

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.

ALLAN PICKERING,
Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
Sydney, 28 November, 1957.*

New South Wales



ANNO SEXTO

ELIZABETHÆ II REGINÆ

Act No. , 1957.

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

Main Roads and Local Government (Amendment).

BE it enacted by the Queen's Most Excellent Majesty,
by and with the advice and consent of the Legis-
lative 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 "Main Roads and
Local Government (Amendment) Act, 1957".

Short title
and
citation.

(2) The Main Roads Act, 1924, as amended by
subsequent Acts and by this Act, may be cited as the Main
10 Roads Acts, 1924-1957.

2. (1) The Main Roads Act, 1924-1957, is amended—

Amendment
of Act No.
24, 1924.

(a) by inserting at the end of subsection two of
section one the words "or shires";

Sec. 1 (2).
(Application
of Act.)

15 (b) by inserting at the end of section four the follow-
ing new subsection :—

Sec. 4.
(Adaptation
of Acts—
application
to councils.)

20 (3) This Act shall be read and construed sub-
ject to the Commonwealth of Australia Consti-
tution Act and so as not to exceed the legislative
power of the State to the intent that where any
provision of this Act, or the application thereof
to any person or circumstance, is held invalid,
the remainder of this Act and the application
of such provision to other persons or circum-
stances shall not be affected.

25 (c) by omitting paragraph (e) of subsection one of
section ten and by inserting in lieu thereof the
following paragraph :—

Sec. 10.
(County of
Cumberland
Main Roads
Fund.)

30 (e) twenty per centum of the moneys,
exclusive of the amount required to be
expended under subsection three of
section nine of the Commonwealth Aid
Roads

Main Roads and Local Government (Amendment).

Roads Act 1954, as amended by subsequent Acts, of the Parliament of the Commonwealth, paid under the said section nine to the State by the Commonwealth of Australia in respect of any year commencing on the first day of July;

(d) by omitting subsection (1B) of section twelve and by inserting in lieu thereof the following subsection:—

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

(a) on the construction, reconstruction, maintenance and repair of roads or on the purchase of road-making plant; or

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

Provided that out of the moneys so paid into that fund in respect of that year there may be expended on works connected with transport by road or water other than those referred to in paragraph (a) or (b) of this subsection or of subsection (1B) of section twenty-one of this Act, or in subsection (2A) of section twenty-nine of this Act, an amount which, together with any amount expended under the proviso to the said subsection (1B) out of the moneys paid into the Country Main Roads Fund in respect of that year pursuant to paragraph (d) of subsection one of section twenty of this Act, does not exceed

such

Main Roads and Local Government (Amendment).

5 such part of one million pounds as bears to one million pounds the same proportion as the amount payable under section nine of the Commonwealth Aid Roads Act 1954, as amended by subsequent Acts, of the Parliament of the Commonwealth to the State of New South Wales in respect of the year firstmentioned in this proviso bears to the total amount payable under the said section nine to all the States in respect of the year firstmentioned as aforesaid.

10

- (e) by inserting at the end of section eighteen the following new paragraphs:—
- Sec. 18.
(Secondary main roads.)

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

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

- (f) by inserting at the end of subsection one of section nineteen the words "or shires";
- Sec. 19.
(Application of Part V.)

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

Sec. 20.
(Country Main Roads Fund.)

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

30

(h)

Main Roads and Local Government (Amendment).

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

Sec. 21.
 (Expendi-
 ture.)

5 (1B) That part of the Country Main Roads
 Fund which consists of moneys paid into that
 fund in respect of any year pursuant to para-
 graph (d) of subsection one of section twenty of
 this Act shall be expended—

10 (a) on the construction, reconstruction,
 maintenance and repair of roads or on
 the purchase of road-making plant; or

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

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

(i)

Main Roads and Local Government (Amendment).

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

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

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

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

20 (2A) That part of the Developmental
Roads Fund which consists of moneys paid
into that fund in respect of any year pur-
suant to paragraph (b) of subsection one of
this section shall be expended—

25 (a) on the construction, reconstruction,
maintenance and repair of develop-
mental roads in rural areas or on the
purchase of road-making plant for
use in connection with such develop-
mental roads; or

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

(j)

Main Roads and Local Government (Amendment).

- (j) (i) by inserting in subsection one of section thirty-two after the word "powers" where firstly occurring the words "and immunities"; Sec. 32. (When board may do work itself.)
- 5 (ii) by inserting in the same subsection after the word "powers" where lastly occurring the words "or immunities";
- 10 (iii) by inserting in subsection (1A) of the same section after the word "powers" where firstly occurring the words "and immunities";
- (iv) by inserting in the same subsection after the word "powers" where lastly occurring the words "or immunities";
- 15 (k) by omitting from subsection one of section 41A the word "five" and by inserting in lieu thereof the word "twenty"; Sec. 41A. (Particulars of new road works to be furnished to Commissioner.)
- (l) by inserting next after section forty-eight the following new section:— New sec. 48A.
- 20 48A. There shall in each year commencing on the first day of July be paid by the Commissioner to the New South Wales University of Technology towards the cost of establishing and maintaining a Chair of Highway Engineering at that University the sum of five thousand pounds. Annual payment to New South Wales University of Technology.
- 25

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

(m)

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

Sec. 51.
(Ordinances.)

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

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

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

10 (13) (a) Where any road, bridge or ferry specified in a proclamation made under subsection one of this section and within the Western Division is, after the commencement of the Main Roads and Local Government (Amendment) Act, 1957, included in any municipality or shire

15 the powers, authorities, duties and functions exercised or performed by the Commissioner under the provisions of this section in respect of such road, bridge or ferry shall thereupon cease and determine.

20 (b) Where any road, bridge or ferry so specified is at the commencement of the Main Roads and Local Government (Amendment) Act, 1957, within the Western Division and within a municipality or shire the powers,

25 authorities, duties and functions exercised and performed by the Commissioner as aforesaid shall cease and determine upon such commencement.

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

35 (2) (a) The amendments made by paragraphs (c), (d), (g), (h) and (i) of subsection one of this section shall be deemed to have commenced on the first day of July, one thousand nine hundred and fifty-four.

(b)

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

5 **3.** (1) The Main Roads Act, 1924-1957, is further amended— Further amendment of Act No. 24, 1924.

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

10 (d) the regulation of the weight of—
(i) vehicles using main roads;
(ii) loads on such vehicles;
(iii) the load on any part of any such vehicle;

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

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

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

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

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- 5 of any such vehicle, for the purpose of
any such weighing, to comply with such
requirements as may be prescribed or
with such directions as may be given
him by any member of the police force,
or by any servant of a council, or of
the Commissioner, authorised in that
behalf by the Commissioner; prescribing
10 the method to be used to determine
the weight of the load on any part of
any such vehicle, or of any such vehicle
together with the load on it where the
vehicle and such load are not weighed
as a whole;
- 15 (f1) the measuring of loads on vehicles using
main roads and the determination of
the weight of any load on such a vehicle
according to a prescribed scale for
various classes of goods;
- 20 (f2) the stopping of vehicles using main
roads and the inspection of such
vehicles and loads on them; the produc-
tion of books, documents and records
relating to any such vehicle or the load
25 on it and carried in or on such vehicle
or by the driver or person in charge
thereof;
- (d) by inserting next after paragraph (g) of the
30 same subsection the following new para-
graphs:—
- (g1) authorising the Commissioner to
display notices for and with respect
to any matter for and with respect to
which ordinances may be made under
35 this section and to delegate the power
conferred on him by any ordinance
made under the authority of the
foregoing provisions of this paragraph
to

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to any servant of a council or of the Commissioner; requiring persons to comply with the provisions of any such notice;

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

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

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

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

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

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

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

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

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

15 (a) the weight of a vehicle, of any load on it, of the load on any part of it, or of a vehicle together with the load on it, ascertained or determined in accordance with the provisions of the ordinance shall be prima facie evidence of the weight of such vehicle, of the load on it, of the load on such part of it, or of the vehicle together with the load on it, as the case may be;

20 (b) a certificate purporting to be under the hand of the Superintendent of Weights and Measures appointed under the Weights and Measures Act, 1915, as amended by subsequent Acts, certifying that on a date specified in the certificate, such date being within twelve months before the time such offence was committed, he examined a weighing device specified in the certificate and that such weighing device then weighed accurately or within such tolerances as may be specified in the certificate, shall, if such weighing device was at the time such offence was committed used for the purpose of weighing the vehicle in relation to which the offence is alleged

to

Main Roads and Local Government (Amendment).

5 to have been committed, the load on
such vehicle, the load on any part of
such vehicle, or such vehicle together
with the load on it, and in such manner
and in accordance with such conditions
as may be specified in the certificate,
be prima facie evidence that at that
10 time such weighing device weighed
accurately or within such tolerances
specified as aforesaid, as the case may
be.

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

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

20 (a) the owner of the vehicle, and
the person having the custody
of the vehicle, and, in the case
of a motor vehicle registered
under and in accordance with
the regulations made under the
25 Motor Traffic Act, 1909, as
amended by subsequent Acts,
the person in whose name the
motor vehicle is registered,
shall, when required so to do
30 by any servant of the Commis-
sioner, or by any servant of a
council duly authorised in that
behalf by the Commissioner, or
by any member of the police
35 force, forthwith give informa-
tion (which shall, if so re-
quired, be given in the form of
a statement in writing signed
by

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5 by such owner or person) as to
the name and place of abode of
such driver, the nature, weight
and description of the load
being carried by the vehicle at
the time the offence is alleged
to have been committed, the
tare weight of the vehicle and
any other relevant information
10 relating to the offence that
may be required of him, and if
any such owner or person fails
to do so he shall be guilty of
an offence against such or-
15 dinance, unless he proves to
the satisfaction of the court
that he did not know and could
not with reasonable diligence
have ascertained such name
20 and place of abode, or such
other information as afore-
said, and

(b) any other person shall, if re-
25 quired as aforesaid, give any
information which it is in his
power to give and which may
lead to the identification of
such driver and if he fails to
do so, he shall be guilty of an
30 offence against such ordinance.

