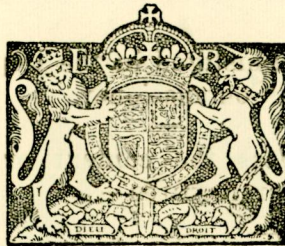


*This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY,
and, having this day passed, is now ready for presentation to the
LEGISLATIVE COUNCIL for its concurrence.*

I. P. K. VIDLER,
Acting Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
Sydney, 3 July, 1956.*

New South Wales



ANNO QUINTO

ELIZABETHÆ II REGINÆ

Act No. , 1956.

An Act to provide for the licensing of dealers in used or reconstructed motor vehicles, and, if so prescribed, in used or reconstructed parts or accessories of motor vehicles, and for the control and regulation in certain respects of the operations of those dealers; to amend the Motor Traffic Act, 1909-1955, by extending the power to make regulations and by creating certain new offences; to amend the Transport Act, 1930-1955; and for purposes connected therewith.

Second-hand Motor Dealers.

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 "Second-hand Motor Dealers Act, 1956." Short title and commencement.

(2) This Act shall commence upon a day to be appointed by the Governor and notified by proclamation
10 published in the Gazette.

2. This Act shall be administered in the Department of Motor Transport by the Commissioner. Administration of Act.

3. (1) In this Act, unless the context or subject matter otherwise indicates or requires— Interpretation.

15 "Accessories" includes—

(a) car-wirelesses;

(b) tools usually carried on motor vehicles.

20 "Commissioner" means the Commissioner for Motor Transport constituted under the Transport (Division of Functions) Further Amendment Act, 1952, as amended by the State Transport (Co-ordination) Amendment Act, 1954.

25 "Dealer" means any person (whether or not he carries on any other business) who for reward (whether monetary or otherwise) carries on any one or more of the following, namely:—

(a) the business of buying, selling, exchanging, demolishing or dismantling; or

30 (b) such other prescribed class of business in relation to,

used or reconstructed motor vehicles or such used or reconstructed parts or accessories of motor vehicles as may be prescribed for the
35 purposes of this definition.

"Dealer's

Second-hand Motor Dealers.

“Dealer’s license” means a valid and unexpired dealer’s license or renewed license issued under this Act.

5 “Identification number”, when used in relation to the engine or engine block of a motor vehicle or to any part or accessory of a motor vehicle, means the number and any accompanying letters or symbols stamped on or otherwise affixed to that engine, engine block, part or
10 accessory as a means of identifying that engine, engine block, part or accessory, but does not include any casting number or any number used as a means of identifying a class of engines, engine blocks, parts or accessories.

15 “License” means a dealer’s license.

 “Motor vehicle” means any motor car, motor carriage, motor cycle, tractor, or other vehicle propelled wholly or partly by any volatile spirit, steam, gas, oil or electricity, or by any means
20 other than human or animal power, and includes a trailer, but does not mean or include any vehicle used on a railway or tramway.

 “Prescribed” means prescribed by this Act or the regulations.

25 “Regulations” means regulations made under this Act.

 (2) Any reference in this Act to an engine, engine block or other part or accessory of a motor vehicle shall, where that engine, engine block or other part or accessory
30 has been removed from a motor vehicle, be read and construed as including a reference to the engine, engine block or other part or accessory so removed except where it has been installed as an engine, engine block, part or accessory of a motor launch or other vehicle or machinery,
35 not being a motor vehicle.

Second-hand Motor Dealers.

4. The Governor may by regulation—

- (a) (i) exempt to the extent prescribed any person or class of persons from the operation of this Act; and
- 5 (ii) specify what provisions (if any) of this Act and the regulations are, with such modifications as are necessary or seem desirable, to apply to any person or to any class of persons so exempted;
- 10 (b) exempt from the operation of all or any of the provisions of this Act any specified class of motor vehicles.

Exemption
from
operation
of Act.

5. After the expiration of three months from the commencement of this Act no person (either by himself or as a member of a partnership) shall act as or carry on or advertise, notify or state that he acts as or carries on or is willing to act as or carry on the business of a dealer unless he is the holder of a dealer's license.

No person
or partner
to act as
dealer
without a
license.

6. (1) (a) No person shall, by virtue of one license, keep more than one place for the conduct of his business as a dealer.

License
to be held
for each
place of
business.

- (b) Where a person conducts his business as a dealer at more than one place of business, he shall obtain in respect of each such place a separate and distinct license.

- (2) The Commissioner shall, upon application made in that behalf and upon payment of any fee prescribed therefor, alter a license by substituting another place of business for the place of business specified in the license.

Particulars of the alteration shall be endorsed on the license and entered in the record of licenses referred to in subsection five of section eight of this Act.

Second-hand Motor Dealers.

7. (1) A license shall be in or to the effect of the form prescribed and shall specify the place of business in respect of which it is issued. Dealer's license.

(2) A license shall, unless sooner suspended or 5 cancelled, be in force for twelve months from the date of its issue.

A license may be renewed, and on each renewal shall take effect for a further period of twelve months.

8. (1) An application for a license or for the renewal 10 of a license shall be in or to the effect of the prescribed form and shall be lodged with the Commissioner. Application for license.

(2) The application shall be accompanied by the prescribed fee. Different fees may be prescribed in respect of licenses and renewals of licenses.

15 (3) The Commissioner shall, upon the receipt of an application for the grant or renewal of a license, notify the Commissioner of Police who shall cause enquiries to be made as to the character of the applicant and shall furnish a report thereon to the Commissioner.

20 (4) The Commissioner shall consider such report and such other matters as may be relevant, and if he is satisfied that the applicant is a person of good character and a fit and proper person to hold a license under this Act he may grant a license or renewal of license.

25 (5) The Commissioner shall keep or cause to be kept a record of all licenses and renewals of licenses granted by him.

9. (1) The Commissioner may cancel or suspend a license if— Cancellation or suspension of license.

- 30 (a) the license was issued erroneously or granted in consequence of any false or fraudulent document, statement or representation;
- (b) the holder thereof is convicted of an offence against this Act or the regulations;

(c)

Second-hand Motor Dealers.

(c) the holder thereof ceases to carry on business as a dealer at the place of business for the time being specified in the license;

5 (d) the Commissioner is of opinion that by reason of the manner in which the holder thereof conducts his business as a dealer or by reason of any other fact or circumstance such holder is not a fit and proper person to hold a license.

10 (2) Where any license has been cancelled or suspended, the person to whom the license was issued shall deliver up the license to the Commissioner within such time as may be specified in a notice given by the Commissioner to that person for the purpose.

15 (3) Particulars of the cancellation or suspension shall be entered in the record of licenses referred to in subsection five of section eight of this Act.

20 **10.** (1) (a) Where the Commissioner refuses an application under section eight of this Act or cancels or suspends a license under section nine of this Act, he shall notify the dealer or person making the application, as the case may be, of his decision. ^{Appeal against decision of Commissioner.}

(b) Such dealer or person, as the case may be, may in the prescribed manner appeal to a court of petty sessions.

25 (c) Notice of any such appeal shall be lodged with the clerk of the court of petty sessions to which the appeal is being made and with the Commissioner within one month after the dealer was notified of the decision of the Commissioner as directed by paragraph (a) of this subsection.

30 The notice shall specify the grounds of appeal.

(2) Any report furnished to the Commissioner by the Commissioner of Police in relation to the person making an appeal under this section shall be admissible in evidence in that appeal.

(3)

Second-hand Motor Dealers.

(3) The decision of the court given in any appeal under this section shall be final and shall be deemed to be the decision of the Commissioner and be carried into effect accordingly.

5 (4) Every appeal under this section shall be heard before a court of petty sessions holden before a stipendiary magistrate.

11. (1) Every dealer shall—

Duties
of
dealers.

10 (a) keep or cause to be kept the prescribed records in respect of—

(i) used or reconstructed motor vehicles;

(ii) prescribed used or reconstructed parts or accessories of motor vehicles;

15 in respect of which he transacts any business as a dealer;

(b) at the prescribed times forward or cause to be forwarded to such member of the police force as may be prescribed such copies of or extracts from the records required to be kept by him under paragraph (a) of this subsection as the regulations may require to be so forwarded;

20

(c) keep or cause to be kept all prescribed used or reconstructed parts or accessories of motor vehicles, purchased or received by him from any person other than the holder of a license, without changing the form in which they were when so purchased or received, for a period of three days after they were purchased or received by him.

25

30 (2) In this section “prescribed used or reconstructed parts or accessories of motor vehicles” means such used or reconstructed parts or accessories of motor vehicles as are prescribed for the purposes of this section.

Second-hand Motor Dealers.

12. (1) Any person authorised in writing by the Commissioner in that behalf or any member of the police force may require—

Inspection
of records
and used or
reconstructed
motor
vehicles, &c.

- (a) any dealer;
- 5 (b) without limiting the generality of the foregoing provisions of this section, the officer, agent or employee of the dealer in control or charge at any premises at which the dealer carries on business, if the dealer is a company or is not
- 10 personally in control or charge of those premises,

to produce for inspection by the person so authorised or that member, as the case may be—

- 15 (i) the records that the dealer is required to keep, or cause to be kept, by or under this Act;
- (ii) any used or reconstructed motor vehicles or prescribed used or reconstructed parts or accessories of motor vehicles that are then in the possession of the dealer in his capacity as
- 20 such.

(2) The person so authorised or that member may make copies of or extracts from any records produced pursuant to subsection one of this section and may make notes in respect of those records or any motor vehicle

25 or part or accessory of a motor vehicle so produced.

(3) Any person who—

- (a) wilfully delays or obstructs the person so authorised or that member in the exercise of his powers, authorities and functions under this section;
- 30 (b) on demand refuses or fails to produce any records, motor vehicles, or parts or accessories of motor vehicles, required for inspection under this section and in his possession, custody or
- 35 control,

shall be guilty of an offence against this Act.

(4)

Second-hand Motor Dealers.

(4) In this section "prescribed used or reconstructed parts or accessories of motor vehicles" means such used or reconstructed parts or accessories of motor vehicles as are prescribed for the purposes of this section.

5 **13.** If any person knowingly makes or causes or permits or allows to be made any false or misleading entry in any record prescribed by or under this Act or in any prescribed copy of or extract from such records he shall be guilty of an offence against this Act and shall
10 be liable, if a company, to a penalty not exceeding two hundred pounds, or, if any other person, to a penalty not exceeding one hundred pounds or to imprisonment for a period not exceeding six months or to both such penalty and imprisonment.

15 **14.** Where any act, matter or thing is by or under this Act or any regulation directed or forbidden to be done, and the act, matter or thing so directed to be done remains undone, or the act, matter or thing so forbidden to be done is done, in every such case every person
20 offending against the direction or prohibition shall be guilty of an offence against this Act.

15. (1) Any person convicted of an offence against this Act shall for every such offence for which no other penalty is provided by or under this Act be liable to a
25 penalty not exceeding one hundred pounds.

(2) Any penalty imposed by this Act or the regulations may be recovered in a summary manner before a stipendiary magistrate or any two justices in petty sessions.

30 (3) Any court before whom a person is convicted of an offence against this Act or the regulations shall cause particulars of such conviction to be forwarded to the Commissioner.

16. (1) In all courts and upon all occasions whatsoever—
35

(a) an extract from or copy of any entry recorded in the record of licenses referred to in subsection five of section eight of this Act; or

(b)

Second-hand Motor Dealers.

