

**MOTOR TRAFFIC AND TRANSPORT
(AMENDMENT) ACT.**

New South Wales



ANNO VICESIMO SECUNDO

ELIZABETHÆ II REGINÆ

Act No. 21, 1973.

An Act to make further provision for appeals against decisions of the Commissioner for Motor Transport in relation to the grant, refusal, suspension or cancellation of certain registrations and licenses; for these and other purposes to amend the Motor Traffic Act, 1909, the Transport Act, 1930, and the Justices Act, 1902; and for purposes connected therewith. [Assented to, 17th April, 1973.]

BE

Motor Traffic and Transport (Amendment).

No. 21, 1973 **B**E 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 "Motor Traffic and Transport (Amendment) Act, 1973".

Restriction on application of Act. 2. Nothing in this Act shall be construed as conferring or affecting any right of appeal from a decision made before the commencement of this Act by the Commissioner for Motor Transport.

Amendment of Act No. 5, 1909. 3. The Motor Traffic Act, 1909, is amended—

Sec. 3. (Regulations.) (a) by omitting the proviso to section 3 (1) (m);

New secs. 21 and 22. (b) by inserting next after section 20 the following new sections :—

Commissioner to notify certain decisions to certain persons. 21. (1) Where the Commissioner for Motor Transport (hereinafter in this section referred to as "the Commissioner")—

(a) refuses to grant, renew or transfer, or cancels, the registration of a motor vehicle; or

(b) refuses to grant or renew, or suspends or cancels, a driver's license,

he shall cause the person applying for the grant, renewal or transfer of the registration or license, or the holder of the registration or license suspended or

cancelled,

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cancelled, as the case may be, to be notified by No. 21, 1973
instrument in writing as to his decision and the
grounds therefor.

(2) A decision of the Commissioner cancelling the registration of a motor vehicle shall have effect as on and from the date on which the holder of the registration is notified pursuant to subsection (1), but without prejudice to the holder's right of appeal under section 22 and to the powers of a court of petty sessions under that section.

(3) A decision of the Commissioner suspending or cancelling a driver's license—

- (a) shall, where the license is suspended or cancelled on the ground that the holder is medically unfit or incompetent to drive a motor vehicle, have effect as on and from the date on which the holder is notified pursuant to subsection (1), but without prejudice to the holder's right of appeal under section 22 and to the powers of a court of petty sessions under that section; or
- (b) shall, subject to subsection (4), where the license is suspended or cancelled on any other ground, have effect—
 - (i) as on and from the date that is twenty-one days after the date on which the holder is notified pursuant to subsection (1); or
 - (ii) as on and from such earlier date as the Commissioner, at the request by instrument in writing of the holder, may appoint and notify to the holder.

(4)

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(4) Where the Commissioner suspends or cancels a driver's license on any ground (other than on the ground that the holder is medically unfit or incompetent to drive a motor vehicle) and the holder (having a right of appeal) appeals under section 22, the decision of the Commissioner suspending or cancelling the license shall have effect—

- (a) only if the court hearing the appeal confirms the decision, or the appeal is withdrawn;
- (b) subject to any variation of the decision made by that court; and
- (c) on the date on which that court confirms the decision, or on such later date (if any) as that court orders, or, if the appeal is withdrawn, on the date on which it is withdrawn.

Appeals.

22. (1) Subject to subsection (8), any person aggrieved by a decision of the Commissioner for Motor Transport (hereinafter in this section referred to as "the Commissioner") notified to him pursuant to section 21 may appeal against the decision to a court of petty sessions held before a stipendiary magistrate.

(2) Notice of any such appeal specifying the grounds of the appeal shall be lodged with the clerk of the court of petty sessions to which the appeal is being made not later than twenty-one days after the date on which the appellant was notified pursuant to section 21 of the decision appealed against.

(3)

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(3) The clerk of the court of petty sessions No. 21, 1973 shall give notice of the time and place of the hearing of any such appeal to the Commissioner and to the appellant, and in the notice to the Commissioner shall notify him as to the grounds of the appeal.

(4) The hearing of an appeal may proceed notwithstanding any omission or error in a notice under subsection (3) or the failure to give any such notice if the court is satisfied that the appellant and the Commissioner had knowledge of the time and place of the hearing and were not prejudiced by any such omission or error or by the failure to give any such notice.

(5) A court of petty sessions shall hear and determine an appeal made to it under this section and may confirm (with or without variation) or disallow the decision appealed against, or make such other order in the circumstances as to the court seems just.

(6) For the purposes of varying under subsection (5) a decision of the Commissioner the court may exercise only such powers as the Commissioner could have exercised under this Act or the regulations when making that decision.

(7) The decision of a court of petty sessions in respect of an appeal made under this section shall be final and shall be binding on the appellant and on the Commissioner.

