

[CONFIDENTIAL.]

(Rough Draft for Consideration Only.)

No. , 1935.

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# A BILL

To make provision for the collection of Motor Vehicles Tax; to validate certain matters; to repeal the Motor Tax Management Act, 1914, and certain other enactments; and for purposes connected therewith.

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**B**E 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:—

**1.** This Act may be cited as the "Motor Vehicles Short title.  
Taxation Management Act, 1935."

**2.** (1) The enactments referred to in the Schedule to Repeal of  
certain  
enactments.  
this Act are to the extent therein indicated hereby repealed.

(2) Any act, matter or thing done or performed before the commencement of this Act, by any authority in which was vested the administration of any enactment repealed by this Act, which would have been valid if this Act had been in force at the time such act, matter or thing was done or performed, is hereby validated. Validation.

(3) Any regulation made before the commencement of this Act under the Motor Tax Management Act, 1914, as amended by subsequent Acts, and in force immediately before such commencement, shall to the extent to which it is not inconsistent with this Act or the regulations made thereunder continue in force, but may be varied, amended or repealed by regulations made under this Act. Regulations continued.

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

“Articulated vehicle” means any motor vehicle having at the rear thereof a trailing portion which is so joined to the forward portion of the vehicle by partial superimposition that a substantial part of the weight of the trailing portion and its loading rests upon and is carried by the forward portion of the vehicle.

“Authorised officer” means any officer authorised by the Commissioner either generally or in any particular case.

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

“Motor car” means a motor vehicle constructed to be used principally for the carriage of persons, but does not include a motor omnibus or a motor cycle.

“Motor cycle” means any motor vehicle with two wheels (not being a trailer), or any motor vehicle with three wheels, one of which is designed to enable a side-car to be carried.

“Motor lorry” means a motor vehicle (not being a motor cycle or a tractor or a trailer), constructed to be used principally for the carriage  
of

of goods, wares, or merchandise, or for the conveyance of any kind of materials used in any trade, business, or industry, or for use in any work whatsoever other than the conveyance of persons.

“Motor omnibus” means a motor vehicle plying in a public street for hire for the conveyance of passengers at separate fares not being a taxicab.

“Motor vehicle” means any motor car, motor carriage, motor cycle, 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 a tractor or a trailer, but does not mean or include any vehicle used on a railway or tramway.

“Primary producer” means a person who cultivates or uses his own land or that of another for his own benefit:—

- (a) for the production of fruit, grain, flowers, vegetables, tobacco or farm or agricultural produce of any description; or
- (b) for dairy farming, poultry or other bird farming, pig farming, bee keeping or oyster culture; or
- (c) as a nurseryman; or
- (d) as a pastoralist for the rearing or grazing of horses, cattle or sheep.

“Public street” means any street, road, lane, thoroughfare, footpath or place open to or used by the public and includes any place at the time open to or used by the public on the payment of money or otherwise.

“Quarterly registration” means registration for a period of three months.

“Registered” in relation to a public motor vehicle to which the Transport Act, 1930, as amended by subsequent Acts, applies, means registered under that Act as so amended or the regulations thereunder

thereunder, and in relation to any other motor vehicle means registered under the Motor Traffic Act, 1909-1935, or the regulations thereunder, and "registration" has a corresponding meaning.

"Registration certificate" means any certificate of registration or renewal thereof under the Motor Traffic Act, 1909-1935, and in the case of a public motor vehicle to which the Transport Act, 1930, as amended by subsequent Acts, applies, any registration certificate or renewal thereof under that Act.

"Regulations" means regulations made under this Act.

"Semi-trailer" means a vehicle used or intended to be used as the trailing portion of an articulated vehicle.

"Side-car" means any car, box or other receptacle attached to the side of a motor cycle and for the carriage of which a third wheel is provided.

"Tax" means Motor Vehicles Tax.

"Tractor" means any motor vehicle constructed principally for the purpose of supplying motive power for machinery or of hauling any vehicle.

"Trailer" includes a semi-trailer.

"Yearly registration" means registration for a period of one year.

4. (1) Subject to the provisions of this Act Motor Vehicles Tax at such rates as may be fixed by or under any Act— Payment of taxes.

- (a) shall be paid to the Commissioner;
- (b) shall be paid at the time of registration of the motor vehicle and at each renewal thereof, respectively.

(2) Such tax shall be paid by the person in whose name the motor vehicle is registered, and it may be paid either at the Office of the Commissioner or at a district registry appointed under the Motor Traffic Act, 1909-1935.

