

MAIN ROADS AND LOCAL GOVERNMENT (AMENDMENT) ACT.

Act No. 65, 1957.

Elizabeth II,
No. 65, 1957.

An Act to provide for the application of certain moneys paid to the State of New South Wales under the Commonwealth Aid Roads Act 1954 of the Parliament of the Commonwealth; for this and other purposes to amend the Main Roads Act, 1924, and the Local Government Act, 1919, as amended by subsequent Acts; to validate certain matters; and for purposes connected therewith. [Assented to, 9th December, 1957.]

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 "Main Roads and Local Government (Amendment) Act, 1957".

(2)

Main Roads and Local Government (Amendment) Act. 471

(2) The Main Roads Act, 1924, as amended by **No. 65, 1957.** subsequent Acts and by this Act, may be cited as the Main Roads Acts, 1924-1957.

- 2. (1) The Main Roads Act, 1924-1957, is amended—**
- (a) by inserting at the end of subsection two of section one the words “or shires”; Amendment of Act No. 24, 1924.
Sec. 1 (2).
(Application of Act.)
 - (b) by inserting at the end of section four the following new subsection:— Sec. 4.
(Adaptation of Acts— application to councils.)

(3) This Act shall be read and construed subject to the Commonwealth of Australia Constitution Act and so as not to exceed the legislative power of the State to the intent that where any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the remainder of this Act and the application of such provision to other persons or circumstances shall not be affected.
 - (c) by omitting paragraph (e) of subsection one of section ten and by inserting in lieu thereof the following paragraph:— Sec. 10.
(County of Cumberland Main Roads Fund.)
 - (e) twenty per centum of the moneys, exclusive of the amount required to be expended under subsection three of section nine of the Commonwealth Aid Roads Act 1954, as amended by subsequent Acts, of the Parliament of the Commonwealth, paid under the said section nine to the State by the Commonwealth of Australia in respect of any year commencing on the first day of July;
 - (d) by omitting subsection (1B) of section twelve and by inserting in lieu thereof the following subsection:— Sec. 12.
(Use of fund.)

(1B) That part of the County of Cumberland Main Roads Fund which consists of moneys paid
into

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into that fund in respect of any year pursuant to paragraph (e) of subsection one of section ten of this Act shall be expended—

- (a) on the construction, reconstruction, maintenance and repair of roads or on the purchase of road-making plant; or
- (b) in making payments to local authorities for the construction, reconstruction, maintenance and repair of roads or for the purchase of road-making plant:

Provided that out of the moneys so paid into that fund in respect of that year there may be expended on works connected with transport by road or water other than those referred to in paragraph (a) or (b) of this subsection or of subsection (1B) of section twenty-one of this Act, or in subsection (2A) of section twenty-nine of this Act, an amount which, together with any amount expended under the proviso to the said subsection (1B) out of the moneys paid into the Country Main Roads Fund in respect of that year pursuant to paragraph (d) of subsection one of section twenty of this Act, does not exceed such part of one million pounds as bears to one million pounds the same proportion as the amount payable under section nine of the Commonwealth Aid Roads Act 1954, as amended by subsequent Acts, of the Parliament of the Commonwealth to the State of New South Wales in respect of the year firstmentioned in this proviso bears to the total amount payable under the said section nine to all the States in respect of the year firstmentioned as aforesaid.

Sec. 18.
(Secondary
main roads.)

- (e) by inserting at the end of section eighteen the following new paragraphs:—

The Commissioner may by notification amend or rescind any such declaration.

In this section “notification” means notification by publication in the Gazette or by such other method as may be prescribed.

(f)

- (f) by inserting at the end of subsection one of section nineteen the words "or shires";

Sec. 19.
(Applica-
tion of
Part V.)

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

Sec. 20.
(Country
Main Roads
Fund.)

(d) eighty per centum of the moneys, exclusive of the amount required to be expended under subsection three of section nine of the Commonwealth Aid Roads Act 1954, as amended by subsequent Acts, of the Parliament of the Commonwealth, paid under the said section nine to the State by the Commonwealth of Australia in respect of any year commencing on the first day of July;

- (h) by omitting subsection (1B) of section twenty-one and by inserting in lieu thereof the following subsection:—

Sec. 21.
(Expendi-
ture.)

