

# CONCURRENCE COPY

## LOCAL GOVERNMENT (ABANDONED VEHICLES) AMENDMENT BILL, 1982

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### EXPLANATORY NOTE

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

The following Bills are cognate with this Bill:—

- Motor Traffic (Abandoned Vehicles) Amendment Bill, 1982;
- Crown Lands (Abandoned Vehicles) Amendment Bill, 1982;
- Forestry (Abandoned Vehicles) Amendment Bill, 1982;
- Main Roads (Abandoned Vehicles) Amendment Bill, 1982;
- Maritime Services (Abandoned Vehicles) Amendment Bill, 1982;
- National Parks and Wildlife (Abandoned Vehicles) Amendment Bill, 1982.

The object of this Bill is to amend the Local Government Act, 1919 ("the Act"), so as to—

- (a) re-enact with modifications the provisions of the Act made with respect to the disposal by councils of vehicles abandoned in public places or public reserves within the areas of those councils so that provision is made for the disposal of vehicles which are motor vehicles, within the meaning of the Motor Traffic Act, 1909, and for the earlier disposal of any vehicles or remains thereof which have been abandoned (Schedule 1 (1)—proposed section 267B);
- (b) provide for the disposition of any money received by a council for the sale of an abandoned vehicle (Schedule 1 (1)—proposed section 267C);
- (c) create an offence under the Act where a person stands an unregistered vehicle, an incomplete or partially constructed vehicle or the remains of any vehicle upon a public reserve or certain other land subject to the control of a council, without the consent of the council (Schedule 1 (3)—proposed section 351AA); and
- (d) empower a council—
  - (i) to require the removal of disused motor vehicles and certain other old or used articles from land within its area; and
  - (ii) to prohibit the use of any such land for the storage of disused motor vehicles and certain other old or used articles, (Schedule 1 (4)).

The Bill contains other provisions of a minor, ancillary, consequential or saving nature.

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**LOCAL GOVERNMENT (ABANDONED VEHICLES)  
AMENDMENT BILL, 1982**

No. , 1982.

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**A BILL FOR**

An Act to amend the Local Government Act, 1919, with respect to the disposal of certain abandoned vehicles, and for other purposes.

[MR GORDON—9 November, 1982.]

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See also Motor Traffic (Abandoned Vehicles) Amendment Bill, 1982; Crown Lands (Abandoned Vehicles) Amendment Bill, 1982; Forestry (Abandoned Vehicles) Amendment Bill, 1982; Main Roads (Abandoned Vehicles) Amendment Bill, 1982; Maritime Services (Abandoned Vehicles) Amendment Bill, 1982; National Parks and Wildlife (Abandoned Vehicles) Amendment Bill, 1982.



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*Local Government (Abandoned Vehicles) Amendment.*

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**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 Short title.**

**1.** This Act may be cited as the "Local Government (Abandoned Vehicles) Amendment Act, 1982".

**Principal Act.**

**2.** The Local Government Act, 1919, is referred to in this Act as the 10 Principal Act.

**Amendment of Act No. 41, 1919.**

**3.** The Principal Act is amended in the manner set forth in Schedule 1.

**Savings and transitional provisions.**

**4. (1)** In this section, "council" has the meaning ascribed thereto in 15 section 4 of the Principal Act.

**(2)** A servant of a council appointed under section 267B (1) of the Principal Act before the commencement of this Act shall, on that commencement, be deemed to be appointed as a designated servant of the council under section 267B (3) of that Act, as amended by this Act.

**20 (3)** Where, before the commencement of this Act, a servant of a council had taken any action with respect to a vehicle in accordance with section 267B of the Principal Act, that section, as in force immediately before that commencement, shall apply to and in respect of the vehicle as if this Act had not been enacted.

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*Local Government (Abandoned Vehicles) Amendment.*

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SCHEDULE 1.

(Sec. 3.)

AMENDMENTS TO THE PRINCIPAL ACT.

