

Motor Vehicles (Ownership) Bill.

EXPLANATORY NOTE.

THE main purpose of this Bill is to provide an inexpensive method of recording title to motor vehicles, and of recording claims to interests in motor vehicles.

Provision is accordingly made that any person who claims to be the owner of a motor vehicle may, upon lodging a declaration of ownership, become the recorded owner, and that any person claiming an interest in a motor vehicle may procure the recording of a caveat which will serve to give notice of his interest and which may prohibit dealings with such motor vehicle. Any person proposing to purchase or otherwise deal in a motor vehicle may inspect the Departmental records and, if he acquires an interest in the vehicle in good faith and procures the recording of a caveat or transfer, his interest will have priority over all unrecorded interests, even interests adverse to that of his transferor.

These provisions have been examined carefully and concurred in by conferences attended by representatives of the National Roads and Motorists' Association, the Royal Automobile Club of Australia, the Motor Traders' Association, and other interested bodies.

The Bill also provides that dealers in second-hand motor vehicles and parts and accessories of motor vehicles will be subject to licensing and regulation.

It also contains a number of provisions of an ancillary character.

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[CONFIDENTIAL]

(Rough Draft for Consideration Only.)

No. 11, 1938.

A BILL

To provide for the recording of the ownership of motor vehicles and of transfers of and caveats forbidding the transfer of motor vehicles; to make provision for the licensing of dealers carrying on certain businesses in relation to used or reconstructed motor vehicles, 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, 1909-1937, 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 (Ownership) Act, 1938." Short title.

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

PART I.—PRELIMINARY—ss. 1-4.

PART II.—MATTERS RELATING TO OWNERSHIP OF MOTOR VEHICLES—ss. 5-31.

PART III.—DEALERS—ss. 32-38.

PART IV.—SPECIAL ANTI-THEFT PROVISIONS—ss. 39, 40.

PART V.—PENALTIES, PROCEDURE, ETC.—s.s. 41-50.

PART VI.—MISCELLANEOUS—ss. 51-66.

(3) This Part shall commence on the day upon which the assent of His Majesty to this Act is signified.

2. (1) This Act shall, except where otherwise expressly provided, commence upon such date or dates as may be appointed and notified pursuant to subsection two of this section. Commence-
ment.

(2) The Governor may, from time to time, appoint and notify by proclamation published in the Gazette, the date upon which any Part or provision of this Act specified in the proclamation shall commence, and may appoint and notify different dates for different Parts or different provisions (whether contained in the same Part or section or in different Parts or sections) and the Part or provision so specified shall commence accordingly.

3. Subject to the control of the Minister, this Act shall be administered in the Department of Road Transport and Tramways by the Commissioner. Administra-
tion.

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

“Commissioner” means the Commissioner for Road Transport and Tramways.

“Dealer” means any person who carries on the business of dealing in or of buying, selling or exchanging or of repairing, altering, painting, renovating, demolishing or dismantling used or reconstructed motor vehicles; and includes any person who carries on any other class of business which is declared by the regulations to be the business of a dealer for the purposes of this Act.

“Identification number” when used in relation to the engine of a motor vehicle or to any part or accessory of a motor vehicle means the number and any accompanying letters or symbols stamped on or otherwise affixed to any particular engine, part or accessory by the manufacturer as a means of identifying that particular engine, part or accessory and includes any identification number allotted, approved or authorised pursuant to this Act, but does not include any casting number or any number used as a means of identifying a class of engines, parts or accessories.

“License” means a license to carry on the business of a dealer issued under this Act, and “licensed” has a corresponding meaning.

“Motor vehicle” means any motor car, motor carriage, motor cycle, tractor, or other vehicle propelled upon any public street wholly or partly by any volatile spirit, steam, gas, oil or electricity, or by any means other than human or animal power, and includes any other class of vehicles which is by the regulations declared to be a motor vehicle for the purposes of this Act, but does not mean or include any vehicle used on a railway or tramway.

“Owner”

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“Owner,” in relation to a motor vehicle, means the person having the property in the motor vehicle.

“Prescribed” means prescribed by or under this Act.

“Regulation” means regulation made under this Act.

“This Act” includes the regulations.

(2) Any reference in this Act to an engine or other part or accessory of a motor vehicle shall, unless the context or subject-matter otherwise indicates or requires, be construed to mean any engine, part or accessory—

(a) which is, for the time being, affixed to a motor vehicle; or

(b) which has been removed from a motor vehicle, except where it has been installed as an engine, part or accessory of a motor launch or other vehicle or machinery, not being a motor vehicle.

(3) Any reference in this Act to a part of a motor vehicle shall, unless the context or subject-matter otherwise indicates or requires, be construed to include any chassis designed to form part of a motor vehicle, whether or not such chassis is, for the time being, part of a motor vehicle.

(4) This Act shall be read and construed subject to the Commonwealth of Australia Constitution Act, and so as not to exceed the legislative power of the State to the intent that where any provision of this Act, or the application thereof to any person or circumstance is held to be invalid, the remainder of this Act, and the application of such provision to other persons and circumstances shall not be affected.



PART II.

MATTERS RELATING TO OWNERSHIP OF MOTOR VEHICLES.

5. (1) Any person who claims to be the owner of a motor vehicle in respect of which a statement of ownership is not recorded may lodge with the Commissioner a declaration of ownership.

Declarations of ownership and preparation of statements of ownership.

(2) Every declaration of ownership shall be made in or to the effect of the prescribed form, shall contain an accurate description of the motor vehicle, shall furnish the particulars indicated in such form and shall be verified by a statutory declaration.

(3) The Commissioner shall, subject to this Act, prepare a statement of ownership in respect of the motor vehicle to which the declaration of ownership relates.

(4) Every statement of ownership shall be in or to the effect of the prescribed form.

(5) Any person by whom or on whose behalf a declaration of ownership is, without reasonable cause, lodged with the Commissioner, shall be liable to make to any person who has sustained damage by reason or in consequence thereof, such compensation as may be just, and such compensation shall be recoverable in an action at law by the person who has sustained damage from the person by whom or on whose behalf the declaration of ownership was lodged.

6. (1) The Commissioner shall keep a book to be called the "record book" and shall bind up therein all statements of ownership prepared under this Act.

Record book cf. Act No. 25, 1900, s. 32.

(2) Each statement of ownership shall constitute a separate folium of the record book, and the Commissioner shall enter thereon particulars of all other instruments required or authorised by this Act to be recorded on the statement of ownership.

7. (1) Every statement of ownership shall be deemed to be recorded so soon as the same has been marked by the Commissioner with the folium number as embodied in the record book, and every other instrument required or authorised by this Act to be recorded on the statement of ownership shall be deemed to be recorded so soon as a memorial

Statements and instruments when deemed to be recorded. cf. Ibid. s. 35.

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memorial thereof has been entered on the statement of ownership in respect of the motor vehicle to which such instrument relates.

(2) The person named in any statement of ownership so recorded as being the recorded owner of the motor vehicle to which the statement relates shall be deemed to be the recorded owner of such motor vehicle.

8. (1) Where a statement of ownership is recorded in respect of a motor vehicle any person who claims to be the owner of the motor vehicle may summon the recorded owner to attend before the Supreme Court or a judge thereof to show cause why such statement of ownership should not be cancelled.