(1B) That part of the Country Main Roads Fund which consists of moneys paid into that fund in respect of any year pursuant to paragraph (d) of subsection one of section twenty of this Act shall be expended—

- (a) on the construction, reconstruction, maintenance and repair of roads or on the purchase of road-making plant; or
(b) in making payments to local authorities for the construction, reconstruction, maintenance and repair of roads or for the purchase of road-making plant:

Provided that out of the moneys so paid into that fund in respect of that year there may be expended on works connected with transport by road or water other than those referred to in paragraph (a) or (b) of this subsection or of subsection (1B) of section twelve of this Act, or in subsection (2A) of section twenty-nine of this

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this Act, an amount which, together with any amount expended under the proviso to the said subsection (1B) out of the moneys paid into the County of Cumberland Main Roads Fund in respect of that year pursuant to paragraph (e) of subsection one of section ten of this Act, does not exceed such part of one million pounds as bears to one million pounds the same proportion as the amount payable under section nine of the Commonwealth Aid Roads Act 1954, as amended by subsequent Acts, of the Parliament of the Commonwealth to the State of New South Wales in respect of the year firstmentioned in this proviso bears to the total amount payable under the said section nine to all the States in respect of the year firstmentioned as aforesaid.

Sec. 29.
(Develop-
mental
Roads
Fund.)

(i) (i) by omitting paragraph (b) of subsection one of section twenty-nine and by inserting in lieu thereof the following paragraph:—

(b) those moneys paid to the Commissioner out of the amount required to be expended under subsection three of section nine of the Commonwealth Aid Roads Act 1954, as amended by subsequent Acts, of the Parliament of the Commonwealth from the moneys paid under that section to the State by the Commonwealth of Australia in respect of any year commencing on the first day of July;

(ii) by omitting subsection (2A) of the same section and by inserting in lieu thereof the following subsection:—

(2A) That part of the Developmental Roads Fund which consists of moneys paid into that fund in respect of any year pursuant to paragraph (b) of subsection one of this section shall be expended—

(a) on the construction, reconstruction, maintenance and repair of developmental roads in rural areas or on the purchase

purchase of road-making plant for use in connection with such developmental roads; or

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- (b) in making payments to local authorities for the construction, reconstruction, maintenance and repair of developmental roads in rural areas or for the purchase of road-making plant for use in connection with such developmental roads.

- (j) (i) by inserting in subsection one of section thirty-two after the word "powers" where firstly occurring the words "and immunities";

Sec. 32.
(When board may do work itself.)

- (ii) by inserting in the same subsection after the word "powers" where lastly occurring the words "or immunities";

- (iii) by inserting in subsection (1A) of the same section after the word "powers" where firstly occurring the words "and immunities";

- (iv) by inserting in the same subsection after the word "powers" where lastly occurring the words "or immunities";

- (k) by omitting from subsection one of section 41A the word "five" and by inserting in lieu thereof the word "twenty";

Sec. 41A.
(Particulars of new road works to be furnished to Commissioner.)

- (l) by inserting next after section forty-eight the following new section:—

New sec. 48A.

48A. There shall in each year commencing on the first day of July be paid by the Commissioner to the New South Wales University of Technology towards the cost of establishing and maintaining a Chair of Highway Engineering at that University the sum of five thousand pounds.

Annual payment to New South Wales University of Technology.

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The payment to be made under this section shall be made from such fund or funds under this Act as the Commissioner may determine in respect of any such year.

Sec. 51.
(Ordinances.)

- (m) by inserting at the end of subsection two of section fifty-one the following new proviso:—

Provided that any ordinance made under the authority of this section may impose a penalty for any breach thereof not exceeding two hundred pounds.

Sec. 65.
(Transfer of certain roads, bridges and ferries to Commissioner.)

- (n) by inserting at the end of section sixty-five the following new subsection:—

(13) (a) Where any road, bridge or ferry specified in a proclamation made under subsection one of this section and within the Western Division is, after the commencement of the Main Roads and Local Government (Amendment) Act, 1957, included in any municipality or shire the powers, authorities, duties and functions exercised or performed by the Commissioner under the provisions of this section in respect of such road, bridge or ferry shall thereupon cease and determine.

(b) Where any road, bridge or ferry so specified is at the commencement of the Main Roads and Local Government (Amendment) Act, 1957, within the Western Division and within a municipality or shire the powers, authorities, duties and functions exercised and performed by the Commissioner as aforesaid shall cease and determine upon such commencement.

(c) Nothing in this subsection shall apply to or in respect of any road, bridge or ferry which is a national work within the meaning of the Local Government Act, 1919, as amended by subsequent Acts.