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

(b)

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- 5 (b) If any vehicle is driven or drawn on any
main road in contravention of or non-
compliance with any specified provisions
of any such ordinance, then, without
affecting the liability of any other person
therefor, the owner of the vehicle, or the
person having the custody of the vehicle,
or, in the case of a motor vehicle regis-
tered under and in accordance with the
10 regulations made under the Motor Traffic
Act, 1909, as amended by subsequent Acts,
the person in whose name the motor
vehicle is registered, shall, unless he
proves that such contravention or non-
15 compliance occurred without his know-
ledge and that he could not with reason-
able diligence have known of or prevented
such contravention or non-compliance, be
guilty of an offence against such or-
20 dinance.

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

- 25 (a) by omitting from the matter relating to Part IX
in section three the figures "277" and by insert-
ing in lieu thereof the figures and letter "277A"; Sec. 3.
(Division
into Parts.)
- (b) by omitting paragraphs (u), (v), (w), (x) and
30 (y) of subsection one of section two hundred and
seventy-seven; Sec. 277.
(Ordin-
ances.)
- (c) by inserting next after section two hundred and
seventy-seven the following new section:— New sec.
277A.
- 277A. (1) Without limiting the generality of
section two hundred and seventy-seven of this
Act, ordinances may be made for and with
respect to— Ordinances
for
preventing
damage
to roads.
- 35 (a) the prevention of damage to public
roads;

(b)

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- (b) the prevention of the doing of things likely to injure public roads;
- (c) the regulation of the weight of—
 - (i) vehicles using public roads;
 - 5 (ii) loads on such vehicles;
 - (iii) the load on any part of any such vehicle;
- 10 (d) the regulation of the weight of any vehicle using a public road, together with the load on such vehicle;
- (e) the prohibition or regulation of the use of vehicles likely to injure public roads;
- 15 (f) the weighing of vehicles using public roads, of loads on such vehicles and of the load on any part of any such vehicle; the weighing of any such vehicle together with the load thereon; requiring the driver or person in charge of any such vehicle, for the purpose of any such weighing, to comply with such requirements as may be prescribed or with such directions as may be given him by any member of the police force or by the proper servant of the council; prescribing the method to be used to determine the weight of the load on any part of any such vehicle, or of any such vehicle together with the load on it where the vehicle and such load are not weighed as a whole;
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- (g) the measuring of loads on vehicles using public roads and the determination of the weight of any load on such a vehicle according to a prescribed scale for various classes of goods;
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- (h)

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- 5 (h) the stopping of vehicles using public roads and the inspection of such vehicles and loads on them; the production of books, documents and records relating to any such vehicle or the load on it and carried in or on such vehicle or by the driver or person in charge thereof;
- 10 (i) the restriction of traffic or of any specified class of traffic to protect public roads from injury;
- 15 (j) authorising the council to display notices for and with respect to any matter for and with respect to which ordinances may be made under this section and to delegate the power conferred on it by any ordinance made under the foregoing provisions of this paragraph to any servant of the council; requiring persons to comply with the provisions of any such notice;
- 20 (k) providing for the exemption, either absolutely or subject to conditions, of any person or class of persons from any of the provisions of any ordinance made under this section;
- 25 (l) authorising the council to notify in the prescribed manner special provisions for and with respect to matters for and with respect to which ordinances may be made under this section; providing that such
- 30 special provisions shall apply, notwithstanding any other provision of any ordinance made under this section, to any vehicle or class of vehicles, or within any district, specified in such notification and shall have effect as if they were prescribed
- 35 by ordinance made under this section; and imposing a penalty on any person contravening or failing to comply with such provisions.

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

10 (3) An ordinance made under this section may be made to apply or to have operation throughout all areas or throughout the whole or any part of an area, may be of general operation or specially limited application according to time, place or circumstances and may be general or restricted to any specified class of subject matter.

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

20 (a) the weight of a vehicle, of any load on it, of the load on any part of it, or of a vehicle together with the load on it, ascertained or determined in accordance with the provisions of the ordinance shall be prima facie evidence of the weight of such vehicle, of the load on it, of the load on such part of it, or of the vehicle together with the load on it, as the case may be;

25
30 (b) a certificate purporting to be under the hand of the Superintendent of Weights and Measures appointed under the Weights and Measures Act, 1915, as amended by subsequent Acts, certifying that on a date specified in the certificate, such date being within twelve months before the time such offence was committed, he examined a weighing device specified in the certificate and that
35 such weighing device then weighed accurately

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accurately or within such tolerances as may be specified in the certificate, shall, if such weighing device was at the time such offence was committed used for the purpose of weighing the vehicle in relation to which the offence is alleged to have been committed, the load on such vehicle, the load on any part of such vehicle, or such vehicle together with the load on it, and in such manner and in accordance with such conditions as may be specified in the certificate, be prima facie evidence that at that time such weighing device weighed accurately or within such tolerances specified as aforesaid, as the case may be.

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

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

(a) the owner of the vehicle, and the person having the custody of the vehicle, and, in the case of a motor vehicle registered under and in accordance with the regulations made under the Motor Traffic Act, 1909, as amended by subsequent Acts, the person in whose name the motor vehicle is registered, shall, when required so to do by any proper servant of the council or by any member of the police force, forthwith give information (which shall, if so required, be given in the form of

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5 of a statement in writing
signed by such owner or per-
son) as to the name and place
of abode of such driver, the
nature, weight and description
of the load being carried by
the vehicle at the time the
offence is alleged to have been
committed, the tare weight of
10 the vehicle and any other rele-
vant information relating to
the offence that may be re-
quired of him, and if any such
owner or person fails to do so
15 he shall be guilty of an offence
against such ordinance, unless
he proves to the satisfaction of
the court that he did not know
and could not with reasonable
20 diligence have ascertained such
name and place of abode, or
such other information as
aforesaid, and

25 (b) any other person shall, if re-
quired as aforesaid, give any
information which it is in his
power to give and which may
lead to the identification of
such driver and if he fails to do
30 so, he shall be guilty of an
offence against such ordinance.

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

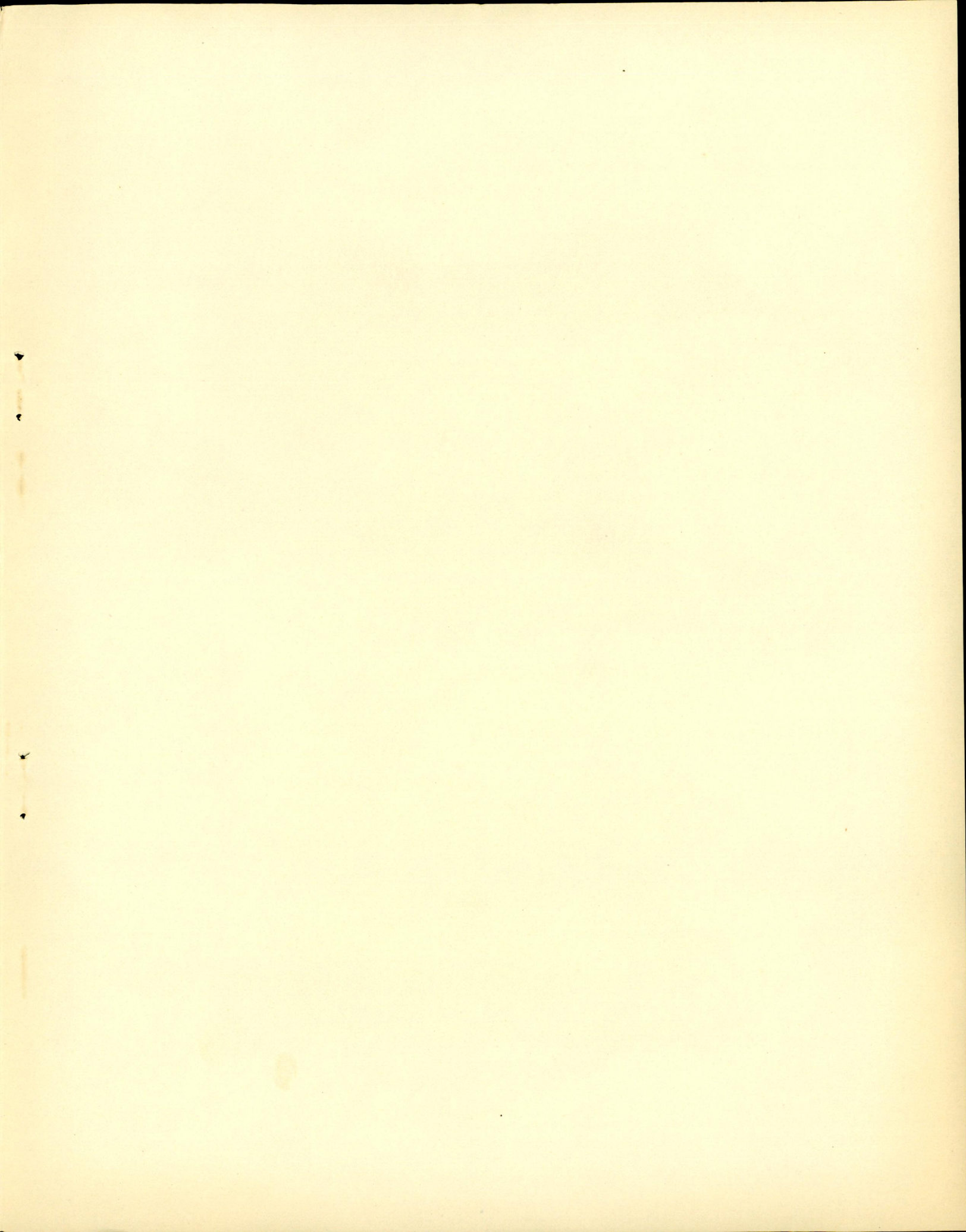
(b)

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5 (b) If any vehicle is driven or drawn on any
public road in contravention of or non-
compliance with any specified provisions
of any such ordinance, then, without
affecting the liability of any other per-
son therefor, the owner of the vehicle or
the person having the custody of the
vehicle, or, in the case of a motor vehicle
10 registered under and in accordance with
the regulations made under the Motor
Traffic Act, 1909, as amended by subse-
quent Acts, the person in whose name the
motor vehicle is registered, shall, unless
15 he proves that such contravention or non-
compliance occurred without his know-
ledge and that he could not with reason-
able diligence have known of or prevented
such contravention or non-compliance,
20 be guilty of an offence against such
ordinance.

