

Act No. 5, 1909.

MOTOR TRAFFIC. An Act to provide for the regulation of motor vehicles and their drivers; to amend the Government Motor Omnibus Act, 1905; and for purposes incidental thereto or consequent thereon. [12th October, 1909.]

BE it enacted by the King'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 :—

PART I.

PRELIMINARY.

Short title.

1. This Act may be cited as the “Motor Traffic Act, 1909.”

2.

Motor Traffic.

2. In this Act, unless the context or subject-matter otherwise indicates,— Definitions.

- “ Court ” means court before which the hearing takes place.
- “ District registry ” means any place appointed for the registration of motor vehicles and the licensing of drivers.
- “ Driver ” means any person driving a motor vehicle, and includes any person riding a motor cycle, and “ drive ” includes ride.
- “ Licensed ” means licensed under and in accordance with the regulations.
- “ Motor vehicle ” means any motor car, motor carriage, motor cycle, or other vehicle under five tons unladen propelled upon public streets wholly or partly by any volatile spirit, steam, oil, or electricity, or by any means other than animal power, except vehicles used on railways or tramways.
- “ Registered ” means registered under and in accordance with the regulations.
- “ Regulation ” means regulation made under this Act.
- “ Prescribed ” means prescribed by this Act or the regulations.
- “ Public street ” means any street, road, lane, thoroughfare, footpath, or place open to or used by the public.
- “ Superintendent ” means superintendent of police for traffic, appointed under the Metropolitan Traffic Act, 1900.

PART II.

REGULATIONS.

3. The Governor may make regulations, and may thereby— Regulations.
- (a) regulate the use of motor vehicles and the conditions under which they may be used ;
 - (b) regulate the speed of motor vehicles ;
 - (c) prescribe and regulate the carrying of lights on motor vehicles ;
 - (d) prescribe and regulate the affixing and use of bells or alarms on motor vehicles ;
 - (e) prescribe and regulate the affixing of efficient brakes on motor vehicles ;
 - (f) provide for minimising the noise, and the issue of smoke or fumes from the working of motor vehicles ;
 - (g) prohibit the use of motor vehicles that, owing to construction or other cause, are unsuitable for safe use ;
 - (h) prohibit or restrict the use of motor vehicles upon any specified public streets, or within the public streets in any specified area, either generally or within certain hours ;
 - (i) provide for the regulation of the owners and drivers of motor vehicles ;
 - (j)

Motor Traffic.

- (j) provide that motor vehicles shall be registered, that certificates of registration be issued for the same, and that the drivers of such vehicles shall be licensed, and appoint district registries where such vehicles may be registered and such drivers licensed either provisionally or otherwise ;
- (k) provide that motor vehicles shall have separate distinguishing numbers, regulate the form of such numbers, the manner of placing them upon such vehicles, and the issue and return of such numbers ;
- (l) prohibit the use, upon public streets, of motor vehicles that are unregistered, or have not the registered number upon them, or have a number that is in any way obscured or not easily distinguishable ;
- (m) regulate the manner and duration of registration of motor vehicles and of the transfer and renewal of such registration, and the granting, duration, renewing, suspension, cancellation, and return of drivers' licenses, the payment of fees for the same in accordance with the Schedule to this Act, and, subject to the provisions of this Act, the application of such fees :

Provided that there shall be an appeal to a court of petty sessions, whose order shall be final, in any case where—

- (i) registration is refused or cancelled ; or
 - (ii) its renewal or transfer is refused ; or
 - (iii) a license is refused, suspended, or cancelled ;
- (n) prescribe the qualifications and ages of drivers of motor vehicles :

Provided that paragraphs (j), (k), (l), (m), and (n) shall not apply to motor vehicles licensed as public vehicles, or to persons driving such vehicles, or to motor vehicles owned by a person resident in another State and temporarily in this State, or to the drivers thereof, and that paragraphs (a), (i), (j), (k), (l), (m), and (n) shall not apply to motor omnibuses owned by the Railway Commissioners.

- (o) provide that any regulations under this section may be of a local nature and limited in their application to a particular area, and may be restricted in their operation to any specified class of motor vehicle ;
- (p) provide for the erection of uniform signs and notices for the guidance of motor drivers ;
- (q) provide for any other purpose the Governor may consider necessary for the safety of the public and for protection of property, and generally for carrying this Act into effect ;
- (r) impose any penalty not exceeding ten pounds for any breach of any regulation made under this section.