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(2) (a) The amendments made by paragraphs (c), (d), (g), (h) and (i) of subsection one of this section shall be deemed to have commenced on the first day of July, one thousand nine hundred and fifty-four. No. 65, 1957.

(b) The amendment made by paragraph (1) of subsection one of this section shall be deemed to have commenced on the first day of July, one thousand nine hundred and fifty-five.

3. (1) The Main Roads Act, 1924-1957, is further amended— Further amendment of Act No. 24, 1924.

(a) by omitting paragraph (d) of subsection one of section fifty-one and by inserting in lieu thereof the following paragraphs:— Sec. 51. (Ordinances.)

(d) the regulation of the weight of—

(i) vehicles using main roads;

(ii) loads on such vehicles;

(iii) the load on any part of any such vehicle;

(d1) the regulation of the weight of any vehicle using a main road, together with the load on such vehicle;

(b) by omitting from paragraph (e) of the same subsection the word “regulation” and by inserting in lieu thereof the words “prohibition or regulation”;

(c) by omitting paragraph (f) of the same subsection and by inserting in lieu thereof the following paragraphs:—

(f) the weighing of vehicles using main roads, of loads on such vehicles and of the load on any part of any such vehicle; the weighing of any such vehicle together with the load thereon; requiring the driver or person in charge
of

of any such vehicle, for the purpose of any such weighing, to comply with such requirements as may be prescribed or with such directions as may be given him by any member of the police force, or by any servant of a council, or of the Commissioner, authorised in that behalf by the Commissioner; prescribing the method to be used to determine the weight of the load on any part of any such vehicle, or of any such vehicle together with the load on it where the vehicle and such load are not weighed as a whole;

(f1) the measuring of loads on vehicles using main roads and the determination of the weight of any load on such a vehicle according to a prescribed scale for various classes of goods;

(f2) the stopping of vehicles using main roads and the inspection of such vehicles and loads on them; the production of books, documents and records relating to any such vehicle or the load on it and carried in or on such vehicle or by the driver or person in charge thereof;

(d) by inserting next after paragraph (g) of the same subsection the following new paragraphs:—

(g1) authorising the Commissioner to display notices for and with respect to any matter for and with respect to which ordinances may be made under this section and to delegate the power conferred on him by any ordinance made under the authority of the foregoing provisions of this paragraph
to

to any servant of a council or of the Commissioner; requiring persons to comply with the provisions of any such notice; No. 65, 1957.

(g2) providing for the exemption, either absolutely or subject to conditions, of any person or class of persons from any of the provisions of any ordinance made under this section;

(g3) authorising the Commissioner to notify in the prescribed manner special provisions for and with respect to matters for and with respect to which ordinances may be made under this section; providing that such special provisions shall apply, notwithstanding any other provision of any ordinance made under the authority of this section, to any vehicle or class of vehicles, or within any district, specified in such notification and shall have effect as if they were prescribed by ordinance made under this section; imposing a penalty on any person contravening or failing to comply with such provisions;

(e) by inserting next after the same subsection the following new subsection:—

(1A) The several provisions of paragraphs (a) to (g3), both paragraphs inclusive, of subsection one of this section shall be read cumulatively and not in derogation from or as limiting the generality or operation of any other of such provisions.

(f) by inserting next after subsection two of the same section the following new subsection:—

(2A) An ordinance made under the authority of this section may be made to apply or to have operation throughout the whole or any part of
the

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the State, may be of general operation or specially limited application according to time, place or circumstances and may be general or restricted to any specified class or subject matter.

(g) by omitting subsection four of the same section and by inserting in lieu thereof the following subsections:—

(4) In any proceedings for an offence against any of the provisions of an ordinance made under the provisions of this section—

- (a) the weight of a vehicle, of any load on it, of the load on any part of it, or of a vehicle together with the load on it, ascertained or determined in accordance with the provisions of the ordinance shall be prima facie evidence of the weight of such vehicle, of the load on it, of the load on such part of it, or of the vehicle together with the load on it, as the case may be;
- (b) a certificate purporting to be under the hand of the Superintendent of Weights and Measures appointed under the Weights and Measures Act, 1915, as amended by subsequent Acts, certifying that on a date specified in the certificate, such date being within twelve months before the time such offence was committed, he examined a weighing device specified in the certificate and that such weighing device then weighed accurately or within such tolerances as may be specified in the certificate, shall, if such weighing device was at the time such offence was committed used for the purpose of weighing the vehicle in relation to which the offence is alleged
to

to have been committed, the load on such vehicle, the load on any part of such vehicle, or such vehicle together with the load on it, and in such manner and in accordance with such conditions as may be specified in the certificate, be prima facie evidence that at that time such weighing device weighed accurately or within such tolerances specified as aforesaid, as the case may be. No. 65, 1957.