(b) a certificate that on a specified day or during the whole of a specified period—

(i) a person was or was not the holder of a license; or

5 (ii) certain specified premises were or were not the premises specified in a specified license; or

(iii) a specified license was or was not cancelled or suspended,

10 shall, where the extract, copy or certificate purports to be certified under the hand of a prescribed officer, be prima facie evidence of all particulars contained therein without proof of the signature or of the official character of the officer appearing to have certified the extract, copy
15 or certificate.

(2) Where in any proceedings for a contravention of any provision of this Act it is proved that on a certain day or during the whole of a certain period a person was the holder of a license, it shall be presumed,
20 in the absence of proof to the contrary, that on that day or during that period the person was a dealer.

17. (1) The Commissioner may delegate to any ^{Delegation} officer nominated by him any of his powers, authorities, ^{of} duties or functions under this Act, other than this power ^{powers, etc.}
25 of delegation.

(2) A delegation may be made in respect of any matter or any class of matters or generally, or may be limited to any part of the State, and may be made subject to, or on such terms and conditions as the
30 Commissioner thinks fit.

(3) Every delegation under this section shall be revocable at the will of the Commissioner, but no delegation shall prevent the exercise of any power, authority, duty or function by the Commissioner.

18.

Second-hand Motor Dealers.

18. (1) The Transport Act, 1930, as amended by subsequent Acts, is amended—

Amendment
of Act
No. 18, 1930.

- (a) by inserting at the end of subsection one of section two hundred and two the following new paragraph:—
- (d) all fees charged under the Second-hand Motor Dealers Act, 1956.

Sec. 202.
(Road
Transport
and Traffic
Fund.)

- (b) by inserting at the end of subsection two of the same section the following new paragraph:—
- (f) all administrative and other expenses of the Commissioner for Motor Transport in respect of the Second-hand Motor Dealers Act, 1956.

(2) The Transport Act, 1930, as amended by subsequent Acts and by this Act, may be cited as the Transport Act, 1930-1956.

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

Amendment
of
Act No. 5,
1909.

- (a) (i) by inserting in section two next after the definition of "Driver" the following new definition:—

Sec. 2.
(Defini-
tions.)

"Identification number", when used in relation to the engine, engine block or other prescribed part of a motor vehicle, means the number and any accompanying letters or symbols stamped on or otherwise affixed to that engine, engine block or part as a means of identifying that engine, engine block or part, but does not include any casting number or any number used as a means of identifying a class of engines, engine blocks or parts.

(ii)

Second-hand Motor Dealers.

(ii) by inserting at the end of the same section the following new subsection:—

5 (2) Any reference in this Act to an engine, engine block or other part of a motor vehicle shall, where that engine, engine block or other part has been removed from a motor vehicle, be read and construed as including a reference to the engine, engine block or other part so removed
10 except where it has been installed as an engine, engine block or part of a motor launch or other vehicle or machinery, not being a motor vehicle.

15 (b) by inserting next after paragraph (k) of subsection one of section three the following new paragraphs:—
Sec. 3. (Regulations.)

20 (k1) provide for the allotment by the Commissioner for Motor Transport of special identification numbers for the engines or engine blocks, and other prescribed parts, of motor vehicles and regulating the stamping or affixing of such numbers thereon or thereto;

25 (k2) provide for the furnishing to the Commissioner for Motor Transport of notification of the changing or replacement of any engine, engine block or other prescribed part of a motor vehicle.

30 The definition of "Motor vehicle" in subsection one of section two of this Act shall, in its application to the provisions of this paragraph and paragraph (k1) of this subsection, be read and construed as if the words "upon
35 any public street" were not contained in the definition;

(c)

Second-hand Motor Dealers.

(c) by inserting next after section 7A the following New sec. 7B.
new section:—

7B. (1) ~~Any person—~~

- 5 (a) not being the manufacturer, ~~who~~ Offences relating to identification numbers of engines, &c., of motor vehicles.
without the written authority of the Commissioner for Motor Transport and
except as prescribed stamps or affixes or causes or permits any person to
stamp or affix any identification number
10 on or to the engine, engine block or other prescribed part of a motor vehicle; or
- 15 (b) ~~who~~, except as prescribed, alters, defaces, removes, or obliterates any
identification number stamped on or otherwise affixed to the engine, engine block or other prescribed part of a motor vehicle; or
- 20 (c) ~~who~~, without lawful authority or excuse, has in his possession any engine, engine block or other prescribed part of a motor vehicle knowing that the
25 identification number stamped thereon or otherwise affixed thereto has been altered, defaced, removed or obliterated otherwise than as prescribed,

shall be guilty of an offence under this Act and shall be liable to a penalty not exceeding one hundred pounds or to imprisonment for a period
30 not exceeding six months or to both such penalty and imprisonment.

35 (2) The definition of "Motor vehicle" in subsection one of section two of this Act shall, in its application to the provisions of subsection one of this section, be read and construed as if the words "upon any public street" were not contained in the definition.

(2)

Second-hand Motor Dealers.

(2) The Motor Traffic Act, 1909, as amended by subsequent Acts and by this Act, may be cited as the Motor Traffic Act, 1909-1956.

20. (1) The Governor may make regulations, not Regulations.
5 inconsistent with this Act, prescribing all matters which by this Act are required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) Without prejudice to the generality of
10 subsection one of this section, the Governor may make regulations with respect to—

- (a) prescribing any forms to be used under this Act;
- 15 (b) prescribing the records to be kept by dealers under this Act;
- (c) the destruction or other disposal of records which are more than five years old or which have ceased to be of practical utility;
- 20 (d) the granting of exemption or conditional exemption from compliance with all or any of the provisions of the Act or regulations;
- (e) the granting of duplicate licenses and matters connected with such licenses;
- 25 (f) requiring any or all of the following persons, namely, dealers and officers, agents and employees of dealers, in such circumstances as may be prescribed, to give or furnish without delay or within the prescribed time, to such person as may be prescribed particulars of—
 - 30 (i) any motor vehicle or prescribed part or accessory of a motor vehicle that he or they know or have any reason to suspect has been stolen, embezzled or fraudulently obtained;
 - (ii)

Second-hand Motor Dealers.

5 (ii) any engine or engine block of a motor vehicle or any other prescribed part or accessory of a motor vehicle (whether or not the engine, engine block, part or accessory is for the time being affixed or installed in a motor vehicle) that may come into his or their possession, custody or control the identification number of which appears to have
10 been altered, defaced, removed or obliterated.

(3) A regulation may be of general or specially limited application according to time, place or circumstances, and may be general or restricted to any specified
15 class of subject matter.

(4) A regulation may authorise any matter or thing to be from time to time determined, applied or regulated by the Commissioner or by the Commissioner of Police either generally or for any class of cases or in
20 any particular case.

(5) Any regulation may confer on the Commissioner, or on any prescribed person, any power or authority required for the carrying into effect of all or any of the provisions of that or any other regulation.

25 (6) All regulations made under this Act shall—

- (a) be published in the Gazette;
- (b) take effect from the date of publication or from a later date to be specified in the regulations;
- 30 (c) be laid before both Houses of Parliament within fourteen sitting days after the publication thereof if Parliament is then in session, and, if not, then within fourteen sitting days after the commencement of the next session.

If

Second-hand Motor Dealers.

If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after the regulations have been laid before such House disallowing any regulation or part thereof, 5 such regulation or part shall thereupon cease to have effect.

Sydney: A. H. Pettifer, Government Printer—1956.

[1s. 6d.]

No. , 1956.

A BILL

To provide for the licensing of dealers in used or reconstructed motor vehicles, and, if so prescribed, in used or reconstructed parts or accessories of motor vehicles, and for the control and regulation in certain respects of the operations of those dealers; to amend the Motor Traffic Act, 1909-1955, by extending the power to make regulations and by creating certain new offences; to amend the Transport Act, 1930-1955; and for purposes connected therewith.

[MR. ENTICKNAP;—19 *June*, 1956.]

Second-hand Motor Dealers.

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 "Second-hand Motor Dealers Act, 1956." Short title
and
commence-
ment.

(2) This Act shall commence upon a day to be
appointed by the Governor and notified by proclamation
10 published in the Gazette.

2. This Act shall be administered in the Department of Motor Transport by the Commissioner. Administra-
tion of
Act.

3. (1) In this Act, unless the context or subject
matter otherwise indicates or requires— Interpreta-
tion.

15 "Accessories" includes—

(a) car-wirelesses;

(b) tools usually carried on motor vehicles.

20 "Commissioner" means the Commissioner for
Motor Transport constituted under the
Transport (Division of Functions) Further
Amendment Act, 1952, as amended by the State
Transport (Co-ordination) Amendment Act,
1954.

25 "Dealer" means any person (whether or not he
carries on any other business) who for reward
(whether monetary or otherwise) carries on any
one or more of the following, namely :—

(a) the business of buying, selling, exchang-
ing, demolishing or dismantling; or

30 (b) such other prescribed class of business
in relation to,

used or reconstructed motor vehicles or such
used or reconstructed parts or accessories of
motor vehicles as may be prescribed for the
35 purposes of this definition.

"Dealer's

Second-hand Motor Dealers.

“Dealer’s license” means a valid and unexpired dealer’s license or renewed license issued under this Act.

5 “Identification number”, when used in relation to the engine or engine block of a motor vehicle or to any part or accessory of a motor vehicle, means the number and any accompanying letters or symbols stamped on or otherwise
10 affixed to that engine, engine block, part or accessory as a means of identifying that engine, engine block, part or accessory, but does not include any casting number or any number used as a means of identifying a class of engines, engine blocks, parts or accessories.

15 “License” means a dealer’s license.

“Motor vehicle” means any motor car, motor carriage, motor cycle, tractor, or other vehicle propelled wholly or partly by any volatile spirit, steam, gas, oil or electricity, or by any means
20 other than human or animal power, and includes a trailer, but does not mean or include any vehicle used on a railway or tramway.

“Prescribed” means prescribed by this Act or the regulations.

25 “Regulations” means regulations made under this Act.

(2) Any reference in this Act to an engine, engine block or other part or accessory of a motor vehicle shall, where that engine, engine block or other part or accessory
30 has been removed from a motor vehicle, be read and construed as including a reference to the engine, engine block or other part or accessory so removed except where it has been installed as an engine, engine block, part or accessory of a motor launch or other vehicle or machinery,
35 not being a motor vehicle.

Second-hand Motor Dealers.

4. The Governor may by regulation—

- (a) (i) exempt to the extent prescribed any person or class of persons from the operation of this Act; and
- 5 (ii) specify what provisions (if any) of this Act and the regulations are, with such modifications as are necessary or seem desirable, to apply to any person or to any class of persons so exempted;
- 10 (b) exempt from the operation of all or any of the provisions of this Act any specified class of motor vehicles.

Exemption
from
operation
of Act.

5. After the expiration of three months from the commencement of this Act no person (either by himself or as a member of a partnership) shall act as or carry on or advertise, notify or state that he acts as or carries on or is willing to act as or carry on the business of a dealer unless he is the holder of a dealer's license.

No person
or partner
to act as
dealer
without a
license.

6. (1) (a) No person shall, by virtue of one license, keep more than one place for the conduct of his business as a dealer.

License
to be held
for each
place of
business.

- (b) Where a person conducts his business as a dealer at more than one place of business, he shall obtain in respect of each such place a separate and distinct license.

- (2) The Commissioner shall, upon application made in that behalf and upon payment of any fee prescribed therefor, alter a license by substituting another place of business for the place of business specified in the license.

Particulars of the alteration shall be endorsed on the license and entered in the record of licenses referred to in subsection five of section eight of this Act.

Second-hand Motor Dealers.