(3)

(3) If any person fails to pay the amount of tax as aforesaid, he shall be liable to a penalty not exceeding five pounds, and in addition to such penalty he shall be liable to pay the amount of such tax and any fee due and payable in respect of the registration or renewal of registration of the motor vehicle.

**5.** (1) There shall be exempt from Motor Vehicles Tax— Exemptions.

- (a) any motor vehicle used principally as an ambulance vehicle for the conveyance of sick and wounded persons and not used for any purpose other than ambulance work or purposes connected therewith;
- (b) any motor vehicle upon which a trader's plate is being used in accordance with the Motor Traffic Act, 1909-1935, and the regulations made thereunder;
- (c) any motor vehicle owned by the council of a municipality or shire or by the Municipal Council of Sydney or by a county council and used solely—
  - (i) for the purposes of road construction, maintenance (including cleansing, sweeping, watering, or any similar process), or repair; and/or
  - (ii) on a public park or on land dedicated or reserved from sale by the Crown for public health, recreation, enjoyment or other public purposes of a like nature, or on land owned by or leased to or vested in the council or the Crown, for rolling tennis courts, cricket wickets, lawns or pathways or improving the surface of the ground or for similar work, and not let out on hire; and/or
  - (iii) for the removal of garbage or nightsoil, and not let out on hire, and which is not used upon any public street otherwise than whilst being used for such work or for the purpose of proceeding thereto or returning therefrom;
- (d)

(d) any trailer—

(i) which is owned by one or more primary producers and used solely or principally for carting their own primary products or materials, provisions or commodities of any kind for use in their business or occupation as primary producers or in their households and not let out on hire; or

(ii) which is hauled by a tractor and owned by one or more persons engaged in the cutting of timber and used solely for the purpose of carting their timber from the forest to a mill and not let out on hire;

(e) any motor vehicle owned by a public fire brigade and used solely for fire fighting purposes;

(f) any motor vehicle which is exempted from registration;

(g) any motor vehicle which is used in accordance with a permit issued under the Motor Traffic Act, 1909-1935, or the regulations made thereunder.

(2) The regulations may exempt from Motor Vehicles Tax all or any of the motor vehicles owned and used by consuls de carriere or by such classes of consuls de carriere resident in this State as may be specified in the regulations.

(3) The Commissioner, in his discretion, may grant exemption or partial exemption from taxation under this Act in respect of any motor vehicle hereinafter mentioned where the motor vehicle travels upon a public street to such a limited extent that, in the opinion of the Commissioner, such exemption or partial exemption is justified—

(a) any motor vehicle which is used solely in connection with the performance of work on the farms or holdings of primary producers and not on any public street otherwise than for the purpose of—

(i) passing to any such farm or holding when being brought into commission; or

(ii)

*Motor Vehicles Taxation Management.*

- (ii) passing to any such farm or holding from another; or
- (iii) being removed from any such farm or holding for repairs, storing, garaging or other similar purpose;
- (b) any motor vehicle which is not driven upon a public street otherwise than when being driven across such street;
- (c) any motor vehicle used solely for the purposes of road construction, maintenance or repair and not constructed or used primarily for the conveyance of persons, goods or materials;
- (d) any trailer weighing not more than five hundredweights when unladen, which is used solely for the carriage of camping equipment and other materials and goods used in connection with tours made for recreation purposes and which is not used or let for hire or any consideration or in the course of trade or business;
- (e) any motor vehicle comprising a concrete mixer or other machinery or apparatus whatsoever and not used nor constructed so as to be capable of being used for the conveyance of any loading other than such concrete mixer, machinery, or apparatus and any material contained therein.

(4) In respect of interchangeable trailers or any of them the Commissioner, in his discretion, may grant any such reduction of tax as he thinks fit. Any such reduction shall not exceed seventy-five per centum of the amount which, but for this subsection, would be payable as tax.

**6.** (1) To enable a determination to be made as to whether tax is payable in respect of any motor vehicle, and, if so, the amount of such tax, the Commissioner or any authorised officer may—

Determina-  
tion of tax.

- (a) request the owner or person in charge of the motor vehicle to produce it within a time and at a place specified in the request and afford all facilities for examination of the vehicle by an authorised officer;

(b)

(b) request the owner of a motor vehicle to furnish evidence in writing by statutory declaration or otherwise, as to the matters specified in the request.

