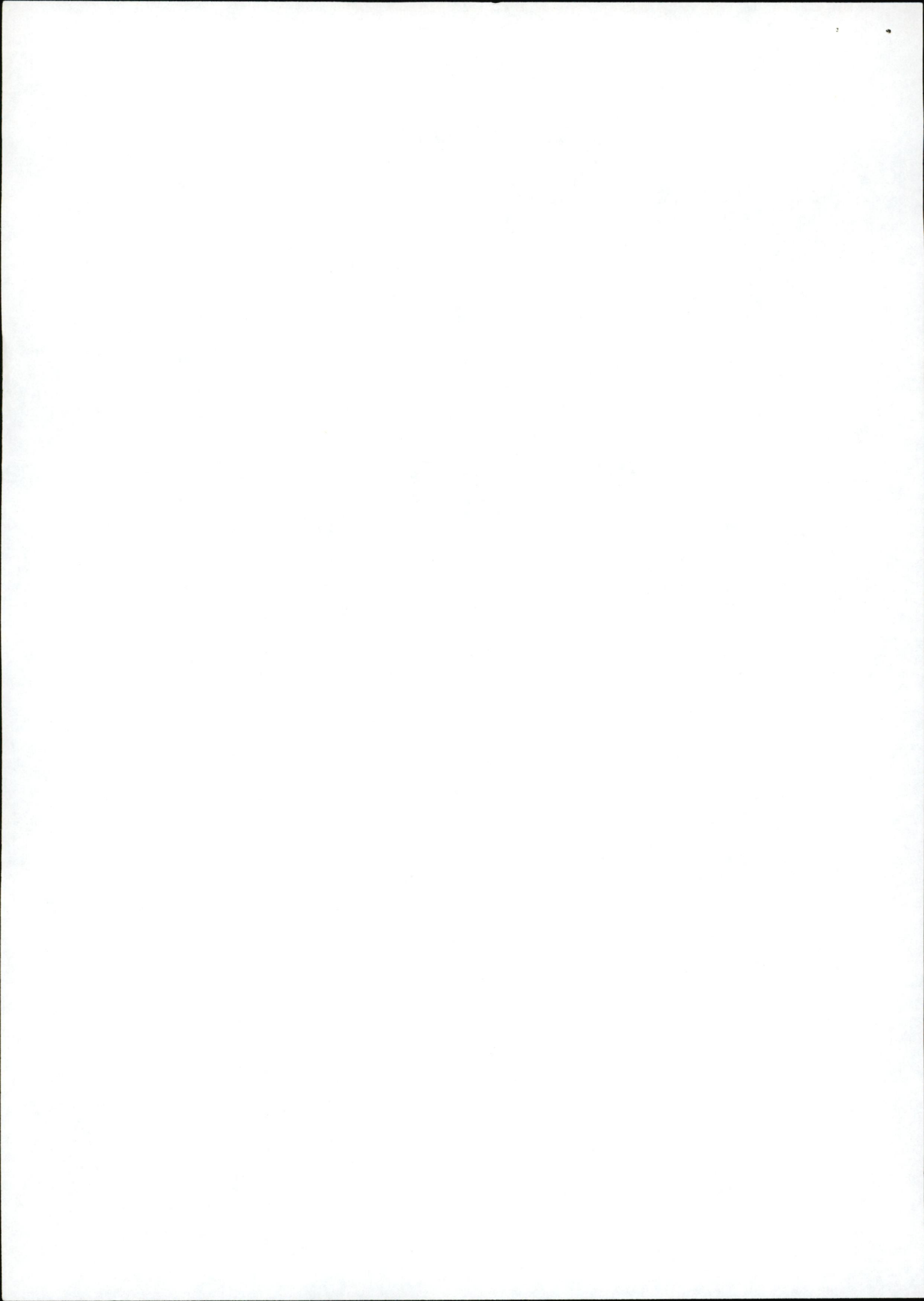


LEGISLATIVE COUNCIL

**TRAFFIC (FINE DEFAULT)
AMENDMENT BILL 1992**

THE HON V A CHADWICK, MLC



MR PRESIDENT,

I MOVE THAT THIS BILL BE NOW READ A SECOND TIME.

