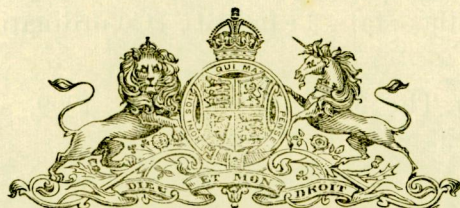


New South Wales.



ANNO SEXTO DECIMO

GEORGII VI REGIS.

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.]

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.

Motor Traffic (Amendment).

(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.

Amendment
of Act No.
5, 1909.

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

Sec. 4.

(Negligent,
furious or
reckless
driving.)

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

(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) 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:—

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.

Offences
committed
by dis-
qualified
drivers, etc.

Motor Traffic (Amendment).

(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) during the period of disqualification 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

Motor Traffic (Amendment).

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 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.

(e)

Motor Traffic (Amendment).

- (e) (i) by omitting from subsection two of section eight the words "twelve months" and by inserting in lieu thereof the words "six months"; Sec. 8.
(Requirements in case of accident.)
- (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";
- (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"; Sec. 10.
(Offences involving automatic disqualification of drivers.)
- (ii) by omitting paragraph (a) of subsection (3A) of the same section and by inserting in lieu thereof the following paragraph:—

(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 provision 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

Motor Traffic (Amendment).

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 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)

Motor Traffic (Amendment).

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:—

(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, 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.

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

(g)

Motor Traffic (Amendment).

Schedule.
(Fees for
traders'
plates.)

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

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) 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)

Motor Traffic (Amendment).

- (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".

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

Amendment
of Act No.
40, 1900.

- (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".

Sec. 437.
(Compensation 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 compensation.)

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

Amendment
of Act No.
15, 1942.

- (a) (i) by inserting in subsection four of section fifteen after the words "as the authorised insurer has" the word "properly";
- (ii) by inserting in subsection five of the same section after the words "as the authorised insurer has" the word "properly";
- (b) by inserting in paragraph (b) of section seventeen after the words "any sum" the word "properly";

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

Sec. 17.
(Right of authorised insurers against unauthorised drivers.)

(c)

Motor Traffic (Amendment).

Sec. 30.

(Claims in respect of uninsured and unidentified motor vehicles.)

- (c) (i) by inserting in subsection one of section thirty after the words "an uninsured motor vehicle" the words "upon a public street";
- (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";

Sec. 32.

(Recovery from owner or driver.)

- (d) (i) by inserting in subsection one of section thirty-two after the words "Any amount" the word "properly";
- (ii) by inserting in the same subsection after the word "expenses" the word "properly";

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

Motor Traffic (Amendment).

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) a motor vehicle which, under subsection six of section ten of this Act, is deemed to be an uninsured motor vehicle.

Motor Traffic (Amendment).

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

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.
32, 1931.

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

Sec. 3.
(Interpre-
tation.)

- (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.

New sec. 3B.

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

Application
of certain
provisions
to drive-
yourself
vehicles.

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.

(2) The regulation shall, by reference to sections, subsections or otherwise, set out the provisions so declared to apply with such modifications and adaptations as the Governor deems necessary for the purpose of such application.

Such

Motor Traffic (Amendment).

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).

- (c) by omitting from subsection one of section fourteen the words "of which he is the owner"; Sec. 14.
(Licenses.)
- (d) by omitting from subsection five of section seventeen the words "or the owner of any public motor vehicle so licensed"; Sec. 17.
(Certain conditions of license.)
- (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. 18.
(Certain obligations in respect of public motor vehicles.)
- (f) by omitting from section twenty-four the word "license" and by inserting in lieu thereof the word "registration"; Sec. 24.
(Appeals.)
- (g) by omitting subsection one of section twenty-eight and by inserting in lieu thereof the following subsection:— Sec. 28.
(Unlicensed vehicle.)

(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.

- (h) by inserting next after section thirty-eight the following new section:— New sec.
38A.

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

Order, upon conviction, for payment of amount due.

not

Motor Traffic (Amendment).

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.

(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.

By Authority:

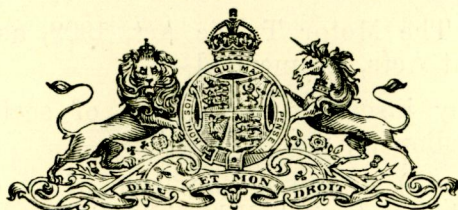
A. H. PETTIFER, Government Printer, Sydney, 1952.

[8d.]

I certify that this PUBLIC BILL, which originated in the LEGISLATIVE ASSEMBLY, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.

H. ROBBINS,
Clerk of the Legislative Assembly.
Legislative Assembly Chamber,
Sydney, 12 December, 1951.

New South Wales.



ANNO SEXTO DECIMO

GEORGII VI REGIS.

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.]

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)

I have examined this Bill, and find it to correspond in all respects with the Bill as finally passed by both Houses.

G. BOOTH,
Chairman of Committees of the Legislative Assembly.

Motor Traffic (Amendment).

(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.

Amendment
of Act No.
5, 1909.