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

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



**MAIN ROADS AND LOCAL GOVERNMENT (AMENDMENT)
BILL, 1957.**

EXPLANATORY NOTE.

THE objects of this Bill are—

- (a) to extend the operation of the Main Roads Act, 1924, as amended by subsequent Acts, to shires in the Western Division;
- (b) to provide for the allocation of certain moneys paid under the Commonwealth Aid Roads Act 1954 to the State by the Commonwealth of Australia between the County of Cumberland Main Roads Fund, the Country Main Roads Fund and the Developmental Roads Fund;
- (c) to empower the Commissioner for Main Roads to amend or rescind any declaration of a secondary road;
- (d) to extend to the Commissioner when he is carrying out road works the same immunities as are enjoyed by councils;
- (e) to limit the class of road works particulars of which must be furnished by certain constructing authorities to the Commissioner to those costing more than £20,000;
- (f) to authorise the Commissioner to endow the Chair of Highway Engineering at the New South Wales University of Technology;
- (g) to permit the maximum penalty that may be imposed under certain ordinances made under the Main Roads Act, 1924, as amended by subsequent Acts, to be increased from £50 to £200;
- (h) to extend the powers under the Main Roads Act, 1924, as amended by subsequent Acts, and under the Local Government Act, 1919, as amended by subsequent Acts, to make ordinances for and with respect to the protection of roads from damage;
- (i) to relieve the Commissioner from responsibility for maintaining, managing and administering certain roads, bridges and ferries within the Western Division upon their being included in a municipality or shire;
- (j) to make other amendments of a consequential or ancillary character.

No. , 1957.

A BILL

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

[MR. ENTICKNAP *on behalf of* MR. RENSHAW;—
27 November, 1957.]

Main Roads and Local Government (Amendment).

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of
5 the same, as follows :—

1. (1) This Act may be cited as the "Main Roads and Local Government (Amendment) Act, 1957".

Short title
and
citation.

(2) The Main Roads Act, 1924, as amended by subsequent Acts and by this Act, may be cited as the Main
10 Roads Acts, 1924-1957.

2. (1) The Main Roads Act, 1924-1957, is amended—

Amendment
of Act No.
24, 1924.

(a) by inserting at the end of subsection two of section one the words "or shires";

Sec. 1 (2).
(Application
of Act.)

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

Sec. 4.
(Adaptation
of Acts—
application
to councils.)

(3) This Act shall be read and construed subject to the Commonwealth of Australia Constitution Act and so as not to exceed the legislative power of the State to the intent that where any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the remainder of this Act and the application of such provision to other persons or circumstances shall not be affected.

25 (c) by omitting paragraph (e) of subsection one of section ten and by inserting in lieu thereof the following paragraph :—

Sec. 10.
(County of
Cumberland
Main Roads
Fund.)

30 (e) twenty per centum of the moneys, exclusive of the amount required to be expended under subsection three of section nine of the Commonwealth Aid Roads

Main Roads and Local Government (Amendment).

5 Roads Act 1954, as amended by subsequent Acts, of the Parliament of the Commonwealth, paid under the said section nine to the State by the Commonwealth of Australia in respect of any year commencing on the first day of July;

10 (d) by omitting subsection (1B) of section twelve Sec. 12. and by inserting in lieu thereof the following (Use of fund.) subsection:—

15 (1B) That part of the County of Cumberland Main Roads Fund which consists of moneys paid into that fund in respect of any year pursuant to paragraph (e) of subsection one of section ten of this Act shall be expended—

(a) on the construction, reconstruction, maintenance and repair of roads or on the purchase of road-making plant; or

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

25 Provided that out of the moneys so paid into that fund in respect of that year there may be expended on works connected with transport by road or water other than those referred to in paragraph (a) or (b) of this subsection or of subsection (1B) of section twenty-one of this Act, or in subsection (2A) of section twenty-nine of this Act, an amount which, together with any amount expended under the proviso to the said subsection (1B) out of the moneys paid into the Country Main Roads Fund in respect of that year pursuant to paragraph (d) of subsection one of section twenty of this Act, does not exceed

35 such

Main Roads and Local Government (Amendment).

5 such part of one million pounds as bears to one
million pounds the same proportion as the
amount payable under section nine of the Com-
monwealth Aid Roads Act 1954, as amended
by subsequent Acts, of the Parliament of the
Commonwealth to the State of New South Wales
in respect of the year firstmentioned in this
proviso bears to the total amount payable under
10 the said section nine to all the States in respect
of the year firstmentioned as aforesaid.

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

Sec. 18.
(Secondary
main roads.)

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

15 In this section "notification" means notifica-
tion by publication in the Gazette or by such
other method as may be prescribed.

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

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

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

Sec. 20.
(Country
Main Roads
Fund.)

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

(h)

Main Roads and Local Government (Amendment).

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

Sec. 21.
 (Expendi-
 ture.)

5 (1B) That part of the Country Main Roads
 Fund which consists of moneys paid into that
 fund in respect of any year pursuant to para-
 graph (d) of subsection one of section twenty of
 this Act shall be expended—

10 (a) on the construction, reconstruction,
 maintenance and repair of roads or on
 the purchase of road-making plant; or

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

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

(i)

Main Roads and Local Government (Amendment).

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

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

5

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

10

15

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

20

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

25

(a) on the construction, reconstruction, maintenance and repair of developmental roads in rural areas or on the purchase of road-making plant for use in connection with such developmental roads; or

30

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

35

(j)

Main Roads and Local Government (Amendment).

- (j) (i) by inserting in subsection one of section thirty-two after the word "powers" where firstly occurring the words "and immunities";
- 5 (ii) by inserting in the same subsection after the word "powers" where lastly occurring the words "or immunities";
- 10 (iii) by inserting in subsection (1A) of the same section after the word "powers" where firstly occurring the words "and immunities";
- (iv) by inserting in the same subsection after the word "powers" where lastly occurring the words "or immunities";
- 15 (k) by omitting from subsection one of section 41A the word "five" and by inserting in lieu thereof the word "twenty";
- (l) by inserting next after section forty-eight the following new section:—
- 20 48A. There shall in each year commencing on the first day of July be paid by the Commissioner to the New South Wales University of Technology towards the cost of establishing and maintaining a Chair of Highway Engineering at that University the sum of five thousand pounds.
- 25

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

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

New sec. 48A.

Annual payment to New South Wales University of Technology.

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

(m)

Main Roads and Local Government (Amendment).

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

Sec. 51.
(Ordinances.)

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

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

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

10 (13) (a) Where any road, bridge or ferry specified in a proclamation made under subsection one of this section and within the Western Division is, after the commencement of the Main Roads and Local Government (Amendment) Act, 1957, included in any municipality or shire

15 the powers, authorities, duties and functions exercised or performed by the Commissioner under the provisions of this section in respect of such road, bridge or ferry shall thereupon cease and determine.

20 (b) Where any road, bridge or ferry so specified is at the commencement of the Main Roads and Local Government (Amendment) Act, 1957, within the Western Division and

25 within a municipality or shire the powers, authorities, duties and functions exercised and performed by the Commissioner as aforesaid shall cease and determine upon such commencement.

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

35 (2) (a) The amendments made by paragraphs (c), (d), (g), (h) and (i) of subsection one of this section shall be deemed to have commenced on the first day of July, one thousand nine hundred and fifty-four.

(b)

Main Roads and Local Government (Amendment).

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

5 3. (1) The Main Roads Act, 1924-1957, is further amended— Further amendment of Act No. 24, 1924.

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

- 10 (d) the regulation of the weight of—
 (i) vehicles using main roads;
 (ii) loads on such vehicles;
 (iii) the load on any part of any such vehicle;
- 15 (d1) the regulation of the weight of any vehicle using a main road, together with the load on such vehicle;
- 20 (b) by omitting from paragraph (e) of the same subsection the word "regulation" and by inserting in lieu thereof the words "prohibition or regulation";
- (c) by omitting paragraph (f) of the same subsection and by inserting in lieu thereof the following paragraphs:—
- 25 (f) the weighing of vehicles using main roads, of loads on such vehicles and of the load on any part of any such vehicle; the weighing of any such vehicle together with the load thereon;
- 30 requiring the driver or person in charge
 of

Main Roads and Local Government (Amendment).

- 5 of any such vehicle, for the purpose of
any such weighing, to comply with such
requirements as may be prescribed or
with such directions as may be given
him by any member of the police force,
or by any servant of a council, or of
the Commissioner, authorised in that
behalf by the Commissioner; prescribing
10 the method to be used to determine
the weight of the load on any part of
any such vehicle, or of any such vehicle
together with the load on it where the
vehicle and such load are not weighed
as a whole;
- 15 (f1) the measuring of loads on vehicles using
main roads and the determination of
the weight of any load on such a vehicle
according to a prescribed scale for
various classes of goods;
- 20 (f2) the stopping of vehicles using main
roads and the inspection of such
vehicles and loads on them; the produc-
tion of books, documents and records
relating to any such vehicle or the load
25 on it and carried in or on such vehicle
or by the driver or person in charge
thereof;
- (d) by inserting next after paragraph (g) of the
30 same subsection the following new para-
graphs:—
- 35 (g1) authorising the Commissioner to
display notices for and with respect
to any matter for and with respect to
which ordinances may be made under
this section and to delegate the power
conferred on him by any ordinance
made under the authority of the
foregoing provisions of this paragraph
to

Main Roads and Local Government (Amendment).

to any servant of a council or of the Commissioner; requiring persons to comply with the provisions of any such notice;

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

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

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

30 (1A) The several provisions of paragraphs (a) to (g3), both paragraphs inclusive, of subsection one of this section shall be read cumulatively and not in derogation from or as limiting the generality or operation of any other of such provisions.

