

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,
Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
Sydney, 3 April, 1973.*

New South Wales



ANNO VICESIMO SECUNDO

ELIZABETHÆ II REGINÆ

Act No. , 1973.

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

BE

Motor Traffic and Transport (Amendment).

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

1. This Act may be cited as the "Motor Traffic and Transport (Amendment) Act, 1973". Short title.

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

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

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

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

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

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

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

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

Motor Traffic and Transport (Amendment).

cancelled, as the case may be, to be notified by instrument in writing as to his decision and the grounds therefor.

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

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

15 (a) shall, where the license is suspended or
cancelled on the ground that the holder is
medically unfit or incompetent to drive a
motor vehicle, have effect as on and from
the date on which the holder is notified
pursuant to subsection (1), but without
prejudice to the holder's right of appeal
20 under section 22 and to the powers of a
court of petty sessions under that section; or

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

25 (i) as on and from the date that is
twenty-one days after the date on
which the holder is notified pursuant
to subsection (1); or

30 (ii) as on and from such earlier date as
the Commissioner, at the request by
instrument in writing of the holder,
may appoint and notify to the
holder.

(4)

Motor Traffic and Transport (Amendment).

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

10 (a) only if the court hearing the appeal confirms
the decision, or the appeal is withdrawn;

(b) subject to any variation of the decision made
by that court; and

15 (c) on the date on which that court confirms the
decision, or on such later date (if any) as
that court orders, or, if the appeal is
withdrawn, on the date on which it is
withdrawn.

20 22. (1) Subject to subsection (8), any person Appeals.
aggrieved by a decision of the Commissioner for
Motor Transport (hereinafter in this section
referred to as "the Commissioner") notified to him
pursuant to section 21 may appeal against the
decision to a court of petty sessions held before a
stipendiary magistrate.

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

(3)

Motor Traffic and Transport (Amendment).

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

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

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

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

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

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

Motor Traffic and Transport (Amendment).

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

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

5 169. (1) Where the Commissioner for Motor Transport (hereinafter in this section referred to as “the Commissioner”)—

(a) refuses to grant, renew or transfer, or cancels, a registration certificate; or

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

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

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

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

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

(b)

Motor Traffic and Transport (Amendment).

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

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

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

20 have effect—

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

30 169A. (1) Subject to subsection (8), any person aggrieved by a decision of the Commissioner for Motor Transport (hereinafter in this section referred to as "the Commissioner") notified to him pursuant to section 169 may appeal against the decision to a court of petty sessions held before a stipendiary magistrate.

(2)

Motor Traffic and Transport (Amendment).

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

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

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

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

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

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

(8)

Motor Traffic and Transport (Amendment).

5 (8) A person who requests the Commissioner by instrument in writing to appoint a date under subparagraph (ii) of paragraph (b) of subsection (3) of section 169 shall not have a right of appeal under this section.