(5) An ordinance made under the provisions of this section may contain provisions in or to the following effect:—

(a) (i) Where the driver of a vehicle is alleged to be guilty of an offence against any such ordinance—

(a) the owner of the vehicle, and the person having the custody of the vehicle, and, in the case of a motor vehicle registered under and in accordance with the regulations made under the Motor Traffic Act, 1909, as amended by subsequent Acts, the person in whose name the motor vehicle is registered, shall, when required so to do by any servant of the Commissioner, or by any servant of a council duly authorised in that behalf by the Commissioner, or by any member of the police force, forthwith give information (which shall, if so required, be given in the form of a statement in writing signed by such owner or person) as to the name and place of abode of such driver, the nature, weight and description of the load being

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being carried by the vehicle at the time the offence is alleged to have been committed, the tare weight of the vehicle and any other relevant information relating to the offence that may be required of him, and if any such owner or person fails to do so he shall be guilty of an offence against such ordinance, unless he proves to the satisfaction of the court that he did not know and could not with reasonable diligence have ascertained such name and place of abode, or such other information as aforesaid, and

(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 against such ordinance.

(ii) Any request for information as aforesaid may be made either verbally or in writing and, if in writing, may be served personally on the person required to give the information or left at or sent by prepaid letter post to his last-known place of abode or business.

(b) If any vehicle is driven or drawn on any main road in contravention of or non-compliance with any specified provisions of any such ordinance, then, without affecting the liability of any other person therefor, the owner of the vehicle, or the person having the custody of the vehicle,
or,

or, in the case of a motor vehicle registered under and in accordance with the regulations made under the Motor Traffic Act, 1909, as amended by subsequent Acts, the person in whose name the motor vehicle is registered, shall, unless he proves that such contravention or non-compliance occurred without his knowledge and that he could not with reasonable diligence have known of or prevented such contravention or non-compliance, be guilty of an offence against such ordinance. No. 65, 1957.

(2) The Local Government Act, 1919, as amended by subsequent Acts, is amended— Amendment of Act No. 41, 1919.

(a) by omitting from the matter relating to Part IX in section three the figures “277” and by inserting in lieu thereof the figures and letter “277A”; Sec. 3. (Division into Parts.)

(b) by omitting paragraphs (u), (v), (w), (x) and (y) of subsection one of section two hundred and seventy-seven; Sec. 277. (Ordinances.)

(c) by inserting next after section two hundred and seventy-seven the following new section:— New sec. 277A.

277A. (1) Without limiting the generality of section two hundred and seventy-seven of this Act, ordinances may be made for and with respect to— Ordinances for preventing damage to roads.

(a) the prevention of damage to public roads;

(b) the prevention of the doing of things likely to injure public roads;

(c) the regulation of the weight of—

(i) vehicles using public roads;

(ii) loads on such vehicles;

(iii) the load on any part of any such vehicle;

(d)

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- (d) the regulation of the weight of any vehicle using a public road, together with the load on such vehicle;
- (e) the prohibition or regulation of the use of vehicles likely to injure public roads;
- (f) the weighing of vehicles using public roads, of loads on such vehicles and of the load on any part of any such vehicle; the weighing of any such vehicle together with the load thereon; requiring the driver or person in charge of any such vehicle, for the purpose of any such weighing, to comply with such requirements as may be prescribed or with such directions as may be given him by any member of the police force or by the proper servant of the council; prescribing the method to be used to determine the weight of the load on any part of any such vehicle, or of any such vehicle together with the load on it where the vehicle and such load are not weighed as a whole;
- (g) the measuring of loads on vehicles using public roads and the determination of the weight of any load on such a vehicle according to a prescribed scale for various classes of goods;
- (h) the stopping of vehicles using public roads and the inspection of such vehicles and loads on them; the production of books, documents and records relating to any such vehicle or the load on it and carried in or on such vehicle or by the driver or person in charge thereof;
- (i) the restriction of traffic or of any specified class of traffic to protect public roads from injury;
- (j)