7. (1) A license shall be in or to the effect of the form prescribed and shall specify the place of business in respect of which it is issued. ^{Dealer's license.}

(2) A license shall, unless sooner suspended or cancelled, be in force for twelve months from the date of its issue.

A license may be renewed, and on each renewal shall take effect for a further period of twelve months.

8. (1) An application for a license or for the renewal of a license shall be in or to the effect of the prescribed form and shall be lodged with the Commissioner. ^{Application for license.}

(2) The application shall be accompanied by the prescribed fee. Different fees may be prescribed in respect of licenses and renewals of licenses.

(3) The Commissioner shall, upon the receipt of an application for the grant or renewal of a license, notify the Commissioner of Police who shall cause enquiries to be made as to the character of the applicant and shall furnish a report thereon to the Commissioner.

(4) The Commissioner shall consider such report and such other matters as may be relevant, and if he is satisfied that the applicant is a person of good character and a fit and proper person to hold a license under this Act he may grant a license or renewal of license.

(5) The Commissioner shall keep or cause to be kept a record of all licenses and renewals of licenses granted by him.

9. (1) The Commissioner may cancel or suspend a license if— ^{Cancellation or suspension of license.}

(a) the license was issued erroneously or granted in consequence of any false or fraudulent document, statement or representation;

(b) the holder thereof is convicted of an offence against this Act or the regulations;

(c)

Second-hand Motor Dealers.

- (c) the holder thereof ceases to carry on business as a dealer at the place of business for the time being specified in the license;
- 5 (d) the Commissioner is of opinion that by reason of the manner in which the holder thereof conducts his business as a dealer or by reason of any other fact or circumstance such holder is not a fit and proper person to hold a license.
- (2) Where any license has been cancelled or
10 suspended, the person to whom the license was issued shall deliver up the license to the Commissioner within such time as may be specified in a notice given by the Commissioner to that person for the purpose.
- (3) Particulars of the cancellation or suspension
15 shall be entered in the record of licenses referred to in subsection five of section eight of this Act.

10. (1) (a) Where the Commissioner refuses an
application under section eight of this Act or cancels or
suspends a license under section nine of this Act, he shall
20 notify the dealer or person making the application, as
the case may be, of his decision.

(b) Such dealer or person, as the case may be, may in the prescribed manner appeal to a court of petty sessions.

25 (c) Notice of any such appeal shall be lodged with the clerk of the court of petty sessions to which the appeal is being made and with the Commissioner within one month after the dealer was notified of the decision of the Commissioner as directed by paragraph (a) of this
30 subsection.

The notice shall specify the grounds of appeal.

(2) Any report furnished to the Commissioner by the Commissioner of Police in relation to the person making an appeal under this section shall be admissible
35 in evidence in that appeal.

(3)

Second-hand Motor Dealers.

(3) The decision of the court given in any appeal under this section shall be final and shall be deemed to be the decision of the Commissioner and be carried into effect accordingly.

5 (4) Every appeal under this section shall be heard before a court of petty sessions holden before a stipendiary magistrate.

11. (1) Every dealer shall—

Duties
of
dealers.

10 (a) keep or cause to be kept the prescribed records in respect of—

(i) used or reconstructed motor vehicles;

(ii) prescribed used or reconstructed parts or accessories of motor vehicles;

15 in respect of which he transacts any business as a dealer;

(b) at the prescribed times forward or cause to be forwarded to such member of the police force as may be prescribed such copies of or extracts from the records required to be kept by him under paragraph (a) of this subsection as the regulations may require to be so forwarded;

25 (c) keep or cause to be kept all prescribed used or reconstructed parts or accessories of motor vehicles, purchased or received by him from any person other than the holder of a license, without changing the form in which they were when so purchased or received, for a period of three days after they were purchased or received by him.

30 (2) In this section “prescribed used or reconstructed parts or accessories of motor vehicles” means such used or reconstructed parts or accessories of motor vehicles as are prescribed for the purposes of this section.

Second-hand Motor Dealers.

12. (1) Any person authorised in writing by the Commissioner in that behalf or any member of the police force may require—

Inspection
of records
and used or
reconstructed
motor
vehicles, &c.

(a) any dealer;

5 (b) without limiting the generality of the fore-
going provisions of this section, the officer, agent
or employee of the dealer in control or charge
at any premises at which the dealer carries on
business, if the dealer is a company or is not
10 personally in control or charge of those
premises,

to produce for inspection by the person so authorised
or that member, as the case may be—

15 (i) the records that the dealer is required to keep,
or cause to be kept, by or under this Act;

(ii) any used or reconstructed motor vehicles or
prescribed used or reconstructed parts or
accessories of motor vehicles that are then in
the possession of the dealer in his capacity as
20 such.

(2) The person so authorised or that member may
make copies of or extracts from any records produced
pursuant to subsection one of this section and may make
notes in respect of those records or any motor vehicle
25 or part or accessory of a motor vehicle so produced.

(3) Any person who—

30 (a) wilfully delays or obstructs the person so
authorised or that member in the exercise of
his powers, authorities and functions under
this section;

(b) on demand refuses or fails to produce any
records, motor vehicles, or parts or accessories
of motor vehicles, required for inspection under
this section and in his possession, custody or
35 control,

shall be guilty of an offence against this Act.

(4)

Second-hand Motor Dealers.

(4) In this section "prescribed used or reconstructed parts or accessories of motor vehicles" means such used or reconstructed parts or accessories of motor vehicles as are prescribed for the purposes of this section.

5 **13.** If any person knowingly makes or causes or permits or allows to be made any false or misleading entry in any record prescribed by or under this Act or in any prescribed copy of or extract from such records he shall be guilty of an offence against this Act and shall
10 be liable, if a company, to a penalty not exceeding two hundred pounds, or, if any other person, to a penalty not exceeding one hundred pounds or to imprisonment for a period not exceeding six months or to both such penalty and imprisonment.

15 **14.** Where any act, matter or thing is by or under this Act or any regulation directed or forbidden to be done, and the act, matter or thing so directed to be done remains undone, or the act, matter or thing so forbidden to be done is done, in every such case every person
20 offending against the direction or prohibition shall be guilty of an offence against this Act.

15. (1) Any person convicted of an offence against this Act shall for every such offence for which no other penalty is provided by or under this Act be liable to a
25 penalty not exceeding one hundred pounds.

(2) Any penalty imposed by this Act or the regulations may be recovered in a summary manner before a stipendiary magistrate or any two justices in petty sessions.

30 (3) Any court before whom a person is convicted of an offence against this Act or the regulations shall cause particulars of such conviction to be forwarded to the Commissioner.

16. (1) In all courts and upon all occasions what-
35 soever—

(a) an extract from or copy of any entry recorded in the record of licenses referred to in subsection five of section eight of this Act; or

(b)

Second-hand Motor Dealers.

(b) a certificate that on a specified day or during the whole of a specified period—

(i) a person was or was not the holder of a license; or

(ii) certain specified premises were or were not the premises specified in a specified license; or

(iii) a specified license was or was not cancelled or suspended,

10 shall, where the extract, copy or certificate purports to be certified under the hand of a prescribed officer, be prima facie evidence of all particulars contained therein without proof of the signature or of the official character of the officer appearing to have certified the extract, copy
15 or certificate.

(2) Where in any proceedings for a contravention of any provision of this Act it is proved that on a certain day or during the whole of a certain period a person was the holder of a license, it shall be presumed,
20 in the absence of proof to the contrary, that on that day or during that period the person was a dealer.

17. (1) The Commissioner may delegate to any officer nominated by him any of his powers, authorities, duties or functions under this Act, other than this power
25 of delegation.

(2) A delegation may be made in respect of any matter or any class of matters or generally, or may be limited to any part of the State, and may be made subject to, or on such terms and conditions as the
30 Commissioner thinks fit.

(3) Every delegation under this section shall be revocable at the will of the Commissioner, but no delegation shall prevent the exercise of any power, authority, duty or function by the Commissioner.

18.

Second-hand Motor Dealers.

18. (1) The Transport Act, 1930, as amended by subsequent Acts, is amended—

Amendment
of Act
No. 18, 1930.

(a) by inserting at the end of subsection one of section two hundred and two the following new paragraph:—

Sec. 202.
(Road
Transport
and Traffic
Fund.)

(d) all fees charged under the Second-hand Motor Dealers Act, 1956.

(b) by inserting at the end of subsection two of the same section the following new paragraph:—

(f) all administrative and other expenses of the Commissioner for Motor Transport in respect of the Second-hand Motor Dealers Act, 1956.

(2) The Transport Act, 1930, as amended by subsequent Acts and by this Act, may be cited as the Transport Act, 1930-1956.

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

Amendment
of
Act No. 5,
1909.

(a) (i) by inserting in section two next after the definition of "Driver" the following new definition:—

Sec. 2.
(Defini-
tions.)

"Identification number", when used in relation to the engine, engine block or other prescribed part of a motor vehicle, means the number and any accompanying letters or symbols stamped on or otherwise affixed to that engine, engine block or part as a means of identifying that engine, engine block or part, but does not include any casting number or any number used as a means of identifying a class of engines, engine blocks or parts.

(ii)

Second-hand Motor Dealers.

(ii) by inserting at the end of the same section the following new subsection:—

(2) Any reference in this Act to an engine, engine block or other part of a motor vehicle shall, where that engine, engine block or other part has been removed from a motor vehicle, be read and construed as including a reference to the engine, engine block or other part so removed except where it has been installed as an engine, engine block or part of a motor launch or other vehicle or machinery, not being a motor vehicle.

(b) by inserting next after paragraph (k) of subsection one of section three the following new paragraphs:—

(k1) provide for the allotment by the Commissioner for Motor Transport of special identification numbers for the engines or engine blocks, and other prescribed parts, of motor vehicles and regulating the stamping or affixing of such numbers thereon or thereto;

(k2) provide for the furnishing to the Commissioner for Motor Transport of notification of the changing or replacement of any engine, engine block or other prescribed part of a motor vehicle.

The definition of "Motor vehicle" in subsection one of section two of this Act shall, in its application to the provisions of this paragraph and paragraph (k1) of this subsection, be read and construed as if the words "upon any public street" were not contained in the definition;

(c)

Second-hand Motor Dealers.

(c) by inserting next after section 7A the following New sec. 7B.
new section:—

7B. (1) Any person—

Offences
relating to
identification
numbers of
engines, &c.,
of motor
vehicles.

- 5 (a) not being the manufacturer, who
without the written authority of the
Commissioner for Motor Transport and
except as prescribed stamps or affixes
or causes or permits any person to
stamp or affix any identification number
10 on or to the engine, engine block or
other prescribed part of a motor
vehicle; or
- 15 (b) who, except as prescribed, alters,
defaces, removes, or obliterates any
identification number stamped on or
otherwise affixed to the engine, engine
block or other prescribed part of a
motor vehicle; or
- 20 (c) who, without lawful authority or excuse,
has in his possession any engine, engine
block or other prescribed part of
a motor vehicle knowing that the
identification number stamped thereon
25 or otherwise affixed thereto has been
altered, defaced, removed or obliterated
otherwise than as prescribed,

shall be guilty of an offence under this Act and
shall be liable to a penalty not exceeding one
hundred pounds or to imprisonment for a period
30 not exceeding six months or to both such penalty
and imprisonment.

35 (2) The definition of "Motor vehicle" in
subsection one of section two of this Act shall,
in its application to the provisions of subsection
one of this section, be read and construed as
if the words "upon any public street" were not
contained in the definition.

(2)

Second-hand Motor Dealers.

(2) The Motor Traffic Act, 1909, as amended by subsequent Acts and by this Act, may be cited as the Motor Traffic Act, 1909-1956.