Recorded owner to show cause.

(2) Such court or judge, upon proof that the recorded owner has been summoned, may make such order in the premises, either ex-parte or otherwise, as to such court or judge may seem fit.

9. (1) Where the recorded ownership of a motor vehicle is intended to be transferred, the recorded owner or other the person claiming authority by law to transfer the ownership of the motor vehicle may execute a transfer in or to the effect of the prescribed form.

Transfers. cf. Act No. 25, 1900, s. 46.

(2) The regulations may prescribe the conditions to be observed in respect of the lodgment, or prior to the recording, of any transfer of recorded ownership executed by a person claiming authority by law to transfer the ownership of the motor vehicle.

Subject to this Act and the regulations, where a transfer of recorded ownership is executed by a person claiming such authority, the Commissioner shall not be obliged to inquire as to whether such person in fact has such authority.

(3) Every transfer shall be accepted by the transferee and shall contain a memorandum of every right or interest, in respect of which a caveat is recorded, to which the same is subject:

Provided that in such circumstances as may be prescribed a transfer may be accepted on behalf of the transferee by such person as may be prescribed.

(4)

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(4) A transfer executed pursuant to this Act shall not be deemed to be a bill of sale for the purposes of the Bills of Sale Act, 1898, as amended by subsequent Acts.

(5) Any transfer executed and accepted pursuant to this Act shall be lodged with the Commissioner and shall, subject to this Act, be recorded on the statement of ownership.

(6) No stamp duty shall be chargeable on any transfer executed pursuant to this Act.

(7) Upon being recorded every transfer shall be deemed to be embodied in the record book as part and parcel thereof and the person named as transferee shall be deemed to be the recorded owner of the motor vehicle to which the transfer relates.

10. (1) Where a statement of ownership is recorded in respect of a motor vehicle and consequent upon— ^{Transmis-}
_{sions.}

(a) the will or intestacy of the recorded owner; or

(b) the bankruptcy of the recorded owner; or

(c) an order under Part X of the Bankruptcy Act, 1924-1933, of the Parliament of the Commonwealth of Australia for the administration in bankruptcy of the estate of the recorded owner,

the recorded owner's right or interest in the motor vehicle is transmitted to any person, such person may lodge with the Commissioner an application (in this Act hereinafter referred to as a "transmission application") to be recorded as owner of the vehicle.

(2) A transmission application shall be in or to the effect of the prescribed form.

(3) Every transmission application shall contain a memorandum of every right or interest, in respect of which a caveat is recorded, to which the same is subject.

(4) Any such application shall, subject to this Act, be recorded by entering a memorial thereof on the statement of ownership in respect of the motor vehicle.

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(5) Upon such recording the person named in the memorial shall be deemed to be the recorded owner of the motor vehicle to which the application relates and

- (a) where such person is the official receiver or trustee under the Bankruptcy Act, 1924-1933, of the Parliament of the Commonwealth of Australia, he shall hold the motor vehicle subject to any rights or interests therein held by other persons and subject to which the bankrupt held the same;
- (b) where such person is the executor or administrator he shall hold the motor vehicle in trust for the persons and purposes to which it is applicable by law,

but for the purposes of any dealing with such motor vehicle under the provisions of this Act such person shall be deemed to be absolute proprietor thereof.

(6) Any person who is entitled under this section to be recorded as the owner of a motor vehicle shall not have authority by law to transfer the ownership of that motor vehicle unless and until he has become the recorded owner thereof.

11. (1) Any person claiming any right or interest whatsoever whether at law or in equity in a motor vehicle may lodge with the Commissioner a caveat forbidding the recording of—

Caveats.
cf. Act No. 25, 1900, s. 72.

(a) any transfer—

- (i) generally; or
- (ii) other than a transfer to the caveator or other named person; or
- (iii) other than a transfer which is expressed to be subject to the right or interest claimed by the caveator (not being a claim to a title paramount to that of the recorded owner) particulars of which are set out in the caveat;

(b) any transmission application—

- (i) generally; or
- (ii) other than a transmission application made by the caveator or other named person; or
- (iii)

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(iii) other than a transmission application which is expressed to be subject to the right or interest claimed by the caveator, particulars of which are set out in the caveat.

(2) Every caveat shall be in or to the effect of the prescribed form and shall contain an accurate description of the motor vehicle and a statement setting out full particulars of the right or interest in the motor vehicle claimed by the caveator.

(3) Every such caveat may be withdrawn by an instrument in or to the effect of the prescribed form.

(4) Any caveat or any instrument withdrawing a caveat shall be signed by the caveator: Provided that, in such circumstances as may be prescribed, a caveat or an instrument withdrawing a caveat may be signed by such person as may be prescribed.

(5) Where a statement of ownership is recorded in respect of a motor vehicle no transmission of any right or interest in the motor vehicle (not being the right or interest of the recorded owner) consequent upon the will or intestacy of the prior holder of the right or interest, or consequent upon the bankruptcy of such prior holder or any disposition of his property under the Bankruptcy Act, 1924-1933, of the Parliament of the Commonwealth of Australia, shall take effect unless and until a caveat is recorded, pursuant to this Act, in the name of the person to whom such right or interest is transmitted.

12. (1) Where a caveat relates to a motor vehicle in respect of which a statement of ownership is recorded the caveat shall, subject to this Act, be recorded on such statement of ownership.

Caveats—
recording of.

(2) Where a caveat relates to a motor vehicle in respect of which a statement of ownership is not recorded the caveat shall, subject to this Act, be recorded in an index of motor vehicles; and where, after the caveat has been so recorded, a statement of ownership is recorded in respect of the motor vehicle, the Commissioner shall record the caveat upon such statement of ownership.

(3)

(3) Where a caveat has been recorded pursuant to this Act the memorial of the caveat shall be deemed to be notice of the right or interest claimed by the caveator particulars whereof are set out in the caveat.

13. (1) Where a caveat is recorded in respect of a motor vehicle the recorded owner or other the person claiming authority by law to transfer the ownership of the motor vehicle or any person claiming under a transmission application or a transfer executed pursuant to this Act of the motor vehicle may, if he thinks fit, summon the caveator to attend before the Supreme Court or a judge thereof to show cause why such caveat should not be removed.

Caveator to show cause. cf. Act No. 25, 1900, s. 97 (2) (3).

(2) Such court or judge, upon proof that the caveator has been summoned, may make such order in the premises, either ex-parte or otherwise, as to such court or judge may seem fit.

14. (1) (a) Where a caveat is recorded in respect of a motor vehicle the recorded owner or other the person claiming authority by law to transfer the ownership of the motor vehicle or any person claiming under a transmission application or a transfer executed pursuant to this Act of the motor vehicle, may lodge with the Commissioner an application to remove the caveat on the ground that the right or interest specified in the caveat as claimed by the caveator does not exist or has ceased to exist.

When caveat to lapse.

(b) Where any such application has been lodged and notice thereof has been given to the caveator the caveat shall, subject to the regulations, be deemed to have lapsed upon the expiration of a period of fourteen days after the giving of such notice unless before the expiration of that period the caveator lodges with the Commissioner a notice in writing claiming that the right or interest specified in the caveat still exists.