(8) A person who requests the Commissioner by instrument in writing to appoint a date under subparagraph (ii) of paragraph (b) of subsection (3) of section 21 shall not have a right of appeal under this section.

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Amendment
of Act No.
18, 1930.
Subst. sec.
169 and new
sec. 169A.

4. The Transport Act, 1930, is amended by omitting section 169 and by inserting instead the following sections :—

Commis-
sioner to
notify
certain
decisions
to certain
persons.

169. (1) Where the Commissioner for Motor Transport (hereinafter in this section referred to as "the Commissioner")—

- (a) refuses to grant, renew or transfer, or cancels, a registration certificate; or
- (b) refuses to grant or renew, or suspends or cancels, a license,

he shall cause the person applying for the grant, renewal or transfer of the registration certificate or license, or the holder of the registration certificate or license suspended or cancelled, as the case may be, to be notified by instrument in writing as to his decision and the grounds therefor.

(2) A decision of the Commissioner cancelling a registration certificate shall have effect as on and from the date on which the holder of the certificate is notified pursuant to subsection (1), but without prejudice to the holder's right of appeal under section 169A and to the powers of a court of petty sessions under that section.

(3) A decision of the Commissioner suspending or cancelling a license—

- (a) shall, where the license is suspended or cancelled on the ground that the holder of the license is medically unfit or incompetent to drive a public vehicle or to act as a conductor, have effect as on and from the date on which the holder of the license is notified pursuant to subsection (1), but without prejudice to the holder's right of appeal under section 169A and to the powers of a court of petty sessions under that section; or

(b)

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(b) shall, subject to subsection (4), where the license is suspended or cancelled on any other ground, have effect—

- (i) as on and from the date that is twenty-one days after the date on which the holder of the license is notified pursuant to subsection (1); or
- (ii) as on and from such earlier date as the Commissioner, at the request by instrument in writing of the holder of the license, may appoint and notify to the holder.

(4) Where the Commissioner suspends or cancels a license on any ground (other than on the ground that the holder of the license is medically unfit or incompetent to drive a motor vehicle or to act as a conductor) and the holder (having a right of appeal) appeals under section 169A the decision of the Commissioner suspending or cancelling the license shall have effect—

- (a) only if the court hearing the appeal confirms the decision, or the appeal is withdrawn;
- (b) subject to any variation of the decision made by that court; and
- (c) on the date on which that court confirms the decision, or on such later date (if any) as that court orders, or, if the appeal is withdrawn, on the date on which it is withdrawn.

169A. (1) Subject to subsection (8), any person aggrieved by a decision of the Commissioner for Motor Transport (hereinafter in this section referred to as "the Commissioner") notified to him pursuant to section 169 may appeal against the decision to a court of petty sessions held before a stipendiary magistrate.

(2)

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(2) Notice of any such appeal specifying the grounds of the appeal shall be lodged with the clerk of the court of petty sessions to which the appeal is being made not later than twenty-one days after the date on which the appellant was notified pursuant to section 169 of the decision appealed against.

(3) The clerk of the court of petty sessions shall give notice of the time and place of the hearing of any such appeal to the Commissioner and to the appellant, and in the notice to the Commissioner shall notify him as to the grounds of the appeal.

(4) The hearing of an appeal may proceed notwithstanding any omission or error in a notice under subsection (3) or the failure to give any such notice if the court is satisfied that the appellant and the Commissioner had knowledge of the time and place of the hearing and were not prejudiced by any such omission or error or by the failure to give any such notice.

(5) A court of petty sessions shall hear and determine an appeal made to it under this section and may confirm (with or without variation) or disallow the decision appealed against, or make such other order in the circumstances as to the court seems just.

(6) For the purposes of varying under subsection (5) a decision of the Commissioner the court may exercise only such powers as the Commissioner could have exercised under this Act or the regulations when making that decision.

(7) The decision of a court of petty sessions in respect of an appeal made under this section shall be final and shall be binding on the appellant and on the Commissioner.

(8)

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(8) A person who requests the Commissioner No. 21, 1973
by instrument in writing to appoint a date under
subparagraph (ii) of paragraph (b) of subsection (3)
of section 169 shall not have a right of appeal under
this section.

5. The Justices Act, 1902, is amended by inserting next Amendment
of Act No.
27, 1902.
after section 154 (1B) the following new subsection :—

(1c) The Governor may make regulations not Sec. 154.
(Regula-
tions.)
inconsistent with the Motor Traffic Act, 1909, the
Transport Act, 1930, or this Act for or with respect to
prescribing the manner of and the procedure and practice
to be observed in relation to appeals to a court of petty
sessions under section 22 of the Motor Traffic Act, 1909,
or section 169A of the Transport Act, 1930.

AUDIT