HONOURABLE MEMBERS, THE BILL BEFORE THE HOUSE WILL AMEND THE TRAFFIC ACT TO IMPROVE PARKING ENFORCEMENT IN LOCAL COUNCIL CARPARKS.

AS YOU WOULD BE AWARE, LOCAL COUNCILS THROUGHOUT NEW SOUTH WALES PROVIDE A NETWORK OF FREE PARKING AREAS, USUALLY TO FACILITATE THE USE OF ADJACENT COMMERCIAL, BUSINESS AND SERVICE PREMISES.

IN FEBRUARY THIS YEAR A SINGLE FIXED PENALTY, CURRENTLY \$50.00, WAS INTRODUCED FOR PARKING OFFENCES IN ALL COUNCIL CARPARKS IN THIS STATE.

INTRODUCTION OF THE UNIFORM PENALTY ENABLED LOCAL COUNCILS TO UTILISE THE COMPUTER-BASED SERVICES OFFERED BY THE INFRINGEMENT PROCESSING BUREAU OF THE POLICE SERVICE, AND BENEFIT FROM THE COST-EFFECTIVE PROCESSING OF PENALTY NOTICES.

ALTHOUGH THESE MEASURES HAVE PROVIDED A CO-ORDINATED APPROACH TO PARKING ENFORCEMENT IN COUNCIL CARPARKS, A MAJOR CONCERN YET TO BE ADDRESSED IS THE ABSENCE OF AN EFFECTIVE SANCTION, OTHER THAN IMPRISONMENT, AGAINST THOSE WHO FAIL TO PAY THE FINES IMPOSED.

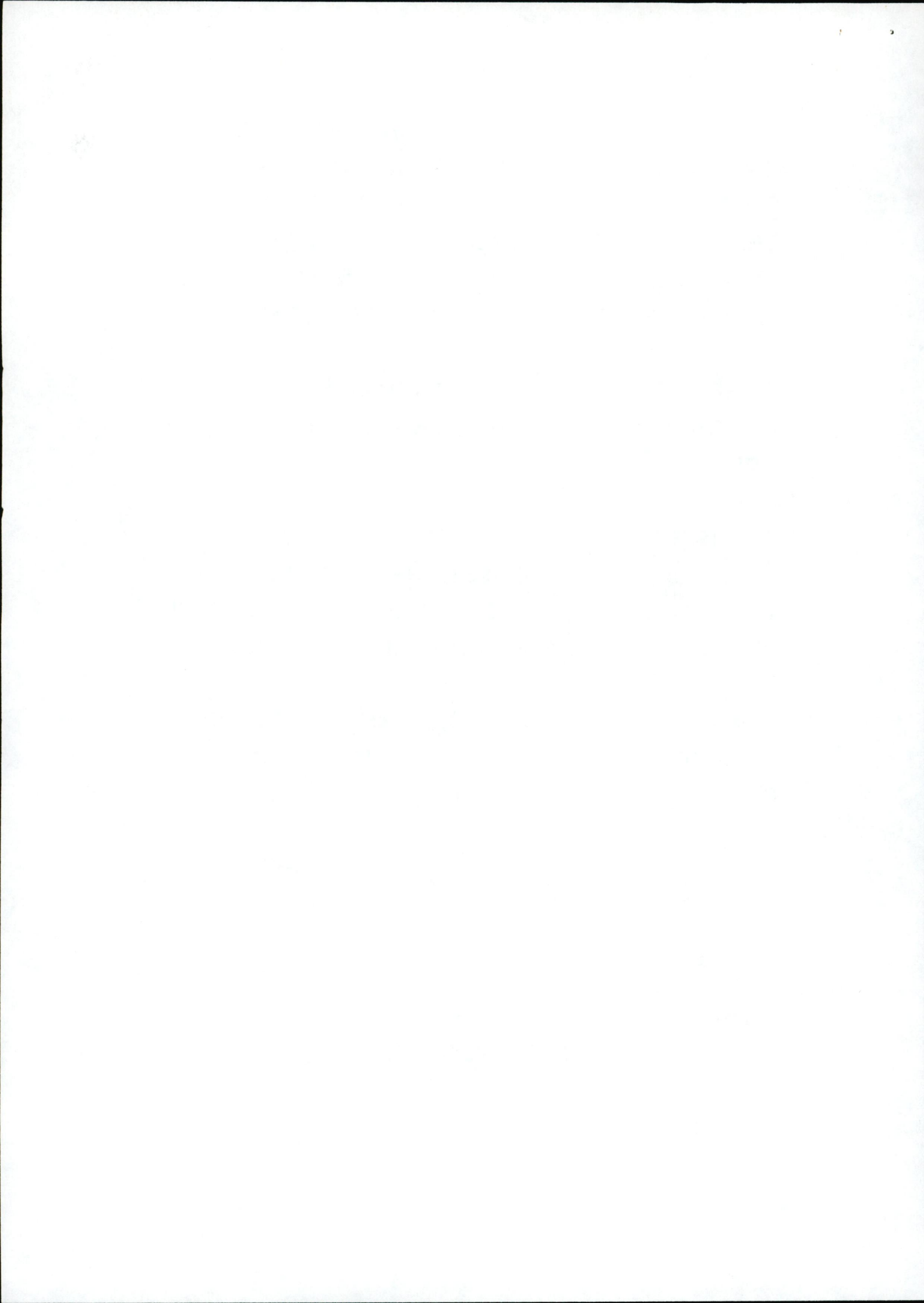
TO BE EFFECTIVE, ANY SANCTION INTRODUCED MUST NOT ONLY BE APPROPRIATE, BUT IT MUST ALSO BE COST EFFICIENT.

