

ROAD OBSTRUCTIONS (SPECIAL PROVISIONS) BILL, 1979

EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

The object of this Bill is to make provisions with respect to the removal from public roads of motor vehicles causing obstruction.

The Bill contains the following provisions:—

- Clause 1. Short title.
- Clause 2. Commencement.
- Clause 3. Interpretation.

Clause 4 empowers the Commissioner of Police or a member of the police force who is an authorised officer to cause to be affixed to any motor vehicle that in his opinion is unreasonably obstructing a public road a notice and requires a person who last drove the motor vehicle to which such a notice is attached to move the vehicle to a place where it is no longer unreasonably obstructing a public road and not to do any thing to render the motor vehicle immobile.

The clause also provides for a fine not exceeding \$1,000 if those provisions are contravened.

The clause also provides for the automatic disqualification of the offender for a period of 1 month or for the disqualification of the offender for such longer period as may be fixed by the court from holding a licence under the Motor Traffic Act, 1909, or the regulations thereunder of a person convicted of contravening those provisions.

The clause also imposes a penalty of \$1,000 on the owner of a vehicle in respect of which an offence is committed under those provisions.

The clause also enables the court to order the forfeiture of the motor vehicle in respect of which the offence was committed if a notice under the clause was affixed to the vehicle within the previous 3 months.

Clause 5 authorises the Commissioner or an authorised member of the police force to seize and take charge of a motor vehicle or any part thereof where a notice affixed in accordance with clause 4 (1) is contravened and—

- (a) to move it to any place determined by the Commissioner or authorised person;
- (b) to modify, dismantle, unload, interfere with or replace it;
- (c) to destroy it.

Clause 6 preserves the liability for any offence under any other Act, regulation, by-law or any ordinance.

Clause 7 exculpates the Crown, the Commissioner of Police and certain other persons from liability for certain acts.

Clause 8 enables the Minister to recover certain costs and expenses involved in the execution of the proposed Act.

Clause 9 provides that proceedings for an offence under the proposed Act may be taken before a court of petty sessions held before a stipendiary magistrate.

Clause 10 provides for the making of regulations.

The Bill contains other provisions of a minor or ancillary character.

**ROAD OBSTRUCTIONS (SPECIAL PROVISIONS)
BILL, 1979**

No. , 1979.

A BILL FOR

An Act with respect to the removal from public roads of motor
vehicles causing obstruction.

[MR COX—3 *April*, 1979.]

Road Obstructions (Special Provisions).

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 :—

5 1. This Act may be cited as the "Road Obstructions (Special Provisions) Act, 1979". Short title.

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

10 (2) Except as provided in subsection (1), this Act shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

3. (1) In this Act, except in so far as the context or subject-matter otherwise indicates or requires— Interpretation.

15 "authorised officer" means a member of the police force of or above the rank of sergeant who has been appointed in writing or otherwise by the Commissioner to be an authorised officer for the purposes of this Act;

"Commissioner" means Commissioner of Police;

20 "motor vehicle" has the meaning ascribed thereto by section 2 (1) of the Motor Traffic Act, 1909;

"owner", in relation to a motor vehicle, means—

(a) any person who is the owner or joint owner or part owner thereof;

25 (b) any person who has the use thereof under a hiring or hire-purchase agreement; or

Road Obstructions (Special Provisions).

(c) any person in whose name the vehicle is registered under the Motor Traffic Act, 1909, or under any legislation providing for the registration of motor vehicles of any State or Territory of the Commonwealth,

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but does not include any unpaid vendor of the vehicle under a hire-purchase agreement;

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“public road” has the meaning ascribed to the expression “public street” by section 2 (1) of the Motor Traffic Act, 1909;

“regulations” means regulations under this Act.

(2) A reference in this Act to a motor vehicle includes a reference to any goods on the motor vehicle.

4. (1) Where the Commissioner or any authorised officer is of the opinion that any motor vehicle is unreasonably obstructing a public road, he may cause to be affixed to a conspicuous part of the motor vehicle a notice in or to the effect of the form contained in Schedule 1.

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Penalty for not moving a motor vehicle obstructing a public road.