(c) The regulations may prescribe all matters necessary or convenient to be prescribed in relation to any matter arising under this section and in particular may

may require that any application lodged under this section shall be accompanied by such declarations and other evidence as may be provided for in the regulations.

(d) Subject to this Act and the regulations, the Commissioner shall not be obliged to inquire as to whether the right or interest specified in any caveat mentioned in such application does not exist or has ceased to exist.

(e) Any person by whom or on whose behalf any such application is, without reasonable cause, lodged with the Commissioner, shall be liable to make to any person who has sustained damage by reason or in consequence thereof, such compensation as may be just, and such compensation shall be recoverable in an action at law by the person who has sustained damage from the person by whom or on whose behalf such application was lodged.

(2) Where a caveat is recorded forbidding the recording of any transfer other than a transfer to the caveator or other named person, such caveat shall, upon the recording of a transfer naming as transferee such caveator or named person, be deemed to have lapsed.

Where a caveat is recorded forbidding the recording of any transmission application other than a transmission application made by the caveator or other named person, such caveat shall, upon the recording of a transmission application made by such caveator or other named person, be deemed to have lapsed.

(3) Where any caveat is deemed to have lapsed the Commissioner may, by entry on the relevant statement of ownership, cancel the entry relating to such caveat.

15. (1) Where a statement of ownership is recorded in respect of a motor vehicle any person claiming that he has acquired or proposes to acquire, in good faith and for valuable consideration, any right or interest whatsoever whether at law or in equity in the motor vehicle may, by telegram or otherwise, lodge with the Commissioner an application, in or to the effect of the prescribed form,

Stay orders.
cf. Transfer
of Land Act,
1915 (Vic.),
s. 198.

form, for the recording of an order (in this Act hereinafter referred to as a "stay order") forbidding the recording of—

- (a) any other stay order;
- (b) any transfer other than a transfer to the aforesaid person;
- (c) any caveat other than a caveat in the name of the aforesaid person;
- (d) any transmission application.

(2) Where an application for the recording of a stay order is lodged by telegram—

- (a) it will not be necessary for the applicant to state that he claims that he has acquired or proposes to acquire a right or interest as aforesaid. If no such statement is embodied in the application it shall be implied that the applicant does so claim;
- (b) it will not be necessary for the applicant to state that the stay order for the recording of which application is made is for the purpose of forbidding the recording of instruments as mentioned in subsection one of this section. If no such statement is embodied in the application it shall be implied that the application is for such purpose.

(3) Upon lodgment of any application for the recording of a stay order the Commissioner shall, subject to this Act, record a stay order by entry on the relevant statement of ownership.

(4) (a) An application for the recording of a stay order may be withdrawn by an instrument, in or to the effect of the prescribed form, by the person who made such application or by such other persons and in such circumstances as may be prescribed.

(b) Upon lodgment with the Commissioner of such instrument the Commissioner shall, subject to this Act, cancel the stay order (if any) recorded upon the statement of ownership. Any such cancellation shall be made by entry on such statement.

(5)

(5) (a) Where a stay order is recorded upon a statement of ownership such stay order shall, upon the recording upon such statement of—

(i) a transfer to the person who applied for the recording of the stay order; or

(ii) a caveat in the name of such person, be deemed to have lapsed.

(b) Where a stay order recorded upon the statement of ownership of a motor vehicle has not been cancelled and has not lapsed pursuant to the preceding provisions of this section, such stay order shall be deemed to have lapsed upon the expiration of the prescribed period after the time when it was so recorded.

(c) Where any stay order is deemed to have lapsed the Commissioner may, by entry on the relevant statement of ownership, cancel the entry recording such stay order.

16. (1) So long as any caveat recorded upon the statement of ownership of a motor vehicle remains in force the Commissioner shall not enter upon such statement of ownership any transfer or transmission application the recording of which is forbidden by the caveat:

Transfer
not to be
recorded
while caveat
in force.

Provided that nothing in this subsection shall prevent the recording of any transfer or transmission application lodged before and awaiting recording at the time of the lodgment of the caveat and not afterwards withdrawn.

(2) So long as any stay order recorded upon the statement of ownership of a motor vehicle remains in force the Commissioner shall not enter on such statement of ownership any stay order, transfer, caveat or transmission application the recording of which is forbidden by the stay order: Provided that nothing in this subsection shall prevent the recording of any application for the recording of a stay order or any transfer, caveat or transmission application lodged before and awaiting recording at the time of lodgment of the application for the recording of such first-mentioned stay order and not afterwards withdrawn.

17. Any person—

- (a) by whom or on whose behalf a caveat or an application for the recording of a stay order is lodged with the Commissioner without reasonable cause; or
- (b) who, when a caveat has been lodged by him or on his behalf, refuses without reasonable cause to withdraw the same when the right or interest claimed has ceased to subsist,

Compensation in respect of caveats and stay orders. cf. Act No. 25, 1900, s. 98.

shall be liable to make to any person who may have sustained damage thereby such compensation as may be just, and such compensation shall be recoverable in an action at law by the person who has sustained damage from the person by whom or on whose behalf the caveat or application for the recording of the stay order was lodged or who refused to withdraw the caveat, as the case may be.

18. No writ of fieri facias or other writ of execution nor any direction, order or decree of any court shall bind, charge or affect a motor vehicle in respect of which a statement of ownership is recorded unless and until a caveat in respect of such writ, direction, order or decree is recorded on the statement of ownership, and unless and until a caveat has been so recorded no sale or transfer by the sheriff or the registrar or bailiff of the court, or by the person appointed by any such order to carry out the sale or execute the transfer, shall be valid as against a person dealing with the recorded owner in good faith and for valuable consideration notwithstanding that such writ may have been actually in the hands of the sheriff, registrar or bailiff at the time of such dealing, or notwithstanding that such person may have had actual or constructive notice of the issue of such writ.

Writs of execution and orders of court. cf. *Ibid.* s. 105 (3).

19. (1) The recorded owner of a motor vehicle who became such recorded owner by the recording, after the commencement of this section, of a transfer executed pursuant to this Act, by the prior recorded owner of the vehicle or other the person having authority by law to transfer the ownership of the motor vehicle,

Estate of recorded owner (by transfer) paramount.

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vehicle, and made consequent upon the acquisition, in good faith and for valuable consideration, of the motor vehicle from such prior recorded owner or person, shall hold such motor vehicle subject only to any right or interest in respect of which a caveat recorded upon the statement of ownership of the motor vehicle was, at the time of recording of the transfer, in force, but absolutely free from any other right or interest whatsoever (including any right or interest of any person claiming a title paramount to that of the prior recorded owner) except the right or interest of a recorded owner claiming the same motor vehicle under a prior statement of ownership.

(2) Where, after the commencement of this section, a caveat is recorded upon the statement of ownership of a motor vehicle in respect of a right or interest in the motor vehicle acquired by the caveator in good faith and for valuable consideration, any other right or interest whatsoever in such motor vehicle (including any right or interest of any person claiming a title paramount to that of the recorded owner) except any right or interest—

Certain recorded interests to have priority over unrecorded interests.

(a) of a person who, at the time of the recording of the caveat, was the recorded owner of such motor vehicle under any statement of ownership;
or

(b) in respect of which a caveat recorded upon any statement of ownership of such motor vehicle was, at such time, in force,

shall be subject to the right or interest to which such firstmentioned caveat relates.

