

[CONFIDENTIAL]

(Bough Draft for Consideration Only.)

No. , 1933.

A BILL

To provide for the issue of certificates of title for motor vehicles; to provide that transfers and other dealings with motor vehicles shall be evidenced by writing, and for the registration of such transfers and dealings; to make provision for the licensing of dealers in used or reconstructed motor vehicles, parts and accessories, and for the control and regulation of the operations of such dealers; to make further provisions with a view to preventing the theft of motor vehicles, parts and accessories; for these and other purposes to amend the Motor Traffic Act, 1909-1930, and certain other Acts; and for purposes connected therewith,

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.

1. (1) This Act may be cited as the "Motor Vehicles Short title. (Certificate of Title and Anti-theft) Act, 1933."

(2) This Act is divided into Parts and Divisions as follows:—

PART I.—PRELIMINARY—ss. 1-4.

PART II.—MOTOR VEHICLES—ss. 5-24.

DIVISION 1.—*Restriction on registration*—s. 5.

DIVISION 2.—*Issue of certificates of title*—ss. 6-12.

DIVISION 3.—*Transfers and other dealings*—ss. 13-16.

DIVISION 4.—*General*—ss. 17-24.

PART III.—DEALERS—ss. 25-32.

PART IV.—SPECIAL ANTI-THEFT PROVISIONS—ss. 33-35.

PART V.—PENALTIES, PROCEDURE, ETC.—ss. 36-45.

PART VI.—MOTOR VEHICLES (TITLE AND ANTI-THEFT) FUND—s. 46.

PART VII.—MISCELLANEOUS—ss. 47-53.

2. (1) This Act, except Part III and Part IV, shall Commence- commence on a date to be appointed by the Governor, and ment. notified by proclamation published in the Gazette.

(2) Part III and Part IV of this Act shall respectively commence on a subsequent date or dates to be appointed by the Governor in respect of such Parts or either of them, and notified by proclamation published in the Gazette.

3. Subject to the control of the Minister, this Act shall be administered by the Commissioner. Administration.

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

“ Certificate of Title ” means a certificate of title for a motor vehicle issued under this Act.

“ Commissioner ” means the Commissioner of Road Transport and Tramways appointed under the Transport (Division of Functions) Act, 1932.

“ Dealer ” means any person who carries on the business of dealing in or buying, selling or exchanging used or reconstructed motor vehicles, or such used or reconstructed parts or accessories of motor vehicles as may be prescribed; and includes any person who, within the curtilage of any building in which any such business is carried on, carries on the business of repairing, altering, renovating or dismantling used or reconstructed motor vehicles; and also includes any person who carries on any other class of business in connection with used or reconstructed motor vehicles or the prescribed used or reconstructed parts or accessories of motor vehicles, declared by the Governor by proclamation published in the Gazette to be the business of a dealer.

“ License ” means a license to carry on the business of a dealer issued under this Act.

“ Motor vehicle ” means any vehicle propelled wholly or partly by any volatile spirit, steam, gas, oil or electricity, or by any means other than human or animal power, but does not mean or include any vehicle used on a railway or tramway, and includes any other vehicles or class of vehicles which the Governor by proclamation published in the Gazette declares to be a motor vehicle.

“ Prescribed ” means prescribed by this Act or the regulations.

“ Regulation ” means regulation made under this Act.

PART II.

MOTOR VEHICLES.

DIVISION 1.—*Restriction on registration.*

5. (1) The first application for registration or renewal of registration of a motor vehicle under any Act, made after the commencement of this Act in respect of any motor vehicle, shall be accompanied by an application for the issue of a certificate of title for such motor vehicle.

First application for registration or renewal of registration.

(2) In the case of every subsequent application for registration or renewal of registration of any such motor vehicle the certificate of title for such vehicle shall be produced at the registry at which the application is made, or evidence furnished that a disputed certificate of title for such vehicle has been issued.

Subsequent applications.

(3) Where the applicant for any such subsequent registration is not the owner of the motor vehicle, but is lawfully entitled to possession of the same, he may require the owner to produce the certificate of title at the registry at which such application is made.

Where any such owner without reasonable cause fails or neglects to produce the certificate of title at the time and place specified in a request made to him by the applicant, the certificate shall be deemed to be wrongfully retained by him, and the Commissioner may require the same to be delivered into his office.

Where the certificate of title has been so delivered, the Commissioner shall forward the same or particulars thereof to the registry at which the application for registration was made.

(4) Where a disputed certificate of title for such motor vehicle has issued, the Commissioner shall, at the request of the applicant, forward the same, or particulars thereof, to the registry at which the application for registration was made.

(5) This section shall not apply to an application for temporary registration of a motor vehicle made pursuant to regulations made in respect of the matters referred to in paragraph (q.1.) of subsection one of section three of the Motor Traffic Act, 1909-1930.

DIVISION

DIVISION 2.—Issue of certificates of title.

6. (1) Every application for the issue of a certificate of title for a motor vehicle shall be made in writing to the Commissioner. Application for certificate of title.