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

Sec. 4.

(Negligent,
furious or
reckless
driving.)

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

(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) 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 dis-
qualified
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)

Motor Traffic (Amendment).

(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) during the period of disqualification 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

Motor Traffic (Amendment).

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 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.

(e)

Motor Traffic (Amendment).

- (e) (i) by omitting from subsection two of section eight the words "twelve months" and by inserting in lieu thereof the words "six months"; Sec. 8.
(Requirements in case of accident.)
- (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";
- (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"; Sec. 10.
(Offences involving automatic disqualification of drivers.)
- (ii) by omitting paragraph (a) of subsection (3A) of the same section and by inserting in lieu thereof the following paragraph:—
- (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 provision 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

Motor Traffic (Amendment).

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 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)

Motor Traffic (Amendment).

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:—

(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, 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.

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

(g)

Motor Traffic (Amendment).

Schedule.
(Fees for
traders'
plates.)

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

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) 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.

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

(Require-
ments in
case of
accident.)

- (a) by omitting from subsection three of section 13B the words "five pounds" and by inserting in lieu thereof the words "ten pounds";

(b)

Motor Traffic (Amendment).

(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".

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

Amendment
of Act No.
40, 1900.

(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";

Sec. 437.
(Compensation to person aggrieved by any felony or misdemeanour.)

(b) by omitting section 526b and the short heading thereto;

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

(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".

Sec. 554.
(Damages and compensation.)

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

Amendment
of Act No.
15, 1942.

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

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

(ii) by inserting in subsection five of the same section after the words "as the authorised insurer has" the word "properly";

(b) by inserting in paragraph (b) of section seventeen after the words "any sum" the word "properly";

Sec. 17.
(Right of authorised insurers against unauthorised drivers.)

(c)

Motor Traffic (Amendment).

Sec. 30.
(Claims in
respect of
uninsured
and uniden-
tified motor
vehicles.)

- (c) (i) by inserting in subsection one of section thirty after the words "an uninsured motor vehicle" the words "upon a public street";
(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";

Sec. 32.
(Recovery
from owner
or driver.)

- (d) (i) by inserting in subsection one of section thirty-two after the words "Any amount" the word "properly";
(ii) by inserting in the same subsection after the word "expenses" the word "properly";

New sec.
38A.

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

Payment
into court
excluded
in certain
cases.

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

Motor Traffic (Amendment).

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) a motor vehicle which, under subsection six of section ten of this Act, is deemed to be an uninsured motor vehicle.

Motor Traffic (Amendment).

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

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.
32, 1931.

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

Sec. 3.
(Interpre-
tation.)

- (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.

New sec. 3B.

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

Application
of certain
provisions
to drive-
yourself
vehicles.

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.

(2) The regulation shall, by reference to sections, subsections or otherwise, set out the provisions so declared to apply with such modifications and adaptations as the Governor deems necessary for the purpose of such application.

Such

Motor Traffic (Amendment).

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).

- (c) by omitting from subsection one of section fourteen the words "of which he is the owner"; Sec. 14.
(Licenses.)
- (d) by omitting from subsection five of section seventeen the words "or the owner of any public motor vehicle so licensed"; Sec. 17.
(Certain conditions of license.)
- (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. 18.
(Certain obligations in respect of public motor vehicles.)
- (f) by omitting from section twenty-four the word "license" and by inserting in lieu thereof the word "registration"; Sec. 24.
(Appeals.)
- (g) by omitting subsection one of section twenty-eight and by inserting in lieu thereof the following subsection:— Sec. 28.
(Unlicensed vehicle.)

(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.

- (h) by inserting next after section thirty-eight the following new section:— New sec.
38A.

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

Motor Traffic (Amendment).

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.

(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.

In the name and on behalf of His Majesty I assent to this Act.

J. NORTHCOTT,
Governor.

*Government House,
Sydney, 28th December, 1951.*

MOTOR TRAFFIC (AMENDMENT) BILL.

*Schedule of Amendments referred to in Legislative Council's Message of
11th December, 1951.*

- No. 1.—Page 12, clause 7, lines 23 and 24. *Omit* “proclamation published in the Gazette” *insert* **“regulation”**.
- No. 2.—Page 12, clause 7, lines 25 and 26. *Omit* “proclamation” *insert* **“regulation”**.
- No. 3.—Page 12, clause 7, line 28. *Omit* “proclamation” *insert* **“regulation”**.
- No. 4.—Page 12, clause 7, line 33. *Omit* “proclamation” *insert* **“regulation”**.
- No. 5.—Page 12, clause 7, line 34. *Omit* “proclamation” *insert* **“regulation”**.
- No. 6.—Page 13, clause 7, lines 9 to 20 inclusive. *Omit* all words on these lines.