(3) Except to the extent and in the circumstances mentioned in this section, nothing in this Act shall be construed so as to confer on the recorded owner of a motor vehicle any greater right or interest in such motor vehicle than he would have had if this Act had not been enacted.

(4) Where, after the commencement of this section, a transfer or caveat is recorded upon the statement of ownership of a motor vehicle, the transferee or caveator

caveator shall not be affected by notice of any instrument, fact or thing relative to the motor vehicle by reason only of omission to search any records other than the records kept under this Act.

(5) This section shall commence upon a date to be appointed by the Governor and notified by proclamation published in the Gazette.

20. (1) For the purposes of this Act, a corporation may request the Commissioner to give effect to or record declarations and instruments made or executed for and on behalf of the corporation by some person nominated for that purpose in the request, and may revoke or vary any such request.

(2) (a) Any such request, revocation or variation shall be made in an instrument in or to the effect of the prescribed form, shall be under the common seal of the corporation, and shall be lodged with the Commissioner. No stamp duty shall be chargeable on any such instrument.

(b) The Commissioner shall file every such instrument in his office and shall keep an index of the same.

(c) Any person, on paying the prescribed fee, may inspect such index and any instruments referred to therein.

(3) Notwithstanding any provision to the contrary in any law or in any instrument constituting the corporation or regulating the affairs thereof—

(a) any declaration or instrument for the purposes of this Act made or executed for and on behalf of a corporation—

(i) by a person nominated pursuant to this section; or

(ii) in the case of a limited company or a non-liability company—by a manager or managing director of the company; or

(iii) in the case of the council of a city, municipality or shire or a county council established under any Act—by the town clerk, shire clerk or county clerk (as the case may be) of such council; or

(iv)

(iv) in the case of any corporation not mentioned in sub-paragraph (ii) or sub-paragraph (iii) of this paragraph—by a manager, secretary or accountant of the corporation,

may be given effect to or recorded by the Commissioner and shall, in favour of any person acquiring, in good faith and for valuable consideration, any motor vehicle or any right or interest in a motor vehicle to which the declaration or instrument relates, be valid and effectual;

(b) where any declaration or instrument for the purposes of this Act is made or executed for and on behalf of a corporation by a person who purports to hold an office or position mentioned in sub-paragraph (ii), sub-paragraph (iii) or sub-paragraph (iv) of paragraph (a) of this subsection, neither the Commissioner nor any person acquiring as aforesaid shall be obliged to inquire as to whether the person by whom the declaration or instrument is made or executed does, in fact, hold such office or position;

(c) no revocation or variation of the power or authority of any person nominated in any request made pursuant to this section shall be valid or effectual for the purposes of this Act, as against the Commissioner or any person acquiring as aforesaid, unless and until an instrument revoking or varying such request is lodged, filed and indexed as prescribed.

21. (1) For the purposes of this Act, the partners of a firm carrying on business under a business name registered or deemed to have been registered under the Business Names Act, 1934, may request the Commissioner to give effect to or record declarations and instruments made or executed for and on behalf of all the partners in the firm by some person nominated for that purpose in the request. Any such request may be made, varied or revoked, for and on behalf of all the partners in the firm, by one or more of the partners.

Firms.

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The Commissioner may, if he thinks fit, in any such case, require production of a certificate of the registration under the Business Names Act, 1934, of the firm, or a copy of or extract from any statement furnished under that Act, or filed under the corresponding provisions of any previous enactment, certified by the Registrar-General.

(2) (a) Any such request, revocation or variation shall be made in an instrument in or to the effect of the prescribed form and shall be lodged with the Commissioner. No stamp duty shall be chargeable on any such instrument.

(b) The Commissioner shall file every such instrument in his office and shall keep an index of the same.

(c) Any person, on paying the prescribed fee, may inspect such index and any instrument referred to therein.

(3) Where any partner in any such firm is a corporation the provisions of subsection three of section twenty of this Act shall, *mutatis mutandis*, apply to and in respect of any act or thing authorised or permitted by this section to be done by such partner.

(4) Notwithstanding any provision to the contrary in any law or in any instrument constituting any such firm or regulating the affairs thereof—

(a) any declaration or instrument for the purposes of this Act made or executed for and on behalf of all the partners in the firm by a person nominated in that behalf pursuant to this section or, where no person is so nominated, by any person who is a partner in the firm may be given effect to or recorded by the Commissioner and shall, in favour of any person acquiring, in good faith and for valuable consideration, any motor vehicle or any right or interest in a motor vehicle to which the declaration or instrument relates, be valid and effectual;

(b) where any declaration or instrument for the purposes of this Act is made or executed for and on behalf of all the partners in the firm by a person

person who purports to be a partner in the firm or a person having power or authority to act on behalf of a partner in the firm (such partner being a corporation), neither the Commissioner nor any person acquiring as aforesaid shall be obliged to inquire as to whether the person by whom the declaration or instrument is made or executed is, in fact, such partner, or has, in fact, such power or authority, as the case may be;

- (c) no revocation or variation of the power or authority of any person nominated in any request made pursuant to this section shall be valid or effectual for the purposes of this Act, as against the Commissioner or any person acquiring as aforesaid unless and until an instrument revoking or varying such request is lodged, filed and indexed as prescribed.

(5) Any declaration of ownership, acceptance of transfer, or caveat, for and on behalf of any firm carrying on business under a business name registered or deemed to have been registered under the Business Names Act, 1934, may have embodied therein a request that a statement of ownership, transfer or caveat (as the case may be) be recorded under such business name, and the Commissioner may give effect to such request.

22. (1) Any declaration or other instrument for the purposes of this Act made or executed for and on behalf of His Majesty by—

Execution of instruments on behalf of His Majesty.

- (a) the under secretary, officer-in-charge, manager, secretary, accountant or chief clerk, for the time being, of a department, sub-department, branch or similar part of the Public Service (in New South Wales or elsewhere); or
- (b) the manager, secretary, or accountant, for the time being, of any board, commission, trust, or other body representing (in New South Wales or elsewhere) His Majesty; or
- (c) any such other officer as may, in that behalf, be prescribed by the regulations,

may

may be given effect to or recorded by the Commissioner and shall, in favour of any person acquiring, in good faith and for valuable consideration, any motor vehicle or any right or interest in a motor vehicle to which the declaration or instrument relates, be valid and effectual.

(2) Where any such declaration or instrument is so made or executed by a person who purports to be an officer mentioned in subsection one of this section, neither the Commissioner nor any person acquiring as aforesaid shall be obliged to inquire as to whether the person by whom the declaration or instrument is made or executed is, in fact, such officer.

23. (1) Upon receipt at the office of the Commissioner of any declaration of ownership, transmission application, transfer, caveat or application for the recording of a stay order the Commissioner shall endorse thereon a statement of the time of lodgment.

Time of lodgment.

(2) (a) The time of lodgment of any declaration of ownership, transmission application, transfer, caveat or application for the recording of a stay order which is lodged by hand at the office of the Commissioner shall be the day and hour upon which the same is so lodged.

(b) The time of lodgment of any declaration of ownership, transmission application, transfer, caveat or application for the recording of a stay order which is lodged otherwise than by hand at the office of the Commissioner shall be the day and hour upon which the same is received into the office of the Commissioner.