- (j) authorising the council to display notices ^{No. 65, 1957.}
for and with respect to any matter for and
with respect to which ordinances may be
made under this section and to delegate
the power conferred on it by any ordi-
nance made under the foregoing provisions
of this paragraph to any servant of the
council; requiring persons to comply with
the provisions of any such notice;
- (k) providing for the exemption, either abso-
lutely or subject to conditions, of any
person or class of persons from any of
the provisions of any ordinance made
under this section;
- (l) authorising the council to notify in the
prescribed manner special provisions for
and with respect to matters for and with
respect to which ordinances may be made
under this section; providing that such
special provisions shall apply, notwith-
standing any other provision of any
ordinance made under this section, to any
vehicle or class of vehicles, or within any
district, specified in such notification and
shall have effect as if they were prescribed
by ordinance made under this section;
and imposing a penalty on any person
contravening or failing to comply with
such provisions.

(2) The several provisions of para-
graphs (a) to (l), both paragraphs inclusive, of
subsection one of this section shall be read
cumulatively and not in derogation from or as
limiting the generality or operation of any other
of such provisions.

(3) An ordinance made under this
section may be made to apply or to have
operation throughout all areas or throughout
the whole or any part of an area, may be of
general

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general operation or specially limited application according to time, place or circumstances and may be general or restricted to any specified class of subject matter.

(4) In any proceedings for an offence against any of the provisions of an ordinance made under the provisions of this section—

- (a) the weight of a vehicle, of any load on it, of the load on any part of it, or of a vehicle together with the load on it, ascertained or determined in accordance with the provisions of the ordinance shall be prima facie evidence of the weight of such vehicle, of the load on it, of the load on such part of it, or of the vehicle together with the load on it, as the case may be;
- (b) a certificate purporting to be under the hand of the Superintendent of Weights and Measures appointed under the Weights and Measures Act, 1915, as amended by subsequent Acts, certifying that on a date specified in the certificate, such date being within twelve months before the time such offence was committed, he examined a weighing device specified in the certificate and that such weighing device then weighed accurately or within such tolerances as may be specified in the certificate, shall, if such weighing device was at the time such offence was committed used for the purpose of weighing the vehicle in relation to which the offence is alleged to have been committed, the load on such vehicle, the load on any part of such vehicle, or such vehicle together with the load on it, and in such manner and in accordance with such conditions as may be specified in the certificate, be prima facie evidence that at that time

time such weighing device weighed No. 65, 1957.
accurately or within such tolerances
specified as aforesaid, as the case may
be.

(5) An ordinance made under the provisions of this section may contain provisions in or to the following effect:—

(a) (i) Where the driver of a vehicle is alleged to be guilty of an offence against any such ordinance—

(a) the owner of the vehicle, and the person having the custody of the vehicle, and, in the case of a motor vehicle registered under and in accordance with the regulations made under the Motor Traffic Act, 1909, as amended by subsequent Acts, the person in whose name the motor vehicle is registered, shall, when required so to do by any proper servant of the council or by any member of the police force, forthwith give information (which shall, if so required, be given in the form of a statement in writing signed by such owner or person) as to the name and place of abode of such driver, the nature, weight and description of the load being carried by the vehicle at the time the offence is alleged to have been committed, the tare weight of the vehicle and any other relevant information relating to the offence that may be required of him, and if any such owner or person fails to do so he shall be guilty of an offence
against

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against such ordinance, unless he proves to the satisfaction of the court that he did not know and could not with reasonable diligence have ascertained such name and place of abode, or such other information as aforesaid, and

- (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 against such ordinance.
- (ii) Any request for information as aforesaid may be made either verbally or in writing and, if in writing, may be served personally on the person required to give the information or left at or sent by prepaid letter post to his last-known place of abode or business.
- (b) If any vehicle is driven or drawn on any public road in contravention of or non-compliance with any specified provisions of any such ordinance, then, without affecting the liability of any other person therefor, the owner of the vehicle or the person having the custody of the vehicle, or, in the case of a motor vehicle registered under and in accordance with the regulations made under the Motor Traffic Act, 1909, as amended by subsequent Acts, the person in whose name the motor vehicle is registered, shall, unless he proves that such contravention or non-compliance occurred without his knowledge and that he could not with reasonable diligence have known of or prevented such

such contravention or non-compliance, **No. 65, 1957.**
be guilty of an offence against such
ordinance.

(6) An ordinance made under the provisions of this section may, notwithstanding any other provision of this Act, impose a penalty for any breach thereof not exceeding two hundred pounds.

(3) The amendments made by subsections one and two of this section shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