(1) Sections 267B, 267C—

5 Omit section 267B, insert instead:—

**Removal of abandoned vehicles from public roads, etc.**

267B. (1) In sections 267B and 267C—

“business day” means any day except —

- 10 (a) a Saturday or Sunday; or  
(b) any other day the whole or any part of which is observed as a public or bank holiday throughout New South Wales;

“designated servant”, in relation to a council, means a servant of the council appointed under subsection (3);

15 “prescribed amount” means—

- (a) except as provided by paragraph (b)—\$250; or  
(b) where a different amount is prescribed—the different amount;

“vehicle” includes—

- 20 (a) a motor vehicle, within the meaning of the Motor Traffic Act, 1909; and  
(b) the remains of any vehicle.

25 (2) In sections 267B and 267C, a reference to a vehicle includes a reference to any goods or other things upon or within the vehicle.

(3) A council may, by resolution, appoint one or more of its servants to carry out the functions of a designated servant under this section and may, by resolution, revoke any such appointment.



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*Local Government (Abandoned Vehicles) Amendment.*

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SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

- 5 (4) Where it appears on reasonable grounds to a designated servant of the council of an area that any vehicle standing upon a public place or public reserve in the area has been abandoned, the servant may—
- (a) seize and take custody of the vehicle on behalf of the council and, subject to subsection (5)—
    - 10 (i) remove the vehicle or tow it away; or
    - (ii) cause the vehicle to be removed or towed away; and
  - (b) subject to subsections (6) and (9), cause the vehicle to be destroyed or otherwise disposed of in accordance with the directions of the council, if the vehicle is not required to be released from custody by subsection (10).
- 15 (5) A designated servant of a council may, under subsection (4) (a), remove a vehicle or tow it away or cause a vehicle to be removed or towed away—
- (a) only if he has examined the vehicle and made an assessment of its value;
  - 20 (b) where he has reasonable grounds to believe that the value of the vehicle exceeds the prescribed amount, only if the vehicle is removed or towed away to such place, or a place of such a nature, as the council considers appropriate for the purpose of keeping the vehicle in its custody; and
  - 25 (c) where he does not have reasonable grounds to believe that the vehicle is a danger or obstruction to traffic, only if at least 3 business days have expired after the council has, in accordance with subsection (7), served a notice relating to the vehicle which complies with that subsection.



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*Local Government (Abandoned Vehicles) Amendment.*

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SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

- 5 (6) A designated servant of a council may, under subsection (4) (b), cause a vehicle to be destroyed or otherwise disposed of—
- (a) only if he has examined the vehicle and made an assessment of its value;
  - (b) where he has reasonable grounds to believe that the value of the vehicle—
    - 10 (i) does not exceed the prescribed amount—only if at least 3 business days have expired; or
    - (ii) exceeds the prescribed amount—only if at least 4 weeks have expired,after the council has, in accordance with subsection (7),  
15 served a notice relating to the vehicle which complies with that subsection; and
  - (c) where he has reasonable grounds to believe that the value  
20 of the vehicle exceeds the prescribed amount—only if at least 14 days have expired after the date of publication, in a newspaper circulating in the area of the council, of a notice relating to the vehicle which complies with subsection (7).
- (7) A notice relating to a vehicle—
- (a) is served in accordance with this subsection, if it is—  
25 (i) addressed to the officer in charge of a police station in the area in which the vehicle is situated; and
  - (ii) left at that police station with a member of the police force; and



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*Local Government (Abandoned Vehicles) Amendment.*

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SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(b) complies with this subsection, if it—

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(i) contains a description of the vehicle to which it relates, which description shall include the particulars on any registration label and number-plate attached to the vehicle and any identification number stamped on or otherwise affixed to the engine, if any, of the vehicle in a reasonably conspicuous position;

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(ii) specifies the location of the vehicle; and

(iii) states that the council giving the notice intends to exercise its powers under this section with respect to the vehicle.