24. (1) The Commissioner may give effect to or record any declaration, caveat or other instrument for the purposes of this Act made or executed—

Provision for cases of infancy or incapacity.

- (a) by an infant over the age of sixteen years;
- (b) in the name and on behalf of an insane patient within the meaning of the Lunacy Act of 1898, by the Master in Lunacy;
- (c) in the name and on behalf of an infant (whether or not over the age of sixteen years) by any person appointed in that behalf by any court or judge having jurisdiction in respect of the property of infants;
- (d)

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Motor Vehicles (Ownership).

(d) in the name and on behalf of an insane or incapable person within the meaning of the Lunacy Act of 1898, by any person appointed by any court or judge having jurisdiction in respect of the property of insane or incapable persons to be the committee of the property or the manager of the estate of such insane or incapable person.

(2) Where any such insane patient has any right or interest whatsoever whether at law or in equity in a motor vehicle, the Master in Lunacy may execute and lodge with the Commissioner a caveat, in the name of the Master in Lunacy, in respect of the motor vehicle.

(3) Where any infant or an insane or incapable person within the meaning of the Lunacy Act of 1898 has any right or interest whatsoever whether at law or in equity in a motor vehicle, the parent or guardian of such infant or the committee or manager, if any, of the property or estate of such insane or incapable person or, if there is none, any person appointed in that behalf by any court or judge having jurisdiction in respect of the property of infants or of insane or incapable persons, may execute and lodge with the Commissioner a caveat, in the name of such parent, guardian, committee, manager or person (as the case may be), in respect of the motor vehicle.

(4) Paragraph (a) of subsection one of this section shall not be construed so as to alter or in any way affect the law relating to the disposition of property by infants.

25. The Commissioner may—

Powers of Commissioner.

(a) cancel any statement of ownership whenever in his opinion such statement of ownership is incapable of conveniently containing any further entries, and record a new statement of ownership;

(b) cancel any statement of ownership or cancel the recording of any transfer, transmission application, caveat or other instrument where such statement, transfer, transmission application, caveat or other instrument was recorded in error;

(c)

- (c) correct errors in statements of ownership or in entries made thereon;
- (d) adjust on statements of ownership entries recording instruments, so that such entries will appear on the statements in the order in which the relevant instruments were lodged;
- (e) by entry cancel any entry on a statement of ownership relating to anything which he is satisfied does not affect or has ceased to affect the motor vehicle to which such statement relates;
- (f) give effect to any order or direction of any court made or given under the authority of this Act;
- (g) for the purpose of preventing or deterring any fraud or improper dealing, withhold the preparation of any statement of ownership or the recording of any transfer, caveat or other instrument where, in the opinion of the Commissioner, the circumstances so warrant;
- (h) make such entries in the record book or in any index kept under this Act as he thinks fit for the prevention or detection of any fraud or improper dealing;
- (i) where two or more declarations of ownership relating to the same motor vehicle are lodged at the same time, refuse to prepare any statement of ownership in respect thereof until all but one of such declarations have been withdrawn from lodgment;
- (j) where two or more instruments (other than declarations of ownership) relating to the same motor vehicle are lodged at the same time, refuse to record any of such instruments until all but one of them have been withdrawn.

26. Whenever an alteration is made to a motor vehicle in respect of which a statement of ownership is recorded which affects the accuracy of any of the particulars set forth in the statement of ownership the recorded owner

Alteration
of motor
vehicles.

or

or other the person having the possession and use of the motor vehicle shall,

- (a) within seven days after the making of such alteration lodge with the Commissioner a notice of such alteration and of the particulars the accuracy of which is affected; and
- (b) if so required by the Commissioner cause the motor vehicle to be produced at a time and place specified by the Commissioner for inspection by an officer of the Commissioner or by a member of the police force.

27. (1) No notice of any trust expressed, implied or constructive shall be entered in the record book.

No notice of trusts to be entered.

(2) This section shall not operate to prevent the recording of any caveat by reason only of the fact that the right or interest claimed by the caveator arises out of any trust.

cf. Act No. 25, 1900, s. 82 (1).

28. (1) Every declaration of ownership, transmission application, transfer or caveat lodged under this Act shall contain an address for service of notices.

Address for service.

(2) Notice of any change of such address shall be lodged with the Commissioner.

(3) Every notice required or authorised by this Part of this Act to be given or served, and every notice relative to any summons, action, suit or proceedings given or taken under this Part of this Act shall be deemed to be sufficiently given or served—

- (a) if delivered personally;
- (b) if left at the address for service contained in the instrument or last notified to the Commissioner, as the case may be;
- (c) if sent by post in a prepaid registered letter addressed to the person to be served at the address for service contained in the instrument or last notified to the Commissioner, as the case may be; and service shall be deemed to be made at the time when the registered letter would, in the ordinary course of post, be delivered or available for collection;

(d)

(d) if given or served in such manner as the court may direct.

29. (1) This Part of this Act shall apply to and in respect of undivided shares in motor vehicles in like manner as it applies to and in respect of motor vehicles.

Part II to apply to undivided shares in motor vehicles.

(2) In the application of this Part to and in respect of undivided shares in motor vehicles a reference to a motor vehicle shall, unless the context or subject-matter otherwise indicates or requires, be construed as a reference to an undivided share in a motor vehicle.

30. Where two or more persons have become entitled to be recorded as owners in common of a motor vehicle the Commissioner shall record a separate statement of ownership in respect of the undivided share of each of such persons in such motor vehicle.

Owners in common. cf. Act No. 25, 1900, s. 100 (2).

31. (1) Where two or more persons have become entitled to be recorded as joint owners of a motor vehicle, the Commissioner shall record one statement of ownership in respect of the motor vehicle.

Joint owners.

(2) Upon application made as prescribed and upon proof to his satisfaction of the death of one of the persons recorded as joint owners of a motor vehicle the Commissioner shall enter a notification of such death on the statement of ownership in respect of such motor vehicle, and thereupon the survivors or survivor of such persons shall be deemed to be the recorded owners or record~~e~~d owner of such motor vehicle.

PART III.

DEALERS.

32. (1) Every dealer, whether carrying on business alone or as a partner in a firm, shall obtain annually in respect of every premises 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 business as a dealer shall, unless he is the holder of a license under this Act, be guilty of an offence against this Act.

33.

33. (1) Any person desirous of obtaining a license to carry on business as a dealer, or a renewal of any such license, shall lodge with the Commissioner an application in or to the effect of the prescribed form. License.

(2) The application shall be accompanied by a fee of one pound.

(3) The Commissioner shall, upon receipt of any such application, notify the Commissioner of Police, who shall cause inquiries to be made as to such applicant, and shall furnish a report to the Commissioner.

(4) The Commissioner shall consider the report of the Commissioner of Police and any other matters which may be relevant, and if he is satisfied that the applicant is a person of good character, and a fit and proper person to be licensed, he may grant a license or renewal of license.

(5) The Commissioner may, if he thinks fit, grant any license or renewal of license subject to such conditions as he may deem necessary.

Any such conditions shall be endorsed on or annexed to the license or renewal of license.

If the holder of any such license or renewal of license contravenes or fails to comply with any conditions so endorsed on or annexed to his license or renewal of license he shall be guilty of an offence against this Act.