IN THIS REGARD I WOULD REMIND HONOURABLE MEMBERS THAT SINCE 1988, THERE HAS BEEN AN ALTERNATIVE TO IMPRISONMENT FOR FINE DEFAULT IN RESPECT OF TRAFFIC AND PARKING OFFENCES.

THIS INVOLVES THE CANCELLATION OF A DRIVERS' LICENCE OR MOTOR VEHICLE REGISTRATION FOR FAILURE TO PAY OUTSTANDING FINES.

THIS SANCTION HAS PROVEN TO BE A VERY SUCCESSFUL ENFORCEMENT STRATEGY.

ANY DISTINCTION BETWEEN PARKING OFFENCES COMMITTED ON A PUBLIC ROAD AND THOSE COMMITTED IN A COUNCIL CARPARK IS NEGLIGIBLE.



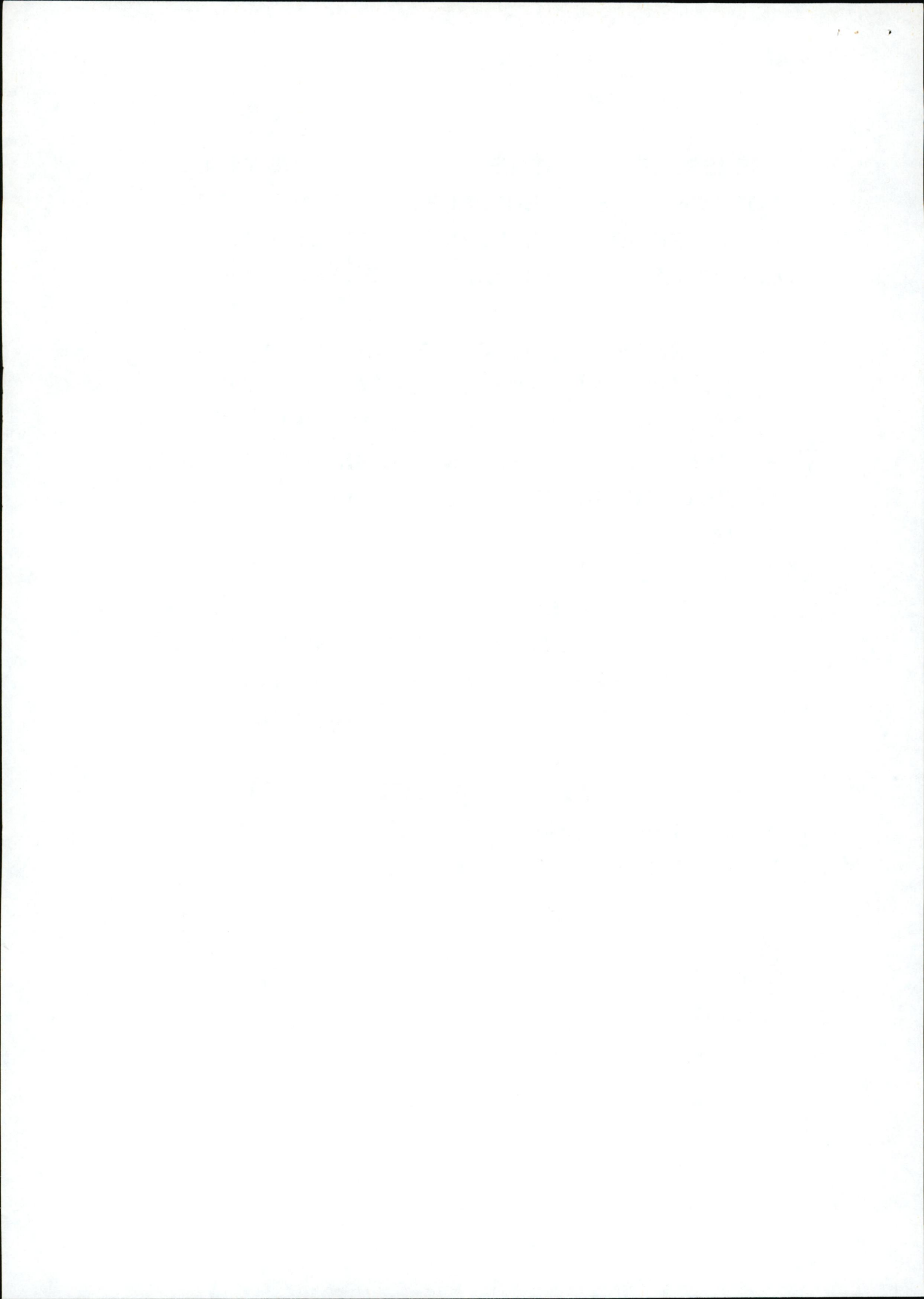
THEREFORE THE LATTER ARE ENTIRELY SUITABLE TO BOTH ON-THE-SPOT ENFORCEMENT MEASURES AND, IF THE PENALTY REMAINS UNPAID, TO DEFAULT CANCELLATION SANCTIONS UNDER THE TRAFFIC ACT.