20. (1) The Governor may make regulations, not Regulations.
5 inconsistent with this Act, prescribing all matters which by this Act are required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) Without prejudice to the generality of
10 subsection one of this section, the Governor may make regulations with respect to—

- (a) prescribing any forms to be used under this Act;
- 15 (b) prescribing the records to be kept by dealers under this Act;
- (c) the destruction or other disposal of records which are more than five years old or which have ceased to be of practical utility;
- 20 (d) the granting of exemption or conditional exemption from compliance with all or any of the provisions of the Act or regulations;
- (e) the granting of duplicate licenses and matters connected with such licenses;
- 25 (f) requiring any or all of the following persons, namely, dealers and officers, agents and employees of dealers, in such circumstances as may be prescribed, to give or furnish without delay or within the prescribed time, to such person as may be prescribed particulars of—
 - 30 (i) any motor vehicle or prescribed part or accessory of a motor vehicle that he or they know or have any reason to suspect has been stolen, embezzled or fraudulently obtained;

(ii)

Second-hand Motor Dealers.

(ii) any engine or engine block of a motor vehicle or any other prescribed part or accessory of a motor vehicle (whether or not the engine, engine block, part or accessory is for the time being affixed or installed in a motor vehicle) that may come into his or their possession, custody or control the identification number of which appears to have been altered, defaced, removed or obliterated.

(3) A regulation may be of general or specially limited application according to time, place or circumstances, and may be general or restricted to any specified class of subject matter.

(4) A regulation may authorise any matter or thing to be from time to time determined, applied or regulated by the Commissioner or by the Commissioner of Police either generally or for any class of cases or in any particular case.

(5) Any regulation may confer on the Commissioner, or on any prescribed person, any power or authority required for the carrying into effect of all or any of the provisions of that or any other regulation.

(6) All regulations made under this Act shall—

- (a) be published in the Gazette;
- (b) take effect from the date of publication or from a later date to be specified in the regulations;
- (c) be laid before both Houses of Parliament within fourteen sitting days after the publication thereof if Parliament is then in session, and, if not, then within fourteen sitting days after the commencement of the next session.

If

Second-hand Motor Dealers.

If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after the regulations have been laid before such House disallowing any regulation or part thereof, 5 such regulation or part shall thereupon cease to have effect.

Sydney: A. H. Pettifer, Government Printer—1956.

[1s. 6d.]

SECOND-HAND MOTOR DEALERS BILL, 1956.

EXPLANATORY NOTE.

THE main objects of this Bill are—

- (a) to provide for the licensing of second-hand motor dealers;
- (b) to require second-hand motor dealers to keep records and to make or furnish returns;
- (c) to amend the Motor Traffic Act, 1909-1955—
 - (i) to enable regulations to be made with respect to the allotment of identification numbers for engines, engine blocks and other prescribed parts of motor vehicles and requiring notice to be given to the Commissioner for Motor Transport of the changing or replacing of any engine or other prescribed part of a motor vehicle;
 - (ii) by creating certain new offences relating to the identification numbers of engines and other prescribed parts of motor vehicles.

PROOF

No. , 1956.

A BILL

To provide for the licensing of dealers in used or reconstructed motor vehicles, and, if so prescribed, in used or reconstructed parts or accessories of motor vehicles, and for the control and regulation in certain respects of the operations of those dealers; to amend the Motor Traffic Act, 1909-1955, by extending the power to make regulations and by creating certain new offences; to amend the Transport Act, 1930-1955; and for purposes connected therewith.

[MR. ENTICKNAP;—19 *June*, 1956.]

Second-hand Motor Dealers.

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 "Second-hand Motor Dealers Act, 1956."

Short title
and
commence-
ment.

(2) This Act shall commence upon a day to be
appointed by the Governor and notified by proclamation
10 published in the Gazette.

2. This Act shall be administered in the Department of Motor Transport by the Commissioner.

Administra-
tion of
Act.

3. (1) In this Act, unless the context or subject matter otherwise indicates or requires—

Interpreta-
tion.

15 "Accessories" includes—

(a) car-wirelesses;

(b) tools usually carried on motor vehicles.

"Commissioner" means the Commissioner for
Motor Transport constituted under the
20 Transport (Division of Functions) Further
Amendment Act, 1952, as amended by the State
Transport (Co-ordination) Amendment Act,
1954.

"Dealer" means any person (whether or not he
25 carries on any other business) who for reward
(whether monetary or otherwise) carries on any
one or more of the following, namely:—

(a) the business of buying, selling, exchanging,
demolishing or dismantling; or

30 (b) such other prescribed class of business
in relation to,

used or reconstructed motor vehicles or such
used or reconstructed parts or accessories of
motor vehicles as may be prescribed for the
35 purposes of this definition.

"Dealer's

Second-hand Motor Dealers.

“Dealer’s license” means a valid and unexpired dealer’s license or renewed license issued under this Act.

5 “Identification number”, when used in relation to the engine or engine block of a motor vehicle or to any part or accessory of a motor vehicle, means the number and any accompanying letters or symbols stamped on or otherwise
10 affixed to that engine, engine block, part or accessory as a means of identifying that engine, engine block, part or accessory, but does not include any casting number or any number used as a means of identifying a class of engines, engine blocks, parts or accessories.

15 “License” means a dealer’s license.

“Motor vehicle” means any motor car, motor carriage, motor cycle, tractor, or other vehicle propelled wholly or partly by any volatile spirit, steam, gas, oil or electricity, or by any means
20 other than human or animal power, and includes a trailer, but does not mean or include any vehicle used on a railway or tramway.

“Prescribed” means prescribed by this Act or the regulations.

25 “Regulations” means regulations made under this Act.

(2) Any reference in this Act to an engine, engine block or other part or accessory of a motor vehicle shall, where that engine, engine block or other part or accessory
30 has been removed from a motor vehicle, be read and construed as including a reference to the engine, engine block or other part or accessory so removed except where it has been installed as an engine, engine block, part or accessory of a motor launch or other vehicle or machinery,
35 not being a motor vehicle.

Second-hand Motor Dealers.

4. The Governor may by regulation—

- (a) (i) exempt to the extent prescribed any person or class of persons from the operation of this Act; and
- 5 (ii) specify what provisions (if any) of this Act and the regulations are, with such modifications as are necessary or seem desirable, to apply to any person or to any class of persons so exempted;
- 10 (b) exempt from the operation of all or any of the provisions of this Act any specified class of motor vehicles.

Exemption
from
operation
of Act.

5. After the expiration of three months from the commencement of this Act no person (either by himself or as a member of a partnership) shall act as or carry on or advertise, notify or state that he acts as or carries on or is willing to act as or carry on the business of a dealer unless he is the holder of a dealer's license.

No person
or partner
to act as
dealer
without a
license.

6. (1) (a) No person shall, by virtue of one license, keep more than one place for the conduct of his business as a dealer.

License
to be held
for each
place of
business.

- (b) Where a person conducts his business as a dealer at more than one place of business, he shall obtain in respect of each such place a separate and distinct license.

- (2) The Commissioner shall, upon application made in that behalf and upon payment of any fee prescribed therefor, alter a license by substituting another place of business for the place of business specified in the license.

Particulars of the alteration shall be endorsed on the license and entered in the record of licenses referred to in subsection five of section eight of this Act.

7.

Second-hand Motor Dealers.

7. (1) A license shall be in or to the effect of the Dealer's form prescribed and shall specify the place of business license. in respect of which it is issued.

(2) A license shall, unless sooner suspended or 5 cancelled, be in force for twelve months from the date of its issue.

A license may be renewed, and on each renewal shall take effect for a further period of twelve months.

8. (1) An application for a license or for the renewal Application of a license shall be in or to the effect of the prescribed for form and shall be lodged with the Commissioner. license.

(2) The application shall be accompanied by the prescribed fee. Different fees may be prescribed in respect of licenses and renewals of licenses.

15 (3) The Commissioner shall, upon the receipt of an application for the grant or renewal of a license, notify the Commissioner of Police who shall cause enquiries to be made as to the character of the applicant and shall furnish a report thereon to the Commissioner.

20 (4) The Commissioner shall consider such report and such other matters as may be relevant, and if he is satisfied that the applicant is a person of good character and a fit and proper person to hold a license under this Act he may grant a license or renewal of license.

25 (5) The Commissioner shall keep or cause to be kept a record of all licenses and renewals of licenses granted by him.

9. (1) The Commissioner may cancel or suspend a Cancellation license if— or suspension

30 (a) the license was issued erroneously or granted of in consequence of any false or fraudulent license. document, statement or representation;

(b) the holder thereof is convicted of an offence against this Act or the regulations;

(c)

Second-hand Motor Dealers.

- (c) the holder thereof ceases to carry on business as a dealer at the place of business for the time being specified in the license;
- 5 (d) the Commissioner is of opinion that by reason of the manner in which the holder thereof conducts his business as a dealer or by reason of any other fact or circumstance such holder is not a fit and proper person to hold a license.
- (2) Where any license has been cancelled or
10 suspended, the person to whom the license was issued shall deliver up the license to the Commissioner within such time as may be specified in a notice given by the Commissioner to that person for the purpose.
- (3) Particulars of the cancellation or suspension
15 shall be entered in the record of licenses referred to in subsection five of section eight of this Act.

10. (1) (a) Where the Commissioner refuses an application under section eight of this Act or cancels or suspends a license under section nine of this Act, he shall
20 notify the dealer or person making the application, as the case may be, of his decision.

Appeal
against
decision of
Commis-
sioner.

(b) Such dealer or person, as the case may be, may in the prescribed manner appeal to a court of petty sessions.

25 (c) Notice of any such appeal shall be lodged with the clerk of the court of petty sessions to which the appeal is being made and with the Commissioner within one month after the dealer was notified of the decision of the Commissioner as directed by paragraph (a) of this
30 subsection.

The notice shall specify the grounds of appeal.

(2) Any report furnished to the Commissioner by the Commissioner of Police in relation to the person making an appeal under this section shall be admissible
35 in evidence in that appeal.

(3)

Second-hand Motor Dealers.

(3) The decision of the court given in any appeal under this section shall be final and shall be deemed to be the decision of the Commissioner and be carried into effect accordingly.

5 (4) Every appeal under this section shall be heard before a court of petty sessions holden before a stipendiary magistrate.

11. (1) Every dealer shall—

Duties
of
dealers.

10 (a) keep or cause to be kept the prescribed records in respect of—

(i) used or reconstructed motor vehicles;

(ii) prescribed used or reconstructed parts or accessories of motor vehicles;

15 in respect of which he transacts any business as a dealer;

(b) at the prescribed times forward or cause to be forwarded to such member of the police force as may be prescribed such copies of or extracts from the records required to be kept by him under paragraph (a) of this subsection as the regulations may require to be so forwarded;

25 (c) keep or cause to be kept all prescribed used or reconstructed parts or accessories of motor vehicles, purchased or received by him from any person other than the holder of a license, without changing the form in which they were when so purchased or received, for a period of three days after they were purchased or received by him.

30 (2) In this section “prescribed used or reconstructed parts or accessories of motor vehicles” means such used or reconstructed parts or accessories of motor vehicles as are prescribed for the purposes of this section.

Second-hand Motor Dealers.

12. (1) Any person authorised in writing by the Commissioner in that behalf or any member of the police force may require—

Inspection
of records
and used or
reconstructed
motor
vehicles, &c.