(2) Every such application shall be in or to the effect of the prescribed form and shall be accompanied by the prescribed fee.

(3) The application shall, subject to subsection four of this section, be made—

- (a) where the motor vehicle is in the possession of the owner, by such owner;
- (b) where the motor vehicle is not in the possession of the owner, by the person lawfully entitled to the possession of such motor vehicle, either alone or jointly with the owner.

(4) Every application shall be made in the case of individuals, by the person entitled to make the same, or by some one or more of such persons, if more than one, or by his, or their agent, and in the case of corporations, by their agent, and the authority of the agent shall be testified by writing, if appointed by individuals, under the hands of the appointors, and if appointed by a corporation, under the common seal of that corporation. cf. 57 and 58 Vic., c. 60, s. 8.

(5) Where any such application is made by a person other than the owner of the motor vehicle, the applicant shall nominate such owner as the person in whose name the certificate of title shall issue.

7. (1) Where an application is made by the owner, or agent of the owner of a motor vehicle for the issue of a certificate of title for such motor vehicle such applicant shall— Applicants to furnish proof of title of owner.

- (a) deposit with the Commissioner all documents in the possession or within the control of the owner or owners of the motor vehicle, evidencing or in any way affecting the title to such motor vehicle;
- (b) give particulars of any charge over, or other interest in such motor vehicle held by any person other than the owner;

(c)

Motor Vehicles (Certificate of Title and Anti-theft).

- (c) make and subscribe a declaration verifying the statements and particulars set forth in the application.

(2) Where any such application is made by the person lawfully in possession of a motor vehicle, or the agent of such person for the issue of a certificate of title for such motor vehicle, the owner shall, when so required by the Commissioner—

- (a) deposit with the Commissioner all documents in his possession or within his control evidencing or in any way affecting the title to such motor vehicle;
- (b) give particulars of any charge over, or other interest in such motor vehicle held by any other person;
- (c) make and subscribe a declaration verifying the statements and particulars furnished to the Commissioner.

8. (1) Upon receipt of any such application the Commissioner shall cause the title of the owner of the motor vehicle to be examined. Applications;
how dealt
with.

(2) The Commissioner may, by notice to the owner, or person lawfully in possession of the motor vehicle, require the motor vehicle to be produced at a time and place specified in the notice for inspection by an officer of the Department of Road Transport and Tramways or of the Commissioner of Police.

(3) The Commissioner shall cause the particulars shown in any such application, or disclosed upon any such inspection to be checked with the record of stolen motor vehicles, and the index of engine numbers and chassis numbers of motor vehicles kept pursuant to this Act.

(4) The Commissioner may—

- (a) require any additional evidence in support of the application to be furnished;
- (b) require production of any instrument which in his opinion evidences or in any way affects the title of the applicant.

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Motor Vehicles (Certificate of Title and Anti-theft).

9. (1) The Commissioner, if reasonably satisfied that the owner by or on behalf of whom the application was made, or who was nominated as the person in whose name the certificate of title should issue, is entitled to a certificate of title in conformity with the application, may issue the certificate of title accordingly.

Issue of certificates of title.

(2) The Commissioner, if not reasonably satisfied that the owner by or on behalf of whom the application was made, or who was nominated as the person in whose name the certificate of title should issue, is entitled to a certificate of title in conformity with the application may—

- (a) reject the application;
- (b) issue a disputed certificate of title.

(3) If at any time after the issue of a disputed certificate of title—

- (a) an order relating to the title of any person interested in the motor vehicle is made by any court of competent jurisdiction; or
- (b) further evidence of the title of the applicant is tendered to the Commissioner,

the Commissioner may, upon the application of any person interested in the motor vehicle, cancel such disputed certificate of title, and may, if satisfied as to the title, issue a certificate of title to the person named in the disputed certificate of title.

10. (1) Every certificate of title for a motor vehicle shall be in duplicate in the form in the Schedule to this Act.

Form of certificate of title.

(2) Every disputed certificate of title shall be in duplicate in the same form as a certificate of title, but shall have endorsed thereon a statement signed by the Commissioner that it is issued merely for the purpose of enabling the motor vehicle to be registered and used pending determination of the rights of the persons claiming to be entitled thereto.

(3) The Governor, on the application of the Commissioner, may by proclamation published in the Gazette, amend or add to, or substitute a new Schedule in lieu of the Schedule to this Act, and the Schedule as so amended or added to or the Schedule so substituted shall be the Schedule to this Act.

(4)

(4) The Commissioner shall enter on every such certificate of title or disputed certificate of title, particulars of any charge over or interest in the motor vehicle held by any person other than the owner and which were created before or after the commencement of this Act, and are subsisting at the date upon which such certificate of title or disputed certificate of title is issued, and which have come to his knowledge in the course of investigation of the title to such motor vehicle.

11. (1) The Commissioner shall retain the duplicate of all certificates of title or disputed certificates of title issued pursuant to this Act.

Commissioner to retain duplicates of certificates of title or of disputed certificates of title.