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

35

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

the

Main Roads and Local Government (Amendment).

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

5

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

10

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

15

(a) the weight of a vehicle, of any load on it, of the load on any part of it, or of a vehicle together with the load on it, ascertained or determined in accordance with the provisions of the ordinance shall be prima facie evidence of the weight of such vehicle, of the load on it, of the load on such part of it, or of the vehicle together with the load on it, as the case may be;

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(b) a certificate purporting to be under the hand of the Superintendent of Weights and Measures appointed under the Weights and Measures Act, 1915, as amended by subsequent Acts, certifying that on a date specified in the certificate, such date being within twelve months before the time such offence was committed, he examined a weighing device specified in the certificate and that such weighing device then weighed accurately or within such tolerances as may be specified in the certificate, shall, if such weighing device was at the time such offence was committed used for the purpose of weighing the vehicle in relation to which the offence is alleged

30

35

to

Main Roads and Local Government (Amendment).

5 to have been committed, the load on
such vehicle, the load on any part of
such vehicle, or such vehicle together
with the load on it, and in such manner
and in accordance with such conditions
as may be specified in the certificate,
be prima facie evidence that at that
time such weighing device weighed
10 accurately or within such tolerances
specified as aforesaid, as the case may
be.

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

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

20 (a) the owner of the vehicle, and
the person having the custody
of the vehicle, and, in the case
of a motor vehicle registered
under and in accordance with
the regulations made under the
25 Motor Traffic Act, 1909, as
amended by subsequent Acts,
the person in whose name the
motor vehicle is registered,
shall, when required so to do
30 by any servant of the Commis-
sioner, or by any servant of a
council duly authorised in that
behalf by the Commissioner, or
by any member of the police
force, forthwith give informa-
35 tion (which shall, if so re-
quired, be given in the form of
a statement in writing signed
by

Main Roads and Local Government (Amendment).

5 by such owner or person) as to
the name and place of abode of
such driver, the nature, weight
and description of the load
being carried by the vehicle at
the time the offence is alleged
to have been committed, the
tare weight of the vehicle and
any other relevant information
10 relating to the offence that
may be required of him, and if
any such owner or person fails
to do so he shall be guilty of
an offence against such or-
15 dinance, unless he proves to
the satisfaction of the court
that he did not know and could
not with reasonable diligence
have ascertained such name
20 and place of abode, or such
other information as afore-
said, and

(b) any other person shall, if re-
25 quired as aforesaid, give any
information which it is in his
power to give and which may
lead to the identification of
such driver and if he fails to
do so, he shall be guilty of an
30 offence against such ordinance.

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

(b)

Main Roads and Local Government (Amendment).

- 5 (b) If any vehicle is driven or drawn on any main road in contravention of or non-compliance with any specified provisions of any such ordinance, then, without affecting the liability of any other person therefor, the owner of the vehicle, or the person having the custody of the vehicle, or, in the case of a motor vehicle registered under and in accordance with the regulations made under the Motor Traffic Act, 1909, as amended by subsequent Acts, the person in whose name the motor vehicle is registered, shall, unless he proves that such contravention or non-compliance occurred without his knowledge and that he could not with reasonable diligence have known of or prevented such contravention or non-compliance, be guilty of an offence against such ordinance.
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- 15
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- (2) The Local Government Act, 1919, as amended by subsequent Acts, is amended—
- Amendment of Act No. 41, 1919.
- 25 (a) by omitting from the matter relating to Part IX in section three the figures "277" and by inserting in lieu thereof the figures and letter "277A";
- Sec. 3. (Division into Parts.)
- (b) by omitting paragraphs (u), (v), (w), (x) and (y) of subsection one of section two hundred and seventy-seven;
- Sec. 277. (Ordinances.)
- 30 (c) by inserting next after section two hundred and seventy-seven the following new section:—
- New sec. 277A.
- 277A. (1) Without limiting the generality of section two hundred and seventy-seven of this Act, ordinances may be made for and with respect to—
- Ordinances for preventing damage to roads.
- 35 (a) the prevention of damage to public roads;
- (b)

Main Roads and Local Government (Amendment).

- (b) the prevention of the doing of things likely to injure public roads;
- (c) the regulation of the weight of—
- 5 (i) vehicles using public roads;
- (ii) loads on such vehicles;
- (iii) the load on any part of any such vehicle;
- (d) the regulation of the weight of any
- 10 vehicle using a public road, together with the load on such vehicle;
- (e) the prohibition or regulation of the use of vehicles likely to injure public roads;
- (f) the weighing of vehicles using public roads, of loads on such vehicles and of
- 15 the load on any part of any such vehicle; the weighing of any such vehicle together with the load thereon; requiring the driver or person in charge of any such
- 20 vehicle, for the purpose of any such weighing, to comply with such requirements as may be prescribed or with such directions as may be given him by any member of the police force or by the
- 25 proper servant of the council; prescribing the method to be used to determine the weight of the load on any part of any such vehicle, or of any such vehicle together with the load on it where the
- 30 vehicle and such load are not weighed as a whole;
- (g) the measuring of loads on vehicles using public roads and the determination of the weight of any load on such a vehicle according to a prescribed scale for
- 35 various classes of goods;
- (h)

Main Roads and Local Government (Amendment).

- 5 (h) the stopping of vehicles using public roads and the inspection of such vehicles and loads on them; the production of books, documents and records relating to any such vehicle or the load on it and carried in or on such vehicle or by the driver or person in charge thereof;
- 10 (i) the restriction of traffic or of any specified class of traffic to protect public roads from injury;
- 15 (j) authorising the council to display notices for and with respect to any matter for and with respect to which ordinances may be made under this section and to delegate the power conferred on it by any ordinance made under the foregoing provisions of this paragraph to any servant of the council; requiring persons to comply with the provisions of any such notice;
- 20 (k) providing for the exemption, either absolutely or subject to conditions, of any person or class of persons from any of the provisions of any ordinance made under this section;
- 25 (l) authorising the council to notify in the prescribed manner special provisions for and with respect to matters for and with respect to which ordinances may be made under this section; providing that such special provisions shall apply, notwithstanding any other provision of any ordinance made under this section, to any vehicle or class of vehicles, or within any district, specified in such notification and shall have effect as if they were prescribed by ordinance made under this section;
- 30 and imposing a penalty on any person contravening or failing to comply with such provisions.
- 35

Main Roads and Local Government (Amendment).

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

10 (3) An ordinance made under this section may be made to apply or to have operation throughout all areas or throughout the whole or any part of an area, may be of general operation or specially limited application according to time, place or circumstances and may be general or restricted to any specified class of subject matter.

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

20 (a) the weight of a vehicle, of any load on it, of the load on any part of it, or of a vehicle together with the load on it, ascertained or determined in accordance with the provisions of the ordinance shall be prima facie evidence of the weight of such vehicle, of the load on it, of the load on such part of it, or of the vehicle together with the load on it, as the case may be;

30 (b) a certificate purporting to be under the hand of the Superintendent of Weights and Measures appointed under the Weights and Measures Act, 1915, as amended by subsequent Acts, certifying that on a date specified in the certificate, such date being within twelve months before the time such offence was committed, he examined a weighing device specified in the certificate and that such weighing device then weighed
35 accurately

Main Roads and Local Government (Amendment).

5 accurately or within such tolerances as
may be specified in the certificate, shall,
if such weighing device was at the time
such offence was committed used for
the purpose of weighing the vehicle in
relation to which the offence is alleged
to have been committed, the load on
such vehicle, the load on any part of
such vehicle, or such vehicle together
10 with the load on it, and in such manner
and in accordance with such conditions
as may be specified in the certificate, be
prima facie evidence that at that
time such weighing device weighed
15 accurately or within such tolerances
specified as aforesaid, as the case may
be.

(5) An ordinance made under the pro-
visions of this section may contain provisions in
or to the following effect:—
20

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

25 (a) the owner of the vehicle, and
the person having the custody
of the vehicle, and, in the case
of a motor vehicle registered
under and in accordance with
the regulations made under the
30 Motor Traffic Act, 1909, as
amended by subsequent Acts,
the person in whose name the
motor vehicle is registered,
shall, when required so to do
35 by any proper servant of the
council or by any member of
the police force, forthwith give
information (which shall, if so
required, be given in the form
of

Main Roads and Local Government (Amendment).

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

(b) any other person shall, if required as aforesaid, give any information which it is in his power to give and which may lead to the identification of such driver and if he fails to do so, he shall be guilty of an offence against such ordinance.