PHOTO ENLARGING (AMENDMENT) 1917

2. The following are the words of the Copyright Act of 1909, Section 11, which are hereby amended:

1. The words "in the United States" shall be inserted after the word "copyright" in the first sentence of the first section of the said Act.
2. The words "in the United States" shall be inserted after the word "copyright" in the second sentence of the first section of the said Act.
3. The words "in the United States" shall be inserted after the word "copyright" in the third sentence of the first section of the said Act.
4. The words "in the United States" shall be inserted after the word "copyright" in the fourth sentence of the first section of the said Act.
5. The words "in the United States" shall be inserted after the word "copyright" in the fifth sentence of the first section of the said Act.
6. The words "in the United States" shall be inserted after the word "copyright" in the sixth sentence of the first section of the said Act.
7. The words "in the United States" shall be inserted after the word "copyright" in the seventh sentence of the first section of the said Act.
8. The words "in the United States" shall be inserted after the word "copyright" in the eighth sentence of the first section of the said Act.
9. The words "in the United States" shall be inserted after the word "copyright" in the ninth sentence of the first section of the said Act.
10. The words "in the United States" shall be inserted after the word "copyright" in the tenth sentence of the first section of the said Act.

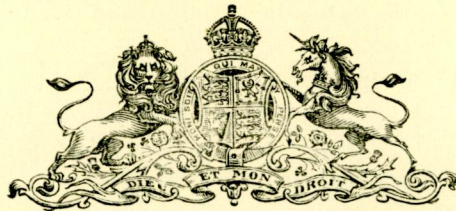
This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.

H. ROBBINS,
Clerk of the Legislative Assembly.
Legislative Assembly Chamber,
Sydney, 6 December, 1951.

The LEGISLATIVE COUNCIL has this day agreed to this Bill with Amendments.

W. K. CHARLTON,
Clerk of the Parliaments.
Legislative Council Chamber,
Sydney, 11th December, 1951.

New South Wales.



ANNO SEXTO DECIMO

GEORGII VI REGIS.

Act No. , 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.

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 5 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 10 Motor Traffic Act, 1909-1951.

79167

208—

(3)

NOTE.—The words to be omitted are ruled through; those to be inserted are printed in black letter.

Motor Traffic (Amendment).

(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) 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.

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

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

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

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

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

New sec. 7A.

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.

Offences
committed
by dis-
qualified
drivers, etc.

Motor Traffic (Amendment).

5 (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;
- 10 (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;
- 15 (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;
- 20 (d) during the period of disqualification 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;
- 25 (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
- 30 (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,
- 35

he

Motor Traffic (Amendment).

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:

5 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
10 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
15 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
20 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 of the existing disqualification or
suspension or from the date of such conviction,
25 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
30 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
35 deliver the license to the Commissioner. If the
license is not so delivered, such person shall be
guilty of an offence under this Act.

(e)

Motor Traffic (Amendment).

- (e) (i) by omitting from subsection two of section eight the words "twelve months" and by inserting in lieu thereof the words "six months"; Sec. 8. (Requirements in case of accident.)
- 5 (ii) by omitting from subsection three of the same section the words "five pounds" and by inserting in lieu thereof the words "ten pounds";
- 10 (iii) by inserting in paragraph (c) of the same subsection after the word "given" the words "by him";
- 15 (iv) by omitting from subsection four of the same section the words "five pounds" and by inserting in lieu thereof the words "ten pounds";
- (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"; Sec. 10. (Offences involving automatic disqualification of drivers.)
- 20 (ii) by omitting paragraph (a) of subsection (3A) of the same section and by inserting in lieu thereof the following paragraph:—
- (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 provision 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
- 25
- 30
- 35
- or

Motor Traffic (Amendment).

5 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—

10 (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
15 (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
20 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
25 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;

30 (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
35 (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).

Motor Traffic (Amendment).

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:—

(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, 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.

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

Motor Traffic (Amendment).

(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.)

5 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.

10 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) 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.

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

Amendment
of Act No.
8, 1900.

(a) by omitting from subsection three of section 13B the words "five pounds" and by inserting in lieu thereof the words "ten pounds";

Sec. 13B.
(Require-
ments in
case of
accident.)

(b)

Motor Traffic (Amendment).

- (b) by inserting in paragraph (c) of the same subsection after the word "given" the words "by him";
- 5 (c) by omitting from subsection four of the same section the words "five pounds" and by inserting in lieu thereof the words "ten pounds".
4. The Crimes Act, 1900, as amended by subsequent Acts, is amended—
- 10 (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;
- 15 (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".
5. The Motor Vehicles (Third Party Insurance) Act, 1942, is amended—
- 20 (a) (i) by inserting in subsection four of section fifteen after the words "as the authorised insurer has" the word "properly";
- (ii) by inserting in subsection five of the same section after the words "as the authorised insurer has" the word "properly";
- 25 (b) by inserting in paragraph (b) of section seven-teen after the words "any sum" the word "properly";
- (c)

Amendment
of Act No.
40, 1900.

Sec. 437.
(Compensa-
tion to
person
aggrieved
by any
felony or
misde-
meanour.)

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

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

Amendment
of Act No.
15, 1942.

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

Sec. 17.
(Right of
authorised
insurers
against
unauthorised
drivers.)

Motor Traffic (Amendment).