(2) Where the Commissioner makes any alteration in, or entry or endorsement on any certificate of title or disputed certificate of title, he shall make the like alteration in or entry or endorsement on the duplicate certificate of title or disputed certificate of title retained by him.

(3) The Commissioner may dispense with the production of any certificate of title for the purpose of making any such alteration, entry or endorsement, and shall in such case notify in the memorial on the duplicate certificate of title the fact that no such alteration, entry or endorsement has been made on the certificate of title.

cf. Act No. 25, 1900, s. 38.

(4) Before dispensing with production as aforesaid the Commissioner shall require the party dealing to make a statutory declaration that such certificate of title has not been deposited as security for any loan, and shall give fourteen days notice of his intention to make such alteration, entry or endorsement in at least one daily newspaper published in Sydney, and in any case in which the Commissioner thinks necessary in one other newspaper published and circulating in the locality in which such party resides.

12. (1) A certificate of title shall be delivered—

Delivery of certificate of title.

- (a) to the owner if there is no mortgage over the motor vehicle;
- (b) to the mortgagee if any mortgage over the motor vehicle is subsisting, or if there is more than one mortgagee to the mortgagee whose mortgage ranks first in priority.

(2)

(2) A disputed certificate of title shall be retained in the office of the Commissioner.

DIVISION 3.—*Transfers and other dealings with motor vehicles.*

13. After the commencement of this Act no motor vehicle shall be transferred (otherwise than by will or by operation of law), nor shall any interest in, or charge over any motor vehicle be created (otherwise than by operation of law) except by an instrument in writing, or by an agreement of which some memorandum or note is in writing, signed by the transferor or person creating such interest or charge, or by his agent thereunto lawfully authorised in writing.

Transfers, etc., of motor vehicles to be in writing.

14. (1) Any such instrument or agreement may be registered in the office of the Commissioner.

Registration.

(2) Any transfer of a motor vehicle by will or by operation of law, and any interest in or charge over a motor vehicle created by operation of law, may be registered in the office of the Commissioner.

(3) All such instruments or agreements which are executed and made bona fide and for valuable consideration, and are duly registered under the provisions of this Act, shall have and take priority not according to their respective dates but according to priority of registration only.

Instruments and agreements to take effect according to priority of registration. cf. Act No. 22, 1897, s. 12 (1).

(4) No instrument or agreement registered under the provisions of this Act shall lose any priority to which it would be entitled by virtue of such registration by reason only of bad faith in the conveying party, if the party beneficially taking under such instrument or agreement acted bona fide and there was valuable consideration given for the same.

Registered instrument—Fraud of conveying party. cf. *Ibid.* s. 12 (2).

15. (1) Registration of any such instrument, agreement, transfer, charge or interest shall be effected by filing in the office of the Commissioner a memorial thereof which shall—

Manner of registration.

- (a) be in or to the effect of the prescribed form;
(b)

- (b) contain such particulars of the instrument, agreement, transfer, charge or interest as may be prescribed;
- (c) be verified in the prescribed manner.

(2) When any such instrument, agreement, transfer, charge or interest has been registered, the Commissioner shall make an entry referring to the memorial thereof on the certificate of title for the motor vehicle affected by the instrument, agreement or transfer therein referred to.

Such entry shall be made—

- (a) where the certificate of title was issued before the registration of the instrument, agreement, transfer, charge or interest—at the time of registration;
- (b) where the certificate of title is issued after the registration of the instrument, agreement, transfer, charge or interest—at the time of issue.

(3) Where the certificate of title was issued before registration of the instrument, agreement, transfer, charge or interest, the owner of the motor vehicle shall, when filing the memorial or at the time directed in any requisition made upon him by the Commissioner, lodge the certificate of title with the Commissioner for the purpose of making such entry.

Where any such owner, without reasonable cause, fails or neglects to so lodge the certificate of title, such certificate of title shall be deemed to be wrongfully retained.

16. (1) Upon delivery into the office of the Commissioner of any such memorial, the Commissioner shall grant and sign a receipt for the same, in which shall be specified the day and hour on which the same has been delivered into his office, and the number of such memorial according as the same shall be numbered in the said office, and such receipt shall, where the transfer was effected or the interest or charge created by an instrument in writing or by an agreement of which some memorandum or note is in writing, be endorsed or written on the original instrument

Receipts by
Com-
mis-
sioner and
endorsement.
cf. Act No.
22, 1897,
s. 10.

instrument or on the memorandum or note of the agreement to which such memorial relates, and shall also be entered on such memorial, and in all other cases shall be endorsed on the memorial.

(2) The time so endorsed shall be taken to be the time of the registration of every such instrument, agreement, transfer, charge or interest whereof such memorial has been made as aforesaid.

Time endorsed conclusive.

(3) Every such memorial so delivered into the said office shall be numbered successively according to the order of time in which the same has been delivered, and shall immediately be registered according to such number and order of time in such manner as may be prescribed, and every memorial so registered shall be open at all convenient times to inspection of all persons desirous of searching the same.

Entry in and inspection of the register.

(4) No memorial as aforesaid having therein any erasures or interlineations shall be received by the Commissioner into his office unless such erasure or interlineation is noticed in the prescribed manner.