5. The Justices Act, 1902, is amended by inserting next after section 154 (1B) the following new subsection :—

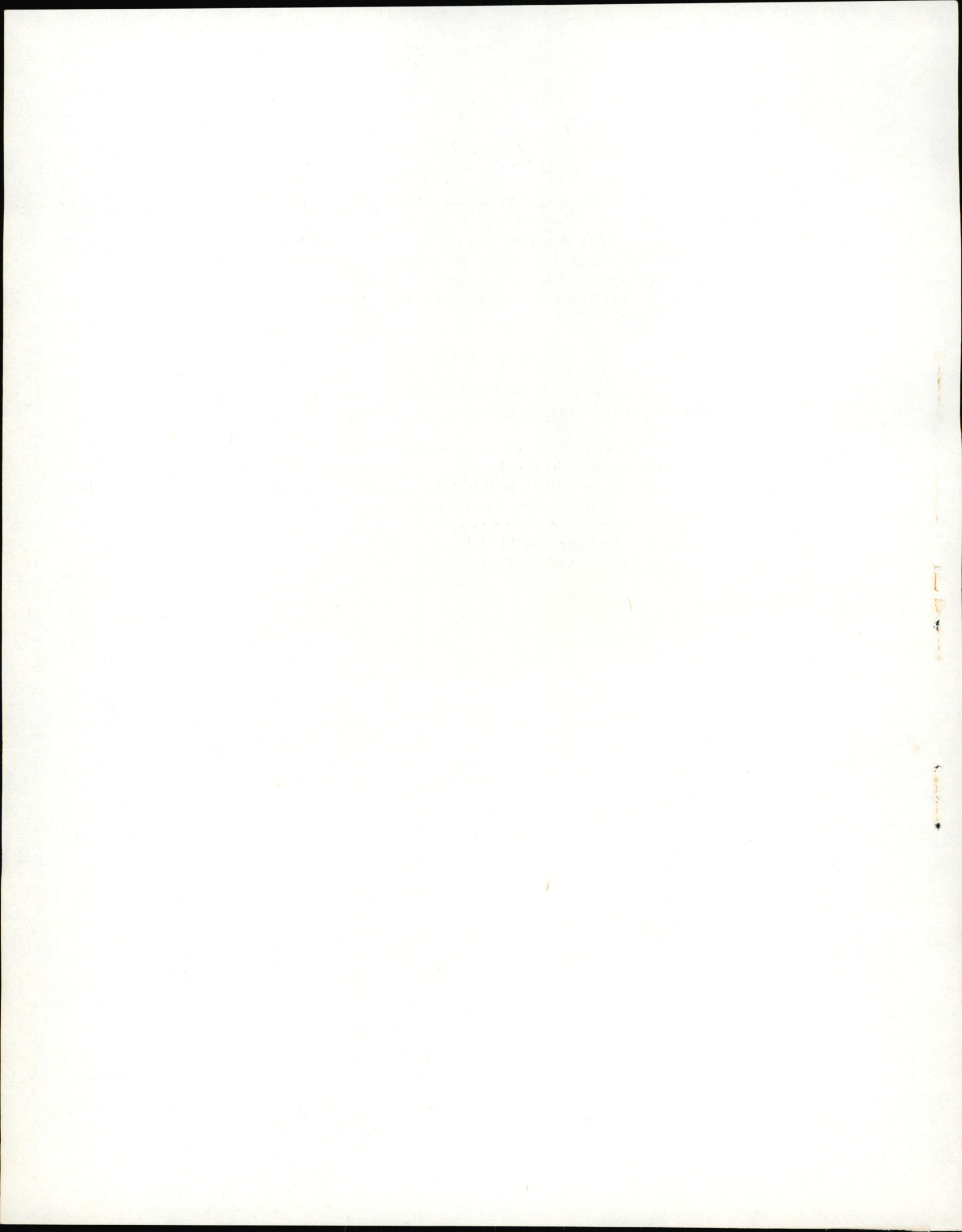
Amendment
of Act No.
27, 1902.

10 (1C) The Governor may make regulations not inconsistent with the Motor Traffic Act, 1909, the Transport Act, 1930, or this Act for or with respect to prescribing the manner of and the procedure and practice to be observed in relation to appeals to a court of petty sessions under section 22 of the Motor Traffic Act, 1909, or section 169A of the Transport Act, 1930.

Sec. 154.
(Regulations.)

BY AUTHORITY

V. C. N. BLIGHT, C.B.E., GOVERNMENT PRINTER, NEW SOUTH WALES—1973
[10c]



No. , 1973.

A BILL

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

[Mr MORRIS—28 *March*, 1973.]

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

3. The Motor Traffic Act, 1909, is amended—

Amendment of Act No. 5, 1909.

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

Sec. 3. (Regulations.)

(b) by inserting next after section 20 the following new sections:—

New secs. 21 and 22.

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

Commissioner to notify certain decisions to certain persons.

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

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

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

Motor Traffic and Transport (Amendment).

cancelled, as the case may be, to be notified by instrument in writing as to his decision and the grounds therefor.

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

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

15 (a) shall, where the license is suspended or cancelled on the ground that the holder is medically unfit or incompetent to drive a motor vehicle, have effect as on and from the date on which the holder is notified pursuant to subsection (1), but without prejudice to the holder's right of appeal under section 22 and to the powers of a court of petty sessions under that section; or

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

25 (i) as on and from the date that is twenty-one days after the date on which the holder is notified pursuant to subsection (1); or

30 (ii) as on and from such earlier date as the Commissioner, at the request by instrument in writing of the holder, may appoint and notify to the holder.

(4)

Motor Traffic and Transport (Amendment).

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

10 (a) only if the court hearing the appeal confirms
the decision, or the appeal is withdrawn;

(b) subject to any variation of the decision made
by that court; and

15 (c) on the date on which that court confirms the
decision, or on such later date (if any) as
that court orders, or, if the appeal is
withdrawn, on the date on which it is
withdrawn.