- (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.)
- 5 (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—
- 10 (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;
- 15 (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.
- 20 (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";
- 25 (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.)
- 30 (ii) by inserting in the same subsection after the word "expenses" the word "properly";
- (e) by inserting next after section thirty-eight the following new section:— (New sec. 38A.
- 35 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
- Payment into court excluded in certain cases.

Motor Traffic (Amendment).

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—

5

10

(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

15

(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.

20

(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;

25

“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;

30

“uninsured motor vehicle” means—

35

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

(b) a motor vehicle which, under subsection six of section ten of this Act, is deemed to be an uninsured motor vehicle.

Motor Traffic (Amendment).

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:—
- 5 ; 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.
- 10
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:—
- 15
- “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.
- 20
- (b) by inserting next after section 3A the following new section:—
- 3B. (1) The Governor may by ~~proclamation published in the Gazette~~ regulation declare that, as from a date to be specified in the ~~proclamation~~ regulation the provisions of this Act or such of those provisions as may be specified in the ~~proclamation~~ 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 ~~proclamation~~ regulation.
- 25
- (2) The ~~proclamation~~ regulation shall, by reference to sections, subsections or otherwise, set out the provisions so declared to apply with such modifications and adaptations as the Governor deems necessary for the purpose of such application.
- 30
- 35
- Such

Amendment
of Act No.
33, 1946.
Sec. 5.

(Proceed-
ings against
and
contribution
between
joint and
several
tort-
feasors.)

Amendment
of Act No.
32, 1931.

Sec. 3.
(Interpre-
tation.)

New sec. 3B.

Application
of certain
provisions
to drive-
yourself
vehicles.

Motor Traffic (Amendment).

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).

The provisions so set out shall—

- (a) be in the form of a Schedule to be inserted in this Act;
 - (b) be thereafter printed by the Government Printer as a Schedule to this Act in any reprint thereof;
 - (c) as from the date specified in the proclamation, have the same force and effect as if inserted in this Act.
- (3) Any proclamation under this section may from time to time be amended, rescinded or substituted by a like proclamation.
- (c) by omitting from subsection one of section fourteen the words "of which he is the owner"; (Licenses.)
 - (d) by omitting from subsection five of section seventeen the words "or the owner of any public motor vehicle so licensed"; (Certain conditions of license.)
 - (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"; (Certain obligations in respect of public motor vehicles.)
 - (f) by omitting from section twenty-four the word "license" and by inserting in lieu thereof the word "registration"; (Sec. 24. (Appeals.)
 - (g) by omitting subsection one of section twenty-eight and by inserting in lieu thereof the following subsection:— (Sec. 28. (Unlicensed vehicle.)

(1) No person shall, except in pursuance of a permit under this Act or under an exemption granted

Motor Traffic (Amendment).

5 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.

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

New sec.
38A.

10 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 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 15 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 20 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.

Order, upon conviction, for payment of amount due.

25 (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.

30 (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 35 shall cease to be available.

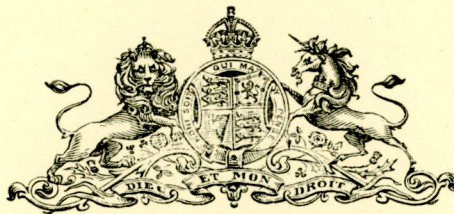
This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.

H. ROBBINS,
Clerk of the Legislative Assembly.
Legislative Assembly Chamber,
Sydney, 6 December, 1951.

The LEGISLATIVE COUNCIL has this day agreed to this Bill with Amendments.

Clerk of the Parliaments.
Legislative Council Chamber,
Sydney, December, 1951.

New South Wales.



ANNO SEXTO DECIMO

GEORGII VI REGIS.

Act No. , 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.

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.

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(3)

NOTE.—The words to be omitted are ruled through; those to be inserted are printed in black letter.

Motor Traffic (Amendment).

(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.

10 (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—

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

20 (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.

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

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

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

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

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

New sec. 7A.

35 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.

Offences committed by disqualified drivers, etc.

(2)

Motor Traffic (Amendment).

- 5 (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;
- 10 (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;
- 15 (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;
- 20 (d) during the period of disqualification
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;
- 25 (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
30 his name falsely or incorrectly or omits
to mention such suspension; or
- 35 (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

Motor Traffic (Amendment).

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:

5 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
10 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
15 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
20 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 of the existing disqualification or
suspension or from the date of such conviction,
25 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
30 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
35 deliver the license to the Commissioner. If the
license is not so delivered, such person shall be
guilty of an offence under this Act.

(e)

Motor Traffic (Amendment).

- (e) (i) by omitting from subsection two of section eight the words "twelve months" and by inserting in lieu thereof the words "six months"; Sec. 8. (Requirements in case of accident.)
- 5 (ii) by omitting from subsection three of the same section the words "five pounds" and by inserting in lieu thereof the words "ten pounds";
- 10 (iii) by inserting in paragraph (c) of the same subsection after the word "given" the words "by him";
- 15 (iv) by omitting from subsection four of the same section the words "five pounds" and by inserting in lieu thereof the words "ten pounds";
- (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"; Sec. 10. (Offences involving automatic disqualification of drivers.)
- 20 (ii) by omitting paragraph (a) of subsection (3A) of the same section and by inserting in lieu thereof the following paragraph:—
- 25 (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
- 30 of an offence under section thirty-three, thirty-five, fifty-three or fifty-four or any other provision 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
- 35

or

Motor Traffic (Amendment).