Motor Traffic.

PART III.

OFFENCES.

4. (1) Any person who drives a motor vehicle upon a public street, negligently, furiously, or recklessly, or at a speed or in a manner which is dangerous to the public, shall be guilty of an offence under this Act. Negligent, furious, or reckless driving. cf. 3 Edw. VII, c. 36, s. 1.

(2) In considering whether an offence has been committed under this section, the court shall have regard to all the circumstances of the case, including the nature, condition, and use of the street upon which such offence is alleged to have been committed, and to the amount of traffic which actually is at the time, or which might reasonably be expected to be, upon such street.

(3) No person shall be convicted of an offence under this section unless notice of the intended prosecution is given or sent to him or to the owner of the car, as entered on the register by the prosecutor, within such time after the offence is committed, not exceeding fourteen days, as the court thinks reasonable.

5. (1) Any member of the police force who has reasonable grounds for suspecting that a person is committing a breach of this Act or of the regulations may demand from such person the production of his license, and to state his name and place of abode. Duties of police. Ibid.

(2) Any such person who, upon demand as aforesaid, refuses to produce his license, or to state his name and place of abode, shall be guilty of an offence under this Act, and if the breach aforesaid consists of a breach of the last preceding section may, without any other warrant than this Act, be apprehended and be taken before any court of summary jurisdiction, there to be dealt with according to law. May be arrested if name and place of abode not stated. Ibid.

(3) Any owner of a motor vehicle shall, if required by a member of the police force, give any information which it is in his power to give, which may lead to the identification of any person who was driving such vehicle when an offence under this Act, or any regulation is alleged to have been committed, and if such owner fails to do so he shall be guilty of an offence under this Act. Owner to give information to identify driver. Ibid.

6. Any person who, unless exempted by the regulations,—

- (a) drives a motor vehicle upon any public street without being licensed for that purpose; or Driver must be licensed, and vehicle numbered. Ibid. ss. 2 and 3.
- (b) employs or permits any person not so licensed to drive a motor vehicle upon any public street; or
- (c) drives, or causes or permits to be driven, upon any public street a motor vehicle not having the prescribed number-plate properly affixed thereto, or having such number-plate obliterated or obscured,

shall be guilty of an offence under this Act:

Provided

Motor Traffic.

Provided that no person shall be liable to a penalty for any breach of this section if he proves to the satisfaction of the court hearing the case that such breach was the result of an accident or that the motor vehicle was being driven for the purpose of being registered.

Unlawfully
obtaining or
possessing licenses,
&c.

7. Any person who—

- (a) by any false statement or misrepresentation obtains or attempts to obtain a license under this Act or the regulations; or
- (b) without lawful excuse has in his possession a license, or number-plate issued under this Act or the regulations, or any article resembling a license or number-plate, and calculated to deceive; or
- (c) forges or fraudulently alters or uses, or fraudulently lends or allows to be used by any other person, any license or any number-plate or mark for identifying a motor vehicle under this Act, or the regulations; or
- (d) owns or drives upon a public street any unregistered motor vehicle having upon it any numbers or number-plate of a description prescribed to be fixed to registered motor vehicles, and calculated to deceive,

shall be guilty of an offence under this Act.

To stop in case of
accident.
cf. 3 Edwd. VII,
c. 36, s. 6.

8. (1) Any person driving a motor vehicle shall, in any case, if an accident occurs to any person, or to any animal or vehicle in charge of any person, caused by such motor vehicle, or owing to the presence of the motor vehicle upon the road, stop, and, if required, produce his license and give his name and place of abode, and also the name and place of abode of the owner and the registration number of the car.

(2) Any person knowingly acting in contravention of this section shall be guilty of an offence under this Act.

Production of license
at court.
cf. *Ibid.* s. 4, subs. (2).

9. Whenever a licensed driver is charged with any breach of this Act, or the regulations, he shall produce his license to the court at the time of hearing, and if such driver fails without reasonable excuse to produce his license as aforesaid, he shall be guilty of an offence under this Act.

Court may impose
penalty and suspend
license upon
conviction, &c.
Ibid. s. 4, subs. (1).

10. (1) Any court before whom a person is convicted of an offence under this Act may—

- (a) impose a penalty not exceeding twenty pounds for every such offence; and
- (b) if the person convicted holds any license under this Act, suspend that license for such time as the court thinks fit, and may also declare the person convicted disqualified for obtaining a license for such further time after the expiration of the license as the court thinks fit; and
- (c) if the person convicted does not hold any license under this Act, declare him disqualified for obtaining a license for such time as the court thinks fit.