(2) Where a notice is affixed to a motor vehicle in accordance with subsection (1)—

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(a) the person who last drove the motor vehicle before the notice was affixed to it shall, within 2 hours after the notice is affixed to it, move the motor vehicle to a place where it is no longer unreasonably obstructing a public road; and

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(b) a person shall not, within 2 hours after the notice is affixed to it, do any thing to render the motor vehicle immobile.

(3) A person who contravenes subsection (2) is guilty of an offence and liable to a fine not exceeding \$1,000.

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(4) Where a person is convicted of an offence under subsection (3), he is by the conviction, disqualified from holding any licence under the Motor Traffic Act, 1909, or the regulations thereunder, for a period of 1 month, but may be disqualified by 5 the court by which he is convicted for such longer period, not exceeding 3 years, as may be ordered by that court.

(5) Where an offence in relation to any motor vehicle is committed under subsection (3) by any person (whether or not he has been convicted of the offence), the owner of the motor 10 vehicle is guilty of an offence and liable to a penalty not exceeding \$1,000.

(6) Where a person is convicted of an offence under subsection (3) or (5), the court may, in addition to imposing the penalty provided by either of those subsections, make an order for 15 the forfeiture to the Crown of the motor vehicle in respect of which the offence was committed if the notice, referred to in the information for the offence, was affixed to the motor vehicle within 3 months after another notice was affixed to the motor vehicle in accordance with subsection (1).

20 5. (1) Where a motor vehicle to which a notice is affixed in accordance with section 4 (1) is not, within 2 hours after the notice is affixed to it, moved to a place where, in the opinion of the Commissioner or an authorised officer, it is no longer unreasonably obstructing a public road, the Commissioner or that authorised 25 officer may seize and take charge of the motor vehicle and cause it or any part of it—

Removal of a motor vehicle obstructing a public road.

- (a) to be moved to such place as may be determined by the Commissioner or authorised officer, as the case may be; or
- 30 (b) to be modified, dismantled, unloaded, interfered with or replaced in any manner considered necessary by the Commissioner or authorised officer to enable the motor vehicle or any part thereof to be moved to such place as may be so determined,

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or may cause any combination of those things to be done or, where the Commissioner or authorised officer is of the opinion that it is not practicable to do any of those things, may cause the motor vehicle or any part of it to be destroyed.

5 (2) For the purpose of exercising the powers conferred by subsection (1), the Commissioner or an authorised officer may take possession of any land, whether or not it is privately owned.

10 (3) Any motor vehicle or part of a motor vehicle moved to a place in accordance with subsection (1) may, subject to the regulations, be impounded at that place or may be moved to and impounded at any other place determined by the Commissioner or an authorised officer.

15 (4) A motor vehicle that may be moved under subsection (1) or (3) may be moved by its being driven, whether or not under power, by its being towed or pushed, whether forwards, backwards or in any other direction, or in any other manner whatsoever.

20 (5) A person who obstructs, hinders, assaults or resists another person engaged in doing any thing pursuant to the purported exercise of the powers conferred on the Commissioner or an authorised officer by subsection (1) or pursuant to subsection (3) is guilty of an offence and liable to imprisonment for a term not exceeding 6 months.

25 6. Nothing in this Act affects the liability of any person for an offence under any other Act or any regulation, by-law or ordinance. Liability under other Acts, etc., not affected.

7. Where any thing is done pursuant to the purported exercise of the powers conferred on the Commissioner or an authorised officer by section 5 (1) or pursuant to section 5 (3), the Crown, the Commissioner, any authorised officer or any person engaged Exculpation of Crown, Commissioner, authorised officers and other persons.

Road Obstructions (Special Provisions).

in the doing of any thing pursuant to the purported exercise of those powers or pursuant to section 5 (3) is not, subject to the regulations, liable—

5 (a) in respect of any damage, howsoever caused and whether or not due to negligence, to the motor vehicle in respect of which those powers purported to be exercised; or

10 (b) in respect of any loss or damage of any kind suffered by any person in respect of the loss of the use of the motor vehicle.