(a) any dealer;

5 (b) without limiting the generality of the foregoing provisions of this section, the officer, agent or employee of the dealer in control or charge at any premises at which the dealer carries on business, if the dealer is a company or is not
10 personally in control or charge of those premises,

to produce for inspection by the person so authorised or that member, as the case may be—

15 (i) the records that the dealer is required to keep, or cause to be kept, by or under this Act;

(ii) any used or reconstructed motor vehicles or prescribed used or reconstructed parts or accessories of motor vehicles that are then in the possession of the dealer in his capacity as
20 such.

(2) The person so authorised or that member may make copies of or extracts from any records produced pursuant to subsection one of this section and may make notes in respect of those records or any motor vehicle
25 or part or accessory of a motor vehicle so produced.

(3) Any person who—

(a) wilfully delays or obstructs the person so authorised or that member in the exercise of his powers, authorities and functions under
30 this section;

(b) on demand refuses or fails to produce any records, motor vehicles, or parts or accessories of motor vehicles, required for inspection under this section and in his possession, custody or
35 control,

shall be guilty of an offence against this Act.

(4)

Second-hand Motor Dealers.

(4) In this section "prescribed used or reconstructed parts or accessories of motor vehicles" means such used or reconstructed parts or accessories of motor vehicles as are prescribed for the purposes of this section.

- 5 **13.** If any person knowingly makes or causes or permits or allows to be made any false or misleading entry in any record prescribed by or under this Act or in any prescribed copy of or extract from such records he shall be guilty of an offence against this Act and shall
- 10 be liable, if a company, to a penalty not exceeding two hundred pounds, or, if any other person, to a penalty not exceeding one hundred pounds or to imprisonment for a period not exceeding six months or to both such penalty and imprisonment.
- 15 **14.** Where any act, matter or thing is by or under this Act or any regulation directed or forbidden to be done, and the act, matter or thing so directed to be done remains undone, or the act, matter or thing so forbidden to be done is done, in every such case every person
- 20 offending against the direction or prohibition shall be guilty of an offence against this Act.
- 15.** (1) Any person convicted of an offence against this Act shall for every such offence for which no other penalty is provided by or under this Act be liable to a
- 25 penalty not exceeding one hundred pounds.
- (2) Any penalty imposed by this Act or the regulations may be recovered in a summary manner before a stipendiary magistrate or any two justices in petty sessions.
- 30 (3) Any court before whom a person is convicted of an offence against this Act or the regulations shall cause particulars of such conviction to be forwarded to the Commissioner.
- 16.** (1) In all courts and upon all occasions whatsoever—
- 35 (a) an extract from or copy of any entry recorded in the record of licenses referred to in subsection five of section eight of this Act; or
- (b)

Penalties
for
certain
fraudulent
acts.

Non-
observance
of
prescribed
requirement
or
prohibition.

Penalty.

Evidence.

Second-hand Motor Dealers.

(b) a certificate that on a specified day or during the whole of a specified period—

(i) a person was or was not the holder of a license; or

5 (ii) certain specified premises were or were not the premises specified in a specified license; or

(iii) a specified license was or was not cancelled or suspended,

10 shall, where the extract, copy or certificate purports to be certified under the hand of a prescribed officer, be prima facie evidence of all particulars contained therein without proof of the signature or of the official character of the officer appearing to have certified the extract, copy
15 or certificate.

(2) Where in any proceedings for a contravention of any provision of this Act it is proved that on a certain day or during the whole of a certain period a person was the holder of a license, it shall be presumed,
20 in the absence of proof to the contrary, that on that day or during that period the person was a dealer.

17. (1) The Commissioner may delegate to any ^{Delegation} officer nominated by him any of his powers, authorities, ^{of} duties or functions under this Act, other than this power ^{powers, etc.}
25 of delegation.

(2) A delegation may be made in respect of any matter or any class of matters or generally, or may be limited to any part of the State, and may be made subject to, or on such terms and conditions as the
30 Commissioner thinks fit.

(3) Every delegation under this section shall be revocable at the will of the Commissioner, but no delegation shall prevent the exercise of any power, authority, duty or function by the Commissioner.

18.

Second-hand Motor Dealers.

18. (1) The Transport Act, 1930, as amended by subsequent Acts, is amended—

Amendment
of Act
No. 18, 1930.

(a) by inserting at the end of subsection one of section two hundred and two the following new paragraph:—

Sec. 202.

(Road
Transport
and Traffic
Fund.)

(d) all fees charged under the Second-hand Motor Dealers Act, 1956.

(b) by inserting at the end of subsection two of the same section the following new paragraph:—

(f) all administrative and other expenses of the Commissioner for Motor Transport in respect of the Second-hand Motor Dealers Act, 1956.

(2) The Transport Act, 1930, as amended by subsequent Acts and by this Act, may be cited as the Transport Act, 1930-1956.

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

Amendment
of
Act No. 5,
1909.

(a) (i) by inserting in section two next after the definition of "Driver" the following new definition:—

Sec. 2.

(Defini-
tions.)

"Identification number", when used in relation to the engine, engine block or other prescribed part of a motor vehicle, means the number and any accompanying letters or symbols stamped on or otherwise affixed to that engine, engine block or part as a means of identifying that engine, engine block or part, but does not include any casting number or any number used as a means of identifying a class of engines, engine blocks or parts.

(ii)

Second-hand Motor Dealers.

(ii) by inserting at the end of the same section the following new subsection:—

5 (2) Any reference in this Act to an engine, engine block or other part of a motor vehicle shall, where that engine, engine block or other part has been removed from a motor vehicle, be read and construed as including a reference to the engine, 10 except where it has been installed as an engine, engine block or part of a motor launch or other vehicle or machinery, not being a motor vehicle.

15 (b) by inserting next after paragraph (k) of subsection one of section three the following new paragraphs:— Sec. 3. (Regulations.)

20 (k1) provide for the allotment by the Commissioner for Motor Transport of special identification numbers for the engines or engine blocks, and other prescribed parts, of motor vehicles and regulating the stamping or affixing of such numbers thereon or thereto;

25 (k2) provide for the furnishing to the Commissioner for Motor Transport of notification of the changing or replacement of any engine, engine block or other prescribed part of a motor vehicle.

30 The definition of "Motor vehicle" in subsection one of section two of this Act shall, in its application to the provisions of this paragraph and paragraph (k1) of this subsection, be read and construed as if the words "upon 35 any public street" were not contained in the definition;

(c)

Second-hand Motor Dealers.

(c) by inserting next after section 7A the following New sec. 7B.
new section:—

7B. (1) Any person—

- 5 (a) not being the manufacturer, who Offences relating to identification numbers of engines, &c., of motor vehicles.
without the written authority of the
Commissioner for Motor Transport and
except as prescribed stamps or affixes
or causes or permits any person to
stamp or affix any identification number
10 on or to the engine, engine block or
other prescribed part of a motor
vehicle; or
- 15 (b) who, except as prescribed, alters,
defaces, removes, or obliterates any
identification number stamped on or
otherwise affixed to the engine, engine
block or other prescribed part of a
motor vehicle; or
- 20 (c) who, without lawful authority or excuse,
has in his possession any engine, engine
block or other prescribed part of
a motor vehicle knowing that the
identification number stamped thereon
or otherwise affixed thereto has been
25 altered, defaced, removed or obliterated
otherwise than as prescribed,

shall be guilty of an offence under this Act and
shall be liable to a penalty not exceeding one
hundred pounds or to imprisonment for a period
30 not exceeding six months or to both such penalty
and imprisonment.

35 (2) The definition of “Motor vehicle” in
subsection one of section two of this Act shall,
in its application to the provisions of subsection
one of this section, be read and construed as
if the words “upon any public street” were not
contained in the definition.

(2)

Second-hand Motor Dealers.

(2) The Motor Traffic Act, 1909, as amended by subsequent Acts and by this Act, may be cited as the Motor Traffic Act, 1909-1956.

20. (1) The Governor may make regulations, not Regulations.
5 inconsistent with this Act, prescribing all matters which by this Act are required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) Without prejudice to the generality of
10 subsection one of this section, the Governor may make regulations with respect to—

- (a) prescribing any forms to be used under this Act;
- 15 (b) prescribing the records to be kept by dealers under this Act;
- (c) the destruction or other disposal of records which are more than five years old or which have ceased to be of practical utility;
- 20 (d) the granting of exemption or conditional exemption from compliance with all or any of the provisions of the Act or regulations;
- (e) the granting of duplicate licenses and matters connected with such licenses;
- 25 (f) requiring any or all of the following persons, namely, dealers and officers, agents and employees of dealers, in such circumstances as may be prescribed, to give or furnish without delay or within the prescribed time, to such person as may be prescribed particulars of—
- 30 (i) any motor vehicle or prescribed part or accessory of a motor vehicle that he or they know or have any reason to suspect has been stolen, embezzled or fraudulently obtained;
- (ii)

Second-hand Motor Dealers.

5 (ii) any engine or engine block of a motor
vehicle or any other prescribed part or
accessory of a motor vehicle (whether
or not the engine, engine block, part or
accessory is for the time being affixed or
installed in a motor vehicle) that may
come into his or their possession,
custody or control the identification
10 number of which appears to have
been altered, defaced, removed or
obliterated.

(3) A regulation may be of general or specially
limited application according to time, place or circum-
stances, and may be general or restricted to any specified
15 class of subject matter.

(4) A regulation may authorise any matter or
thing to be from time to time determined, applied or
regulated by the Commissioner or by the Commissioner
of Police either generally or for any class of cases or in
20 any particular case.

(5) Any regulation may confer on the Commis-
sioner, or on any prescribed person, any power or
authority required for the carrying into effect of all or
any of the provisions of that or any other regulation.

25 (6) All regulations made under this Act shall—

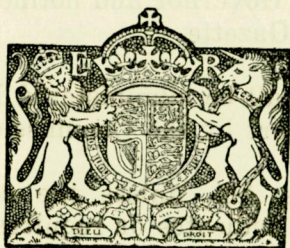
- (a) be published in the Gazette;
- (b) take effect from the date of publication or from
a later date to be specified in the regulations;
- (c) be laid before both Houses of Parliament within
30 fourteen sitting days after the publication
thereof if Parliament is then in session, and, if
not, then within fourteen sitting days after the
commencement of the next session.

If

Second-hand Motor Dealers.

If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after the regulations have been laid before such House disallowing any regulation or part thereof, 5 such regulation or part shall thereupon cease to have effect.

New South Wales



ANNO QUINTO

ELIZABETHÆ II REGINÆ

Act No. 5, 1956.

An Act to provide for the licensing of dealers in used or reconstructed motor vehicles, and, if so prescribed, in used or reconstructed parts or accessories of motor vehicles, and for the control and regulation in certain respects of the operations of those dealers; to amend the Motor Traffic Act, 1909-1955, by extending the power to make regulations and by creating certain new offences; to amend the Transport Act, 1930-1955; and for purposes connected therewith. [Assented to, 2nd August, 1956.]

BE

Second-hand Motor Dealers.

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
commence-
ment.

1. (1) This Act may be cited as the "Second-hand Motor Dealers Act, 1956."

(2) This Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

Administra-
tion of
Act.

2. This Act shall be administered in the Department of Motor Transport by the Commissioner.

Interpreta-
tion.

3. (1) In this Act, unless the context or subject matter otherwise indicates or requires—

"Accessories" includes—

(a) car-wirelesses;

(b) tools usually carried on motor vehicles.

"Commissioner" means the Commissioner for Motor Transport constituted under the Transport (Division of Functions) Further Amendment Act, 1952, as amended by the State Transport (Co-ordination) Amendment Act, 1954.