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

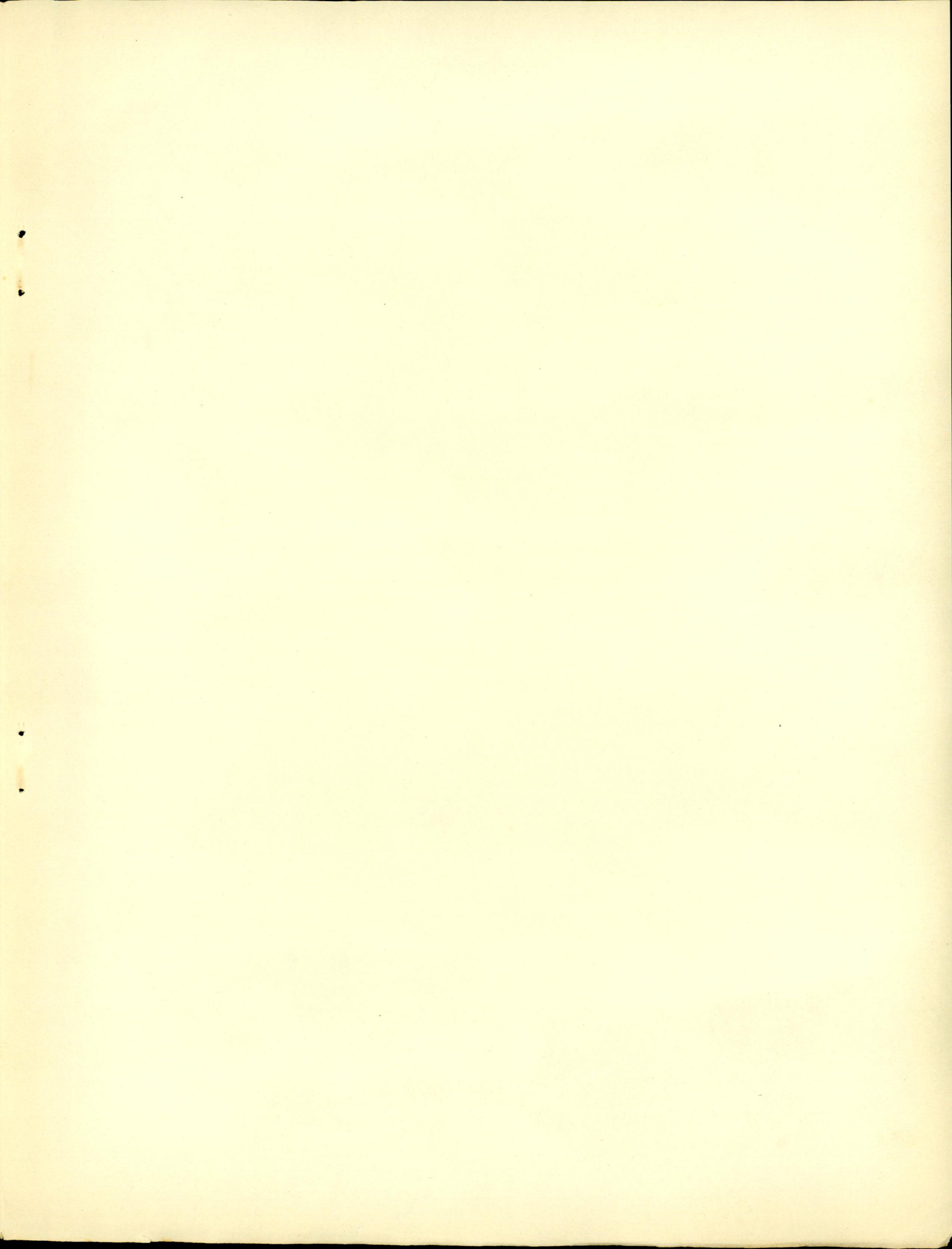
(b)

Main Roads and Local Government (Amendment).

5 (b) If any vehicle is driven or drawn on any
public road in contravention of or non-
compliance with any specified provisions
of any such ordinance, then, without
affecting the liability of any other per-
son therefor, the owner of the vehicle or
the person having the custody of the
vehicle, or, in the case of a motor vehicle
10 registered under and in accordance with
the regulations made under the Motor
Traffic Act, 1909, as amended by subse-
quent Acts, the person in whose name the
motor vehicle is registered, shall, unless
15 he proves that such contravention or non-
compliance occurred without his know-
ledge and that he could not with reason-
able diligence have known of or prevented
such contravention or non-compliance,
20 be guilty of an offence against such
ordinance.

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

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



PROOF

MAIN ROADS AND LOCAL GOVERNMENT (AMENDMENT)
BILL, 1987

THE GOVERNMENT OF INDIA

Enacted by the
Lok Sabha on the
15th day of
February, 1987.
Enacted by the
Rajya Sabha on the
17th day of
February, 1987.
Enacted by the
President on the
19th day of
February, 1987.

New South Wales



ANNO SEXTO

ELIZABETHÆ II REGINÆ

Act No. 65, 1957.

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

10533

A

[1s.]

BE

Main Roads and Local Government (Amendment).

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

Short title
and
citation.

1. (1) This Act may be cited as the "Main Roads and Local Government (Amendment) Act, 1957".

(2) The Main Roads Act, 1924, as amended by subsequent Acts and by this Act, may be cited as the Main Roads Acts, 1924-1957.

Amendment
of Act No.
24, 1924.

2. (1) The Main Roads Act, 1924-1957, is amended—

Sec. 1 (2).
(Application
of Act.)

(a) by inserting at the end of subsection two of section one the words "or shires";

Sec. 4.
(Adaptation
of Acts—
application
to councils.)

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

(3) This Act shall be read and construed subject to the Commonwealth of Australia Constitution Act and so as not to exceed the legislative power of the State to the intent that where any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the remainder of this Act and the application of such provision to other persons or circumstances shall not be affected.

Sec. 10.
(County of
Cumberland
Main Road
Fund.)

(c) by omitting paragraph (e) of subsection one of section ten and by inserting in lieu thereof the following paragraph:—

(e) twenty per centum of the moneys, exclusive of the amount required to be expended under subsection three of section nine of the Commonwealth Aid Roads

Main Roads and Local Government (Amendment).

Roads Act 1954, as amended by subsequent Acts, of the Parliament of the Commonwealth, paid under the said section nine to the State by the Commonwealth of Australia in respect of any year commencing on the first day of July;

- (d) by omitting subsection (1B) of section twelve Sec. 12. and by inserting in lieu thereof the following (Use of fund.) subsection:—

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

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

Provided that out of the moneys so paid into that fund in respect of that year there may be expended on works connected with transport by road or water other than those referred to in paragraph (a) or (b) of this subsection or of subsection (1B) of section twenty-one of this Act, or in subsection (2A) of section twenty-nine of this Act, an amount which, together with any amount expended under the proviso to the said subsection (1B) out of the moneys paid into the Country Main Roads Fund in respect of that year pursuant to paragraph (d) of subsection one of section twenty of this Act, does not exceed

such

Main Roads and Local Government (Amendment).

such part of one million pounds as bears to one million pounds the same proportion as the amount payable under section nine of the Commonwealth Aid Roads Act 1954, as amended by subsequent Acts, of the Parliament of the Commonwealth to the State of New South Wales in respect of the year firstmentioned in this proviso bears to the total amount payable under the said section nine to all the States in respect of the year firstmentioned as aforesaid.

Sec. 18.
(Secondary
main roads.)

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

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

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

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

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

Sec. 20.
(Country
Main Roads
Fund.)

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

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

(h)

Main Roads and Local Government (Amendment).

- (h) by omitting subsection (1B) of section twenty-one and by inserting in lieu thereof the following subsection:— Sec. 21.
(Expenditure.)

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

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

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

Main Roads and Local Government (Amendment).

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

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

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

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

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

(a) on the construction, reconstruction, maintenance and repair of developmental roads in rural areas or on the purchase of road-making plant for use in connection with such developmental roads; or

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

(j)

Main Roads and Local Government (Amendment).

- (j) (i) by inserting in subsection one of section thirty-two after the word "powers" where firstly occurring the words "and immunities"; Sec. 32. (When board may do work itself.)
- (ii) by inserting in the same subsection after the word "powers" where lastly occurring the words "or immunities";
- (iii) by inserting in subsection (1A) of the same section after the word "powers" where firstly occurring the words "and immunities";
- (iv) by inserting in the same subsection after the word "powers" where lastly occurring the words "or immunities";
- (k) by omitting from subsection one of section 41A the word "five" and by inserting in lieu thereof the word "twenty"; Sec. 41A. (Particulars of new road works to be furnished to Commissioner.)
- (l) by inserting next after section forty-eight the following new section:— New sec. 48A.
- 48A. There shall in each year commencing on the first day of July be paid by the Commissioner to the New South Wales University of Technology towards the cost of establishing and maintaining a Chair of Highway Engineering at that University the sum of five thousand pounds. Annual payment to New South Wales University of Technology.

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

(m)

Main Roads and Local Government (Amendment).

Sec. 51.
(Ordinances.)

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

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

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

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

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

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

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

(2) (a) The amendments made by paragraphs (c), (d), (g), (h) and (i) of subsection one of this section shall be deemed to have commenced on the first day of July, one thousand nine hundred and fifty-four.

(b)

Main Roads and Local Government (Amendment).

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

3. (1) The Main Roads Act, 1924-1957, is further amended—

Further amendment of Act No. 24, 1924.

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

Sec. 51. (Ordinances.)

(d) the regulation of the weight of—

(i) vehicles using main roads;

(ii) loads on such vehicles;

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

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

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

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

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

of

Main Roads and Local Government (Amendment).

- of any such vehicle, for the purpose of any such weighing, to comply with such requirements as may be prescribed or with such directions as may be given him by any member of the police force, or by any servant of a council, or of the Commissioner, authorised in that behalf by the Commissioner; prescribing the method to be used to determine the weight of the load on any part of any such vehicle, or of any such vehicle together with the load on it where the vehicle and such load are not weighed as a whole;
- (f1) the measuring of loads on vehicles using main roads and the determination of the weight of any load on such a vehicle according to a prescribed scale for various classes of goods;
- (f2) the stopping of vehicles using main roads and the inspection of such vehicles and loads on them; the production of books, documents and records relating to any such vehicle or the load on it and carried in or on such vehicle or by the driver or person in charge thereof;
- (d) by inserting next after paragraph (g) of the same subsection the following new paragraphs:—
- (g1) authorising the Commissioner to display notices for and with respect to any matter for and with respect to which ordinances may be made under this section and to delegate the power conferred on him by any ordinance made under the authority of the foregoing provisions of this paragraph to

Main Roads and Local Government (Amendment).

- to any servant of a council or of the Commissioner; requiring persons to comply with the provisions of any such notice;
- (g2) providing for the exemption, either absolutely or subject to conditions, of any person or class of persons from any of the provisions of any ordinance made under this section;
- (g3) authorising the Commissioner to notify in the prescribed manner special provisions for and with respect to matters for and with respect to which ordinances may be made under this section; providing that such special provisions shall apply, notwithstanding any other provision of any ordinance made under the authority of this section, to any vehicle or class of vehicles, or within any district, specified in such notification and shall have effect as if they were prescribed by ordinance made under this section; imposing a penalty on any person contravening or failing to comply with such provisions;
- (e) by inserting next after the same subsection the following new subsection:—
- (1A) The several provisions of paragraphs (a) to (g3), both paragraphs inclusive, of subsection one of this section shall be read cumulatively and not in derogation from or as limiting the generality or operation of any other of such provisions.
- (f) by inserting next after subsection two of the same section the following new subsection:—
- (2A) An ordinance made under the authority of this section may be made to apply or to have operation throughout the whole or any part of the

Main Roads and Local Government (Amendment).

