satisfaction of the plaintiff's claim or any part thereof, shall not apply to or in respect of any action—

- (a) in which damages are claimed in respect of the death of or bodily injury to any person caused by or arising out of the use of an insured or uninsured motor vehicle; or
- (b) in which damages are claimed in respect of the death of or bodily injury to any person caused by or arising out of the use of an insured or uninsured motor vehicle as well as in respect of any other matter.

(2) In this section—

“insured motor vehicle” means a motor vehicle in relation to which there is in force at all material times a third-party policy;

“motor vehicle” means any motor car, motor carriage, motor-cycle or other vehicle propelled 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;

“uninsured motor vehicle” means—

- (a) a motor vehicle which is not an insured motor vehicle; or

(b)

- (b) a motor vehicle which, under sub-section six of section ten of this Act, is deemed to be an uninsured motor vehicle. No. 59, 1951.

6. The Law Reform (Miscellaneous Provisions) Act, 1946, is amended by inserting at the end of subsection three of section five the following word and new paragraph:—

; and

- (c) the expression “any tort-feasor” in paragraph (c) of subsection one of this section includes the nominal defendant, and an authorised insurer, acting as such under and for the purposes of the Motor Vehicles (Third Party Insurance) Act, 1942-1951.

Amendment of Act No. 33, 1946.
Sec. 5.
(Proceedings against and contribution between joint and several tort-feasors.)

7. The State Transport (Co-ordination) Act, 1931-1950, is amended—

- (a) by inserting in subsection one of section three next after the definition of “Driver” the following new definition:—

“Drive-yourself vehicle” means any motor vehicle which is let for hire (otherwise than under a hire-purchase agreement) without the services of a driver.

Amendment of Act No. 32, 1931.
Sec. 3.
(Interpretation.)

- (b) by inserting next after section 3A the following new section:—

3B. (1) The Governor may by regulation declare that, as from a date to be specified in the regulation the provisions of this Act or such of those provisions as may be specified in the regulation shall, subject to the modifications and adaptations referred to in subsection two of this section, apply to and in respect of drive-yourself vehicles or such class or classes of drive-yourself vehicles as may be specified in the regulation.

New sec. 3B.
Application of certain provisions to drive-yourself vehicles.

(2) The regulation shall, by reference to sections, subsections or otherwise, set out the provisions

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provisions so declared to apply with such modifications and adaptations as the Governor deems necessary for the purpose of such application.

Such adaptations and modifications may include the replacing of references to a "public motor vehicle" by references to a "drive-yourself vehicle" and the replacing of the definition of "Operate" by the following definition, that is to say, "Operate" means to let for hire (otherwise than under a hire-purchase agreement).

Sec. 14.
(Licenses.)

(c) by omitting from subsection one of section fourteen the words "of which he is the owner";

Sec. 17.
(Certain conditions of license.)

(d) by omitting from subsection five of section seventeen the words "or the owner of any public motor vehicle so licensed";

Sec. 18.
(Certain obligations in respect of public motor vehicles.)

(e) by omitting from subsection six of section eighteen the words "the owner of the public motor vehicle and the licensee jointly and severally" and by inserting in lieu thereof the words "the licensee";

Sec. 24.
(Appeals.)

(f) by omitting from section twenty-four the word "license" and by inserting in lieu thereof the word "registration";

Sec. 28.
(Unlicensed vehicle.)

(g) by omitting subsection one of section twenty-eight and by inserting in lieu thereof the following subsection:—

(1) No person shall, except in pursuance of a permit under this Act or under an exemption granted or declared under this Act, drive or operate or cause or permit to be driven or operated as a public motor vehicle any motor vehicle unless the motor vehicle is licensed as a public motor vehicle and is used in conformity with the license.

New sec.
38A.

(h) by inserting next after section thirty-eight the following new section:—

Order, upon conviction, for payment of amount due.

38A. (1) Where a person is convicted of any offence arising out of the operation of a public motor vehicle and by reason of or in connection with such offence or such operation any amount not

not exceeding one hundred and fifty pounds is due and payable by such person to the Commissioner for Road Transport and Tramways under subsection four or subsection five of section eighteen or under section thirty-seven of this Act, the court, in addition to imposing a penalty on such person for the offence, may order the offender to pay such amount to the clerk of the court within a time to be specified in the order. Any amount so paid shall be paid by the clerk of the court to such Commissioner.

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(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, 1902-1947.

(3) Where an order has been made under subsection one of this section for the payment of any amount so due and payable, any other remedy which would, but for this subsection, have been available to the Commissioner for Road Transport and Tramways apart from this section for the recovery of such amount shall cease to be available.
