

CONCURRENCE COPY

MAIN ROADS (ABANDONED VEHICLES) AMENDMENT BILL, 1982

EXPLANATORY NOTE

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

This Bill is cognate with the Local Government (Abandoned Vehicles) Amendment Bill, 1982.

The object of this Bill is to amend the Main Roads Act, 1924, so as to—

- (a) empower the Commissioner for Main Roads (“the Commissioner”) to dispose of vehicles or remains of vehicles abandoned on or near roads or proposed roads or on certain other land or certain bridges or ferries, subject to the Commissioner’s giving certain notices and observing other prescribed restrictions (Schedule 1—proposed section 48D); and
- (b) provide for the disposition of any money received by the Commissioner for the sale of an abandoned vehicle (Schedule 1—proposed section 48E).

The Bill also contains other provisions of a minor or ancillary nature.

**MAIN ROADS (ABANDONED VEHICLES) AMENDMENT
BILL, 1982**

No. , 1982.

A BILL FOR

An Act to amend Part VIII of the Main Roads Act, 1924, with respect to the disposal of certain abandoned vehicles.

[MR GORDON—9 *November*, 1982.]

Main Roads (Abandoned Vehicles) 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:—

5 Short title.

1. This Act may be cited as the "Main Roads (Abandoned Vehicles) Amendment Act, 1982".

Amendment of Act No. 24, 1924.

2. The Main Roads Act, 1924, is amended in the manner set forth in 10 Schedule 1.

SCHEDULE 1.

(Sec. 2.)

AMENDMENT TO THE MAIN ROADS ACT, 1924.

Sections 48D, 48E—

15 After section 48C, insert:—

Removal of abandoned vehicles from certain land.

48D. (1) In sections 48D and 48E—

"business day" means any day except—

- 20 (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 officer" means a person appointed under subsection (3);

Main Roads (Abandoned Vehicles) Amendment.

SCHEDULE 1—*continued.*AMENDMENT TO THE MAIN ROADS ACT, 1924—*continued.*

“prescribed amount” means—

- 5 (a) except as provided by paragraph (b)—\$250; or
(b) where a different amount is fixed for the time being by an order made by the Minister for the purposes of this paragraph and published in the Gazette—the different amount;

“vehicle” includes—

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

15 (2) In sections 48D and 48E, a reference to a vehicle includes a reference to any goods or other things upon or within the vehicle.

(3) The Commissioner may, by order in writing, appoint one or more of the persons engaged in the execution of this Act to carry out the functions of a designated officer under this section.

20 (4) Where it appears on reasonable grounds to a designated officer that any vehicle standing upon—

- (a) a road or land along or near the line of a road or proposed road;
(b) any land vested in the Commissioner; or
(c) any bridge or ferry vested in or subject to the administration or control of the Commissioner,

25 has been abandoned, the officer may—

- (d) seize and take custody of the vehicle on behalf of the Commissioner and, subject to subsection (5)—
(i) remove the vehicle or tow it away; or
30 (ii) cause the vehicle to be removed or towed away; and

Main Roads (Abandoned Vehicles) Amendment.

SCHEDULE 1—*continued.*AMENDMENT TO THE MAIN ROADS ACT, 1924—*continued.*

5 (e) subject to subsections (6) and (9), cause the vehicle to be destroyed or otherwise disposed of in accordance with the directions of the Commissioner, if the vehicle is not required to be released from custody by subsection (10).

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

10 (a) only if he has examined the vehicle and made an assessment of its value;

15 (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 Commissioner considers appropriate for the purpose of keeping the vehicle in the custody of the Commissioner; and

20 (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 Commissioner has, in accordance with subsection (7), served a notice relating to the vehicle which complies with that subsection.

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

25 (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—

30 (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,

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

Main Roads (Abandoned Vehicles) Amendment.

SCHEDULE 1—*continued.*AMENDMENT TO THE MAIN ROADS ACT, 1924—*continued.*

5 (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 locality in which the vehicle was seized, of a notice relating to the vehicle which complies with subsection (7).

(7) A notice relating to a vehicle—

- 10 (a) is served in accordance with this subsection, if it is—
- (i) addressed to the officer in charge of a police station; and
 - (ii) left at that police station with a member of the police force; and
- 15 (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 Commissioner intends to exercise the Commissioner's 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—

- 30 (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 Commissioner a written statement of the result of those inquiries which, if the vehicle

Main Roads (Abandoned Vehicles) Amendment.

SCHEDULE 1—*continued.*AMENDMENT TO THE MAIN ROADS ACT, 1924—*continued.*

5 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.

10 (9) Where, before a vehicle seized under subsection (4) (d) has been destroyed or otherwise disposed of in accordance with subsection (4) (e) or released from custody under subsection (10), the Commissioner has reasonable grounds to believe a person whose name and address are in the Commissioner's possession is the owner of the vehicle, the Commissioner shall forthwith cause notice to be served by post on that person requesting him to have the vehicle released from the custody of the Commissioner within 14 days after the day on which the notice is posted, and a designated officer shall not cause the vehicle to be destroyed or otherwise disposed of before the expiration of that period of 14 days.