20 22. (1) Subject to subsection (8), any person Appeals.
aggrieved by a decision of the Commissioner for
Motor Transport (hereinafter in this section
referred to as "the Commissioner") notified to him
pursuant to section 21 may appeal against the
decision to a court of petty sessions held before a
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25 (2) Notice of any such appeal specifying
the grounds of the appeal shall be lodged with the
clerk of the court of petty sessions to which the
appeal is being made not later than twenty-one days
after the date on which the appellant was notified
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(3)

Motor Traffic and Transport (Amendment).

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

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

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

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

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

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

Motor Traffic and Transport (Amendment).

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

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

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

Commissioner to notify certain decisions to certain persons.

(a) refuses to grant, renew or transfer, or cancels, a registration certificate; or

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

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

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

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

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

(b)

Motor Traffic and Transport (Amendment).

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

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

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

20 have effect—

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

30 169A. (1) Subject to subsection (8), any person aggrieved by a decision of the Commissioner for Motor Transport (hereinafter in this section referred to as "the Commissioner") notified to him pursuant to section 169 may appeal against the decision to a court of petty sessions held before a stipendiary magistrate.

Motor Traffic and Transport (Amendment).

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

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

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

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

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Motor Traffic and Transport (Amendment).

5 (8) A person who requests the Commissioner by instrument in writing to appoint a date under subparagraph (ii) of paragraph (b) of subsection (3) of section 169 shall not have a right of appeal under this section.

5. The Justices Act, 1902, is amended by inserting next after section 154 (1B) the following new subsection :—

Amendment
of Act No.
27, 1902.

10 (1c) The Governor may make regulations not inconsistent with the Motor Traffic Act, 1909, the Transport Act, 1930, or this Act for or with respect to prescribing the manner of and the procedure and practice to be observed in relation to appeals to a court of petty sessions under section 22 of the Motor Traffic Act, 1909, or section 169A of the Transport Act, 1930.

Sec. 154.
(Regula-
tions.)

BY AUTHORITY

V. C. N. BLIGHT, C.B.E., GOVERNMENT PRINTER, NEW SOUTH WALES—1973
[10c]

PROOF

MOTOR TRAFFIC AND TRANSPORT (AMENDMENT) BILL, 1973

EXPLANATORY NOTE

THE objects of this Bill are—

- (a) to make further provision for an appeal from certain decisions of the Commissioner for Motor Transport relating to the grant, refusal, suspension or cancellation of certain registrations or licenses;
- (b) to prescribe the powers of a court of petty sessions in relation to any such appeal;
- (c) to make other provisions consequential upon or ancillary to the foregoing.

1947

REPORT ON THE PROGRESS OF WORK

The following report covers the work done during the year 1947. It is divided into two main parts, the first dealing with the work done during the year and the second dealing with the work done during the year 1946. The first part is divided into three sections, the first dealing with the work done during the year, the second dealing with the work done during the year 1946, and the third dealing with the work done during the year 1945. The second part is divided into two sections, the first dealing with the work done during the year 1946 and the second dealing with the work done during the year 1945.

PROOF

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3. The Motor Traffic Act, 1909, is amended—

Amendment of Act No. 5, 1909.

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

Sec. 3. (Regulations.)

15 (b) by inserting next after section 20 the following new sections :—

New secs. 21 and 22.

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

Commissioner to notify certain decisions to certain persons.

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

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

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Motor Traffic and Transport (Amendment).

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5 (2) A decision of the Commissioner
cancelling the registration of a motor vehicle shall
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(3) A decision of the Commissioner
suspending or cancelling a driver's license—

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cancelled on the ground that the holder is
medically unfit or incompetent to drive a
motor vehicle, have effect as on and from
the date on which the holder is notified
pursuant to subsection (1), but without
prejudice to the holder's right of appeal
20 under section 22 and to the powers of a
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(b) shall, subject to subsection (4), where the
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other ground, have effect—

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twenty-one days after the date on
which the holder is notified pursuant
to subsection (1) ; or

30 (ii) as on and from such earlier date as
the Commissioner, at the request by
instrument in writing of the holder,
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Motor Traffic and Transport (Amendment).