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

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

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

(a) the weight of a vehicle, of any load on it, of the load on any part of it, or of a vehicle together with the load on it, ascertained or determined in accordance with the provisions of the ordinance shall be prima facie evidence of the weight of such vehicle, of the load on it, of the load on such part of it, or of the vehicle together with the load on it, as the case may be;

(b) a certificate purporting to be under the hand of the Superintendent of Weights and Measures appointed under the Weights and Measures Act, 1915, as amended by subsequent Acts, certifying that on a date specified in the certificate, such date being within twelve months before the time such offence was committed, he examined a weighing device specified in the certificate and that such weighing device then weighed accurately or within such tolerances as may be specified in the certificate, shall, if such weighing device was at the time such offence was committed used for the purpose of weighing the vehicle in relation to which the offence is alleged

to

Main Roads and Local Government (Amendment).

to have been committed, the load on such vehicle, the load on any part of such vehicle, or such vehicle together with the load on it, and in such manner and in accordance with such conditions as may be specified in the certificate, be prima facie evidence that at that time such weighing device weighed accurately or within such tolerances specified as aforesaid, as the case may be.

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

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

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

by

Main Roads and Local Government (Amendment).

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

(b) any other person shall, if required as aforesaid, give any information which it is in his power to give and which may lead to the identification of such driver and if he fails to do so, he shall be guilty of an offence against such ordinance.

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

(b)

Main Roads and Local Government (Amendment).

(b) If any vehicle is driven or drawn on any main road in contravention of or non-compliance with any specified provisions of any such ordinance, then, without affecting the liability of any other person therefor, the owner of the vehicle, or the person having the custody of the vehicle, or, in the case of a motor vehicle registered under and in accordance with the regulations made under the Motor Traffic Act, 1909, as amended by subsequent Acts, the person in whose name the motor vehicle is registered, shall, unless he proves that such contravention or non-compliance occurred without his knowledge and that he could not with reasonable diligence have known of or prevented such contravention or non-compliance, be guilty of an offence against such ordinance.

(2) The Local Government Act, 1919, as amended by subsequent Acts, is amended—

Amendment
of Act No.
41, 1919.

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

Sec. 3.
(Division
into Parts.)

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

Sec. 277.
(Ordinances.)

(c) by inserting next after section two hundred and seventy-seven the following new section:—

New sec.
277A.

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

Ordinances
for
preventing
damage
to roads.

(a) the prevention of damage to public roads;

(b)

Main Roads and Local Government (Amendment).

- (b) the prevention of the doing of things likely to injure public roads;
- (c) the regulation of the weight of—
 - (i) vehicles using public roads;
 - (ii) loads on such vehicles;
 - (iii) the load on any part of any such vehicle;
- (d) the regulation of the weight of any vehicle using a public road, together with the load on such vehicle;
- (e) the prohibition or regulation of the use of vehicles likely to injure public roads;
- (f) the weighing of vehicles using public roads, of loads on such vehicles and of the load on any part of any such vehicle; the weighing of any such vehicle together with the load thereon; requiring the driver or person in charge of any such vehicle, for the purpose of any such weighing, to comply with such requirements as may be prescribed or with such directions as may be given him by any member of the police force or by the proper servant of the council; prescribing the method to be used to determine the weight of the load on any part of any such vehicle, or of any such vehicle together with the load on it where the vehicle and such load are not weighed as a whole;
- (g) the measuring of loads on vehicles using public roads and the determination of the weight of any load on such a vehicle according to a prescribed scale for various classes of goods;
- (h)

Main Roads and Local Government (Amendment).

- (h) the stopping of vehicles using public roads and the inspection of such vehicles and loads on them; the production of books, documents and records relating to any such vehicle or the load on it and carried in or on such vehicle or by the driver or person in charge thereof;
- (i) the restriction of traffic or of any specified class of traffic to protect public roads from injury;
- (j) authorising the council to display notices for and with respect to any matter for and with respect to which ordinances may be made under this section and to delegate the power conferred on it by any ordinance made under the foregoing provisions of this paragraph to any servant of the council; requiring persons to comply with the provisions of any such notice;
- (k) providing for the exemption, either absolutely or subject to conditions, of any person or class of persons from any of the provisions of any ordinance made under this section;
- (l) authorising the council to notify in the prescribed manner special provisions for and with respect to matters for and with respect to which ordinances may be made under this section; providing that such special provisions shall apply, notwithstanding any other provision of any ordinance made under this section, to any vehicle or class of vehicles, or within any district, specified in such notification and shall have effect as if they were prescribed by ordinance made under this section; and imposing a penalty on any person contravening or failing to comply with **such provisions.**

Main Roads and Local Government (Amendment).

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

(3) An ordinance made under this section may be made to apply or to have operation throughout all areas or throughout the whole or any part of an area, may be of general operation or specially limited application according to time, place or circumstances and may be general or restricted to any specified class of subject matter.

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

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

Main Roads and Local Government (Amendment).

accurately or within such tolerances as may be specified in the certificate, shall, if such weighing device was at the time such offence was committed used for the purpose of weighing the vehicle in relation to which the offence is alleged to have been committed, the load on such vehicle, the load on any part of such vehicle, or such vehicle together with the load on it, and in such manner and in accordance with such conditions as may be specified in the certificate, be prima facie evidence that at that time such weighing device weighed accurately or within such tolerances specified as aforesaid, as the case may be.

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

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

(a) the owner of the vehicle, and the person having the custody of the vehicle, and, in the case of a motor vehicle registered under and in accordance with the regulations made under the Motor Traffic Act, 1909, as amended by subsequent Acts, the person in whose name the motor vehicle is registered, shall, when required so to do by any proper servant of the council or by any member of the police force, forthwith give information (which shall, if so required, be given in the form of

Main Roads and Local Government (Amendment).

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

(b) any other person shall, if required as aforesaid, give any information which it is in his power to give and which may lead to the identification of such driver and if he fails to do so, he shall be guilty of an offence against such ordinance.

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

(b)

Main Roads and Local Government (Amendment).

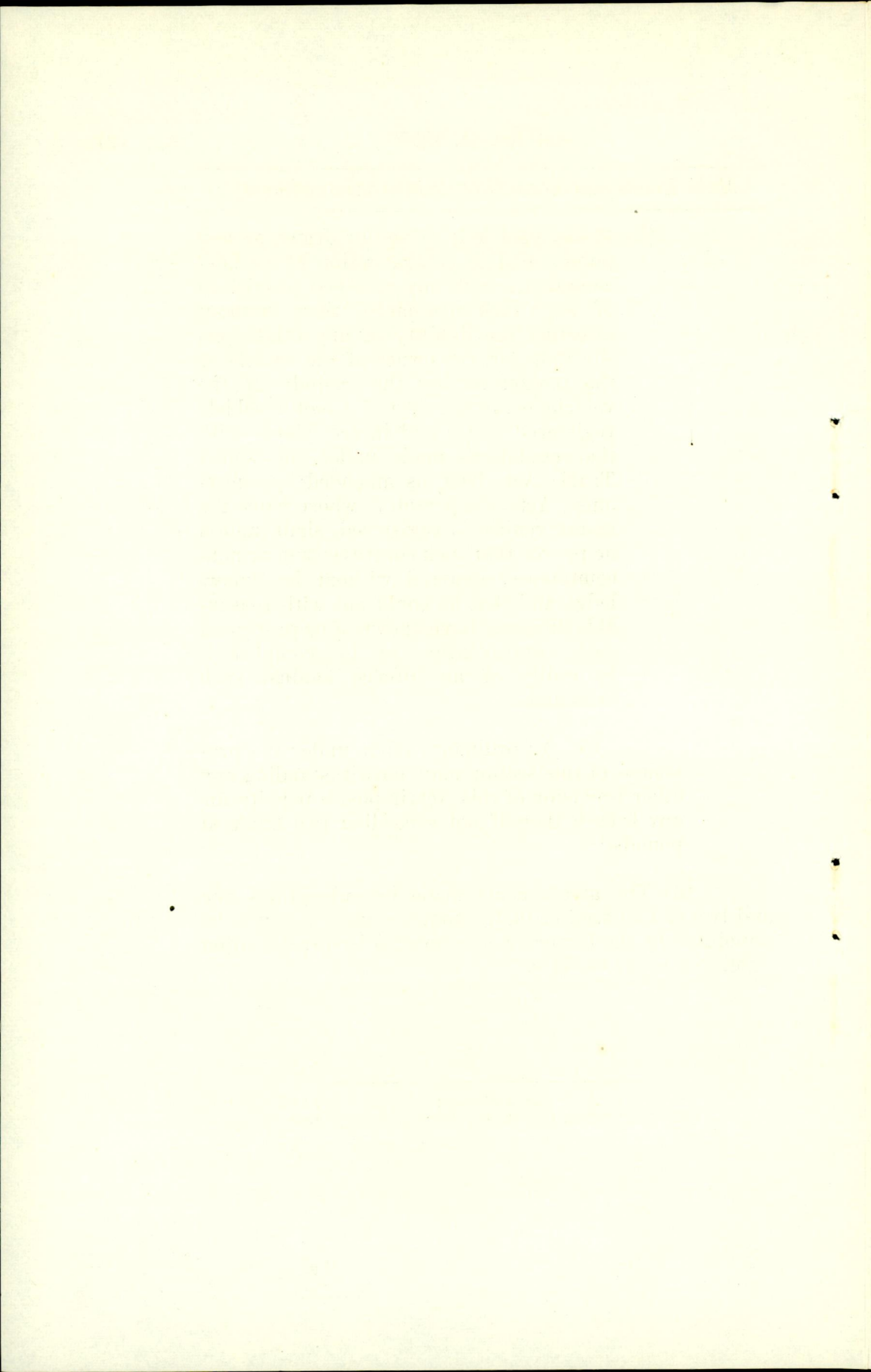
(b) If any vehicle is driven or drawn on any public road in contravention of or non-compliance with any specified provisions of any such ordinance, then, without affecting the liability of any other person therefor, the owner of the vehicle or the person having the custody of the vehicle, or, in the case of a motor vehicle registered under and in accordance with the regulations made under the Motor Traffic Act, 1909, as amended by subsequent Acts, the person in whose name the motor vehicle is registered, shall, unless he proves that such contravention or non-compliance occurred without his knowledge and that he could not with reasonable diligence have known of or prevented such contravention or non-compliance, be guilty of an offence against such ordinance.