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

(7) A license or renewal of license, unless cancelled in pursuance of this Act, shall remain in force for a period of twelve months expiring on a date specified in the license or renewal of license.

Every renewal of license shall take effect from the day immediately following the date upon which the license or the last preceding renewal of license expired:

Provided that any person who carries on business as a dealer at any premises during the period between the date of expiration of a license or of the last preceding renewal

renewal of license for such premises and the date of lodgment of an application in the prescribed form and accompanied by the prescribed fee for renewal of license for such premises shall, for the purposes of subsection two of section thirty-two of this Act, be deemed not to be the holder of a license for such premises during that period.

(8) The Commissioner shall keep a record of all licenses or renewals of license granted by him.

34. No dealer holding a license shall, by virtue of one license, keep more than one premises for the conduct of his business as a dealer, but for each such premises 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.

35. (1) The Commissioner may, upon the application of a dealer, alter his license in respect of the premises specified therein.

Alteration of license.

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

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

Suspension or 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 Act; or
- (c) the holder thereof ceases to carry on business as a dealer at the premises for the time being specified in the license; or
- (d) 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 record of licenses.

(4)

(4) Where any license in respect of any premises has been suspended the holder of such license shall, during the period such suspension remains in force, be deemed not to be the holder of a license in respect of such premises, but in any case where the period of suspension expires before the expiration of the period for which the license remains in force forthwith upon the expiry of the period of suspension his rights and privileges as the holder of such license shall be revived as from the date of such expiry.

(5) The suspension or cancellation of a license shall not take effect until the expiration of a period of twenty-one days after notification to the dealer concerned that the license has been suspended or cancelled.

If within such period the dealer gives notice of appeal, the suspension or cancellation shall not take effect unless and until the suspension or cancellation is confirmed by the court or the appeal is for any reason dismissed.

Unless the court otherwise orders the period of suspension appealed from shall commence on the day upon which the suspension takes effect.

37. (1) (a) Where the Commissioner refuses to grant any license or renewal of license, or grants any license or renewal of license subject to conditions, or refuses to alter any license in respect of the premises specified therein, or cancels or suspends any license, he shall notify the dealer who has applied for such license or renewal of license, or whose license has been cancelled or suspended.

Appeal
against
decision
of Commis-
sioner.

(b) Such dealer may in the prescribed manner appeal to the court of petty sessions nearest to the place at which the business of the dealer is intended to be or is being carried on.

(c) Notice of any such appeal shall be lodged—

(i) in the case of an appeal against suspension or cancellation of a license—within a period of twenty-one days after he has been notified as directed in paragraph (a) of this subsection;

(ii) in any other case—within a period of three months after he has been so notified.

(2) Where the Commissioner of Police, in furnishing a report pursuant to section thirty-three of this Act, has objected to the grant of a license or renewal of license to a dealer, and the Commissioner has, notwithstanding such objection, granted a license or renewal of license to such dealer, the Commissioner of Police may in the manner and within the time prescribed appeal to the court of petty sessions nearest to the place at which the business of the dealer is intended to be or is being carried on.

(3) Every appeal under this section shall be heard by a court of petty sessions holden before a police or stipendiary magistrate.

38. Unless exempted by the regulations, every dealer shall— Duties of dealers.

(a) keep the prescribed records in respect of used or reconstructed motor vehicles, or of such used or reconstructed parts or accessories of motor vehicles as may be prescribed, or of such tools as may be prescribed in connection with which he transacts any business as a dealer;

(b) produce to any person authorised by the Commissioner or to any member of the police force, whenever requested, his license and the records by this Act required to be kept by him, and any used or reconstructed motor vehicles, or any used or reconstructed parts or accessories of motor vehicles or any tools purchased or received by him and then in his possession; cf. Act No.,
30, 1906,
s. 8 (5).

(c) without delay forward to any prescribed member of the police force such copies of or extracts from the records aforesaid as the regulations may require to be so forwarded;

(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—

(i) any motor vehicle or any part or accessory of a motor vehicle or any tool which may come into his possession which

which answers the description of any motor vehicle or any part or accessory of a motor vehicle or any tool described as having been stolen, embezzled, or fraudulently obtained, in any written, printed or verbal information given to him by the Commissioner or by any member of the police force, or which such dealer knows or has any reason to suspect has been stolen, embezzled or fraudulently obtained;

- (ii) any engine of a motor vehicle or any other prescribed part or accessory of a motor vehicle which may come into his possession the identification number of which appears to have been altered, defaced, removed or obliterated, otherwise than as prescribed.

PART IV.

SPECIAL ANTI-THEFT PROVISIONS.

39. (1) Where 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.

(2) Where any motor vehicle, notice of the stealing or unlawful taking of which has been given pursuant to subsection one of this section, is recovered by 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.

40. (1) The Commissioner of Police upon receiving information that any motor vehicle 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 so stolen or unlawfully taken has been recovered, shall forthwith 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.

PART V.

PENALTIES, PROCEDURE, ETC.

41. 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.

42. Whosoever—

(a) forges or utters any statement of ownership, certificate of recorded ownership, or license, or any entry, notification, or endorsement on any statement of ownership, certificate of recorded ownership, or license; or

Penalty for forging or uttering statement of ownership, etc., or possessing false dies, etc.

(b) without lawful authority or excuse makes, uses or knowingly has in his possession the whole or any part of any die, plate or instrument, being or resembling or being apparently intended to resemble, wholly or in part, any die, plate or instrument, provided or used under the direction of the Commissioner, for printing or manufacturing a statement of ownership, certificate of

of recorded ownership, or license, or a blank form of statement of ownership, certificate of recorded ownership, or license, or for stamping any endorsement on any statement of ownership, certificate of recorded ownership, or license, or for stamping any number or mark upon any motor vehicle or upon any part or accessory of a motor vehicle,

shall be liable to penal servitude for any period not exceeding ten years.

43. (1) If any person—

- (a) fraudulently procures, assists in fraudulently procuring, or is privy to the fraudulent procuring of any statement of ownership, certificate of recorded ownership, or license, or the recording of any transfer or caveat, or the making or altering of any entry, notification or endorsement on any statement of ownership, certificate of recorded ownership, or license; or
- (b) fraudulently uses, assists in fraudulently using, or is privy to the fraudulent using of any statement of ownership, certificate of recorded ownership or license, or any blank form of a statement of ownership, certificate of recorded ownership, or license; or
- (c) knowingly misleads or deceives any person by or under this Act authorised to demand explanation or information in respect of any matter; or
- (d) knowingly makes any false statement or misrepresentation in or with respect to any instrument (including any statutory declaration or other declaration) required or authorised by or necessary or convenient to carry into effect this Act; or
- (e) knowingly makes or causes or permits or allows to be made any false or misleading entry in any record prescribed by or under Part III of this Act or in any prescribed copy of or extract from such records;

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

the discretion of the court before whom the case may be tried, be imprisoned for any period not exceeding *three* years.

(2) Any statement of ownership, certificate of recorded ownership, license, recording, entry, notification or endorsement so procure'd or made by fraud shall be void:

Provided that no transfer to which section nineteen of this Act applies shall be void by reason only of bad faith in the conveying party. cf. Act No. 22, 1897, s. 12 (2).

44. Any person who—

Offences.