FURTHERMORE, INCLUSION OF COUNCIL CARPARK OFFENCES WITHIN THE DEFAULT CANCELLATION ARRANGEMENTS WILL SIGNIFICANTLY REDUCE THE PRESENT BURDEN CREATED BY COUNCILS SEEKING TO ENFORCE UNPAID PENALTIES VIA THE LOCAL COURTS.

THE LEGISLATION BEFORE THE HOUSE PROVIDES A PRACTICAL ALTERNATIVE TO THE IMPRISONMENT OF THOSE WHO FAIL TO PAY FINES IMPOSED FOR PARKING OFFENCES IN COUNCIL CARPARKS.

THE COMMUNITY WILL BE SPARED THE COST OF KEEPING FINE DEFAULTERS IN CUSTODY AND PROVIDING FAMILY SUPPORT DURING THE PERIOD OF DETENTION.

THE PRESENT DEMANDS ON LOCAL COURTS WILL BE REDUCED.



AND WITH THE ANTICIPATED IMPROVEMENTS IN ENFORCEMENT, FINE COLLECTION AND ADMINISTRATIVE SYSTEMS, LOCAL COUNCILS WILL BE BETTER EQUIPPED TO EFFECTIVELY REGULATE THE CARPARK AREAS UNDER THEIR CONTROL.

THIS WILL BENEFIT LAW ABIDING MOTORISTS, AND INDEED, THE WHOLE COMMUNITY.

I COMMEND THE BILL TO THE HOUSE.

FIRST PRINT

TRAFFIC (FINE DEFAULT) AMENDMENT BILL 1992

NEW SOUTH WALES



EXPLANATORY NOTE

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

The object of this Bill is to amend section 18B of the Traffic Act 1909 so that penalty notices may be issued under that section for parking offences committed in free council car parks. At present, penalty notices for offences of this type are issued under the Local Government Act 1919.

The significance of the Bill is that, as a result of the amendment of section 18B, the effective extent of section 18C of the Traffic Act 1909 is enlarged. Parking offences of the kind just mentioned will be eligible for inclusion in the penalty default cancellation scheme—that is, the scheme under which a failure to pay the penalty imposed by a penalty notice can result in cancellation of the offender's driver's licence or vehicle registration.