5 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—

10 (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
15 (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
20 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
25 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;

30 (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
35 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),

Motor Traffic (Amendment).

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:—

(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, 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.

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

Motor Traffic (Amendment).

(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.)

5 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.

10 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) 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.

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

Amendment
of Act No.
8, 1900.
Sec. 13B.
(Require-
ments in
case of
accident.)

(a) by omitting from subsection three of section 13B the words "five pounds" and by inserting in lieu thereof the words "ten pounds";

(b)

Motor Traffic (Amendment).

- (b) by inserting in paragraph (c) of the same subsection after the word "given" the words "by him";
- 5 (c) by omitting from subsection four of the same section the words "five pounds" and by inserting in lieu thereof the words "ten pounds".
4. The Crimes Act, 1900, as amended by subsequent Acts, is amended—
- 10 (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;
- 15 (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".
- 20 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";
- 25 (ii) by inserting in subsection five of the same section after the words "as the authorised insurer has" the word "properly";
- (b) by inserting in paragraph (b) of section seven-
 teen after the words "any sum" the word
 "properly";
- (c)
- Amendment
 of Act No.
 40, 1900.
- Sec. 437.
 (Compensa-
 tion to
 person
 aggrieved
 by any
 felony or
 misde-
 meanour.)
- Sec. 526B.
 (Penalty for
 drunkenness
 while in
 charge of a
 motor
 vehicle.)
 (Repeal.)
- Sec. 554.
 (Damages
 and com-
 pensation.)
- Amendment
 of Act No.
 15, 1942.
- Sec. 15.
 (Recovery
 by insurer
 from
 owner.)
- Sec. 17.
 (Right of
 authorised
 insurers
 against
 unauthorised
 drivers.)

Motor Traffic (Amendment).

- (c) (i) by inserting in subsection one of section thirty after the words "an uninsured motor vehicle" the words "upon a public street";
- (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";
- (ii) by inserting in the same subsection after the word "expenses" the word "properly";
- (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

Sec. 30.

(Claims in respect of uninsured and unidentified motor vehicles.)

Sec. 32.

(Recovery from owner or driver.)

New sec. 38A.

Payment into court excluded in certain cases.

Motor Traffic (Amendment).

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—

5 (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

10 (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.

15 (2) In this section—

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

25 “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;

30 “uninsured motor vehicle” means—

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

(b) a motor vehicle which, under subsection six of section ten of this Act, is deemed to be an uninsured motor vehicle.

Motor Traffic (Amendment).

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:—
- 5 ; 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.
- 10
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:—
- 15
- “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.
- 20
- (b) by inserting next after section 3A the following new section:—
- 25
- 3B. (1) The Governor may by ~~proclamation published in the Gazette~~ regulation declare that, as from a date to be specified in the ~~proclamation, regulation~~ the provisions of this Act or such of those provisions as may be specified in the ~~proclamation 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 ~~proclamation regulation~~.
- 30
- (2) The ~~proclamation regulation~~ shall, by reference to sections, subsections or otherwise, set out the provisions so declared to apply with such modifications and adaptations as the Governor deems necessary for the purpose of such application.
- 35
- Amendment of Act No. 33, 1946.
Sec. 5.
(Proceedings against and contribution between joint and several tort-feasors.)
- Amendment of Act No. 32, 1931.
Sec. 3.
(Interpretation.)
- New sec. 3B.
Application of certain provisions to drive-yourself vehicles.
- Such

Motor Traffic (Amendment).

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).

The provisions so set out shall—

- (a) be in the form of a Schedule to be inserted in this Act;
- (b) be thereafter printed by the Government Printer as a Schedule to this Act in any reprint thereof;
- (c) as from the date specified in the proclamation, have the same force and effect as if inserted in this Act.

(3) Any proclamation under this section may from time to time be amended, rescinded or substituted by a like proclamation.

- (c) by omitting from subsection one of section fourteen the words "of which he is the owner"; (Licenses.)
- (d) by omitting from subsection five of section seventeen the words "or the owner of any public motor vehicle so licensed"; (Certain conditions of license.)
- (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"; (Certain obligations in respect of public motor vehicles.)
- (f) by omitting from section twenty-four the word "license" and by inserting in lieu thereof the word "registration"; (Appeals.)
- (g) by omitting subsection one of section twenty-eight and by inserting in lieu thereof the following subsection:— (Unlicensed vehicle.)

(1) No person shall, except in pursuance of a permit under this Act or under an exemption granted

Motor Traffic (Amendment).

5 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.

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

New sec.
38A.

10 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 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 15 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 20 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.

Order, upon conviction, for payment of amount due.