"Dealer" means any person (whether or not he carries on any other business) who for reward (whether monetary or otherwise) carries on any one or more of the following, namely:—

(a) the business of buying, selling, exchanging, demolishing or dismantling; or

(b) such other prescribed class of business in relation to,

used or reconstructed motor vehicles or such used or reconstructed parts or accessories of motor vehicles as may be prescribed for the purposes of this definition.

"Dealer's

Second-hand Motor Dealers.

“Dealer’s license” means a valid and unexpired dealer’s license or renewed license issued under this Act.

“Identification number”, when used in relation to the engine or engine block of a motor vehicle or to any part or accessory of a motor vehicle, means the number and any accompanying letters or symbols stamped on or otherwise affixed to that engine, engine block, part or accessory as a means of identifying that engine, engine block, part or accessory, but does not include any casting number or any number used as a means of identifying a class of engines, engine blocks, parts or accessories.

“License” means a dealer’s license.

“Motor vehicle” means any motor car, motor carriage, motor cycle, tractor, or other vehicle propelled wholly or partly by any volatile spirit, steam, gas, oil or electricity, or by any means other than human or animal power, and includes a trailer, but does not mean or include any vehicle used on a railway or tramway.

“Prescribed” means prescribed by this Act or the regulations.

“Regulations” means regulations made under this Act.

(2) Any reference in this Act to an engine, engine block or other part or accessory of a motor vehicle shall, where that engine, engine block or other part or accessory has been removed from a motor vehicle, be read and construed as including a reference to the engine, engine block or other part or accessory so removed except where it has been installed as an engine, engine block, part or accessory of a motor launch or other vehicle or machinery, not being a motor vehicle.

Second-hand Motor Dealers.

Exemption
from
operation
of Act.

4. The Governor may by regulation—

- (a) (i) exempt to the extent prescribed any person or class of persons from the operation of this Act; and
- (ii) specify what provisions (if any) of this Act and the regulations are, with such modifications as are necessary or seem desirable, to apply to any person or to any class of persons so exempted;
- (b) exempt from the operation of all or any of the provisions of this Act any specified class of motor vehicles.

No person
or partner
to act as
dealer
without a
license.

5. After the expiration of three months from the commencement of this Act no person (either by himself or as a member of a partnership) shall act as or carry on or advertise, notify or state that he acts as or carries on or is willing to act as or carry on the business of a dealer unless he is the holder of a dealer's license.

License
to be held
for each
place of
business.

6. (1) (a) No person shall, by virtue of one license, keep more than one place for the conduct of his business as a dealer.

(b) Where a person conducts his business as a dealer at more than one place of business, he shall obtain in respect of each such place a separate and distinct license.

(2) The Commissioner shall, upon application made in that behalf and upon payment of any fee prescribed therefor, alter a license by substituting another place of business for the place of business specified in the license.

Particulars of the alteration shall be endorsed on the license and entered in the record of licenses referred to in subsection five of section eight of this Act.

Second-hand Motor Dealers.

7. (1) A license shall be in or to the effect of the form prescribed and shall specify the place of business in respect of which it is issued. Dealer's license.

(2) A license shall, unless sooner suspended or cancelled, be in force for twelve months from the date of its issue.

A license may be renewed, and on each renewal shall take effect for a further period of twelve months.

8. (1) An application for a license or for the renewal of a license shall be in or to the effect of the prescribed form and shall be lodged with the Commissioner. Application for license.

(2) The application shall be accompanied by the prescribed fee. Different fees may be prescribed in respect of licenses and renewals of licenses.

(3) The Commissioner shall, upon the receipt of an application for the grant or renewal of a license, notify the Commissioner of Police who shall cause enquiries to be made as to the character of the applicant and shall furnish a report thereon to the Commissioner.

(4) The Commissioner shall consider such report and such other matters as may be relevant, and if he is satisfied that the applicant is a person of good character and a fit and proper person to hold a license under this Act he may grant a license or renewal of license.

(5) The Commissioner shall keep or cause to be kept a record of all licenses and renewals of licenses granted by him.

9. (1) The Commissioner may cancel or suspend a license if— Cancellation or suspension of license.

(a) the license was issued erroneously or granted in consequence of any false or fraudulent document, statement or representation;

(b) the holder thereof is convicted of an offence against this Act or the regulations;

(c)

Second-hand Motor Dealers.

- (c) the holder thereof ceases to carry on business as a dealer at the place of business for the time being specified in the license;
- (d) the Commissioner is of opinion that by reason of the manner in which the holder thereof conducts his business as a dealer or by reason of any other fact or circumstance such holder is not a fit and proper person to hold a license.

(2) Where any license has been cancelled or suspended, the person to whom the license was issued shall deliver up the license to the Commissioner within such time as may be specified in a notice given by the Commissioner to that person for the purpose.

(3) Particulars of the cancellation or suspension shall be entered in the record of licenses referred to in subsection five of section eight of this Act.

Appeal
against
decision of
Commis-
sioner.

10. (1) (a) Where the Commissioner refuses an application under section eight of this Act or cancels or suspends a license under section nine of this Act, he shall notify the dealer or person making the application, as the case may be, of his decision.

(b) Such dealer or person, as the case may be, may in the prescribed manner appeal to a court of petty sessions.

(c) Notice of any such appeal shall be lodged with the clerk of the court of petty sessions to which the appeal is being made and with the Commissioner within one month after the dealer was notified of the decision of the Commissioner as directed by paragraph (a) of this subsection.

The notice shall specify the grounds of appeal.

(2) Any report furnished to the Commissioner by the Commissioner of Police in relation to the person making an appeal under this section shall be admissible in evidence in that appeal.

(3)

Second-hand Motor Dealers.

(3) The decision of the court given in any appeal under this section shall be final and shall be deemed to be the decision of the Commissioner and be carried into effect accordingly.

(4) Every appeal under this section shall be heard before a court of petty sessions holden before a stipendiary magistrate.

11. (1) Every dealer shall—

Duties
of
dealers.

(a) keep or cause to be kept the prescribed records in respect of—

(i) used or reconstructed motor vehicles;

(ii) prescribed used or reconstructed parts or accessories of motor vehicles;

in respect of which he transacts any business as a dealer;

(b) at the prescribed times forward or cause to be forwarded to such member of the police force as may be prescribed such copies of or extracts from the records required to be kept by him under paragraph (a) of this subsection as the regulations may require to be so forwarded;

(c) keep or cause to be kept all prescribed used or reconstructed parts or accessories of motor vehicles, purchased or received by him from any person other than the holder of a license, without changing the form in which they were when so purchased or received, for a period of three days after they were purchased or received by him.

(2) In this section “prescribed used or reconstructed parts or accessories of motor vehicles” means such used or reconstructed parts or accessories of motor vehicles as are prescribed for the purposes of this section.

12.

Second-hand Motor Dealers.

Inspection
of records
and used or
reconstructed
motor
vehicles, &c.

12. (1) Any person authorised in writing by the Commissioner in that behalf or any member of the police force may require—

- (a) any dealer;
- (b) without limiting the generality of the foregoing provisions of this section, the officer, agent or employee of the dealer in control or charge at any premises at which the dealer carries on business, if the dealer is a company or is not personally in control or charge of those premises,

to produce for inspection by the person so authorised or that member, as the case may be—

- (i) the records that the dealer is required to keep, or cause to be kept, by or under this Act;
- (ii) any used or reconstructed motor vehicles or prescribed used or reconstructed parts or accessories of motor vehicles that are then in the possession of the dealer in his capacity as such.

(2) The person so authorised or that member may make copies of or extracts from any records produced pursuant to subsection one of this section and may make notes in respect of those records or any motor vehicle or part or accessory of a motor vehicle so produced.

(3) Any person who—

- (a) wilfully delays or obstructs the person so authorised or that member in the exercise of his powers, authorities and functions under this section;
- (b) on demand refuses or fails to produce any records, motor vehicles, or parts or accessories of motor vehicles, required for inspection under this section and in his possession, custody or control,

shall be guilty of an offence against this Act.

(4)

Second-hand Motor Dealers.

(4) In this section "prescribed used or reconstructed parts or accessories of motor vehicles" means such used or reconstructed parts or accessories of motor vehicles as are prescribed for the purposes of this section.

13. If any person knowingly makes or causes or permits or allows to be made any false or misleading entry in any record prescribed by or under this Act or in any prescribed copy of or extract from such records he shall be guilty of an offence against this Act and shall be liable, if a company, to a penalty not exceeding two hundred pounds, or, if any other person, to a penalty not exceeding one hundred pounds or to imprisonment for a period not exceeding six months or to both such penalty and imprisonment. Penalties for certain fraudulent acts.

14. Where any act, matter or thing is by or under this Act or any regulation directed or forbidden to be done, and the act, matter or thing so directed to be done remains undone, or the act, matter or thing so forbidden to be done is done, in every such case every person offending against the direction or prohibition shall be guilty of an offence against this Act. Non-observance of prescribed requirement or prohibition.

15. (1) Any person convicted of an offence against this Act shall for every such offence for which no other penalty is provided by or under this Act be liable to a penalty not exceeding one hundred pounds. Penalty.

(2) Any penalty imposed by this Act or the regulations may be recovered in a summary manner before a stipendiary magistrate or any two justices in petty sessions.

(3) Any court before whom a person is convicted of an offence against this Act or the regulations shall cause particulars of such conviction to be forwarded to the Commissioner.

16. (1) In all courts and upon all occasions whatsoever— Evidence.

(a) an extract from or copy of any entry recorded in the record of licenses referred to in subsection five of section eight of this Act; or

(b)

Second-hand Motor Dealers.

- (b) a certificate that on a specified day or during the whole of a specified period—
- (i) a person was or was not the holder of a license; or
 - (ii) certain specified premises were or were not the premises specified in a specified license; or
 - (iii) a specified license was or was not cancelled or suspended,

shall, where the extract, copy or certificate purports to be certified under the hand of a prescribed officer, be prima facie evidence of all particulars contained therein without proof of the signature or of the official character of the officer appearing to have certified the extract, copy or certificate.

(2) Where in any proceedings for a contravention of any provision of this Act it is proved that on a certain day or during the whole of a certain period a person was the holder of a license, it shall be presumed, in the absence of proof to the contrary, that on that day or during that period the person was a dealer.

Delegation
of
powers, etc.

17. (1) The Commissioner may delegate to any officer nominated by him any of his powers, authorities, duties or functions under this Act, other than this power of delegation.

(2) A delegation may be made in respect of any matter or any class of matters or generally, or may be limited to any part of the State, and may be made subject to, or on such terms and conditions as the Commissioner thinks fit.

(3) Every delegation under this section shall be revocable at the will of the Commissioner, but no delegation shall prevent the exercise of any power, authority, duty or function by the Commissioner.

Second-hand Motor Dealers.

18. (1) The Transport Act, 1930, as amended by subsequent Acts, is amended—

Amendment
of Act
No. 18, 1930.

(a) by inserting at the end of subsection one of section two hundred and two the following new paragraph:—

Sec. 202.
(Road
Transport
and Traffic
Fund.)

(d) all fees charged under the Second-hand Motor Dealers Act, 1956.

(b) by inserting at the end of subsection two of the same section the following new paragraph:—

(f) all administrative and other expenses of the Commissioner for Motor Transport in respect of the Second-hand Motor Dealers Act, 1956.

(2) The Transport Act, 1930, as amended by subsequent Acts and by this Act, may be cited as the Transport Act, 1930-1956.

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

Amendment
of
Act No. 5,
1909.

(a) (i) by inserting in section two next after the definition of "Driver" the following new definition:—

Sec. 2.
(Defini-
tions.)