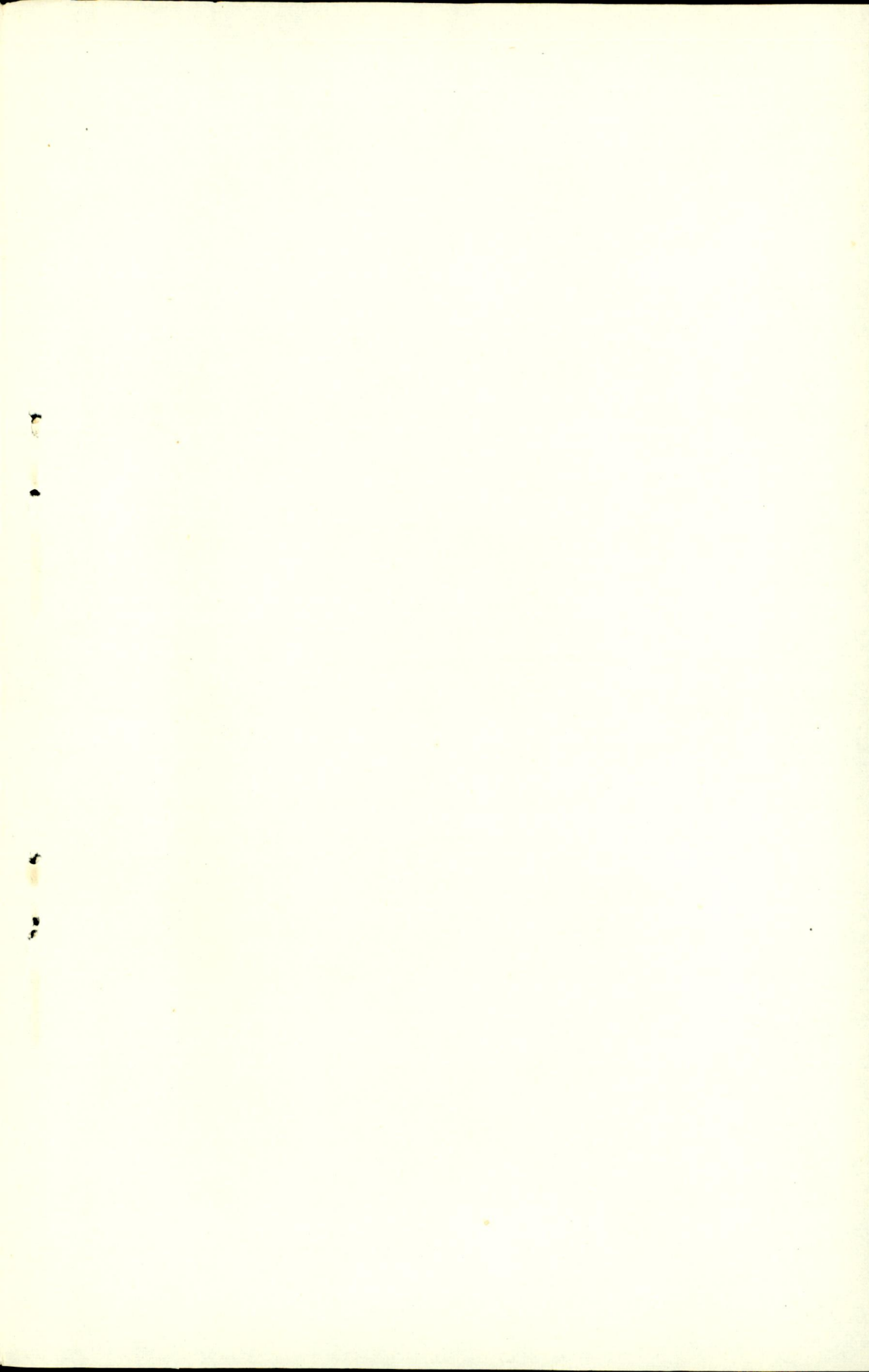
(6) An ordinance made under the provisions of this section may, notwithstanding any other provision of this Act, impose a penalty for any breach thereof not exceeding two hundred pounds.

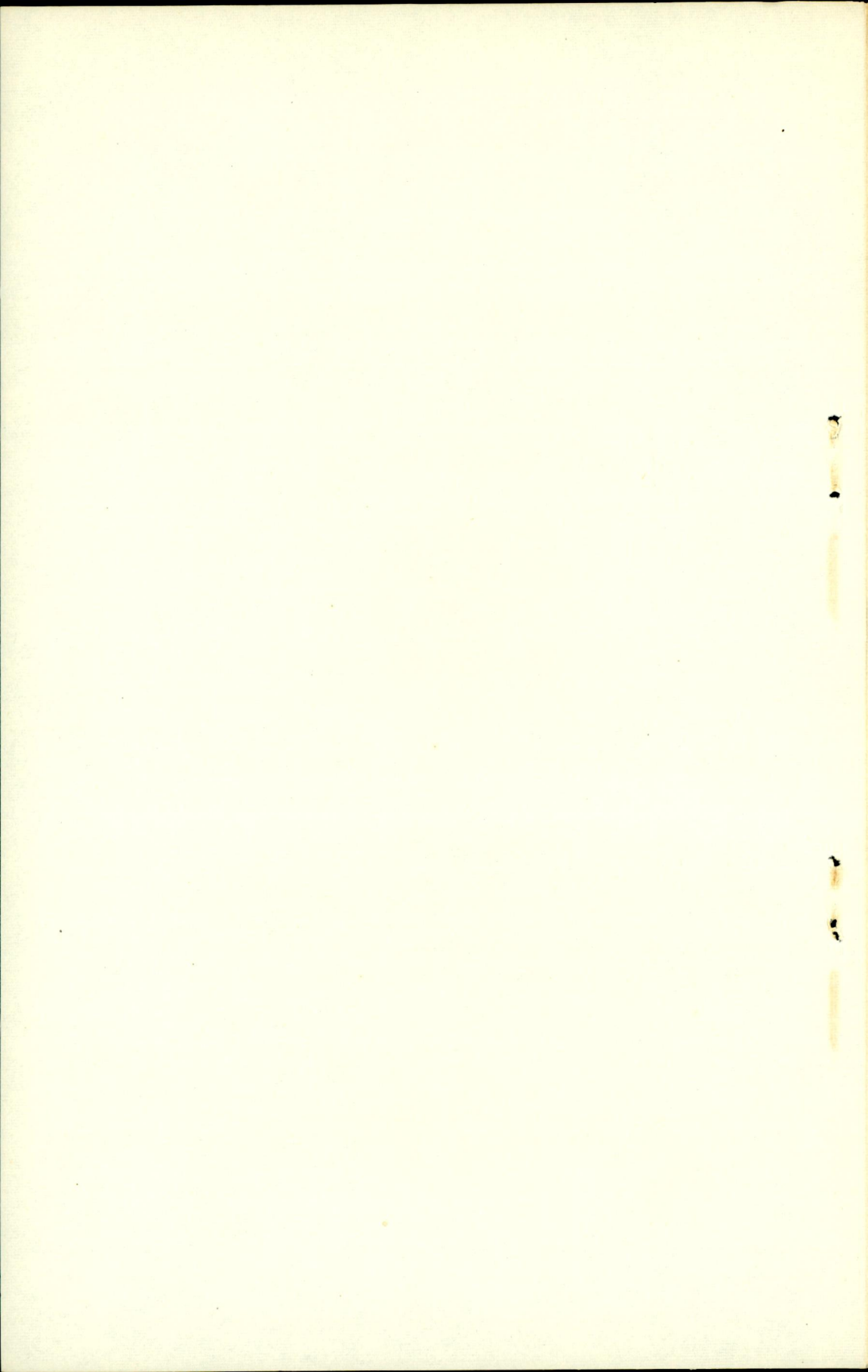
(3) The amendments made by subsections one and two of this section shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

By Authority:

A. H. PETTIFER, Government Printer, Sydney, 1958







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.

ALLAN PICKERING,
Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
Sydney, 28 November, 1957.*

New South Wales



ANNO SEXTO

ELIZABETHÆ II REGINÆ

Act No. 65, 1957.

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

BE

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.

Main Roads and Local Government (Amendment).

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

Short title
and
citation.

1. (1) This Act may be cited as the "Main Roads and Local Government (Amendment) Act, 1957".

(2) The Main Roads Act, 1924, as amended by subsequent Acts and by this Act, may be cited as the Main Roads Acts, 1924-1957.

Amendment
of Act No.
24, 1924.

2. (1) The Main Roads Act, 1924-1957, is amended—

Sec. 1 (2).
(Application
of Act.)

(a) by inserting at the end of subsection two of section one the words "or shires";

Sec. 4.
(Adaptation
of Acts—
application
to councils.)

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

(3) This Act shall be read and construed subject to the Commonwealth of Australia Constitution Act and so as not to exceed the legislative power of the State to the intent that where any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the remainder of this Act and the application of such provision to other persons or circumstances shall not be affected.

Sec. 10.
(County of
Cumberland
Main Roads
Fund.)

(c) by omitting paragraph (e) of subsection one of section ten and by inserting in lieu thereof the following paragraph:—

(e) twenty per centum of the moneys, exclusive of the amount required to be expended under subsection three of section nine of the Commonwealth Aid Roads

Main Roads and Local Government (Amendment).