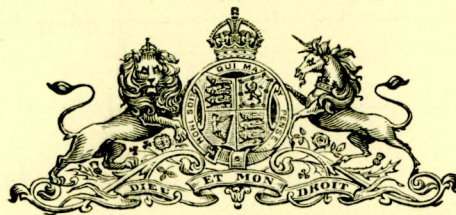
25 (2) Any such order shall be deemed to be a conviction or order whereby a sum of money is adjudged to be paid within the meaning of the Justices Act, 1902-1947.

30 (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 35 shall cease to be available.

*This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY,
and, having this day passed, is now ready for presentation to the
LEGISLATIVE COUNCIL for its concurrence.*

H. ROBBINS,
Clerk of the Legislative Assembly.
*Legislative Assembly Chamber,
Sydney, 6 December, 1951.*

New South Wales.



ANNO QUINTO DECIMO

GEORGII VI REGIS.

Act No. , 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.

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
5 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
10 Motor Traffic Act, 1909-1951.

Motor Traffic (Amendment).

(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.

10 (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—

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

20 (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.

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

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

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

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

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

New sec. 7A.

35 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,

Offences
committed
by dis-
qualified
drivers, etc.

Motor Traffic (Amendment).

(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) during the period of disqualification 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

Motor Traffic (Amendment).

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:

5 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
10 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
15 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
20 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 of the existing disqualification or
suspension or from the date of such conviction,
whichever is the later, for holding a driver's
25 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
30 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
35 deliver the license to the Commissioner. If the
license is not so delivered, such person shall be
guilty of an offence under this Act.

(e)

Motor Traffic (Amendment).

- (e) (i) by omitting from subsection two of section eight the words "twelve months" and by inserting in lieu thereof the words "six months"; Sec. 8. (Requirements in case of accident.)
- 5 (ii) by omitting from subsection three of the same section the words "five pounds" and by inserting in lieu thereof the words "ten pounds";
- 10 (iii) by inserting in paragraph (c) of the same subsection after the word "given" the words "by him";
- 15 (iv) by omitting from subsection four of the same section the words "five pounds" and by inserting in lieu thereof the words "ten pounds";
- (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"; Sec. 10. (Offences involving automatic disqualification of drivers.)
- 20 (ii) by omitting paragraph (a) of subsection (3A) of the same section and by inserting in lieu thereof the following paragraph:—
- 25 (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
- 30 of an offence under section thirty-three, thirty-five, fifty-three or fifty-four or any other provision 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
- 35

or

Motor Traffic (Amendment).

5 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—

10 (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
15 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
20 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
25 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;

30 (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
35 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),

Motor Traffic (Amendment).

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:—

(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, 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.

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

(g)

Motor Traffic (Amendment).

(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.)

5

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.

10

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) 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.

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

Amendment
of Act No.
8, 1900.

(a) by omitting from subsection three of section 13B the words "five pounds" and by inserting in lieu thereof the words "ten pounds";

Sec. 13B.
(Require-
ments in
case of
accident.)

40

(b)

Motor Traffic (Amendment).

- (b) by inserting in paragraph (c) of the same subsection after the word "given" the words "by him";
- 5 (c) by omitting from subsection four of the same section the words "five pounds" and by inserting in lieu thereof the words "ten pounds".

4. The Crimes Act, 1900, as amended by subsequent Acts, is amended— Amendment of Act No. 40, 1900.

- 10 (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"; Sec. 437. (Compensation to person aggrieved by any felony or misdemeanour.)
- (b) by omitting section 526B and the short heading thereto; Sec. 526B. (Penalty for drunkenness while in charge of a motor vehicle.) (Repeal.)
- 15 (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". Sec. 554. (Damages and compensation.)

5. The Motor Vehicles (Third Party Insurance) Act, 1942, is amended— Amendment of Act No. 15, 1942.

- (a) (i) by inserting in subsection four of section fifteen after the words "as the authorised insurer has" the word "properly"; Sec. 15. (Recovery by insurer from owner.)
- 25 (ii) by inserting in subsection five of the same section after the words "as the authorised insurer has" the word "properly";
- (b) by inserting in paragraph (b) of section seventeen after the words "any sum" the word "properly"; Sec. 17. (Right of authorised insurers against unauthorised drivers.)
- (c)

Motor Traffic (Amendment).

- (e) (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:—

5

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—

10

15

- (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;

20

- (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.

25

- (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";

30

- (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";

35

- (e) by inserting next after section thirty-eight the following new section:— (New sec. 38A.

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

Payment into court excluded in certain cases.

Motor Traffic (Amendment).

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—

5 (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

10 (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.

15 (2) In this section—

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

25 “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;

30 “uninsured motor vehicle” means—

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

(b) a motor vehicle which, under subsection six of section ten of this Act, is deemed to be an uninsured motor vehicle.

Motor Traffic (Amendment).

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:—
- 5 ; 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.
- 10
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:—
- 15
- “Drive-yourself vehicle” means any motor vehicle which is let for hire (otherwise than under a hire-purchase agreement)
- 20 without the services of a driver.
- (b) by inserting next after section 3A the following new section:—
- 25 3B. (1) The Governor may by proclamation published in the Gazette declare that, as from a date to be specified in the proclamation, the provisions of this Act or such of those provisions as may be specified in the proclamation 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 proclamation.
- 30
- (2) The proclamation shall, by reference to sections, subsections or otherwise, set out the provisions so declared to apply with such modifications and adaptations as the Governor deems necessary for the purpose of such application.
- 35

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

Amendment of Act No. 32, 1931.