The Bill proposes to repeal the section of the Local Government Act 1919 under which penalty notices for the same offences are currently issued. The Bill makes other consequential amendments to that Act and to the Justices Act 1902.

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on a proclaimed day.

Clause 3 is a formal provision giving effect to amendments to section 18B of the Traffic Act 1909.

Clause 4 is a formal provision giving effect to a Schedule of consequential amendments to the Local Government Act 1919.

Clause 5 makes a consequential amendment to the Justices Act 1902.

Clause 6 is a saving of persons' rights in respect of offences committed by them before the commencement of the proposed Act. Default in payment of the fine imposed by a penalty notice for any such offence cannot result in cancellation of licence or registration.

Traffic (Fine Default) Amendment 1992

Schedule 1 amends section 18B of the Traffic Act 1909, to permit penalty notices for the offences mentioned above to be issued under that Act.

Schedule 2 repeals section 270S of the Local Government Act 1919, under which penalty notices for the offences mentioned above are now issued, and makes other consequential amendments to that Act.

Traffic (Fine Default) Amendment 1992

**SCHEDULE 2—CONSEQUENTIAL AMENDMENT OF LOCAL
GOVERNMENT ACT 1919—*continued***

- 5 (ii) satisfies that officer that the owner did not know
 and could not with reasonable diligence have
 ascertained that name and address; or

- (2) Section 270S (**Penalty notices for certain offences**):
 Omit the section.
-

*Traffic (Fine Default) Amendment 1992***SCHEDULE 1—AMENDMENT OF TRAFFIC ACT 1909**

(Sec. 3)

Section 18B (Penalty notices for certain offences):

- (a) After section 18B (1) (b), insert:
 - (bb) has committed, or by virtue of section 270R of the Local Government Act 1919, is guilty of, any prescribed offence under any ordinance made for carrying Division 13B of Part 9 of that Act into effect; 5
- (b) In section 18B (2) (b), after “section 270O”, insert “or 270R”. 10

SCHEDULE 2—CONSEQUENTIAL AMENDMENT OF LOCAL GOVERNMENT ACT 1919

(Sec. 4)

(1) Section 270R (Liability of vehicle owner for certain offences):

- (a) Omit section 270R (1) (a), insert instead: 15
 - (a) in any case where the offence is dealt with under section 18B of the Traffic Act 1909, the person satisfies the prescribed officer under that section that the vehicle was at the relevant time a stolen vehicle or a vehicle illegally taken or used; or 20
- (b) Omit section 270R (2A) (a), insert instead:
 - (a) in any case where the offence is dealt with under section 18B of the Traffic Act 1909, the owner:
 - (i) within 21 days after service on the owner of a notice under that section alleging that he or she has been guilty of the offence, supplies by statutory declaration to the prescribed officer under that section the name and address of the person who was in charge of the vehicle at all relevant times relating to the offence; or 25 30