(2) Any owner or person in charge of a motor vehicle who fails to comply with any request made pursuant to paragraph (a) of subsection one of this section, and any owner who fails to comply with any request made pursuant to paragraph (b) of subsection one of this section, or who, in the course of complying with any such request wilfully makes any false or misleading statement or wilfully furnishes any false or misleading evidence or information in respect of any matter specified in such request shall be liable to a penalty not exceeding ten pounds.

(3) An authorised officer shall determine the amount of any tax payable in respect of the motor vehicle. The determination of such officer shall be subject to appeal to the Commissioner.

(4) Subject to this Act, the determination of such officer or, in the case of appeal to the Commissioner, the determination of the Commissioner shall be final.

7. (1) Notwithstanding anything contained in this or any other Act, in order to ensure that the correct amount of tax imposed on any motor vehicle shall be paid, the Commissioner may at any time cause to be made any adjustment of tax which he thinks necessary and may for this purpose—

Adjustment  
of tax.

- (a) alter or rescind any determination made as to liability for or as to the amount of the tax;
- (b) make a refund of the whole or any portion of any tax paid;
- (c) require any person in whose name a motor vehicle is or was registered to pay tax additional to the tax, if any, already paid on such vehicle.

(2) No person shall be required to pay additional tax in accordance with subsection one of this section after the expiration of three years from the date when the tax was originally due and payable unless the Commissioner is of opinion that there has been an avoidance of tax and that the avoidance was due to fraud or evasion.



8. (1) Where during the currency of the registration of a motor vehicle an alteration is made in the construction, equipment, use or ownership of the vehicle of such a nature that tax or an increased amount of tax would be payable on the renewal of its registration the owner shall forthwith notify the Commissioner of the alteration in the prescribed manner, and shall forthwith or within such period as the Commissioner may allow pay tax or pay additional tax. Such tax or additional tax shall be calculated pro rata, in the manner prescribed by regulation, for each month or part thereof in the portion of the period for which the vehicle is registered unexpired at the date of the alteration.

Notice of alteration and additional tax. Act No. 34, 1914, s. 13.

(2) Any owner who fails to notify the Commissioner of any such alteration as is referred to in subsection one of this section shall be liable to a penalty not exceeding fifty pounds in addition to the tax or additional tax payable and to a further penalty of twenty pounds for each month during which the vehicle is used or driven without notification of the alteration and payment of tax or additional tax as the case may be.

9. Where before the expiration of the registration of a motor vehicle the registration certificate for such vehicle is surrendered the Commissioner may, subject to such conditions as may be prescribed by regulation, grant to the person in whose name such registration certificate was issued, or in the case of a transferred registration certificate, to the person in whose name such certificate was transferred, a refund of tax calculated pro rata, in the manner prescribed by regulation, for each complete month in the portion of the period for which the vehicle was registered unexpired at the date on which the prescribed conditions are complied with, less any cancellation fee which may be prescribed by regulation.

Refund of tax on surrender of registration.

10. No refund of tax shall be made where application for such refund is made after the lapse of more than three years from the date of payment of the tax.

Time limit for refunds.

11. (1) This section shall apply to—

(a) any motor vehicle which (not being a motor vehicle exempted from registration) is unregistered; and

Unregistered vehicles and vehicles upon which tax has not been paid.

(b)

(b) any motor vehicle which is liable to tax but upon which the prescribed tax has not been paid.

(2) The owner of any motor vehicle to which this section applies who uses or drives the vehicle, or causes or permits or suffers it to be used or driven upon a public street shall be liable to a penalty not exceeding fifty pounds.

(3) Any motor vehicle to which this section applies which is used or driven upon a public street may be seized by any authorised officer or by any member of the police force.

(4) Where any motor vehicle to which this section applies is used or driven upon a public street the court may order the owner of such motor vehicle to pay tax and registration fee at the rate applicable in respect of a yearly registration of such motor vehicle for each year in any part of which the motor vehicle has been so used or driven, less the amount (if any) received by the Commissioner in respect of such tax and fee:

Provided that, in any case where the court is satisfied that the period during which the motor vehicle was so used or driven did not exceed three months, it may order the owner of such vehicle to pay tax in the sum and registration fee at the rate applicable in respect of a quarterly registration of that vehicle, less the amount (if any) received by the Commissioner in respect of such tax or fee.

(5) Where any motor vehicle to which this section applies is used or driven upon a public street, any authorised officer or any member of the police force may make an application in or to the effect of the prescribed form to a court of petty sessions holden before a stipendiary or police magistrate for an order declaring the vehicle forfeited to His Majesty.