Erasures and interlineations to be noticed.

DIVISION 4.—General.

17. Where by reason of infancy, lunacy or any other cause any person interested in any motor vehicle is incapable of making any declaration or doing anything required or permitted by this Act to be made or done in connection with the issue of any certificate of title for a motor vehicle or the registration of any instrument, agreement, transfer, charge or interest relating to a motor vehicle, the Master in Lunacy, when such person is an insane patient within the meaning of the Lunacy Act, 1898, and in any other case the guardian or committee, if any, of such person, or, if there is none, any person appointed on application made on behalf of the incapable person, or of any other person interested, by any court or judge having jurisdiction in respect of the property of incapable persons, may make such declaration, or a declaration as nearly corresponding thereto as circumstances permit, and do such act or thing in the name and on behalf of the incapable person; and all acts done by the substitute shall be as effectual as if done by the person for whom he is substituted.

Provision for cases of infancy or other incapacity. cf. Acts 57 and 58 Vic., c. 60, s. 55.

18. Every certificate of title issued in pursuance of this Act shall be received in all courts of law and equity as evidence of the particulars therein set forth, and that any instrument, agreement, transfer, charge or interest a memorial of which is referred to in any entry thereon was registered on the date specified in such entry.

Certificate of title, evidence of certain matters.

19. (1) In case it appears to the satisfaction of the Commissioner that—

Power of Commissioner to require delivery of certificate of title in certain events.

- (a) any certificate of title has been issued in error, or contains any error in any of the particulars therein mentioned; or
- (b) any entry or endorsement thereon has been made in error; or
- (c) any such certificate, or entry or endorsement has been fraudulently or wrongfully obtained; or
- (d) any such certificate is fraudulently or wrongfully retained,

he may, by notice under his hand, require the person to whom such certificate has been so issued, or by whom it has been so obtained or is retained, to deliver up the same for the purpose of being cancelled or corrected, or otherwise dealt with as the case may require.

(2) Any such person who without reasonable cause fails to so deliver up any such certificate shall be guilty of an offence against this Act.

20. The Commissioner may—

Powers of Commissioner.

- (a) cancel any certificate of title whenever in his opinion such certificate of title is incapable of conveniently containing any further entries, or when requested so to do by the owner of the motor vehicle to which the certificate of title relates, and issue a new certificate of title in lieu thereof;
- (b) cancel any certificate of title which was issued in error, or was fraudulently or wrongfully obtained, or where, in his opinion, the circumstances so warrant;
- (c) correct errors in certificates of title or in entries made thereon;

(d)

- (d) by entry cancel any entry on a certificate of title relating to anything which he is satisfied has ceased to affect the motor vehicle to which such entry relates.

21. Whenever an alteration is made to a motor vehicle which affects the accuracy of any of the particulars set forth in the certificate of title, the owner of the motor vehicle shall within *seven* days after the making of such alteration—

Alteration of motor vehicle.

- (a) notify the Commissioner of such alteration and of the particulars the accuracy of which is affected; and
- (b) lodge the certificate of title for such motor vehicle with the Commissioner for the purpose of rectification of such particulars.

22. (1) In the event of a certificate of title being lost, mislaid or destroyed, the owner of the motor vehicle referred to therein may apply for a provisional certificate of title.

Provision in case of lost certificate of title.

cf. Act No. 25, 1900, s. 111.

(2) Any such application shall be in or to the effect of the prescribed form, and shall be accompanied by the prescribed fee, including a fee to cover the costs of advertisement as provided in subsection seven of this section.

(3) The applicant and the other persons (if any) having knowledge of the circumstances of the case may make statutory declarations stating the facts of the case, the name and description of the owner, and particulars of all mortgages and other matters affecting the motor vehicle and the title thereto.

(4) The Commissioner, if satisfied as to the truth of such declaration and the bona fides of the transaction, may issue to the applicant a provisional certificate of title.

(5) The provisional certificate of title shall contain an exact copy of the duplicate certificate of title retained by the Commissioner, and of every entry or endorsement thereon, and shall also contain a statement of the circumstances in which such provisional certificate of title is issued; and the Commissioner shall at the same time

time enter on the duplicate certificate of title notice of the issuing of such provisional certificate of title, and the date thereof and the circumstances under which it was issued.

(6) Such provisional certificate of title shall be available for all purposes and uses for which the certificate of title so lost, mislaid or destroyed would have been available, and as valid to all intents as such lost, mislaid or destroyed certificate of title.

(7) The Commissioner before issuing such provisional certificate of title shall give at least fourteen days notice of his intention to do so in at least one daily newspaper published in Sydney, and in any case in which the Commissioner thinks necessary in one other newspaper published and circulating in the locality in which the applicant resides.

(8) If any certificate of title for a motor vehicle in respect of which a provisional certificate of title has issued, is found or recovered, it shall be returned to the Commissioner, and if not so returned shall be deemed to be wrongfully retained.

23. The Commissioner shall keep in his office an index of the engine number and chassis number of any motor vehicle in respect of which he has issued a certificate of title.