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(8) Where a notice relating to a vehicle is left at a police station in accordance with subsection (7), the officer in charge of the police station shall—

(a) forthwith cause inquiries to be made as to the ownership of the vehicle; and

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(b) within 3 business days after the day on which the notice is left at the police station, send to the council a written statement of the result of those inquiries which, if the vehicle is or has been registered under the regulations made under the Motor Traffic Act, 1909, may consist of particulars of the name and address of the last registered owner of the vehicle according to the records kept by the Commissioner for Motor Transport.

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(9) Where, before a vehicle seized under subsection (4) (a) has been destroyed or otherwise disposed of in accordance with subsection (4) (b) or released from custody under subsection (10), the council which has custody of the vehicle under this section has reasonable grounds to believe that a person whose name and address are in its possession is the owner of the vehicle, it shall forthwith cause notice to be served by post on that person requesting him to



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*Local Government (Abandoned Vehicles) Amendment.*

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SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

5 have the vehicle released from the custody of the council within 14 days after the day on which the notice is posted, and a designated servant of the council shall not cause the vehicle to be destroyed or otherwise disposed of before the expiration of that period of 14 days.

(10) Where a vehicle is kept at any place referred to in subsection (5) (b)—

10 (a) application for its release may be made by the owner of the vehicle or by a person acting for or on behalf of that owner to the person in charge of the place at which the vehicle is kept; and

(b) the vehicle shall be released from custody if—

15 (i) the applicant has furnished evidence as to the ownership of the vehicle to the satisfaction of the person in charge;

(ii) the person in charge is satisfied that the applicant is the owner of the vehicle or that he possesses authority to act for or on behalf of the owner;

20 (iii) all reasonable expenses incurred in connection with the seizure, taking custody, removal, towing away, keeping or releasing of the vehicle have been paid to the person in charge; and

25 (iv) the applicant has signed a receipt for the delivery of the vehicle on a form supplied to him by the person in charge.

30 (11) Any matter or thing done by a council shall not, if the matter or thing was done bona fide in pursuance of, and for the purpose of, executing this section, subject it to any action, liability, claim or demand.



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*Local Government (Abandoned Vehicles) Amendment.*

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SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.***Disposition of certain money.**

5 267c. (1) The residue, if any, of any money paid to a council in connection with the disposal of a vehicle under section 267B (4) (b) after deduction of all reasonable expenses incurred in connection with the seizure, taking custody, removal, towing away, keeping or disposal of the vehicle shall—

(a) where a person—

10 (i) within the period of 12 months commencing with the day on which the vehicle was disposed of, makes application to the council for the payment of that residue to him; and

15 (ii) satisfies the council that he was, when the vehicle was disposed of, the owner of the vehicle,

be paid by the council to that person; or

(b) where no such application has been so made within that period or, if such an application has been so made, the application has been unsuccessful—be paid by the council to the Treasurer and deposited to the credit of the Consolidated Fund.

20 (2) A council shall not be liable in respect of any money paid to the Treasurer in accordance with subsection (1) (b).

25 (3) Where money has been paid to the Treasurer in accordance with subsection (1) (b) in connection with the disposal of a vehicle, a person may recover that money from the Treasurer if he satisfies the Treasurer that he was, when the vehicle was disposed of, the owner of the vehicle.

(2) Section 351A (1) (a)—

30 Omit “conduct and control”, insert instead “control and management”.



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*Local Government (Abandoned Vehicles) Amendment.*

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(3) Section 351AA—

After section 351A, insert:—

5       **Standing of unregistered vehicles upon public reserves, etc.**

351AA. (1) In this section, “prescribed vehicle” means—

- (a) a motor vehicle, within the meaning of the Motor Traffic Act, 1909, which is neither registered, nor exempt from registration, under the regulations made under that Act;
- 10       (b) any incomplete or partially constructed vehicle; and
- (c) the remains of any vehicle.