Sec. 3.
(Interpretation.)

New sec. 3B.

Application of certain provisions to drive-yourself vehicles.

Such

Motor Traffic (Amendment).

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).

The provisions so set out shall—

- (a) be in the form of a Schedule to be inserted in this Act;
- (b) be thereafter printed by the Government Printer as a Schedule to this Act in any reprint thereof;
- (c) as from the date specified in the proclamation, have the same force and effect as if inserted in this Act.

(3) Any proclamation under this section may from time to time be amended, rescinded or substituted by a like proclamation.

- (c) by omitting from subsection one of section fourteen the words "of which he is the owner"; Sec. 14. (Licenses.)
- (d) by omitting from subsection five of section seventeen the words "or the owner of any public motor vehicle so licensed"; Sec. 17. (Certain conditions of license.)
- (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. 18. (Certain obligations in respect of public motor vehicles.)
- (f) by omitting from section twenty-four the word "license" and by inserting in lieu thereof the word "registration"; Sec. 24. (Appeals.)
- (g) by omitting subsection one of section twenty-eight and by inserting in lieu thereof the following subsection:— Sec. 28. (Unlicensed vehicle.)

(1) No person shall, except in pursuance of a permit under this Act or under an exemption granted

Motor Traffic (Amendment).

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.

5

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

New sec.
38A.

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 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.

Order, upon conviction, for payment of amount due.

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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.

30

(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.

35

MOTOR TRAFFIC (AMENDMENT) BILL, 1951.

PROOF

EXPLANATORY NOTE.

THE objects of this Bill are—

(a) to amend the Motor Traffic Acts, 1909-1949—

- (i) to increase the punishment for dangerous driving;
- (ii) to alter the period of imprisonment that may be awarded under sections 5 (2) and 8 (2) of the Act;
- (iii) to provide that persons who commit certain offences after they have been disqualified for holding a license or their licenses have been suspended or applications by them for licenses have been refused shall be liable to a penalty of one hundred pounds or six months' imprisonment or both, and that in certain of these cases such persons shall be automatically disqualified for holding a license for six months and may be disqualified for such additional period as the court may order;
- (iv) to include among the offences, conviction for which automatically disqualifies a person for holding a license, certain offences under the Crimes Act when those offences arise out of the use of a motor vehicle;
- (v) to provide that section 556A of the Crimes Act, 1900, shall not apply to a person charged with certain serious traffic offences if within the previous five years the benefit of that section has been extended to him in respect of another such offence;
- (vi) to increase the fees payable for traders' plates;

(b) to amend the Crimes Act, 1900—

- (i) to increase the amount of compensation which may be awarded to a person aggrieved by a felony or misdemeanour from £500 to £1,000 where the offender is convicted on indictment, and from £50 to £150 where the offender is summarily convicted;
- (ii) by repealing section 526B;

(c) to amend the Motor Vehicles (Third Party Insurance) Act, 1942—

- (i) to make it clear that claims in respect of uninsured and unidentified motor vehicles only lie against the nominal defendant where the vehicles were being used on public streets;
- (ii) to provide that claims against the nominal defendant in respect of uninsured motor vehicles shall be made within specified times;
- (iii) to exclude in certain cases the provisions of the Common Law Procedure Act, 1899, and the District Courts Act, 1912, relating to payment into court;

(d) to amend the Law Reform (Miscellaneous Provisions) Act, 1946, to allow the nominal defendant and authorised insurers under the Motor Vehicles (Third Party Insurance) Act, 1942, to take advantage of the provisions of the first-mentioned Act relating to contribution between tort-feasors and third party procedure;

(e) to amend the State Transport (Co-ordination) Act, 1931-1950—

- (i) to allow the provisions of that Act to be applied to drive-yourself vehicles;
- (ii) to clarify certain provisions of the Act;
- (iii) to authorise a court before whom a person is convicted of an offence under the Act to order him to pay to the Commissioner amounts due to the Commissioner in respect of the offence and to apply the provisions of the Justices Act, 1902-1947, to such order;

(f) to make certain other amendments of a minor character to the abovementioned Acts and also to the Metropolitan Traffic Act, 1900.

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CONTENTS

ORIGINAL ARTICLES

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PROOF

No. , 1951.

A BILL

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.

[MR. SHEAHAN;—27 November, 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
5 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
10 Motor Traffic Act, 1909-1951.

Motor Traffic (Amendment).

(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) 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.

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

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

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

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

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

New sec. 7A.

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.

Offences
committed
by dis-
qualified
drivers, etc.

(2).

Motor Traffic (Amendment).

(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—

5

(a) during the period of disqualification drives a motor vehicle upon a public street;

10

(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;

15

(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;

20

(d) during the period of disqualification 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;

25

(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

30

35

(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

Motor Traffic (Amendment).