Index of engine numbers and chassis numbers.

24. (1) The owner or other the person lawfully in possession of any motor vehicle upon which there is no engine number or chassis number, or upon which the engine number or chassis number is not clearly or legibly stamped shall when lodging an application for a certificate of title for such vehicle, and may at any time before lodging such application, apply for the allotment of a special engine number or chassis number for such vehicle.

Motor vehicle upon which no engine number or chassis number.

(2) Subject to any conditions that may be prescribed, the Commissioner may allot a special engine number or chassis number for such vehicle.

Any such special number shall be stamped as prescribed upon such part of such vehicle as the Commissioner may indicate.

(3)

(3) The Commissioner shall enter in the index of engine numbers and chassis numbers the special number so allotted.

PART III.

DEALERS.

25. (1) Every dealer, whether carrying on business alone or as a partner in a firm, shall obtain annually in respect of every address at which he carries on business as such, a license under this Act. Dealer to take out license.

(2) After the expiration of one month from the commencement of this Part of this Act, any person who carries on the business of a dealer shall, unless he is the holder of a license under this Act, be guilty of an offence against this Act.

26. (1) Any person desirous of obtaining a license to carry on the business of a dealer, or a renewal of any such license, shall make application in or to the effect of the prescribed form. License.

(2) The application shall be lodged at the office of the Commissioner.

(3) The Commissioner shall consider any objection made by or on behalf of an officer of the police force and may grant a license or renewal if satisfied that the applicant is a person of good character, and a fit and proper person to be licensed, and shall issue such license or renewal on payment of the sum of one pound.

(4) A license or renewal of license shall be in or to the effect of the prescribed form.

(5) A license shall take effect from the date of issue, and, unless cancelled in pursuance of this Act, shall remain in force for a period of twelve months.

A license may be renewed and on each renewal and unless sooner cancelled shall take effect for a further period of twelve months.

(6)

(6) The Commissioner shall keep the prescribed record of all licenses or renewals of license granted and issued by him.

27. No dealer holding a license shall, by virtue of one license, keep more than one place for the conduct of his business as a dealer, but for each such place which he keeps for the purposes aforesaid a separate and distinct license shall be obtained.

Separate licenses to be taken out for each place of business. cf. Act No. 66, 1902, s. 9.

28. (1) The Commissioner may, upon the application of a dealer, transfer his license to another person, or alter his license in respect of the premises specified therein.

Transfer or alteration of license.

(2) The Commissioner may, upon the application of the personal representative of a deceased dealer, transfer the license of such dealer to such personal representative or to some other person.

(3) Particulars of any such transfer or alteration of a license shall be endorsed on the license and entered in the prescribed record of licenses.

29. (1) The license of a dealer may be cancelled by the Commissioner if—

Cancellation of license.

- (a) such license has been issued erroneously or granted in consequence of any false or fraudulent document, statement or representation; or
- (b) the holder thereof is convicted of an offence against this Part of this Act; or
- (c) the Commissioner is of opinion that by reason of the manner in which the holder thereof conducts his business as such, or by reason of any other fact or circumstance, such holder is not a fit and proper person to hold the license.

(2) Where any license has been cancelled the holder thereof shall surrender it to the Commissioner within such time as is limited in that behalf in a notice from the Commissioner.

(3) Particulars of every cancellation of license shall be entered in the prescribed record of licenses.

30. Where the Commissioner refuses to grant or to issue any license or renewal of license, or to transfer or alter any license, or cancels any license, the person whose interests are affected by such refusal or cancellation may in the prescribed manner appeal to the court of petty sessions nearest to the place at which the business of the dealer was intended to be, or was being carried on.

Appeal against decision of Commissioner.

Where after objection made by or on behalf of an officer of the police force, the Commissioner grants any license, such officer may in the prescribed manner appeal to the court of petty sessions nearest to the place at which the business is to be carried on.

The decision of such court on any such appeal shall be final and conclusive.

31. In any proceedings against any person for a contravention of any provision of this Part of this Act, or the regulations made in respect of any matter referred to in such Part, a certificate in the prescribed form under the hand of the Commissioner, of whose signature judicial notice shall be taken, may be received in evidence to prove the fact that the person charged did or did not, as the case may be, on the date mentioned in the certificate, hold a license.

Evidence. cf. Act No. 7, 1926, s. 29.

32. Every licensed dealer shall—

Duties of dealers.

- (a) keep the prescribed record of used or reconstructed motor vehicles, or of such used or reconstructed parts or accessories of motor vehicles as may be prescribed, bought, sold or exchanged by him;
- (b) keep the prescribed record of used or reconstructed motor vehicles repaired, altered, renovated or dismantled by him;
- (c) produce to any member of the police force, whenever requested, the records by this Part of this Act required to be kept by him, and any used or reconstructed motor vehicles, or any such used or reconstructed parts or accessories of motor vehicles purchased or received by him and then in his possession;

cf. Act No. 30, 1906, s. 8 (5).