20 (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

25 (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;

30 (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;

35 (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

Main Roads (Abandoned Vehicles) Amendment.

SCHEDULE 1—*continued.*AMENDMENT TO THE MAIN ROADS ACT, 1924—*continued.*

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

10 (11) Any matter or thing done by the Commissioner, a designated officer or any other person engaged in the execution of this Act shall not, if the matter or thing was done bona fide in pursuance of, and for the purpose of, executing this section, subject the Commissioner or him to any action, liability, claim or demand.

Disposition of certain money.

15 48E. (1) The residue, if any, of any money paid to the Commissioner in connection with the disposal of a vehicle under section 48D (4) (e) 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—

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

(ii) satisfies the Commissioner that he was, when the vehicle was disposed of, the owner of the vehicle, be paid by the Commissioner to that person; or

25 (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 Commissioner to the Treasurer and deposited to the credit of the Consolidated Fund.

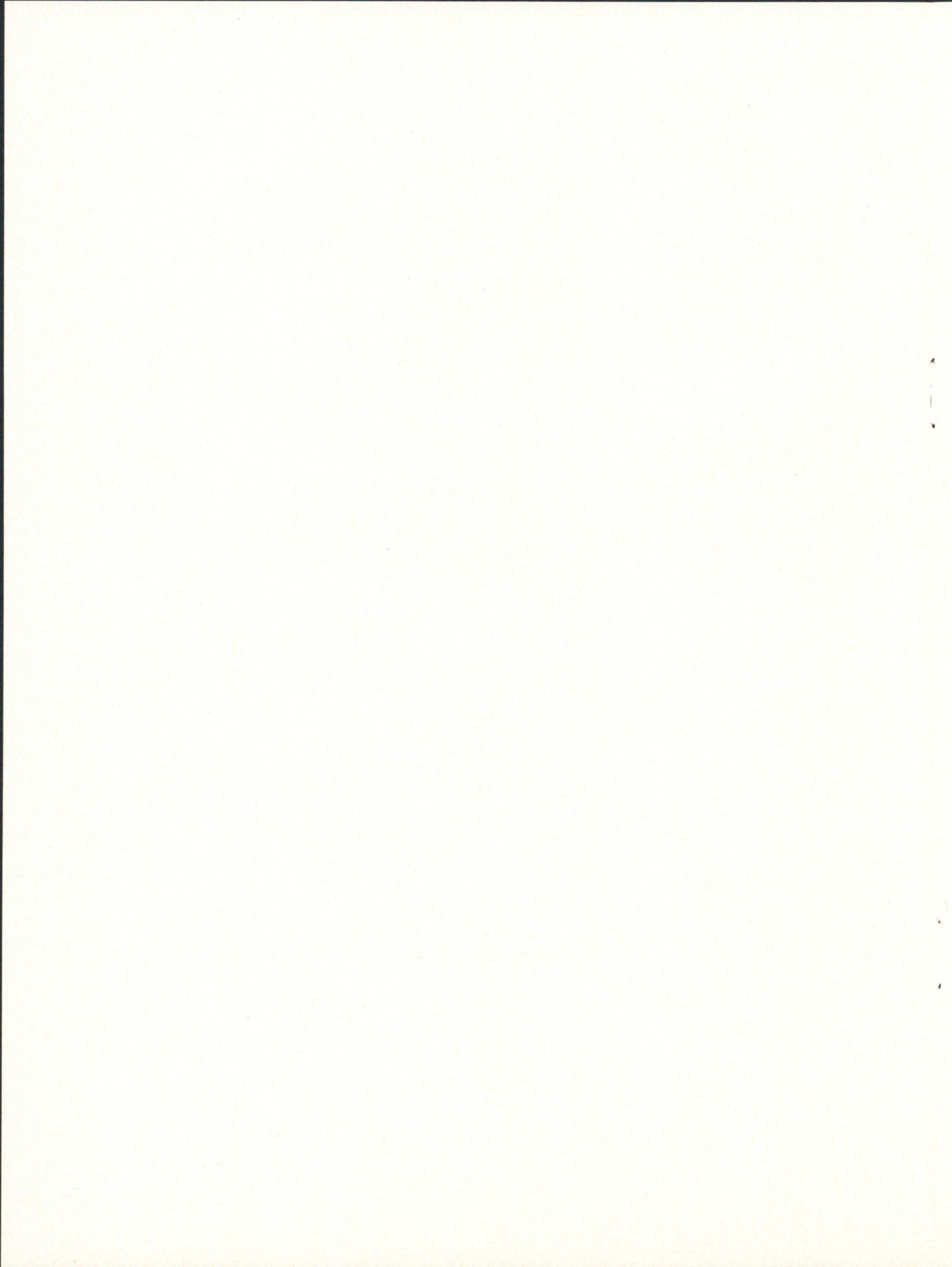
30 (2) The Commissioner shall not be liable in respect of any money paid to the Treasurer in accordance with subsection (1) (b).