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:

5 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
10 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
15 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
20 such conviction and without any specific order
for a period of six months from the date of
expiration of the existing disqualification or
suspension or from the date of such conviction,
whichever is the later, for holding a driver's
25 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
30 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
35 deliver the license to the Commissioner. If the
license is not so delivered, such person shall be
guilty of an offence under this Act.

(e)

Motor Traffic (Amendment).

- (e) (i) by omitting from subsection two of section eight the words "twelve months" and by inserting in lieu thereof the words "six months"; Sec. 8. (Requirements in case of accident.)
- 5 (ii) by omitting from subsection three of the same section the words "five pounds" and by inserting in lieu thereof the words "ten pounds";
- 10 (iii) by inserting in paragraph (c) of the same subsection after the word "given" the words "by him";
- 15 (iv) by omitting from subsection four of the same section the words "five pounds" and by inserting in lieu thereof the words "ten pounds";
- (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"; Sec. 10. (Offences involving automatic disqualification of drivers.)
- 20 (ii) by omitting paragraph (a) of subsection (3A) of the same section and by inserting in lieu thereof the following paragraph:—
- (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 provision 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
- 25
- 30
- 35 or

Motor Traffic (Amendment).

5 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—

10 (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
15 (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
20 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
25 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;

30 (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
35 (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)

Motor Traffic (Amendment).

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:—

(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, 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.

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

(g)

Motor Traffic (Amendment).

(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.)

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

10 Trader's plate for use as prescribed on a motor cycle—Fee, at the rate of three pounds 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.

30 (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.

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

Amendment
of Act No.
8, 1900.

(a) by omitting from subsection three of section 13B the words "five pounds" and by inserting in lieu thereof the words "ten pounds";

Sec. 13B.
(Require-
ments in
case of
accident.)

(b)

Motor Traffic (Amendment).

- (b) by inserting in paragraph (c) of the same subsection after the word "given" the words "by him";
- 5 (c) by omitting from subsection four of the same section the words "five pounds" and by inserting in lieu thereof the words "ten pounds".

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

- 10 (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;
- 15 (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".

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) by inserting in subsection five of the same section after the words "as the authorised insurer has" the word "properly";
- 25 (b) by inserting in paragraph (b) of section seventeen after the words "any sum" the word "properly";
- (c)

Amendment of Act No. 40, 1900.

Sec. 437.
(Compensation 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 compensation.)

Amendment of Act No. 15, 1942.

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

Sec. 17.
(Right of authorised insurers against unauthorised drivers.)

Motor Traffic (Amendment).

- (c) (i) by inserting in subsection one of section thirty after the words "an uninsured motor vehicle" the words "upon a public street"; (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"; (Recovery from owner or driver.)
 (ii) by inserting in the same subsection after the word "expenses" the word "properly";

- (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

Payment into court excluded in certain cases.

Motor Traffic (Amendment).

5 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—

10 (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

15 (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.

20 (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;

25 “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—

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

(b) a motor vehicle which, under subsection six of section ten of this Act, is deemed to be an uninsured motor vehicle.

Motor Traffic (Amendment).

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:—

Amendment
of Act No.
33, 1946.

Sec. 5.

(Proceed-
ings against
and
contribution
between
joint and
several
tort-
feasors.)

5 ; 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.

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

Amendment
of Act No.
32, 1931.

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

Sec. 3.

(Interpre-
tation.)

“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.

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

New sec. 3B.

3B. (1) The Governor may by proclamation published in the Gazette declare that, as from a date to be specified in the proclamation, the provisions of this Act or such of those provisions as may be specified in the proclamation 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 proclamation.

Application
of certain
provisions
to drive-
yourself
vehicles.

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(2) The proclamation shall, by reference to sections, subsections or otherwise, set out the provisions so declared to apply with such modifications and adaptations as the Governor deems necessary for the purpose of such application.

Such

Motor Traffic (Amendment).

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).

The provisions so set out shall—

- (a) be in the form of a Schedule to be inserted in this Act;
- (b) be thereafter printed by the Government Printer as a Schedule to this Act in any reprint thereof;
- (c) as from the date specified in the proclamation, have the same force and effect as if inserted in this Act.

(3) Any proclamation under this section may from time to time be amended, rescinded or substituted by a like proclamation.

- (c) by omitting from subsection one of section fourteen the words "of which he is the owner"; (Licenses.)
- (d) by omitting from subsection five of section seventeen the words "or the owner of any public motor vehicle so licensed"; (Certain conditions of license.)
- (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"; (Certain obligations in respect of public motor vehicles.)
- (f) by omitting from section twenty-four the word "license" and by inserting in lieu thereof the word "registration"; (Sec. 24. Appeals.)
- (g) by omitting subsection one of section twenty-eight and by inserting in lieu thereof the following subsection:— (Sec. 28. Unlicensed vehicle.)

(1) No person shall, except in pursuance of a permit under this Act or under an exemption granted

Motor Traffic (Amendment).

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.

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

New sec.
38A.

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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 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.

Order, upon
conviction,
for payment
of amount
due.

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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.

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(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.