8. Where the Commissioner or an authorised officer causes anything to be done pursuant to section 5 (1) or (3) in relation to a motor vehicle, the Minister may in any court of competent jurisdiction recover, as a debt due to the Crown by the owner of 15 that motor vehicle, any amount certified (which certificate is admissible in any proceedings and is conclusive of the matters certified in and by the certificate) by the Commissioner to be—

Costs and expenses recoverable by Minister.

20 (a) costs and expenses incurred by the Commissioner or the authorised officer, as the case may be, in respect of the doing of that thing; and

(b) an amount for which the Commissioner, the authorised officer or any person engaged in the doing of any such thing is liable, whether by reason of his negligence or otherwise.

25 9. Proceedings for an offence under this Act may be taken before a court of petty sessions held before a stipendiary magistrate. Proceedings.

Road Obstructions (Special Provisions).

10. (1) The Governor may make regulations, not inconsistent **Regulations.**
with this Act, for or with respect to any matter that by this Act
is required or permitted to be prescribed or that is necessary or
convenient to be prescribed for carrying out or giving effect to this
5 Act and, in particular, for or with respect to—

- (a) the release of any motor vehicle or part of a motor
vehicle impounded under this Act;
- (b) the moving of any motor vehicle or part of a motor
vehicle for the purposes of this Act;
- 10 (c) the disposal, whether by way of sale, destruction or
otherwise, of any motor vehicle or part of a motor
vehicle impounded under this Act; and
- (d) the payment of compensation to any person where goods
are damaged by virtue of the exercise of any powers
15 pursuant to this Act or any person having an interest
in any land of which possession is taken under section
5 (2).

(2) A provision of a regulation may—

- 20 (a) apply generally or be limited in its application by
reference to specified exceptions or factors;
- (b) apply differently according to different factors of a
specified kind;
- (c) authorise any matter or thing to be from time to time
determined, applied or regulated by any specified person
25 or body; or
- (d) impose a penalty not exceeding \$500 for any breach of
the regulations,

or may do any combination of those things.

(3) Notwithstanding section 41 of the Interpretation Act,
30 1897, a regulation shall, if expressed to do so, take effect from any
date specified in the regulation that is the date of, or a date that is
after, the date appointed and notified under section 2 (2), but

Road Obstructions (Special Provisions).

nothing in this subsection shall cause any person to be guilty of any offence by reason of any act or omission occurring before the date on which the regulation is published in the Gazette.

SCHEDULE 1.

Sec. 4.

5 ROAD OBSTRUCTIONS (SPECIAL PROVISIONS) ACT, 1979.

Section 4.

This motor vehicle is unreasonably obstructing a public road.

The person who last drove this motor vehicle—

- 10 (a) must, within 2 hours, move it to a place where it is no longer unreasonably obstructing a public road; and
(b) must not render the motor vehicle immobile.

The maximum penalty for failing to do so is a fine of \$1,000. The offender will also be disqualified from driving any motor vehicle for at least 1 month or for up to 3 years. The owner of the motor vehicle will also
15 be liable to a maximum fine of \$1,000.

If another notice under section 4 of the Road Obstructions (Special Provisions) Act, 1979, has been affixed within 3 months before this notice was affixed, in addition to those penalties, this motor vehicle is liable to be forfeited to the Crown.

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1979

[16c]

**ROAD OBSTRUCTIONS (SPECIAL PROVISIONS)
ACT, 1979, No. 9**

New South Wales



ANNO VICESIMO OCTAVO

ELIZABETHÆ II REGINÆ

Act No. 9, 1979.

An Act with respect to the removal from public roads of motor vehicles causing obstruction. [Assented to, 10th April, 1979.]

Road Obstructions (Special Provisions).

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 "Road Obstructions (Special Provisions) Act, 1979".

Commence-
ment.

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

(2) Except as provided in subsection (1), this Act shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

Interpre-
tation.

3. (1) In this Act, except in so far as the context or subject-matter otherwise indicates or requires—

"authorised officer" means a member of the police force of or above the rank of sergeant who has been appointed in writing or otherwise by the Commissioner to be an authorised officer for the purposes of this Act;

"Commissioner" means Commissioner of Police;

"motor vehicle" has the meaning ascribed thereto by section 2 (1) of the Motor Traffic Act, 1909;

"owner", in relation to a motor vehicle, means—

- (a) any person who is the owner or joint owner or part owner thereof;
- (b) any person who has the use thereof under a hiring or hire-purchase agreement; or

Road Obstructions (Special Provisions).