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cancels a driver's license on any ground (other than
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holder (having a right of appeal) appeals under
section 22, the decision of the Commissioner
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by that court; and

15 (c) on the date on which that court confirms the
decision, or on such later date (if any) as
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aggrieved by a decision of the Commissioner for
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25 (7) The decision of a court of petty sessions in respect of an appeal made under this section shall be final and shall be binding on the appellant and on the Commissioner.

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

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

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

10 he shall cause the person applying for the grant, renewal or transfer of the registration certificate or license, or the holder of the registration certificate or license suspended or cancelled, as the case may be, to be notified by instrument in writing as to his decision and the grounds therefor.
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(2) A decision of the Commissioner cancelling a registration certificate shall have effect as on and from the date on which the holder of the certificate is notified pursuant to subsection (1), but without prejudice to the holder's right of appeal under section 169A and to the powers of a court of petty sessions under that section.
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(3) A decision of the Commissioner suspending or cancelling a license—

25 (a) shall, where the license is suspended or cancelled on the ground that the holder of the license is medically unfit or incompetent to drive a public vehicle or to act as a conductor, have effect as on and from the date on which the holder of the license is notified pursuant to subsection (1), but without prejudice to the holder's right of appeal under section 169A and to the powers of a court of petty sessions under that section; or
30

(b)

Motor Traffic and Transport (Amendment).

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

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(i) as on and from the date that is twenty-one days after the date on which the holder of the license is notified pursuant to subsection (1); or

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(ii) as on and from such earlier date as the Commissioner, at the request by instrument in writing of the holder of the license, may appoint and notify to the holder.

15

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

20

(a) only if the court hearing the appeal confirms the decision, or the appeal is withdrawn;

(b) subject to any variation of the decision made by that court; and

25

(c) on the date on which that court confirms the decision, or on such later date (if any) as that court orders, or, if the appeal is withdrawn, on the date on which it is withdrawn.

30

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

(2)

Motor Traffic and Transport (Amendment).

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

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

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

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

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

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

Motor Traffic and Transport (Amendment).

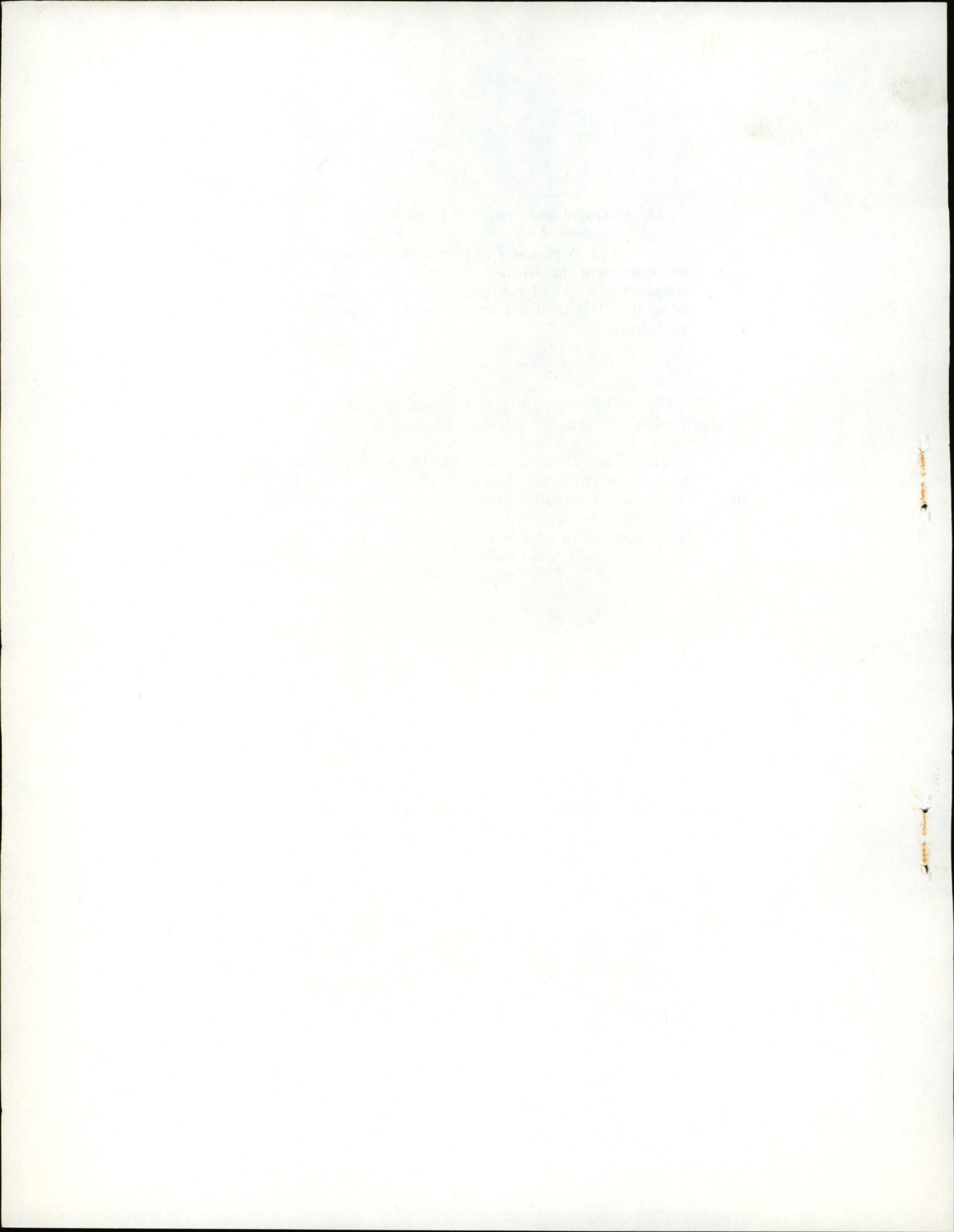
5 (8) A person who requests the Commissioner by instrument in writing to appoint a date under subparagraph (ii) of paragraph (b) of subsection (3) of section 169 shall not have a right of appeal under this section.