Main Roads (Abandoned Vehicles) Amendment.

SCHEDULE 1—*continued.*

AMENDMENT TO THE MAIN ROADS ACT, 1924—*continued.*

- 5 (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.



**MAIN ROADS (ABANDONED VEHICLES) AMENDMENT
ACT, 1982, No. 154**

New South Wales



ANNO TRICESIMO PRIMO

ELIZABETHÆ II REGINÆ

Act No. 154, 1982.

An Act to amend Part VIII of the Main Roads Act, 1924, with respect to the disposal of certain abandoned vehicles. [Assented to, 21st December, 1982.]

Main Roads (Abandoned Vehicles) 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 "Main Roads (Abandoned Vehicles) Amendment Act, 1982".

Amendment of Act No. 24, 1924.

2. The Main Roads Act, 1924, is amended in the manner set forth in Schedule 1.

SCHEDULE 1.

(Sec. 2.)

AMENDMENT TO THE MAIN ROADS ACT, 1924.

Sections 48D, 48E—

After section 48C, insert:—

Removal of abandoned vehicles from certain land.

48D. (1) In sections 48D and 48E—

"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 officer" means a person appointed under subsection (3);

Main Roads (Abandoned Vehicles) Amendment.

SCHEDULE 1—*continued.*AMENDMENT TO THE MAIN ROADS ACT, 1924—*continued.*

“prescribed amount” means—

- (a) except as provided by paragraph (b)—\$250; or
- (b) where a different amount is fixed for the time being by an order made by the Minister for the purposes of this paragraph and published in the Gazette—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 48D and 48E, a reference to a vehicle includes a reference to any goods or other things upon or within the vehicle.

(3) The Commissioner may, by order in writing, appoint one or more of the persons engaged in the execution of this Act to carry out the functions of a designated officer under this section.

(4) Where it appears on reasonable grounds to a designated officer that any vehicle standing upon—

- (a) a road or land along or near the line of a road or proposed road;
- (b) any land vested in the Commissioner; or
- (c) any bridge or ferry vested in or subject to the administration or control of the Commissioner,

has been abandoned, the officer may—

- (d) seize and take custody of the vehicle on behalf of the Commissioner 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

Main Roads (Abandoned Vehicles) Amendment.

SCHEDULE 1—*continued.*AMENDMENT TO THE MAIN ROADS ACT, 1924—*continued.*

- (e) subject to subsections (6) and (9), cause the vehicle to be destroyed or otherwise disposed of in accordance with the directions of the Commissioner, if the vehicle is not required to be released from custody by subsection (10).
- (5) A designated officer may, under subsection (4) (d), 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 Commissioner considers appropriate for the purpose of keeping the vehicle in the custody of the Commissioner; 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 Commissioner has, in accordance with subsection (7), served a notice relating to the vehicle which complies with that subsection.
- (6) A designated officer may, under subsection (4) (e), 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 Commissioner has, in accordance with subsection (7), served a notice relating to the vehicle which complies with that subsection; and

Main Roads (Abandoned Vehicles) Amendment.

SCHEDULE 1—*continued.*AMENDMENT TO THE MAIN ROADS ACT, 1924—*continued.*

- (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 locality in which the vehicle was seized, 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; and
 - (ii) left at that police station with a member of the police force; and
- (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 Commissioner intends to exercise the Commissioner's 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 Commissioner a written statement of the result of those inquiries which, if the vehicle

Main Roads (Abandoned Vehicles) Amendment.

SCHEDULE 1—*continued.*AMENDMENT TO THE MAIN ROADS ACT, 1924—*continued.*

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) (d) has been destroyed or otherwise disposed of in accordance with subsection (4) (e) or released from custody under subsection (10), the Commissioner has reasonable grounds to believe a person whose name and address are in the Commissioner's possession is the owner of the vehicle, the Commissioner shall forthwith cause notice to be served by post on that person requesting him to have the vehicle released from the custody of the Commissioner within 14 days after the day on which the notice is posted, and a designated officer 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

Main Roads (Abandoned Vehicles) Amendment.

SCHEDULE 1—*continued.*AMENDMENT TO THE MAIN ROADS ACT, 1924—*continued.*

- (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 the Commissioner, a designated officer or any other person engaged in the execution of this Act shall not, if the matter or thing was done bona fide in pursuance of, and for the purpose of, executing this section, subject the Commissioner or him to any action, liability, claim or demand.

Disposition of certain money.

48E. (1) The residue, if any, of any money paid to the Commissioner in connection with the disposal of a vehicle under section 48D (4) (e) 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 Commissioner for the payment of that residue to him; and

(ii) satisfies the Commissioner that he was, when the vehicle was disposed of, the owner of the vehicle, be paid by the Commissioner 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 Commissioner to the Treasurer and deposited to the credit of the Consolidated Fund.

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

Main Roads (Abandoned Vehicles) Amendment.

SCHEDULE 1—*continued.*AMENDMENT TO THE MAIN ROADS ACT, 1924—*continued.*

(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.

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.*