(c) any person in whose name the vehicle is registered under the Motor Traffic Act, 1909, or under any legislation providing for the registration of motor vehicles of any State or Territory of the Commonwealth,

but does not include any unpaid vendor of the vehicle under a hire-purchase agreement;

“public road” has the meaning ascribed to the expression “public street” by section 2 (1) of the Motor Traffic Act, 1909;

“regulations” means regulations under this Act.

(2) A reference in this Act to a motor vehicle includes a reference to any goods on the motor vehicle.

4. (1) Where the Commissioner or any authorised officer is of the opinion that any motor vehicle is unreasonably obstructing a public road, he may cause to be affixed to a conspicuous part of the motor vehicle a notice in or to the effect of the form contained in Schedule 1.

Penalty for not moving a motor vehicle obstructing a public road.

(2) Where a notice is affixed to a motor vehicle in accordance with subsection (1)—

- (a) the person who last drove the motor vehicle before the notice was affixed to it shall, within 2 hours after the notice is affixed to it, move the motor vehicle to a place where it is no longer unreasonably obstructing a public road; and
- (b) a person shall not, within 2 hours after the notice is affixed to it, do any thing to render the motor vehicle immobile.

(3) A person who contravenes subsection (2) is guilty of an offence and liable to a fine not exceeding \$1,000.

Road Obstructions (Special Provisions).

(4) Where a person is convicted of an offence under subsection (3), he is by the conviction, disqualified from holding any licence under the Motor Traffic Act, 1909, or the regulations thereunder, for a period of 1 month, but may be disqualified by the court by which he is convicted for such longer period, not exceeding 3 years, as may be ordered by that court.

(5) Where an offence in relation to any motor vehicle is committed under subsection (3) by any person (whether or not he has been convicted of the offence), the owner of the motor vehicle is guilty of an offence and liable to a penalty not exceeding \$1,000.

(6) Where a person is convicted of an offence under subsection (3) or (5), the court may, in addition to imposing the penalty provided by either of those subsections, make an order for the forfeiture to the Crown of the motor vehicle in respect of which the offence was committed if the notice, referred to in the information for the offence, was affixed to the motor vehicle within 3 months after another notice was affixed to the motor vehicle in accordance with subsection (1).

Removal of
a motor
vehicle
obstructing
a public
road.

5. (1) Where a motor vehicle to which a notice is affixed in accordance with section 4 (1) is not, within 2 hours after the notice is affixed to it, moved to a place where, in the opinion of the Commissioner or an authorised officer, it is no longer unreasonably obstructing a public road, the Commissioner or that authorised officer may seize and take charge of the motor vehicle and cause it or any part of it—

- (a) to be moved to such place as may be determined by the Commissioner or authorised officer, as the case may be; or
- (b) to be modified, dismantled, unloaded, interfered with or replaced in any manner considered necessary by the Commissioner or authorised officer to enable the motor vehicle or any part thereof to be moved to such place as may be so determined,

Road Obstructions (Special Provisions).

or may cause any combination of those things to be done or, where the Commissioner or authorised officer is of the opinion that it is not practicable to do any of those things, may cause the motor vehicle or any part of it to be destroyed.

(2) For the purpose of exercising the powers conferred by subsection (1), the Commissioner or an authorised officer may take possession of any land, whether or not it is privately owned.

(3) Any motor vehicle or part of a motor vehicle moved to a place in accordance with subsection (1) may, subject to the regulations, be impounded at that place or may be moved to and impounded at any other place determined by the Commissioner or an authorised officer.

(4) A motor vehicle that may be moved under subsection (1) or (3) may be moved by its being driven, whether or not under power, by its being towed or pushed, whether forwards, backwards or in any other direction, or in any other manner whatsoever.

(5) A person who obstructs, hinders, assaults or resists another person engaged in doing any thing pursuant to the purported exercise of the powers conferred on the Commissioner or an authorised officer by subsection (1) or pursuant to subsection (3) is guilty of an offence and liable to imprisonment for a term not exceeding 6 months.