Roads Act 1954, as amended by subsequent Acts, of the Parliament of the Commonwealth, paid under the said section nine to the State by the Commonwealth of Australia in respect of any year commencing on the first day of July;

- (d) by omitting subsection (1B) of section twelve ^{Sec. 12.} and by inserting in lieu thereof the following ^(Use of fund.) subsection:—

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

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

Provided that out of the moneys so paid into that fund in respect of that year there may be expended on works connected with transport by road or water other than those referred to in paragraph (a) or (b) of this subsection or of subsection (1B) of section twenty-one of this Act, or in subsection (2A) of section twenty-nine of this Act, an amount which, together with any amount expended under the proviso to the said subsection (1B) out of the moneys paid into the Country Main Roads Fund in respect of that year pursuant to paragraph (d) of subsection one of section twenty of this Act, does not exceed

such

Main Roads and Local Government (Amendment).

such part of one million pounds as bears to one million pounds the same proportion as the amount payable under section nine of the Commonwealth Aid Roads Act 1954, as amended by subsequent Acts, of the Parliament of the Commonwealth to the State of New South Wales in respect of the year firstmentioned in this proviso bears to the total amount payable under the said section nine to all the States in respect of the year firstmentioned as aforesaid.

Sec. 18.
(Secondary
main roads.)

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

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

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

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

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

Sec. 20.
(Country
Main Roads
Fund.)

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

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

(h)

Main Roads and Local Government (Amendment).

- (h) by omitting subsection (1B) of section twenty-one and by inserting in lieu thereof the following subsection:— Sec. 21.
(Expenditure.)

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

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

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

(i)

Main Roads and Local Government (Amendment).

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

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

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

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

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

(a) on the construction, reconstruction, maintenance and repair of developmental roads in rural areas or on the purchase of road-making plant for use in connection with such developmental roads; or

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

(j)

Main Roads and Local Government (Amendment).

- (j) (i) by inserting in subsection one of section thirty-two after the word "powers" where firstly occurring the words "and immunities"; Sec. 32.
(When board may do work itself.)
- (ii) by inserting in the same subsection after the word "powers" where lastly occurring the words "or immunities";
- (iii) by inserting in subsection (1A) of the same section after the word "powers" where firstly occurring the words "and immunities";
- (iv) by inserting in the same subsection after the word "powers" where lastly occurring the words "or immunities";
- (k) by omitting from subsection one of section 41A the word "five" and by inserting in lieu thereof the word "twenty"; Sec. 41A.
(Particulars of new road works to be furnished to Commissioner.)
- (l) by inserting next after section forty-eight the following new section:— New sec. 48A.

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

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

(m)

Main Roads and Local Government (Amendment).

Sec. 51.
(Ordinances.)

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

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

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

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

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

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

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

(2) (a) The amendments made by paragraphs (c), (d), (g), (h) and (i) of subsection one of this section shall be deemed to have commenced on the first day of July, one thousand nine hundred and fifty-four.

(b)

Main Roads and Local Government (Amendment).

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

3. (1) The Main Roads Act, 1924-1957, is further amended—

Further amendment of Act No. 24, 1924.

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

Sec. 51. (Ordinances.)

(d) the regulation of the weight of—

(i) vehicles using main roads;

(ii) loads on such vehicles;

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

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

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

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

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

of

Main Roads and Local Government (Amendment).

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

- (f1) the measuring of loads on vehicles using main roads and the determination of the weight of any load on such a vehicle according to a prescribed scale for various classes of goods;
 - (f2) the stopping of vehicles using main roads and the inspection of such vehicles and loads on them; the production of books, documents and records relating to any such vehicle or the load on it and carried in or on such vehicle or by the driver or person in charge thereof;
- (d) by inserting next after paragraph (g) of the same subsection the following new paragraphs:—
- (g1) authorising the Commissioner to display notices for and with respect to any matter for and with respect to which ordinances may be made under this section and to delegate the power conferred on him by any ordinance made under the authority of the foregoing provisions of this paragraph to

Main Roads and Local Government (Amendment).

to any servant of a council or of the Commissioner; requiring persons to comply with the provisions of any such notice;

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

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

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

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

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

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

Main Roads and Local Government (Amendment).

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

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

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

(a) the weight of a vehicle, of any load on it, of the load on any part of it, or of a vehicle together with the load on it, ascertained or determined in accordance with the provisions of the ordinance shall be prima facie evidence of the weight of such vehicle, of the load on it, of the load on such part of it, or of the vehicle together with the load on it, as the case may be;

(b) a certificate purporting to be under the hand of the Superintendent of Weights and Measures appointed under the Weights and Measures Act, 1915, as amended by subsequent Acts, certifying that on a date specified in the certificate, such date being within twelve months before the time such offence was committed, he examined a weighing device specified in the certificate and that such weighing device then weighed accurately or within such tolerances as may be specified in the certificate, shall, if such weighing device was at the time such offence was committed used for the purpose of weighing the vehicle in relation to which the offence is alleged

to

Main Roads and Local Government (Amendment).

to have been committed, the load on such vehicle, the load on any part of such vehicle, or such vehicle together with the load on it, and in such manner and in accordance with such conditions as may be specified in the certificate, be prima facie evidence that at that time such weighing device weighed accurately or within such tolerances specified as aforesaid, as the case may be.

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

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

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

Main Roads and Local Government (Amendment).

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

(b) any other person shall, if required as aforesaid, give any information which it is in his power to give and which may lead to the identification of such driver and if he fails to do so, he shall be guilty of an offence against such ordinance.

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

(b)

Main Roads and Local Government (Amendment).

(b) If any vehicle is driven or drawn on any main road in contravention of or non-compliance with any specified provisions of any such ordinance, then, without affecting the liability of any other person therefor, the owner of the vehicle, or the person having the custody of the vehicle, or, in the case of a motor vehicle registered under and in accordance with the regulations made under the Motor Traffic Act, 1909, as amended by subsequent Acts, the person in whose name the motor vehicle is registered, shall, unless he proves that such contravention or non-compliance occurred without his knowledge and that he could not with reasonable diligence have known of or prevented such contravention or non-compliance, be guilty of an offence against such ordinance.

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

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

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

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

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

(a) the prevention of damage to public roads;

(b)

Main Roads and Local Government (Amendment).

- (b) the prevention of the doing of things likely to injure public roads;
- (c) the regulation of the weight of—
 - (i) vehicles using public roads;
 - (ii) loads on such vehicles;
 - (iii) the load on any part of any such vehicle;
- (d) the regulation of the weight of any vehicle using a public road, together with the load on such vehicle;
- (e) the prohibition or regulation of the use of vehicles likely to injure public roads;
- (f) the weighing of vehicles using public roads, of loads on such vehicles and of the load on any part of any such vehicle; the weighing of any such vehicle together with the load thereon; requiring the driver or person in charge of any such vehicle, for the purpose of any such weighing, to comply with such requirements as may be prescribed or with such directions as may be given him by any member of the police force or by the proper servant of the council; prescribing the method to be used to determine the weight of the load on any part of any such vehicle, or of any such vehicle together with the load on it where the vehicle and such load are not weighed as a whole;
- (g) the measuring of loads on vehicles using public roads and the determination of the weight of any load on such a vehicle according to a prescribed scale for various classes of goods;
- (h)

Main Roads and Local Government (Amendment).

- (h) the stopping of vehicles using public roads and the inspection of such vehicles and loads on them; the production of books, documents and records relating to any such vehicle or the load on it and carried in or on such vehicle or by the driver or person in charge thereof;
- (i) the restriction of traffic or of any specified class of traffic to protect public roads from injury;
- (j) authorising the council to display notices for and with respect to any matter for and with respect to which ordinances may be made under this section and to delegate the power conferred on it by any ordinance made under the foregoing provisions of this paragraph to any servant of the council; requiring persons to comply with the provisions of any such notice;
- (k) providing for the exemption, either absolutely or subject to conditions, of any person or class of persons from any of the provisions of any ordinance made under this section;
- (l) authorising the council to notify in the prescribed manner special provisions for and with respect to matters for and with respect to which ordinances may be made under this section; providing that such special provisions shall apply, notwithstanding any other provision of any ordinance made under this section, to any vehicle or class of vehicles, or within any district, specified in such notification and shall have effect as if they were prescribed by ordinance made under this section; and imposing a penalty on any person contravening or failing to comply with such provisions.

(2)

Main Roads and Local Government (Amendment).

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

(3) An ordinance made under this section may be made to apply or to have operation throughout all areas or throughout the whole or any part of an area, may be of general operation or specially limited application according to time, place or circumstances and may be general or restricted to any specified class of subject matter.

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

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

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accurately or within such tolerances as may be specified in the certificate, shall, if such weighing device was at the time such offence was committed used for the purpose of weighing the vehicle in relation to which the offence is alleged to have been committed, the load on such vehicle, the load on any part of such vehicle, or such vehicle together with the load on it, and in such manner and in accordance with such conditions as may be specified in the certificate, be prima facie evidence that at that time such weighing device weighed accurately or within such tolerances specified as aforesaid, as the case may be.

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

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

(a) the owner of the vehicle, and the person having the custody of the vehicle, and, in the case of a motor vehicle registered under and in accordance with the regulations made under the Motor Traffic Act, 1909, as amended by subsequent Acts, the person in whose name the motor vehicle is registered, shall, when required so to do by any proper servant of the council or by any member of the police force, forthwith give information (which shall, if so required, be given in the form of

Main Roads and Local Government (Amendment).

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

(b) any other person shall, if required as aforesaid, give any information which it is in his power to give and which may lead to the identification of such driver and if he fails to do so, he shall be guilty of an offence against such ordinance.

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

(b)

Main Roads and Local Government (Amendment).

(b) If any vehicle is driven or drawn on any public road in contravention of or non-compliance with any specified provisions of any such ordinance, then, without affecting the liability of any other person therefor, the owner of the vehicle or the person having the custody of the vehicle, or, in the case of a motor vehicle registered under and in accordance with the regulations made under the Motor Traffic Act, 1909, as amended by subsequent Acts, the person in whose name the motor vehicle is registered, shall, unless he proves that such contravention or non-compliance occurred without his knowledge and that he could not with reasonable diligence have known of or prevented such contravention or non-compliance, be guilty of an offence against such ordinance.

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

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

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

E. W. WOODWARD,
Governor.

*Government House,
Sydney, 9th December, 1957.*