(d)

- (d) without delay give notice to the officer on duty at the police station nearest to any place at which he carries on business of any used or reconstructed motor vehicle, or any such used or reconstructed part or accessory of a motor vehicle which may come into his possession answering the description of any used or reconstructed motor vehicle, or any such used or reconstructed part or accessory of a motor vehicle, described as having been stolen, embezzled or fraudulently obtained, in any written, or printed, or verbal information given to him by any member of the police force; cf. Act No. 30, 1906, s. 8 (6).
- (e) keep and not sell, exchange or otherwise dispose of all used or reconstructed motor vehicles, and all such used or reconstructed parts or accessories of motor vehicles, purchased or received by him, without changing the form in which they were when so purchased or received, for a period of three days after the same were purchased or received by him. cf. *Ibid.* s. 8 (7).

PART IV.

SPECIAL ANTI-THEFT PROVISIONS.

33. If any motor vehicle is stolen, or otherwise unlawfully taken from the possession of the owner or other the person lawfully entitled to possession of the same, such owner or person shall immediately give notice of the fact at the nearest convenient police station. Notice of theft, etc., of motor vehicle to be given to police.

34. (1) The Commissioner of Police upon receiving information that any motor vehicle which has been stolen or otherwise unlawfully taken from the possession of the owner or other the person lawfully entitled to possession of the same, or that any motor vehicle which was stolen or unlawfully taken has been recovered, shall, at the prescribed time and in the prescribed manner, report such information to the Commissioner. Reports of motor vehicles stolen, etc., to be filed in office of Commissioner.

(2) The Commissioner shall file such reports in his office, and shall keep an index of the same in such form as may be prescribed.

35.

35. (1) Any person who lets or sublets any premises for the garaging or storing of a motor vehicle, where such letting or subletting includes only such premises, shall report such fact, and the name of the person to whom such premises are let or sublet, to the officer in charge of the police station nearest to such premises.

Rented garages.

Any person who neglects or fails to make any such report shall be guilty of an offence against this Act.

(2) Subsection one of this section shall not apply to any letting or subletting of premises to a dealer who holds a license in respect of such premises, nor to any letting or subletting exempted by the regulations from the operation of that subsection.

(3) The regulations may exempt or may empower the Commissioner to exempt any letting or subletting of any premises or class of premises from the provisions of subsection one of this section.

PART V.

PENALTIES, PROCEDURE, ETC.

36. In this Part of this Act the words "forging" and "utter" or "uttering" have the meanings assigned thereto respectively in section two hundred and fifty of the Crimes Act, 1900, and words derived from such words have a corresponding meaning.

Definitions.

37. Whosoever—

- (a) forges or utters any certificate of title, or license, or any entry, notification, or endorsement on any certificate of title or license; or
- (b) without lawful authority or excuse makes, uses or knowingly has in his possession the whole or any part of any forged die, plate or instrument, resembling or apparently intended to resemble, wholly or in part, any die, plate or instrument, provided

Penalty for forging or uttering certificate of title, etc., or possessing false dies, etc.

provided or used under the direction of the Commissioner, for printing or manufacturing a certificate of title or license, or a blank form of certificate of title or license,
shall be liable to penal servitude for *ten* years.

38. (1) If any person—

- (a) fraudulently procures, assists in fraudulently procuring, or is privy to the fraudulent procuring of any certificate of title, or license, or of the registration of any transfer, instrument, agreement, charge or interest, or the making or altering of any entry, notification or endorsement on any certificate of title or license; or
- (b) fraudulently uses, assists in fraudulently using, or is privy to the fraudulent using of any certificate of title or license, or any blank form of a certificate of title or license; or
- (c) knowingly misleads or deceives any person by this Act authorised to demand explanation or information in respect to—
 - (i) any motor vehicle, or the title thereto, which is the subject of any application for a certificate of title;
 - (ii) any record of used or reconstructed motor vehicles, or of such used or reconstructed parts or accessories of motor vehicles as may be prescribed pursuant to this Act;

Certain fraudulent acts to be deemed misdemeanours. cf. Act No. 25, 1900, s. 141.

he shall be guilty of a misdemeanour, and shall incur a penalty not exceeding *five hundred* pounds, or may, at the discretion of the court before whom the case may be tried, be imprisoned for any period not exceeding *three* years.

(2) Any certificate of title, license, registration, entry, notification or endorsement so procured or made by fraud shall be void.

39. Any person who—

- (a) not being the manufacturer, stamps any number other than a special number allotted by the Commissioner pursuant to this Act, on the engine or chassis

Unauthorised engine and chassis numbers.

chassis of a motor vehicle without the written authority of the Commissioner; or

(b) without the written authority of the Commissioner, alters, defaces, removes or obliterates any identification number or mark upon a motor vehicle or upon any part or accessory of a motor vehicle; or

Unauthorised alteration of identification marks.

(c) without the written authority of the Commissioner, sells, exchanges or disposes of or attempts to sell, exchange or dispose of any motor vehicle or any part or accessory of a motor vehicle if he has reason to believe that any identification number or mark thereon has been fraudulently altered, defaced, removed or obliterated; or

Disposal of articles with altered identification marks.