6. Nothing in this Act affects the liability of any person for an offence under any other Act or any regulation, by-law or ordinance.

Liability under other Acts, etc., not affected.

7. Where any thing is done pursuant to the purported exercise of the powers conferred on the Commissioner or an authorised officer by section 5 (1) or pursuant to section 5 (3), the Crown, the Commissioner, any authorised officer or any person engaged

Exculpation of Crown, Commissioner, authorised officers and other persons.

Road Obstructions (Special Provisions).

in the doing of any thing pursuant to the purported exercise of those powers or pursuant to section 5 (3) is not, subject to the regulations, liable—

- (a) in respect of any damage, howsoever caused and whether or not due to negligence, to the motor vehicle in respect of which those powers purported to be exercised; or
- (b) in respect of any loss or damage of any kind suffered by any person in respect of the loss of the use of the motor vehicle.

Costs and
expenses
recoverable
by Minister.

8. Where the Commissioner or an authorised officer causes anything to be done pursuant to section 5 (1) or (3) in relation to a motor vehicle, the Minister may in any court of competent jurisdiction recover, as a debt due to the Crown by the owner of that motor vehicle, any amount certified (which certificate is admissible in any proceedings and is conclusive of the matters certified in and by the certificate) by the Commissioner to be—

- (a) costs and expenses incurred by the Commissioner or the authorised officer, as the case may be, in respect of the doing of that thing; and
- (b) an amount for which the Commissioner, the authorised officer or any person engaged in the doing of any such thing is liable, whether by reason of his negligence or otherwise.

Proceedings.

9. Proceedings for an offence under this Act may be taken before a court of petty sessions held before a stipendiary magistrate.

Road Obstructions (Special Provisions).

10. (1) The Governor may make regulations, not inconsistent Regulations. with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act and, in particular, for or with respect to—

- (a) the release of any motor vehicle or part of a motor vehicle impounded under this Act;
- (b) the moving of any motor vehicle or part of a motor vehicle for the purposes of this Act;
- (c) the disposal, whether by way of sale, destruction or otherwise, of any motor vehicle or part of a motor vehicle impounded under this Act; and
- (d) the payment of compensation to any person where goods are damaged by virtue of the exercise of any powers pursuant to this Act or any person having an interest in any land of which possession is taken under section 5 (2).

(2) A provision of a regulation may—

- (a) apply generally or be limited in its application by reference to specified exceptions or factors;
- (b) apply differently according to different factors of a specified kind;
- (c) authorise any matter or thing to be from time to time determined, applied or regulated by any specified person or body; or
- (d) impose a penalty not exceeding \$500 for any breach of the regulations,

or may do any combination of those things.

(3) Notwithstanding section 41 of the Interpretation Act, 1897, a regulation shall, if expressed to do so, take effect from any date specified in the regulation that is the date of, or a date that is after, the date appointed and notified under section 2 (2), but

Road Obstructions (Special Provisions).

nothing in this subsection shall cause any person to be guilty of any offence by reason of any act or omission occurring before the date on which the regulation is published in the Gazette.

Expiration
of Act.

11. This Act expires on 31st August, 1979.

Sec. 4.

SCHEDULE 1.

ROAD OBSTRUCTIONS (SPECIAL PROVISIONS) ACT, 1979.

Section 4.

This motor vehicle is unreasonably obstructing a public road.

The person who last drove this motor vehicle—

- (a) must, within 2 hours, move it to a place where it is no longer unreasonably obstructing a public road; and
- (b) must not render the motor vehicle immobile.

The maximum penalty for failing to do so is a fine of \$1,000. The offender will also be disqualified from driving any motor vehicle for at least 1 month or for up to 3 years. The owner of the motor vehicle will also be liable to a maximum fine of \$1,000.

If another notice under section 4 of the Road Obstructions (Special Provisions) Act, 1979, has been affixed within 3 months before this notice was affixed, in addition to those penalties, this motor vehicle is liable to be forfeited to the Crown.

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

A. R. CUTLER,
Governor.

*Government House,
Sydney, 10th April, 1979.*

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1979