Motor Traffic.

(2) If the person convicted holds any license under this Act, 3 Edw. VII, c. 36, s. 4, subs. (1), (c). the court shall cause particulars of the conviction, and of any order made under this section, to be endorsed upon his license.

(3) A license so suspended shall, during the term of Suspended license of no effect, &c. Ibid. s. 4, subs. (3). suspension, be of no effect, and a person whose license is suspended, or who is declared by the court to be disqualified for obtaining a license, shall, during the period of suspension or disqualification, be disqualified for obtaining a license.

(4) The court shall cause particulars of each conviction Particulars of convictions to be sent to superintendent. or order under this Act or the regulations to be forwarded to the superintendent.

PART IV.

GENERAL AND SUPPLEMENTAL.

11. When any regulation or by-law or ordinance made by any Inconsistency of regulation or by-law. municipal or shire council or other local authority is inconsistent with a regulation made under this Act, the latter shall prevail, and the former, to the extent of the inconsistency, be invalid.

12. The particulars of the registration of motor vehicles and Record of registration and licenses. the licenses of drivers shall be recorded in books kept for the purpose at the office of the superintendent and of the district registry, if any, where such registration was effected or such license was issued, and an extract from, or copy of, any such entry contained in any such books, certified under the hand of the officer in charge thereof, shall, in all courts, and upon all occasions whatsoever, be received as evidence, and deemed sufficient proof of all particulars contained in such entry without requiring the production of such books, or any license, requisition, notice, or other document upon which any entry may be founded.

13. (1) All regulations made under this Act shall be published Publication of regulations. in the Gazette, and shall from the date of such publication (subject as hereinafter mentioned) be of the same effect as if they were contained in this Act, and shall be judicially noticed.

(2) Any such regulations shall be laid before both Houses of Parliament if Parliament be in session at the time of making thereof, or, if not, then as soon as practicable after the beginning of the then next session of Parliament.

(3) If either House of Parliament within the next forty days after any regulations have been so laid before such House resolve that such regulations, or any of them, ought to be annulled, the same shall, after the date of such resolution be of no effect, without prejudice to the validity of anything done in the meantime under such regulations.

14.

Motor Traffic.

Court may order compensation for damages, &c.

14. In any conviction under this Act, or the regulations, the court may order such payment as compensation for loss of time or expense incurred in consequence of the offence of which the defendant was convicted, as it thinks fit.

Compensation for loss of time.

15. If an information or complaint is laid or made by any person other than a member of the police force for any offence punishable in pursuance of this Act or the regulations, and the proceedings are dismissed or withdrawn, the court may, if it thinks fit, order that the said person pay to the defendant, in addition to any costs, such compensation for loss of time or otherwise as seems reasonable; and the court of appeal shall have like power in respect of any proceedings taken before such court.

Persons in service of the Crown.

16. It is hereby declared that this Act and the regulations apply to persons in the public service of the Crown.

Common law or statute liability.

17. Nothing in this Act shall affect any liability of any person by virtue of any statute or at common law.

Facilitation of proof.

18. In any proceedings under this Act or the regulations—

- (a) proof that a motor vehicle has not upon it a distinguishing number as prescribed by the regulations, shall be prima facie evidence that such vehicle is not registered;
- (b) proof that a person registered a motor vehicle shall be prima facie evidence that such person is the owner of such vehicle;
- (c) the production of a copy of a certificate of registration of a motor vehicle, signed by the person to whom the certificate purports to have been issued, shall be prima facie evidence that the vehicle is registered, and that such person applied for and obtained the certificate of registration for such vehicle.
- (d) the production of a copy of a license of any person, signed by such person, shall be prima facie evidence that such person is licensed.

Recovery of penalty.

19. Any penalty imposed by this Act or the regulations may be recovered before a stipendiary or police magistrate or any two justices in petty sessions.

SCHEDULE.

Motor vehicles (other than motor cycles or tricycles)—Registration, one pound yearly.

Motor cycles or tricycles—Registration, two shillings and sixpence yearly.

Motor driver (not being the rider of a motor cycle)—License, five shillings yearly.

Motor cycle rider—License, in substitution for license lost or destroyed, two shillings and sixpence.