"Identification number", when used in relation to the engine, engine block or other prescribed part of a motor vehicle, means the number and any accompanying letters or symbols stamped on or otherwise affixed to that engine, engine block or part as a means of identifying that engine, engine block or part, but does not include any casting number or any number used as a means of identifying a class of engines, engine blocks or parts.

(ii)

Second-hand Motor Dealers.

- (ii) by inserting at the end of the same section the following new subsection:—

(2) Any reference in this Act to an engine, engine block or other part of a motor vehicle shall, where that engine, engine block or other part has been removed from a motor vehicle, be read and construed as including a reference to the engine, engine block or other part so removed except where it has been installed as an engine, engine block or part of a motor launch or other vehicle or machinery, not being a motor vehicle.

Sec. 3.
(Regulations.)

- (b) by inserting next after paragraph (k) of subsection one of section three the following new paragraphs:—

(k1) provide for the allotment by the Commissioner for Motor Transport of special identification numbers for the engines or engine blocks, and other prescribed parts, of motor vehicles and regulating the stamping or affixing of such numbers thereon or thereto;

(k2) provide for the furnishing to the Commissioner for Motor Transport of notification of the changing or replacement of any engine, engine block or other prescribed part of a motor vehicle.

The definition of “Motor vehicle” in subsection one of section two of this Act shall, in its application to the provisions of this paragraph and paragraph (k1) of this subsection, be read and construed as if the words “upon any public street” were not contained in the definition;

(c)

Second-hand Motor Dealers.

(c) by inserting next after section 7A the following new section:— New sec. 7B.

7B. (1) Any person—

- (a) not being the manufacturer, who without the written authority of the Commissioner for Motor Transport and except as prescribed stamps or affixes or causes or permits any person to stamp or affix any identification number on or to the engine, engine block or other prescribed part of a motor vehicle; or
- (b) who, except as prescribed, alters, defaces, removes, or obliterates any identification number stamped on or otherwise affixed to the engine, engine block or other prescribed part of a motor vehicle; or
- (c) who, without lawful authority or excuse, has in his possession any engine, engine block or other prescribed part of a motor vehicle knowing that the identification number stamped thereon or otherwise affixed thereto has been altered, defaced, removed or obliterated otherwise than as prescribed,

Offences relating to identification numbers of engines, &c., of motor vehicles.

shall be guilty of an offence under this Act and shall be liable to a penalty not exceeding one hundred pounds or to imprisonment for a period not exceeding six months or to both such penalty and imprisonment.

(2) The definition of "Motor vehicle" in subsection one of section two of this Act shall, in its application to the provisions of subsection one of this section, be read and construed as if the words "upon any public street" were not contained in the definition.

(2)

Second-hand Motor Dealers.

(2) The Motor Traffic Act, 1909, as amended by subsequent Acts and by this Act, may be cited as the Motor Traffic Act, 1909-1956.

Regulations. **20.** (1) The Governor may make regulations, not inconsistent with this Act, prescribing all matters which by this Act are required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) Without prejudice to the generality of subsection one of this section, the Governor may make regulations with respect to—

- (a) prescribing any forms to be used under this Act;
- (b) prescribing the records to be kept by dealers under this Act;
- (c) the destruction or other disposal of records which are more than five years old or which have ceased to be of practical utility;
- (d) the granting of exemption or conditional exemption from compliance with all or any of the provisions of the Act or regulations;
- (e) the granting of duplicate licenses and matters connected with such licenses;
- (f) requiring any or all of the following persons, namely, dealers and officers, agents and employees of dealers, in such circumstances as may be prescribed, to give or furnish without delay or within the prescribed time, to such person as may be prescribed particulars of—
 - (i) any motor vehicle or prescribed part or accessory of a motor vehicle that he or they know or have any reason to suspect has been stolen, embezzled or fraudulently obtained;
 - (ii)

Second-hand Motor Dealers.

(ii) any engine or engine block of a motor vehicle or any other prescribed part or accessory of a motor vehicle (whether or not the engine, engine block, part or accessory is for the time being affixed or installed in a motor vehicle) that may come into his or their possession, custody or control the identification number of which appears to have been altered, defaced, removed or obliterated.

(3) A regulation may be of general or specially limited application according to time, place or circumstances, and may be general or restricted to any specified class of subject matter.

(4) A regulation may authorise any matter or thing to be from time to time determined, applied or regulated by the Commissioner or by the Commissioner of Police either generally or for any class of cases or in any particular case.

(5) Any regulation may confer on the Commissioner, or on any prescribed person, any power or authority required for the carrying into effect of all or any of the provisions of that or any other regulation.

(6) All regulations made under this Act shall—

- (a) be published in the Gazette;
- (b) take effect from the date of publication or from a later date to be specified in the regulations;
- (c) be laid before both Houses of Parliament within fourteen sitting days after the publication thereof if Parliament is then in session, and, if not, then within fourteen sitting days after the commencement of the next session.

If

Second-hand Motor Dealers.

If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after the regulations have been laid before such House disallowing any regulation or part thereof, such regulation or part shall thereupon cease to have effect.

By Authority:

A. H. PETTIFER, Government Printer, Sydney, 1956.

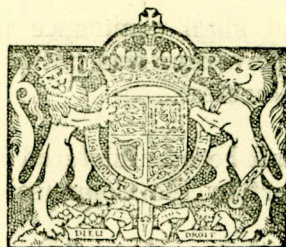
[8d.]

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

ALLAN PICKERING,
Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
Sydney, 24 July, 1956.*

New South Wales



ANNO QUINTO

ELIZABETHÆ II REGINÆ

Act No. 5, 1956.

An Act to provide for the licensing of dealers in used or reconstructed motor vehicles, and, if so prescribed, in used or reconstructed parts or accessories of motor vehicles, and for the control and regulation in certain respects of the operations of those dealers; to amend the Motor Traffic Act, 1909-1955, by extending the power to make regulations and by creating certain new offences; to amend the Transport Act, 1930-1955; and for purposes connected therewith. [Assented to, 2nd August, 1956.]

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.

Second-hand Motor Dealers.

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
commence-
ment.

1. (1) This Act may be cited as the "Second-hand Motor Dealers Act, 1956."

(2) This Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

Administra-
tion of
Act.

2. This Act shall be administered in the Department of Motor Transport by the Commissioner.

Interpreta-
tion.

3. (1) In this Act, unless the context or subject matter otherwise indicates or requires—

"Accessories" includes—

(a) car-wirelesses;

(b) tools usually carried on motor vehicles.

"Commissioner" means the Commissioner for Motor Transport constituted under the Transport (Division of Functions) Further Amendment Act, 1952, as amended by the State Transport (Co-ordination) Amendment Act, 1954.

"Dealer" means any person (whether or not he carries on any other business) who for reward (whether monetary or otherwise) carries on any one or more of the following, namely:—

(a) the business of buying, selling, exchanging, demolishing or dismantling; or

(b) such other prescribed class of business in relation to,

used or reconstructed motor vehicles or such used or reconstructed parts or accessories of motor vehicles as may be prescribed for the purposes of this definition.

"Dealer's

Second-hand Motor Dealers.

“Dealer’s license” means a valid and unexpired dealer’s license or renewed license issued under this Act.

“Identification number”, when used in relation to the engine or engine block of a motor vehicle or to any part or accessory of a motor vehicle, means the number and any accompanying letters or symbols stamped on or otherwise affixed to that engine, engine block, part or accessory as a means of identifying that engine, engine block, part or accessory, but does not include any casting number or any number used as a means of identifying a class of engines, engine blocks, parts or accessories.

“License” means a dealer’s license.

“Motor vehicle” means any motor car, motor carriage, motor cycle, tractor, or other vehicle propelled wholly or partly by any volatile spirit, steam, gas, oil or electricity, or by any means other than human or animal power, and includes a trailer, but does not mean or include any vehicle used on a railway or tramway.

“Prescribed” means prescribed by this Act or the regulations.

“Regulations” means regulations made under this Act.

(2) Any reference in this Act to an engine, engine block or other part or accessory of a motor vehicle shall, where that engine, engine block or other part or accessory has been removed from a motor vehicle, be read and construed as including a reference to the engine, engine block or other part or accessory so removed except where it has been installed as an engine, engine block, part or accessory of a motor launch or other vehicle or machinery, not being a motor vehicle.

Second-hand Motor Dealers.

Exemption
from
operation
of Act.

4. The Governor may by regulation—

- (a) (i) exempt to the extent prescribed any person or class of persons from the operation of this Act; and
- (ii) specify what provisions (if any) of this Act and the regulations are, with such modifications as are necessary or seem desirable, to apply to any person or to any class of persons so exempted;
- (b) exempt from the operation of all or any of the provisions of this Act any specified class of motor vehicles.

No person
or partner
to act as
dealer
without a
license.

5. After the expiration of three months from the commencement of this Act no person (either by himself or as a member of a partnership) shall act as or carry on or advertise, notify or state that he acts as or carries on or is willing to act as or carry on the business of a dealer unless he is the holder of a dealer's license.

License
to be held
for each
place of
business.

6. (1) (a) No person shall, by virtue of one license, keep more than one place for the conduct of his business as a dealer.

(b) Where a person conducts his business as a dealer at more than one place of business, he shall obtain in respect of each such place a separate and distinct license.

(2) The Commissioner shall, upon application made in that behalf and upon payment of any fee prescribed therefor, alter a license by substituting another place of business for the place of business specified in the license.

Particulars of the alteration shall be endorsed on the license and entered in the record of licenses referred to in subsection five of section eight of this Act.

Second-hand Motor Dealers.

7. (1) A license shall be in or to the effect of the form prescribed and shall specify the place of business in respect of which it is issued. Dealer's license.

(2) A license shall, unless sooner suspended or cancelled, be in force for twelve months from the date of its issue.

A license may be renewed, and on each renewal shall take effect for a further period of twelve months.

8. (1) An application for a license or for the renewal of a license shall be in or to the effect of the prescribed form and shall be lodged with the Commissioner. Application for license.

(2) The application shall be accompanied by the prescribed fee. Different fees may be prescribed in respect of licenses and renewals of licenses.

(3) The Commissioner shall, upon the receipt of an application for the grant or renewal of a license, notify the Commissioner of Police who shall cause enquiries to be made as to the character of the applicant and shall furnish a report thereon to the Commissioner.

(4) The Commissioner shall consider such report and such other matters as may be relevant, and if he is satisfied that the applicant is a person of good character and a fit and proper person to hold a license under this Act he may grant a license or renewal of license.

(5) The Commissioner shall keep or cause to be kept a record of all licenses and renewals of licenses granted by him.

9. (1) The Commissioner may cancel or suspend a license if— Cancellation or suspension of license.

(a) the license was issued erroneously or granted in consequence of any false or fraudulent document, statement or representation;

(b) the holder thereof is convicted of an offence against this Act or the regulations;

(c)

Second-hand Motor Dealers.

(c) the holder thereof ceases to carry on business as a dealer at the place of business for the time being specified in the license;

(d) the Commissioner is of opinion that by reason of the manner in which the holder thereof conducts his business as a dealer or by reason of any other fact or circumstance such holder is not a fit and proper person to hold a license.

(2) Where any license has been cancelled or suspended, the person to whom the license was issued shall deliver up the license to the Commissioner within such time as may be specified in a notice given by the Commissioner to that person for the purpose.

(3) Particulars of the cancellation or suspension shall be entered in the record of licenses referred to in subsection five of section eight of this Act.

Appeal
against
decision of
Commis-
sioner.

10. (1) (a) Where the Commissioner refuses an application under section eight of this Act or cancels or suspends a license under section nine of this Act, he shall notify the dealer or person making the application, as the case may be, of his decision.

(b) Such dealer or person, as the case may be, may in the prescribed manner appeal to a court of petty sessions.