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

10 (1c) The Governor may make regulations not inconsistent with the Motor Traffic Act, 1909, the Transport Act, 1930, or this Act for or with respect to prescribing the manner of and the procedure and practice to be observed in relation to appeals to a court of petty sessions under section 22 of the Motor Traffic Act, 1909, or section 169A of the Transport Act, 1930. Sec. 154. (Regulations.)

BY AUTHORITY

V. C. N. BLIGHT, C.B.E., GOVERNMENT PRINTER, NEW SOUTH WALES—1973



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.

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

*Legislative Assembly Chamber,
Sydney, 10 April, 1973.*

New South Wales



ANNO VICESIMO SECUNDO

ELIZABETHÆ II REGINÆ

Act No. 21, 1973.

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

BE

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

J. H. BROWN,
Chairman of Committees of the Legislative Assembly.

Motor Traffic and Transport (Amendment).

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

Short title. **1.** This Act may be cited as the "Motor Traffic and Transport (Amendment) Act, 1973".

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

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

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

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

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

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

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

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

Motor Traffic and Transport (Amendment).

cancelled, as the case may be, to be notified by instrument in writing as to his decision and the grounds therefor.

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

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

- (a) shall, where the license is suspended or cancelled on the ground that the holder is medically unfit or incompetent to drive a motor vehicle, have effect as on and from the date on which the holder is notified pursuant to subsection (1), but without prejudice to the holder's right of appeal under section 22 and to the powers of a court of petty sessions under that section; or
- (b) shall, subject to subsection (4), where the license is suspended or cancelled on any other ground, have effect—

- (i) as on and from the date that is twenty-one days after the date on which the holder is notified pursuant to subsection (1); or

- (ii) as on and from such earlier date as the Commissioner, at the request by instrument in writing of the holder, may appoint and notify to the holder.

(4)

Motor Traffic and Transport (Amendment).

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

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

Appeals.

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

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

(3)

Motor Traffic and Transport (Amendment).

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

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

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

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

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

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

Motor Traffic and Transport (Amendment).

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

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

Commis-
sioner to
notify
certain
decisions
to certain
persons.

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

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

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

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

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

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

(b)

Motor Traffic and Transport (Amendment).

- (b) shall, subject to subsection (4), where the license is suspended or cancelled on any other ground, have effect—
- (i) as on and from the date that is twenty-one days after the date on which the holder of the license is notified pursuant to subsection (1); or
 - (ii) as on and from such earlier date as the Commissioner, at the request by instrument in writing of the holder of the license, may appoint and notify to the holder.

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

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

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

(2)

Motor Traffic and Transport (Amendment).

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

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

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

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

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

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

(8)