(d) sells, exchanges or disposes of, or attempts to sell, exchange or dispose of, or who, without lawful excuse, has in his possession the engine or chassis of a motor vehicle for which a certificate of title has been issued, upon which there is no identification number, or upon which the identification number is not clearly and legibly stamped, or any motor vehicle to which any such engine or chassis is affixed,

Disposal or possession of engine or chassis without number, etc.

shall be guilty of an offence against this Act.

40. Any person who, without lawful cause or excuse, has in his possession any motor vehicle which he knows or has reason to believe has been stolen or unlawfully taken, shall be guilty of an offence against this Act.

Unlawful possession of stolen vehicles.

41. Where any act, matter or thing is by or under this Act or any regulation directed or forbidden to be done, and the act, matter or thing so directed to be done remains undone, or the act, matter or thing so forbidden to be done is done, in every such case every person offending the direction or prohibition shall be guilty of an offence against this Act.

Non-observance of prescribed requirement or prohibition. cf. Act No. 41, 1919, s. 632.

42. (1) Any person convicted of an offence against this Act shall for every such offence for which no other penalty is provided by or under this Act, be liable to a penalty not exceeding one hundred pounds.

Penalty when not otherwise provided.

(2) Any penalty imposed by or under this Act or the regulations may be recovered before a stipendiary or police magistrate or any two justices in petty sessions. Recovery of penalty.

(3) Any penalty so recovered shall be paid to the Consolidated Revenue Fund. Appropriation of penalties.

43. (1) In any conviction under this Act or the regulations the court may order such payment as compensation for loss of time or expenses incurred in consequence of the offence of which the defendant was convicted as it thinks fit. Court may order compensation.

(2) No proceeding or conviction of any act by this Act declared to be an offence against this Act or to be a misdemeanour, or to be punishable by penal servitude shall affect any remedy which any person aggrieved or injured by such act may be entitled to at law or in equity against the person who has committed such act, or against his estate. Conviction not to affect civil remedy. cf. Act No. 25, 1900, s. 142.

44. Any prescribed fee may be recovered by the Commissioner at any time and in any court of competent jurisdiction. Recovery of fees.

45. In any proceedings for an offence against this Act or the regulations an allegation in the information— Facilitation of proof under this Act.

- (a) that any person is or is not the owner of a motor vehicle; or
- (b) that any motor vehicle is or is not registered; or
- (c) that a certificate of title in respect of any motor vehicle has or has not been applied for or issued; or
- (d) that any dealer is or is not licensed; or
- (e) that any person has not kept records or has not furnished returns or information as prescribed,

shall be deemed proved in the absence of proof to the contrary.

PART VI.

MOTOR VEHICLES (TITLE AND ANTI-THEFT) FUND.

46. (1) There shall be established and kept in the Treasury a Motor Vehicles (Title and Anti-theft) Fund, into which shall be paid all fees charged under this Act. Receipts.

(2) Upon appropriation by Parliament, there may be paid by the Commissioner out of such fund all expenses in connection with the administration of this Act. Expenditure.

(3) Any balance outstanding at the credit of the fund at the close of a financial year shall be carried by the Colonial Treasurer to the credit of the Road Transport and Traffic Fund. Appropriation of balance.

(4) If the amount to the credit of the Motor Vehicles (Title and Anti-theft) Fund is not sufficient to meet charges against the fund, the Minister may, on the recommendation of the Commissioner, approve of the transfer thereto from the Road Transport and Traffic Fund of an amount sufficient to enable charges against the Motor Vehicles (Title and Anti-theft) Fund to be met. Provision in case of deficiency.

PART VII.

MISCELLANEOUS.

47. (1) For the purpose of carrying out the powers, authorities, duties and functions conferred or imposed upon the Commissioner by this Act or the regulations, the Commissioner may— Appointment of officers, etc.

(a) with the approval of the Public Service Board appoint or employ such officers of the Public Service as he thinks necessary;

(b) appoint, employ or dismiss casual employees and fix wages and conditions of employment where these are not fixed in accordance with the provisions of any other Act.

(2) Where any officer of the Public Service is in pursuance of this section appointed to or employed in the Department of Road Transport and Tramways, he shall retain, have, and enjoy the same rights and privileges, if

if any, with regard to deferred and extended leave and with regard to such annual or sick leave as may be due to him at the date of his appointment or of the commencement of his employment and with regard to superannuation contributions and payments as if he had continued an officer of the Public Service, and for this purpose his service in the Department of Road Transport and Tramways shall count as continuous service in the Public Service.

48. (1) The Commissioner may delegate to any officer nominated by him any of his powers, duties, authorities or obligations under this Act or the regulations, and such officer may exercise and discharge the powers, duties, authorities or obligations delegated as fully and effectually as the Commissioner could have exercised and discharged the same.

Delegation of powers, etc.

(2) A delegation may be made in respect of any matter or any class of matters or generally, or may be limited to any part of the State, and may be made subject to, or on such terms and conditions as the Commissioner thinks fit.