(c) Notice of any such appeal shall be lodged with the clerk of the court of petty sessions to which the appeal is being made and with the Commissioner within one month after the dealer was notified of the decision of the Commissioner as directed by paragraph (a) of this subsection.

The notice shall specify the grounds of appeal.

(2) Any report furnished to the Commissioner by the Commissioner of Police in relation to the person making an appeal under this section shall be admissible in evidence in that appeal.

(3)

Second-hand Motor Dealers.

(3) The decision of the court given in any appeal under this section shall be final and shall be deemed to be the decision of the Commissioner and be carried into effect accordingly.

(4) Every appeal under this section shall be heard before a court of petty sessions holden before a stipendiary magistrate.

11. (1) Every dealer shall—

Duties
of
dealers.

(a) keep or cause to be kept the prescribed records in respect of—

(i) used or reconstructed motor vehicles;

(ii) prescribed used or reconstructed parts or accessories of motor vehicles;

in respect of which he transacts any business as a dealer;

(b) at the prescribed times forward or cause to be forwarded to such member of the police force as may be prescribed such copies of or extracts from the records required to be kept by him under paragraph (a) of this subsection as the regulations may require to be so forwarded;

(c) keep or cause to be kept all prescribed used or reconstructed parts or accessories of motor vehicles, purchased or received by him from any person other than the holder of a license, without changing the form in which they were when so purchased or received, for a period of three days after they were purchased or received by him.

(2) In this section “prescribed used or reconstructed parts or accessories of motor vehicles” means such used or reconstructed parts or accessories of motor vehicles as are prescribed for the purposes of this section.

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Inspection
of records
and used or
reconstructed
motor
vehicles, &c.

12. (1) Any person authorised in writing by the Commissioner in that behalf or any member of the police force may require—

- (a) any dealer;
- (b) without limiting the generality of the foregoing provisions of this section, the officer, agent or employee of the dealer in control or charge at any premises at which the dealer carries on business, if the dealer is a company or is not personally in control or charge of those premises,

to produce for inspection by the person so authorised or that member, as the case may be—

- (i) the records that the dealer is required to keep, or cause to be kept, by or under this Act;
- (ii) any used or reconstructed motor vehicles or prescribed used or reconstructed parts or accessories of motor vehicles that are then in the possession of the dealer in his capacity as such.

(2) The person so authorised or that member may make copies of or extracts from any records produced pursuant to subsection one of this section and may make notes in respect of those records or any motor vehicle or part or accessory of a motor vehicle so produced.

(3) Any person who—

- (a) wilfully delays or obstructs the person so authorised or that member in the exercise of his powers, authorities and functions under this section;
- (b) on demand refuses or fails to produce any records, motor vehicles, or parts or accessories of motor vehicles, required for inspection under this section and in his possession, custody or control,

shall be guilty of an offence against this Act.

(4)

Second-hand Motor Dealers.

(4) In this section "prescribed used or reconstructed parts or accessories of motor vehicles" means such used or reconstructed parts or accessories of motor vehicles as are prescribed for the purposes of this section.

13. If any person knowingly makes or causes or permits or allows to be made any false or misleading entry in any record prescribed by or under this Act or in any prescribed copy of or extract from such records he shall be guilty of an offence against this Act and shall be liable, if a company, to a penalty not exceeding two hundred pounds, or, if any other person, to a penalty not exceeding one hundred pounds or to imprisonment for a period not exceeding six months or to both such penalty and imprisonment. Penalties for certain fraudulent acts.

14. Where any act, matter or thing is by or under this Act or any regulation directed or forbidden to be done, and the act, matter or thing so directed to be done remains undone, or the act, matter or thing so forbidden to be done is done, in every such case every person offending against the direction or prohibition shall be guilty of an offence against this Act. Non-observance of prescribed requirement or prohibition.

15. (1) Any person convicted of an offence against this Act shall for every such offence for which no other penalty is provided by or under this Act be liable to a penalty not exceeding one hundred pounds. Penalty.

(2) Any penalty imposed by this Act or the regulations may be recovered in a summary manner before a stipendiary magistrate or any two justices in petty sessions.

(3) Any court before whom a person is convicted of an offence against this Act or the regulations shall cause particulars of such conviction to be forwarded to the Commissioner.

16. (1) In all courts and upon all occasions whatsoever— Evidence.

(a) an extract from or copy of any entry recorded in the record of licenses referred to in subsection five of section eight of this Act; or

(b)

Second-hand Motor Dealers.

- (b) a certificate that on a specified day or during the whole of a specified period—
 - (i) a person was or was not the holder of a license; or
 - (ii) certain specified premises were or were not the premises specified in a specified license; or
 - (iii) a specified license was or was not cancelled or suspended,

shall, where the extract, copy or certificate purports to be certified under the hand of a prescribed officer, be prima facie evidence of all particulars contained therein without proof of the signature or of the official character of the officer appearing to have certified the extract, copy or certificate.

(2) Where in any proceedings for a contravention of any provision of this Act it is proved that on a certain day or during the whole of a certain period a person was the holder of a license, it shall be presumed, in the absence of proof to the contrary, that on that day or during that period the person was a dealer.

Delegation
of
powers, etc.

17. (1) The Commissioner may delegate to any officer nominated by him any of his powers, authorities, duties or functions under this Act, other than this power of delegation.

(2) A delegation may be made in respect of any matter or any class of matters or generally, or may be limited to any part of the State, and may be made subject to, or on such terms and conditions as the Commissioner thinks fit.

(3) Every delegation under this section shall be revocable at the will of the Commissioner, but no delegation shall prevent the exercise of any power, authority, duty or function by the Commissioner.

18.

Second-hand Motor Dealers.

18. (1) The Transport Act, 1930, as amended by subsequent Acts, is amended—

Amendment
of Act
No. 18, 1930.

(a) by inserting at the end of subsection one of section two hundred and two the following new paragraph:—

Sec. 202.
(Road
Transport
and Traffic
Fund.)

(d) all fees charged under the Second-hand Motor Dealers Act, 1956.

(b) by inserting at the end of subsection two of the same section the following new paragraph:—

(f) all administrative and other expenses of the Commissioner for Motor Transport in respect of the Second-hand Motor Dealers Act, 1956.

(2) The Transport Act, 1930, as amended by subsequent Acts and by this Act, may be cited as the Transport Act, 1930-1956.

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

Amendment
of
Act No. 5,
1909.

(a) (i) by inserting in section two next after the definition of "Driver" the following new definition:—

Sec. 2.
(Defini-
tions.)

"Identification number", when used in relation to the engine, engine block or other prescribed part of a motor vehicle, means the number and any accompanying letters or symbols stamped on or otherwise affixed to that engine, engine block or part as a means of identifying that engine, engine block or part, but does not include any casting number or any number used as a means of identifying a class of engines, engine blocks or parts.

(ii)

Second-hand Motor Dealers.

- (ii) by inserting at the end of the same section the following new subsection:—

(2) Any reference in this Act to an engine, engine block or other part of a motor vehicle shall, where that engine, engine block or other part has been removed from a motor vehicle, be read and construed as including a reference to the engine, engine block or other part so removed except where it has been installed as an engine, engine block or part of a motor launch or other vehicle or machinery, not being a motor vehicle.

Sec. 3.
(Regulations.)

- (b) by inserting next after paragraph (k) of subsection one of section three the following new paragraphs:—

(k1) provide for the allotment by the Commissioner for Motor Transport of special identification numbers for the engines or engine blocks, and other prescribed parts, of motor vehicles and regulating the stamping or affixing of such numbers thereon or thereto;

(k2) provide for the furnishing to the Commissioner for Motor Transport of notification of the changing or replacement of any engine, engine block or other prescribed part of a motor vehicle.

The definition of "Motor vehicle" in subsection one of section two of this Act shall, in its application to the provisions of this paragraph and paragraph (k1) of this subsection, be read and construed as if the words "upon any public street" were not contained in the definition;

(c)

Second-hand Motor Dealers.

(c) by inserting next after section 7A the following New sec. 7B.
new section:—

7B. (1) Any person—

- (a) not being the manufacturer, who without the written authority of the Commissioner for Motor Transport and except as prescribed stamps or affixes or causes or permits any person to stamp or affix any identification number on or to the engine, engine block or other prescribed part of a motor vehicle; or
- (b) who, except as prescribed, alters, defaces, removes, or obliterates any identification number stamped on or otherwise affixed to the engine, engine block or other prescribed part of a motor vehicle; or
- (c) who, without lawful authority or excuse, has in his possession any engine, engine block or other prescribed part of a motor vehicle knowing that the identification number stamped thereon or otherwise affixed thereto has been altered, defaced, removed or obliterated otherwise than as prescribed,

Offences
relating to
identification
numbers of
engines, &c.,
of motor
vehicles.

shall be guilty of an offence under this Act and shall be liable to a penalty not exceeding one hundred pounds or to imprisonment for a period not exceeding six months or to both such penalty and imprisonment.

(2) The definition of "Motor vehicle" in subsection one of section two of this Act shall, in its application to the provisions of subsection one of this section, be read and construed as if the words "upon any public street" were not contained in the definition.

(2)

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(2) The Motor Traffic Act, 1909, as amended by subsequent Acts and by this Act, may be cited as the Motor Traffic Act, 1909-1956.

Regulations.

20. (1) The Governor may make regulations, not inconsistent with this Act, prescribing all matters which by this Act are required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) Without prejudice to the generality of subsection one of this section, the Governor may make regulations with respect to—

- (a) prescribing any forms to be used under this Act;
- (b) prescribing the records to be kept by dealers under this Act;
- (c) the destruction or other disposal of records which are more than five years old or which have ceased to be of practical utility;
- (d) the granting of exemption or conditional exemption from compliance with all or any of the provisions of the Act or regulations;
- (e) the granting of duplicate licenses and matters connected with such licenses;
- (f) requiring any or all of the following persons, namely, dealers and officers, agents and employees of dealers, in such circumstances as may be prescribed, to give or furnish without delay or within the prescribed time, to such person as may be prescribed particulars of—
 - (i) any motor vehicle or prescribed part or accessory of a motor vehicle that he or they know or have any reason to suspect has been stolen, embezzled or fraudulently obtained;
 - (ii)

Second-hand Motor Dealers.

- (ii) any engine or engine block of a motor vehicle or any other prescribed part or accessory of a motor vehicle (whether or not the engine, engine block, part or accessory is for the time being affixed or installed in a motor vehicle) that may come into his or their possession, custody or control the identification number of which appears to have been altered, defaced, removed or obliterated.
- (3) A regulation may be of general or specially limited application according to time, place or circumstances, and may be general or restricted to any specified class of subject matter.
- (4) A regulation may authorise any matter or thing to be from time to time determined, applied or regulated by the Commissioner or by the Commissioner of Police either generally or for any class of cases or in any particular case.
- (5) Any regulation may confer on the Commissioner, or on any prescribed person, any power or authority required for the carrying into effect of all or any of the provisions of that or any other regulation.
- (6) All regulations made under this Act shall—
 - (a) be published in the Gazette;
 - (b) take effect from the date of publication or from a later date to be specified in the regulations;
 - (c) be laid before both Houses of Parliament within fourteen sitting days after the publication thereof if Parliament is then in session, and, if not, then within fourteen sitting days after the commencement of the next session.

If

Second-hand Motor Dealers.

If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after the regulations have been laid before such House disallowing any regulation or part thereof, such regulation or part shall thereupon cease to have effect.

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

K. W. STREET,
Lieutenant-Governor.

*Government House,
Sydney, 2nd August, 1956.*