- (a) not being the manufacturer, stamps any number on the engine or other prescribed part of a motor vehicle, except as prescribed; or
- (b) except as prescribed, alters, defaces, removes or obliterates any identification number upon the engine or other prescribed part of a motor vehicle; or
- (c) without lawful authority or excuse has in his possession any engine or other prescribed part or accessory of a motor vehicle the identification number of which he has reason to believe has been altered, defaced, removed or obliterated otherwise than as prescribed; or
- (d) 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 thereof if such person has reason to believe that any identification number thereon has been fraudulently altered, defaced, removed or obliterated or that any number or identification mark has been fraudulently stamped or affixed thereon; or
- (e) sells, exchanges or disposes of, or attempts to sell, exchange or dispose of, or who, without lawful excuse, has in his possession the engine of a motor vehicle for which a statement of ownership has been recorded, upon which engine there

there is no identification number or the identification number is not clearly and legibly stamped,
shall be guilty of an offence against this Act.

45. 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.

46. 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.

47. (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.

(4) The court shall cause particulars of every conviction under this Act to be forwarded to the Commissioner.

48. (1) In any conviction under this Act 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) Where an information or complaint is laid or made by any person other than a member of the police force or officer of the Commissioner acting in his official capacity for any offence punishable in pursuance of this Act 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.

(3)

(3) No proceeding or conviction for 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.

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

Recovery of fees.

50. (1) In all courts and upon all occasions whatsoever—

Evidence.

cf. Act No. 5, 1909, s. 12.

(a) an extract from or copy of any record, or any statement of ownership or other instrument whatsoever recorded, filed or kept in the office of the Commissioner under this Act or any entry or endorsement on any such statement or instrument; or

(b) a certificate that on a specified date—

(i) a person was or was not the recorded owner of a motor vehicle or of a share therein;

(ii) a person was or was not licensed or that certain specified premises were or were not the premises specified in any particular license or that a license was or was not subject to specified conditions or that a license was or was not suspended or cancelled;

(iii) a declaration of ownership, statement of ownership, transfer, caveat, license, application or other instrument whatsoever had or had not been received, recorded, prepared or granted;

(iv) a motor vehicle was or was not registered in the name of a specified person under the Motor Traffic Act, 1909-1937, or the Transport Act, 1930, as amended by subsequent Acts;

(v)

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- (v) an authority, approval or exemption granted under this Act was or was not in force or was or was not subject to certain conditions;
- (vi) specified particulars did not appear on any such record, statement or instrument referred to in this subsection as is specified in the certificate;
- (vii) any prescribed fee or fine was paid or was due or had not been paid either in whole or in part;
- (viii) a person had not supplied a return or information required by or under this Act to be supplied,

shall, where such extract, copy or certificate purports to be certified under the hand of a prescribed officer, be prima facie evidence of all particulars contained therein without requiring the production of any such record, statement or instrument or of any document upon which the same may be founded, and proof of the signature of the officer so certifying shall not be necessary unless the court so orders.

(2) Where in any proceedings for a contravention of any provision of this Act it is proved that on a certain date a person was the holder of a license, it shall be presumed, in the absence of proof to the contrary, that on such date such person was a dealer.

(3) All courts, judges and persons acting judicially shall take judicial notice of the signature of the Commissioner or of any officer affixed to any instrument or notice in pursuance of this Act.

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PART VI.

MISCELLANEOUS.

51. The Transport Act, 1930, as amended by subsequent Acts, is amended—

Amendment of Act No. 18, 1930, s. 202. (Road Transport and Traffic Fund.)

(a) by inserting at the end of subsection one of section two hundred and two the following new paragraph:—

(d) all fees charged under the Motor Vehicles (Ownership) Act, 1938.

(b) by inserting at the end of subsection two of the same section the following new paragraph:—

(f) all administrative and other expenses in respect of the Motor Vehicles (Ownership) Act, 1938.

52. (1) The Commissioner may delegate to any officer nominated by him any of his powers, authorities, duties or functions under this Act, other than this power of delegation, and such officer may exercise and discharge the powers, authorities, duties or functions 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, authority, duty or function by the Commissioner.

53. (1) The person claiming to be the owner of any motor vehicle upon the engine of which an identification number is not clearly and legibly stamped shall, when lodging a declaration of ownership in respect of that motor vehicle and may, at any other time, apply to the Commissioner for the allotment of a special identification number for such vehicle.

Authority to stamp or affix numbers upon or to obliterate numbers from engines of motor vehicles.

(2)

Motor Vehicles (Ownership).

(2) The Commissioner may, upon any such application, allot a special identification number and shall notify the applicant accordingly.

(3) The Commissioner may, upon application made in that behalf, in writing authorise any person to deface, remove or obliterate any identification number or other number or mark from the engine of any motor vehicle or to stamp on or otherwise affix to the engine of any motor vehicle any number or mark approved by the Commissioner.

(4) Any notification under subsection two of this section or any authority under subsection three of this section may specify the part of the engine to or upon which any identification number or other number or mark shall be affixed or stamped, and shall specify any conditions imposed by the Commissioner in relation to the number or mark so allotted or approved.

(5) Any authority under subsection three of this section shall specify any conditions imposed by the Commissioner in respect of the defacing, removal or obliteration of any number or mark.

Any such authority may be given and any such conditions imposed either generally or in relation to any specified number or mark or in relation to any specified class or description of numbers or marks.

54. Any person on paying the prescribed fee may— Searched.

- (a) inspect any statement of ownership recorded under this Act,
- (b) inspect any transfer, caveat, withdrawal of caveat, transmission application or application for the recording of a stay order lodged or recorded under this Act,
- (c) obtain from the Commissioner such other information concerning any fact or matter disclosed by any record kept under this Act as the Commissioner may think fit to supply.

55. The Commissioner, upon the payment of the prescribed fee, shall furnish to any person applying for the same a certified copy of any statement or instrument recorded or license granted under this Act. Certified copy of statement, instrument or license.

Such copy shall be certified under the hand of a prescribed officer. **56.**

56. The Commissioner may refund or grant exemption from the payment of the whole or any part of any prescribed fee where, in his opinion, the circumstances so warrant.

Commissioner may refund or grant exemption from fees.

57. Where this Act gives power to the Commissioner, the Commissioner of Police or any officer to grant any authority, approval or exemption or to impose or determine any conditions it shall be implied that the Commissioner or the Commissioner of Police or such officer as the case may be may from time to time revoke any such authority, approval or exemption or add to, vary or revoke any such conditions.

Authority, approval or exemption may be revoked or varied, etc.

58. (1) Where it appears to the satisfaction of the Commissioner that any license or other document whatsoever granted or issued by the Commissioner under this Act—

Commissioner may require delivery of license or document in certain events.

- (a) was fraudulently or wrongfully obtained or is fraudulently or wrongfully retained; or
- (b) has been issued in error or contains any error in any of the particulars therein mentioned; or
- (c) should, for any reason whatsoever, be altered,

he may, by notice under his hand, require the person to whom such license or document has been issued or by whom it has been obtained or is retained as aforesaid, to deliver the same at a place and within a time specified by the Commissioner for the purpose of being cancelled, corrected, altered or otherwise dealt with as the case may require.

(2) Any person to whom any such notice has been given who without reasonable cause neglects or fails to comply with the same shall be guilty of an offence against this Act.