FIRST PRINT

TRAFFIC (FINE DEFAULT) AMENDMENT BILL 1992

NEW SOUTH WALES

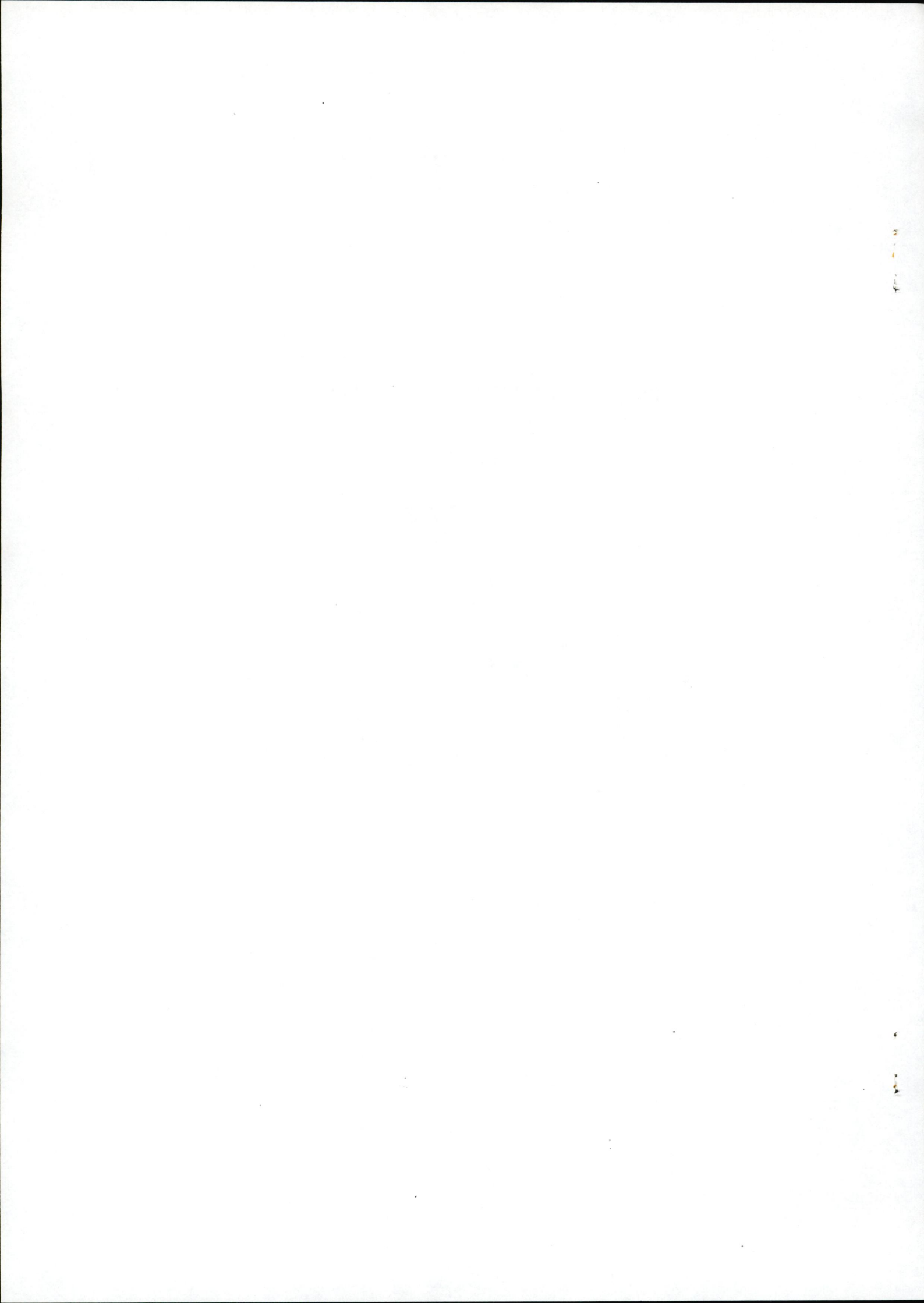


TABLE OF PROVISIONS

1. Short title
2. Commencement
3. Amendment of Traffic Act 1909 No. 5
4. Consequential amendment of Local Government Act 1919 No. 41
5. Consequential amendment of Justices Act 1902 No. 27, s. 100I (Interpretation)
6. Saving

SCHEDULE 1—AMENDMENT OF TRAFFIC ACT 1909

**SCHEDULE 2—CONSEQUENTIAL AMENDMENT OF LOCAL GOVERNMENT
ACT 1919**



TRAFFIC (FINE DEFAULT) AMENDMENT BILL 1992

NEW SOUTH WALES



No. , 1992

A BILL FOR

An Act to amend the Traffic Act 1909 to enable cancellation of drivers' licences and vehicle registrations for non-payment of fines imposed for illegal parking in council car parks; to amend certain other Acts consequentially; and for other purposes.

Traffic (Fine Default) Amendment 1992

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the Traffic (Fine Default) Amendment Act 1992.

5 Commencement

2. This Act commences on a day to be appointed by proclamation.

Amendment of Traffic Act 1909 No. 5

3. The Traffic Act 1909 is amended as set out in Schedule 1.

Consequential amendment of Local Government Act 1919 No. 41

10 4. The Local Government Act 1919 is amended as set out in Schedule 2.

Consequential amendment of Justices Act 1902 No. 27, s. 100I (Interpretation)

15 5. The Justices Act 1902 is amended by omitting from the matter relating to the Local Government Act 1919 in the definition of "penalty notice" in section 100I the matter "or 270S (1)".