(2) A person is guilty of an offence under this Act if, without the consent of the council, he stands a prescribed vehicle upon any public reserve or other land the care, control and management of which is vested in the council, not being a public road.

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(3) A person is not guilty of an offence arising under subsection (2) if he satisfies the court that the prescribed vehicle to which the alleged offence relates ceased to be registered, or to be exempt from registration, under the regulations made under the Motor Traffic Act, 1909, within the period of 15 days immediately preceding the day on which the offence is alleged to have occurred.

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(4) (a) Section 510A (1)—

After “regulate”, insert “or prohibit”.

(b) Section 510A (2) (c)—

25       Omit “specified.”, insert instead “specified;”.



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*Local Government (Abandoned Vehicles) Amendment.*

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(c) Section 510A (2) (d)—

After section 510A (2) (c), insert:—

- 5           (d) to remove from the land such disused motor vehicles or old machinery or other old or used or second-hand materials as is or are situated on the land and may be so specified.

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BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1982

(50c)



**LOCAL GOVERNMENT (ABANDONED VEHICLES)  
AMENDMENT ACT, 1982, No. 150**

**New South Wales**



ANNO TRICESIMO PRIMO

**ELIZABETHÆ II REGINÆ**

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**Act No. 150, 1982.**

An Act to amend the Local Government Act, 1919, with respect to the disposal of certain abandoned vehicles, and for other purposes.  
[Assented to, 21st December, 1982.]

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See also Motor Traffic (Abandoned Vehicles) Amendment Act, 1982; Crown Lands (Abandoned Vehicles) Amendment Act, 1982; Forestry (Abandoned Vehicles) Amendment Act, 1982; Main Roads (Abandoned Vehicles) Amendment Act, 1982; Maritime Services (Abandoned Vehicles) Amendment Act, 1982; National Parks and Wildlife (Abandoned Vehicles) Amendment Act, 1982.



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*Local Government (Abandoned Vehicles) Amendment.*

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**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 "Local Government (Abandoned Vehicles) Amendment Act, 1982".

**Principal Act.**

2. The Local Government Act, 1919, is referred to in this Act as the Principal Act.

**Amendment of Act No. 41, 1919.**

3. The Principal Act is amended in the manner set forth in Schedule 1.

**Savings and transitional provisions.**

4. (1) In this section, "council" has the meaning ascribed thereto in section 4 of the Principal Act.

(2) A servant of a council appointed under section 267B (1) of the Principal Act before the commencement of this Act shall, on that commencement, be deemed to be appointed as a designated servant of the council under section 267B (3) of that Act, as amended by this Act.

(3) Where, before the commencement of this Act, a servant of a council had taken any action with respect to a vehicle in accordance with section 267B of the Principal Act, that section, as in force immediately before that commencement, shall apply to and in respect of the vehicle as if this Act had not been enacted.

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*Local Government (Abandoned Vehicles) Amendment.*

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## SCHEDULE 1.

(Sec. 3.)

## AMENDMENTS TO THE PRINCIPAL ACT.

## (1) Sections 267B, 267C—

Omit section 267B, insert instead:—

**Removal of abandoned vehicles from public roads, etc.**

267B. (1) In sections 267B and 267C—

“business day” means any day except—

- (a) a Saturday or Sunday; or
- (b) any other day the whole or any part of which is observed as a public or bank holiday throughout New South Wales;

“designated servant”, in relation to a council, means a servant of the council appointed under subsection (3);

“prescribed amount” means—

- (a) except as provided by paragraph (b)—\$250; or
- (b) where a different amount is prescribed—the different amount;

“vehicle” includes—

- (a) a motor vehicle, within the meaning of the Motor Traffic Act, 1909; and
- (b) the remains of any vehicle.

(2) In sections 267B and 267C, a reference to a vehicle includes a reference to any goods or other things upon or within the vehicle.