(3) Every delegation under this section shall be revocable at the will of the Commissioner, but no delegation shall prevent the exercise of any power, duty, authority or obligation by the Commissioner.

49. The Commissioner shall keep an index in the prescribed form of all registers kept pursuant to this Act.

Index of registers. cf. Act No. 6, 1919, s. 198.

50. Any person on paying the prescribed fee may search in any register or index kept in pursuance of this Act.

Searches. cf. *Ibid.* s. 199.

51. The Commissioner shall not, nor shall any person acting under his authority, be liable to any action, suit or proceeding for or in respect of any act or matter bona fide done or omitted to be done under this Act.

Commissioner not to be liable for acts done bona fide. cf. Act No. 25, 25, 1900, s. 134.

52. (1) The Governor may make regulations not inconsistent with this Act, prescribing all matters which by this Act are required or permitted to be prescribed, or which are necessary or convenient to be prescribed to carry this Act into effect or to give effect to any power, duty, authority or obligation of the Commissioner.

(2)

250

(2) The regulations shall—

- (a) be published in the Gazette;
- (b) take effect from the date of publication or from a later date to be specified in the regulations;
- (c) be laid before both Houses of Parliament within fourteen sitting days after publication if Parliament is in session, and if not, then within fourteen sitting days after the commencement of the next session.

If either House of Parliament passes a resolution of which notice has been given at any time within fourteen sittings days after the regulations have been laid before such House disallowing any regulation or part thereof, such regulation or part thereof shall thereupon cease to have effect.

(3) Any regulation may impose a penalty not exceeding *fifty* pounds for any breach thereof.

(4) A regulation may—

- (a) impose a penalty for any breach thereof, and also distinct penalties in case of successive breaches thereof, but so that the total penalty shall not exceed in all *fifty* pounds.
- (b) impose also a daily penalty for any continuing breach thereof, but so that the total penalty shall not exceed in all *fifty* pounds;
- (c) fix fees and charges to be paid under this Act or the regulations not exceeding in any one instance *five* shillings.

(5) A regulation may be of general or specially limited application according to time, place or circumstances, and may be general or restricted to any specified class of subject-matter.

(6) Any regulation may be made to apply either to all motor vehicles or to any specified class or description of motor vehicles, and unless otherwise provided or clearly intended shall apply to all motor vehicles.

(7)

(7) Any regulation may confer on the Commissioner, or on any member of the police force or officer authorised by the Commissioner, any powers or authority required for the carrying into effect of all or any of the provisions of that or any other regulation.

(8) A regulation shall, save as therein otherwise expressly provided, be construed as if the Interpretation Act, 1897, applied, mutatis mutandis, to the interpretation thereof.

53. In pursuance of the power conferred by section fifty-two, and without limiting the generality of that power, the Governor may make regulations in respect of the following matters:—

- (a) requirements as to certificates of title and licenses, including—
 - (i) the forms of and conditions to be observed when submitting applications;
 - (ii) matters relating to the granting, refusal, transfer, renewal, suspension, cancellation or return;
 - (iii) conditions governing the granting thereof;
 - (iv) fees to be paid in respect of any of such matters;
- (b) requirements as to certificates of title in respect of motor vehicles which are owned by persons whose usual residence is outside the State of New South Wales and which are brought into such State;
- (c) requirements as to cases in which motor vehicles in respect of which certificates of title have been issued are taken or are about to be taken outside the State of New South Wales, or cases where certificates of title are taken or are about to be taken outside such State;
- (d) the payment of prescribed fees subject to such exemptions as may be specified or the adjustment of such fees;

(e)

- (e) the making of corrections on certificates of title or licenses or the making of entries thereon or the making of corresponding corrections or entries on the records kept in the Commissioner's office;
- (f) the conditions under which information in the records kept in the Commissioner's office may be inspected or made available and the fees which may be charged in relation thereto;
- (g) the destruction of records which are more than five years old relating to certificates of title or licenses;
- (h) requirements as to records to be kept by dealers in accordance with Part III of this Act, including—
 - (i) the class or classes of parts or accessories of motor vehicles particulars of which are to be included in such records;
 - (ii) the particulars to be included in such records;
- (i) the seizure of certificates of title or licenses which are unlawfully in the possession of any person or which are used for an unlawful purpose;
- (j) matters relating to registration of instruments, agreements, transfers, charges or interests;
- (k) the detention, pending inquiries, of any motor vehicle or any part or accessory thereof if the same is reasonably suspected of having been stolen or if any identification number or mark thereon appears to have been altered, defaced, removed or obliterated;
- (l) the detention, pending inquiries, of any engine or chassis of a motor vehicle if there is no number thereon or if a number is not clearly and legibly placed or stamped thereon, or of any motor vehicle to which any such engine or chassis is affixed;
- (m) the qualifications and ages of dealers;
- (n)

353

Motor Vehicles (Certificate of Title and Anti-theft).

28

- (n) the appointment of offices where applications may be made for certificates of title or licenses;
 - (o) requirements and conditions with regard to the stamping of identification numbers on the engine or chassis of motor vehicles.
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