59. Any instrument or application required or authorised by or under this Act to be lodged with the Commissioner may be lodged by hand at the office of the Commissioner or at such other office as may, by regulation, be appointed in that behalf or may be lodged by being sent through the post to the office of the Commissioner.

Instruments—where lodged.

60. (1) Any statutory declaration required by this Act or by the Commissioner to be made for the proof or verification of any fact may be taken or made—

Statutory
declara-
tions.
cf. Act No.
6, 1919,
s. 169.

(a) in any place in the State of New South Wales before any justice of the peace, commissioner for affidavits or notary public, or other person having authority to administer an oath in the said State;

(b) in any place out of the said State in which there is a local statutory provision enabling statutory declarations to be made for use in such place, then under and in pursuance of such provision;

(c) in any place out of the said State in which there is no such statutory provision, then under and in pursuance of the Imperial Act, The Statutory Declarations Act, 1835, or any other Imperial Act in that behalf.

(2) The provisions of sections twenty-one and 26A of the Oaths Act, 1900-1936, shall apply to declarations made under this section.

(3) Any person before whom any declaration under this section is made shall state in the attestation thereof at what place and on what date the declaration was made.

61. (1) The Motor Traffic Act, 1909-1937, is amended—

Amendment
of Act No.
5, 1909.
New s. 11c.

(a) by inserting next after section 11B the following section:—

11c. In any case where he thinks fit, the Commissioner may refuse to register a motor vehicle unless a statement of ownership in respect of such vehicle is recorded under the Motor Vehicles (Ownership) Act, 1938.

Commissioner
may refuse re-
gistration, etc.,
where state-
ment of owner-
ship not
recorded.

(b) by omitting section eighteen and by inserting in lieu thereof the following section:—

Substituted
s. 18.

18. (1) In any proceedings in any court proof that either a prescribed number-plate is not affixed

Facilitation
of proof.

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affixed to a motor vehicle or that a current registration label is not displayed upon a motor vehicle as prescribed shall be prima facie evidence that such vehicle is not registered.

(2) In any proceedings in any court proof that a person registered or applied for and was granted a transfer of the registration of a motor vehicle or, where a motor vehicle is not registered, proof that a person is the recorded owner of the vehicle under the Motor Vehicles (Ownership) Act, 1938, shall be prima facie evidence that such person is the owner of the vehicle.

(2) The Transport Act, 1930, as amended by subsequent Acts, is further amended by inserting next after section fifteen the following section:—

Further amendment of Act No. 18, 1930.
New s. 15A.

15A. In any case where he thinks fit, the Commissioner may refuse to register a public motor vehicle unless a statement of ownership in respect of such vehicle is recorded under the Motor Vehicles (Ownership) Act, 1938.

Commissioner may refuse registration, etc., under certain circumstances.

62. 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—

Commissioner not to be liable for acts done bona fide.

(a) any act or matter bona fide done or omitted to be done under this Act;

cf. Act No. 25, 1900, s. 134.

(b) any error or omission caused by or resulting from an incorrect, inaccurate or incomplete description of a motor vehicle contained in any instrument lodged with or recorded by the Commissioner pursuant to this Act.

63. (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, authority, duty or function by this Act conferred or imposed upon the Commissioner.

Regulations;

(2)

(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 sitting 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.

(5) A regulation may fix fees or other charges to be paid in respect of any matter required or authorised by this Act or the regulations and may provide for the payment of such fees or charges, subject to such exemptions as may be specified, or the adjustment or refund in whole or in part of such fees or charges, and may regulate any matter relating to such fees or charges.

(6) 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.

(7)

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(7) 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.

(8) A regulation may authorise any matter or thing to be from time to time determined, applied or regulated by the Commissioner or by the Commissioner of Police either generally or for any class of cases or in any particular case.

(9) Any regulation may confer on the Commissioner, or on any prescribed person, any power or authority required for the carrying into effect of all or any of the provisions of that or any other regulation.

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

64. In pursuance of the power conferred by section sixty-three of this Act and without limiting the generality of that power, the Governor may make regulations with respect to—

Certain matters as to which regulations may be made.

- (a) declarations of ownership or other declarations, requests, notices, applications or any other instruments whatsoever required or authorised to be used for any of the purposes of this Act, including the form thereof, the manner in which and the persons by whom the execution thereof may be attested, the recording thereof, and the conditions to be observed when submitting or lodging or prior to the recording of the same;
- (b) certificates of recorded ownership in the names of recorded owners of motor vehicles, including the form of such certificates, the issue, custody, transfer, or return thereof, and the conditions governing the granting of duplicates;
- (c) the destruction or other disposal of records which are more than five years old or which have ceased to be of practical utility;
- (d) the granting of duplicate licenses and matters connected with such licenses;

(e)

- (e) the granting of exemption in specified cases or classes of cases from compliance with all or any of the requirements prescribed by or under Part III of this Act, subject to such conditions as may be prescribed by or under the regulations;
- (f) the allotment by the Commissioner of special identification numbers for the engines and other prescribed parts or accessories of motor vehicles, whether or not declarations of ownership have been lodged or statements of ownership have been recorded for such vehicles;
- (g) requirements, conditions, restrictions and prohibitions with regard to the stamping or otherwise affixing and the defacing, removal, obliteration or alteration of identification numbers on the engines or other prescribed parts or accessories of motor vehicles, and notifications to be given to the Commissioner or other prescribed person in relation to any such identification numbers;
- (h) the furnishing by prescribed persons to the Commissioner or a prescribed person of particulars of—
 - (i) motor vehicles or specified parts or accessories thereof which are destroyed, scrapped or rendered incapable of further use as motor vehicles or accessories thereof;
 - (ii) motor vehicles which are repossessed or seized under hire purchase agreements, bills of sale or the like;
- (i) the giving or service of notices and in particular the persons by whom any notice may be given or served and the manner in which any notice, other than a notice to which subsection three of section twenty-eight of this Act applies, may be given or served.

65. The regulations may provide that—

- (a) no person shall, as agent or otherwise, sell, exchange or otherwise dispose of or attempt to sell, exchange or otherwise dispose of any motor vehicle unless a statement of ownership in respect of the vehicle is recorded under this Act;
- (b) any person who, as agent or otherwise, sells, exchanges or otherwise disposes of or attempts to sell, exchange or otherwise dispose of any motor vehicle shall produce to any person with whom he enters into any agreement or arrangement for the sale, exchange or disposal of the vehicle, the certificate of recorded ownership or other prescribed document evidencing recorded ownership of the vehicle, and comply with any other conditions which may be prescribed.

Regulations may prohibit sales, etc., of motor vehicles where statement of ownership not recorded.

66. The regulations may declare that for the purposes of this Act—

- (a) the expression "business of a dealer" shall include—
 - (i) any specified class of business carried on in connection with or in relation to used or reconstructed motor vehicles other than those classes of business specifically designated in the definition of "dealer"; or
 - (ii) any specified class of business carried on in connection with or in relation to such parts or accessories of motor vehicles as may be defined in the regulations;
- (b) the expression "motor vehicle" shall include—
 - (i) a chassis of a motor vehicle (as defined in this Act) in which an engine or other means of propulsion is installed; or
 - (ii) a trailer.

Regulations—"dealer" and "motor vehicle."