(3) A council may, by resolution, appoint one or more of its servants to carry out the functions of a designated servant under this section and may, by resolution, revoke any such appointment.



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*Local Government (Abandoned Vehicles) Amendment.*

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SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(4) Where it appears on reasonable grounds to a designated servant of the council of an area that any vehicle standing upon a public place or public reserve in the area has been abandoned, the servant may—

- (a) seize and take custody of the vehicle on behalf of the council and, subject to subsection (5)—
  - (i) remove the vehicle or tow it away; or
  - (ii) cause the vehicle to be removed or towed away; and
- (b) subject to subsections (6) and (9), cause the vehicle to be destroyed or otherwise disposed of in accordance with the directions of the council, if the vehicle is not required to be released from custody by subsection (10).

(5) A designated servant of a council may, under subsection (4) (a), remove a vehicle or tow it away or cause a vehicle to be removed or towed away—

- (a) only if he has examined the vehicle and made an assessment of its value;
- (b) where he has reasonable grounds to believe that the value of the vehicle exceeds the prescribed amount, only if the vehicle is removed or towed away to such place, or a place of such a nature, as the council considers appropriate for the purpose of keeping the vehicle in its custody; and
- (c) where he does not have reasonable grounds to believe that the vehicle is a danger or obstruction to traffic, only if at least 3 business days have expired after the council has, in accordance with subsection (7), served a notice relating to the vehicle which complies with that subsection.



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*Local Government (Abandoned Vehicles) Amendment.*

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SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(6) A designated servant of a council may, under subsection (4) (b), cause a vehicle to be destroyed or otherwise disposed of—

- (a) only if he has examined the vehicle and made an assessment of its value;
- (b) where he has reasonable grounds to believe that the value of the vehicle—
  - (i) does not exceed the prescribed amount—only if at least 3 business days have expired; or
  - (ii) exceeds the prescribed amount—only if at least 4 weeks have expired,

after the council has, in accordance with subsection (7), served a notice relating to the vehicle which complies with that subsection; and

- (c) where he has reasonable grounds to believe that the value of the vehicle exceeds the prescribed amount—only if at least 14 days have expired after the date of publication, in a newspaper circulating in the area of the council, of a notice relating to the vehicle which complies with subsection (7).

(7) A notice relating to a vehicle—

- (a) is served in accordance with this subsection, if it is—
  - (i) addressed to the officer in charge of a police station in the area in which the vehicle is situated; and
  - (ii) left at that police station with a member of the police force; and



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*Local Government (Abandoned Vehicles) Amendment.*

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SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(b) complies with this subsection, if it—

- (i) contains a description of the vehicle to which it relates, which description shall include the particulars on any registration label and number-plate attached to the vehicle and any identification number stamped on or otherwise affixed to the engine, if any, of the vehicle in a reasonably conspicuous position;
- (ii) specifies the location of the vehicle; and
- (iii) states that the council giving the notice intends to exercise its powers under this section with respect to the vehicle.

(8) Where a notice relating to a vehicle is left at a police station in accordance with subsection (7), the officer in charge of the police station shall—

- (a) forthwith cause inquiries to be made as to the ownership of the vehicle; and
- (b) within 3 business days after the day on which the notice is left at the police station, send to the council a written statement of the result of those inquiries which, if the vehicle is or has been registered under the regulations made under the Motor Traffic Act, 1909, may consist of particulars of the name and address of the last registered owner of the vehicle according to the records kept by the Commissioner for Motor Transport.

(9) Where, before a vehicle seized under subsection (4) (a) has been destroyed or otherwise disposed of in accordance with subsection (4) (b) or released from custody under subsection (10), the council which has custody of the vehicle under this section has reasonable grounds to believe that a person whose name and address are in its possession is the owner of the vehicle, it shall forthwith cause notice to be served by post on that person requesting him to



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*Local Government (Abandoned Vehicles) Amendment.*

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SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

have the vehicle released from the custody of the council within 14 days after the day on which the notice is posted, and a designated servant of the council shall not cause the vehicle to be destroyed or otherwise disposed of before the expiration of that period of 14 days.