Saving

20 6. Section 18B of the Traffic Act 1909 does not apply to or in respect of an offence committed or allegedly committed before the commencement of this Act. Division 13B of Part 9 of the Local Government Act 1919 and section 100I of the Justices Act 1902, as in force immediately before the commencement of this Act, are taken to continue to apply to and in respect of any such offences.

TRAFFIC (FINE DEFAULT) AMENDMENT ACT 1992 No. 67

NEW SOUTH WALES



TABLE OF PROVISIONS

1. Short title
2. Commencement
3. Amendment of Traffic Act 1909 No. 5
4. Consequential amendment of Local Government Act 1919 No. 41
5. Consequential amendment of Justices Act 1902 No. 27, s. 100I (Interpretation)
6. Saving

SCHEDULE 1—AMENDMENT OF TRAFFIC ACT 1909

**SCHEDULE 2—CONSEQUENTIAL AMENDMENT OF LOCAL GOVERNMENT
ACT 1919**

TRAFFIC (FINE DEFAULT) AMENDMENT ACT 1992 No. 67

NEW SOUTH WALES



Act No. 67, 1992

An Act to amend the Traffic Act 1909 to enable cancellation of drivers' licences and vehicle registrations for non-payment of fines imposed for illegal parking in council car parks; to amend certain other Acts consequentially; and for other purposes. [Assented to 3 November 1992]

Traffic (Fine Default) Amendment Act 1992 No. 67

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the Traffic (Fine Default) Amendment Act 1992.

Commencement

2. This Act commences on a day to be appointed by proclamation.

Amendment of Traffic Act 1909 No. 5

3. The Traffic Act 1909 is amended as set out in Schedule 1.

Consequential amendment of Local Government Act 1919 No. 41

4. The Local Government Act 1919 is amended as set out in Schedule 2.

Consequential amendment of Justices Act 1902 No. 27, s. 100I (Interpretation)

5. The Justices Act 1902 is amended by omitting from the matter relating to the Local Government Act 1919 in the definition of "penalty notice" in section 100I the matter "or 270S (1)".

Saving

6. Section 18B of the Traffic Act 1909 does not apply to or in respect of an offence committed or allegedly committed before the commencement of this Act. Division 13B of Part 9 of the Local Government Act 1919 and section 100I of the Justices Act 1902, as in force immediately before the commencement of this Act, are taken to continue to apply to and in respect of any such offences.

Traffic (Fine Default) Amendment Act 1992 No. 67

SCHEDULE 1—AMENDMENT OF TRAFFIC ACT 1909

(Sec. 3)

Section 18B (Penalty notices for certain offences):

- (a) After section 18B (1) (b), insert:
 - (bb) has committed, or by virtue of section 270R of the Local Government Act 1919, is guilty of, any prescribed offence under any ordinance made for carrying Division 13B of Part 9 of that Act into effect;
- (b) In section 18B (2) (b), after “section 270O”, insert “or 270R”.

SCHEDULE 2—CONSEQUENTIAL AMENDMENT OF LOCAL GOVERNMENT ACT 1919

(Sec. 4)

(1) Section 270R (Liability of vehicle owner for certain offences):

- (a) Omit section 270R (1) (a), insert instead:
 - (a) in any case where the offence is dealt with under section 18B of the Traffic Act 1909, the person satisfies the prescribed officer under that section that the vehicle was at the relevant time a stolen vehicle or a vehicle illegally taken or used; or
- (b) Omit section 270R (2A) (a), insert instead:
 - (a) in any case where the offence is dealt with under section 18B of the Traffic Act 1909, the owner:
 - (i) within 21 days after service on the owner of a notice under that section alleging that he or she has been guilty of the offence, supplies by statutory declaration to the prescribed officer under that section the name and address of the person who was in charge of the vehicle at all relevant times relating to the offence; or

Traffic (Fine Default) Amendment Act 1992 No. 67

SCHEDULE 2—CONSEQUENTIAL AMENDMENT OF LOCAL
GOVERNMENT ACT 1919—*continued*

(ii) satisfies that officer that the owner did not know
and could not with reasonable diligence have
ascertained that name and address; or

(2) Section 270S (**Penalty notices for certain offences**):
Omit the section.

[*Minister's second reading speech made in—
Legislative Assembly on 15 October 1992
Legislative Council on 28 October 1992*]