

**LOCAL GOVERNMENT (VEHICLES)  
AMENDMENT ACT, 1978, No. 49**

**New South Wales**



ANNO VICESIMO SEPTIMO

**ELIZABETHÆ II REGINÆ**

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**Act No. 49, 1978.**

**An Act to amend the Local Government Act, 1919, with respect to the weight of, and the loads on, vehicles using public roads, and in other respects. [Assented to, 3rd April, 1978.]**

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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 :—

**1.** This Act may be cited as the "Local Government (Vehicles) Amendment Act, 1978". Short title.

**2.** (1) This section and section 1 shall commence on the date of assent to this Act. Commencement.

(2) Except as provided in subsection (1), this Act 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.

**3.** The Local Government Act, 1919, is amended—

Amendment  
of Act No.  
41, 1919.

(a) by omitting from the matter relating to Part IX in section 3 the matter "277A" and by inserting instead the matter "277B"; Sec. 3.  
(Division  
into Parts.)

(b) by omitting from section 277A (6) the words "four hundred dollars" and by inserting instead the words "\$1,000 in the case of a first offence or not exceeding \$2,000 in the case of a subsequent offence"; Sec. 277A.  
(Ordinances  
for pre-  
venting  
damage to  
roads.)

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Sec. 277B.

(c) by inserting after section 277A the following section :—

**Powers of police, etc., to check weight of loaded vehicles and require off-loading.**

277B. (1) In this section—

“ordinance” means an ordinance made under the provisions of section 277A;

“public road” does not include a main road or toll work to which the Main Roads Act, 1924, applies.

(2) Where a member of the police force or the proper servant of the council has ascertained that the weight of a vehicle using a public road, together with the load on the vehicle, or the weight of the load on the vehicle or on any part of the vehicle, exceeds by more than 10 per cent. the weight permitted by an ordinance, he may give the driver or person in charge of the vehicle such one or more of the following directions as he deems appropriate in the circumstances :—

- (a) that the driver or person in charge shall, within a time specified by the member or servant, reduce or adjust the load so that the ordinance is complied with;
- (b) that the driver or person in charge shall forthwith drive the vehicle to a place (within 20 kilometres therefrom or within such further distance as is reasonable in the circumstances) designated by the member or servant;
- (c) that the vehicle shall not (except for the purpose of driving it to a designated place) be driven on any public road, or any main road or toll work to which the Main Roads Act, 1924, applies, until the load is reduced or adjusted so that the ordinance is complied with;

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- (d) that the driver or person in charge shall not, in reducing or adjusting the load, leave any part of the load at a place other than a place approved by the member or servant.

(3) A person to whom a direction is given under subsection (2) shall not fail to comply with it.

Penalty : \$1,000 in the case of a first offence or \$2,000 in the case of a subsequent offence.

(4) If a person to whom a direction is given under subsection (2) fails to comply with it, either or both of the powers conferred by the following paragraphs may be exercised :—

- (a) any member of the police force or special constable may drive the vehicle or cause it to be driven to a place designated by the member or constable;
- (b) the vehicle and the load thereon may be impounded by any member of the police force or special constable and retained at a place designated by any such member or constable until the load is reduced or adjusted so that the ordinance is complied with.

(5) Where the driver or person in charge of a vehicle using a public road fails to comply with any requirement prescribed by or direction given under an ordinance for the purpose of ascertaining the weight of the vehicle together with the load on the vehicle, or the weight of the load on the vehicle or on any part of the vehicle, either or both of the powers conferred by the following paragraphs may be exercised :—

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- (a) any member of the police force or special constable may drive the vehicle or cause it to be driven to a place designated by the member or constable and may do or cause to be done all things necessary to ascertain that weight;
  
- (b) the vehicle and the load thereon may be impounded by any member of the police force or special constable and retained at a place designated by any such member or constable until—
  - (i) where it is ascertained that that weight does not exceed by more than 10 per cent. the weight permitted by the ordinance—the vehicle and the load thereon are claimed by a person apparently authorised to do so; or
  - (ii) where it is ascertained that that weight does exceed by more than 10 per cent. the weight permitted by the ordinance—the load is reduced or adjusted so that the ordinance is complied with.

(6) The court before which proceedings for an offence arising under subsection (3), or in respect of a failure to comply with a direction or requirement referred to in subsection (5), are brought may order the defendant to pay—

- (a) the costs incurred in the exercise of any of the powers conferred by subsection (4) or (5); or
- (b) the costs incurred in removing any part of a load left in contravention of a direction under subsection (2) (d).

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(7) A certificate signed by a prescribed person, and certifying the amount of any costs incurred as referred to in subsection (6), is admissible in any proceedings referred to in that subsection and shall be prima facie evidence of the matter so certified.

(8) A person shall not be convicted of an offence arising under subsection (3) in respect of a direction under subsection (2) (a) if he satisfies the court that it was impossible for him to comply with or secure compliance with the direction.

(9) Access to an impounded vehicle for the purpose of reducing or adjusting its load shall not be unreasonably refused or withheld, and it is the duty of a member of the police force or special constable by whom a vehicle is impounded under this section to take all reasonable steps to cause the driver or person in charge of the vehicle, and such other persons as appear to the member or constable to be appropriate in the circumstances, to be promptly informed of the place where the vehicle is for the time being located.

(10) A person shall not, without the authority of a member of the police force or special constable, remove an impounded vehicle from the place where it is for the time being located.

Penalty: \$1,000 in the case of a first offence or \$2,000 in the case of a subsequent offence.

(11) A person shall not resist or hinder or incite any person to assault, resist or hinder a member of the police force or special constable in the exercise of any power under this section.

Penalty: \$1,000 in the case of a first offence or \$2,000 in the case of any subsequent offence.

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(12) Neither the Crown nor any other person is liable to the driver or person in charge of a vehicle, or to any other person, for any loss or damage occasioned by or arising out of the exercise or purported exercise in good faith of any power conferred by this section.

(13) Nothing in this section authorises a person to drive a vehicle unless he is authorised under the regulations under the Motor Traffic Act, 1909, to drive vehicles of the class to which the vehicle belongs.

(14) This section shall be construed as supplemental to, and as not derogating from, any other law in relation to proceedings that may be taken in respect of offences against an ordinance.

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