(10) Where a vehicle is kept at any place referred to in subsection (5) (b)—

(a) application for its release may be made by the owner of the vehicle or by a person acting for or on behalf of that owner to the person in charge of the place at which the vehicle is kept; and

(b) the vehicle shall be released from custody if—

- (i) the applicant has furnished evidence as to the ownership of the vehicle to the satisfaction of the person in charge;
- (ii) the person in charge is satisfied that the applicant is the owner of the vehicle or that he possesses authority to act for or on behalf of the owner;
- (iii) all reasonable expenses incurred in connection with the seizure, taking custody, removal, towing away, keeping or releasing of the vehicle have been paid to the person in charge; and
- (iv) the applicant has signed a receipt for the delivery of the vehicle on a form supplied to him by the person in charge.

(11) Any matter or thing done by a council shall not, if the matter or thing was done bona fide in pursuance of, and for the purpose of, executing this section, subject it to any action, liability, claim or demand.



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*Local Government (Abandoned Vehicles) Amendment.*

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SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.***Disposition of certain money.**

267c. (1) The residue, if any, of any money paid to a council in connection with the disposal of a vehicle under section 267B (4) (b) after deduction of all reasonable expenses incurred in connection with the seizure, taking custody, removal, towing away, keeping or disposal of the vehicle shall—

(a) where a person—

(i) within the period of 12 months commencing with the day on which the vehicle was disposed of, makes application to the council for the payment of that residue to him; and

(ii) satisfies the council that he was, when the vehicle was disposed of, the owner of the vehicle,

be paid by the council to that person; or

(b) where no such application has been so made within that period or, if such an application has been so made, the application has been unsuccessful—be paid by the council to the Treasurer and deposited to the credit of the Consolidated Fund.

(2) A council shall not be liable in respect of any money paid to the Treasurer in accordance with subsection (1) (b).

(3) Where money has been paid to the Treasurer in accordance with subsection (1) (b) in connection with the disposal of a vehicle, a person may recover that money from the Treasurer if he satisfies the Treasurer that he was, when the vehicle was disposed of, the owner of the vehicle.

(2) Section 351A (1) (a)—

Omit “conduct and control”, insert instead “control and management”.

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*Local Government (Abandoned Vehicles) Amendment.*

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(3) Section 351AA—

After section 351A, insert:—

**Standing of unregistered vehicles upon public reserves, etc.**

351AA. (1) In this section, “prescribed vehicle” means—

- (a) a motor vehicle, within the meaning of the Motor Traffic Act, 1909, which is neither registered, nor exempt from registration, under the regulations made under that Act;
- (b) any incomplete or partially constructed vehicle; and
- (c) the remains of any vehicle.

(2) A person is guilty of an offence under this Act if, without the consent of the council, he stands a prescribed vehicle upon any public reserve or other land the care, control and management of which is vested in the council, not being a public road.

(3) A person is not guilty of an offence arising under subsection (2) if he satisfies the court that the prescribed vehicle to which the alleged offence relates ceased to be registered, or to be exempt from registration, under the regulations made under the Motor Traffic Act, 1909, within the period of 15 days immediately preceding the day on which the offence is alleged to have occurred.

(4) (a) Section 510A (1)—

After “regulate”, insert “or prohibit”.

(b) Section 510A (2) (c)—

Omit “specified.”, insert instead “specified;”.



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*Local Government (Abandoned Vehicles) Amendment.*

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(c) Section 510A (2) (d)—

After section 510A (2) (c), insert:—

- (d) to remove from the land such disused motor vehicles or old machinery or other old or used or second-hand materials as is or are situated on the land and may be so specified.

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

L. W. STREET,  
*By Deputation from  
His Excellency the Governor.*

*Government House,  
Sydney, 21st December, 1982.*

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BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1983



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