Where any such application is made the following provisions shall have effect:—

- (a) notice of the application shall be given to the person (if any) who appears by the records of the Commissioner to be the owner of the vehicle, and to such other persons (if any) as the court may direct;
- (b)

- (b) no order of forfeiture shall be made if the owner of the vehicle satisfies the court that there has been no intentional evasion of registration or of payment of tax or registration fee, as the case may be;
- (c) the court may by order declare that, unless an amount specified (being the amount which would have been payable as tax and registration fee if the vehicle had been registered, or the amount due as additional tax as the case may be) is paid to the Commissioner within a time specified, the vehicle shall be forfeited to His Majesty.

(6) Any order under subsection four and/or subsection five of this section may be made in addition to any order for payment of a penalty pursuant to subsection two of this section.

(7) An appeal may be made, in the manner provided in the Justices Act, 1902, against any order (including any order made under subsection four or subsection five) made under this section.

(8) Where a motor vehicle is forfeited, as provided in this section, the vehicle may be sold or otherwise disposed of in the manner prescribed by the regulations, and the proceeds of any sale shall be applied as prescribed by the regulations.

**12.** The amount of tax on a motor vehicle shall be a debt due to His Majesty and may be recovered before a stipendiary or police magistrate or any two justices in petty sessions at any time or in any court of competent jurisdiction at the suit of the Commissioner or any authorised officer from the person liable to pay the same.

Recovery of tax.  
Act No. 34,  
1914, s. 8A.

**13.** Any penalties imposed by this Act or the regulations, may, except where otherwise expressly provided, be recovered in a summary way before a stipendiary or police magistrate, or any two justices in petty sessions.

Recovery of penalties.  
*Ibid.* s. 9.

**14.** The court shall cause particulars of each conviction or order under this Act or the regulations to be forwarded to the Commissioner.

Particulars of conviction or order.

**15.**

**15.** In any action or proceedings under this Act the production by the Commissioner or on his behalf of a certificate purporting to be signed by him or by any prescribed officer certifying— Evidence.

- (a) that tax upon any motor vehicle was due or paid on a certain date or was not paid before a certain date;
- (b) that an adjustment of tax or a requirement to pay additional tax upon any motor vehicle was made in accordance with section seven of this Act;
- (c) that the amount specified in the certificate is due as tax upon any motor vehicle,

shall be prima facie evidence of the particulars contained in such certificate.

**16.** (1) The Minister may, from time to time, on the recommendation of the Commissioner—

Power to waive exchange on cheques.

- (a) authorise the Commissioner to accept (subject to collection) in satisfaction or part satisfaction of the amount payable to the Commissioner in respect of any tax, fee or charge under this or any other Act, any cheque tendered to the Commissioner in payment or part payment, as the case may be, of such tax, fee or charge, to the extent of the sum stated in the cheque, notwithstanding that such sum does not include any exchange payable to a bank in respect of the amount in payment of which the cheque is tendered;
- (b) vary or revoke any such authority.

(2) Any such authority may be given, varied or revoked generally, or in relation to payments of a specified class or to all payments other than payments of a specified class.

**17.** (1) In respect of any exemption or partial exemption from or reduction of tax or any approval granted by the Commissioner under this Act or the regulations, the Commissioner may impose such conditions as he thinks fit and may revoke or vary any such condition or may add any condition at any time during the period in respect of which such exemption, partial exemption, reduction or approval operates.

Commissioner may impose, revoke or vary conditions, &c.

(2)

(2) Any person who fails to comply with or observe any condition imposed, varied or added as aforesaid shall be liable to a penalty not exceeding *ten* pounds.

**18.** Where this Act or any regulation thereunder gives power to the Commissioner or any officer to grant any exemption or partial exemption from or reduction of tax or any approval or to give any direction or to make any request or to do any act, matter or thing, it shall be implied that such Commissioner or officer may revoke or vary the same from time to time as occasion requires. Exemptions, &c., may be revoked or varied.

**19.** (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 for carrying out or giving effect to this Act, and, in particular and without prejudice to the generality of the foregoing power, may thereby— Regulations.

- (a) regulate matters relating to exemptions or partial exemptions from or reductions of tax;
- (b) provide that specified motor omnibuses or specified classes of motor omnibuses shall be subject to tax at the rates applicable to motor cars;
- (c) provide for the furnishing, at the time of application for registration or renewal of registration of a motor vehicle or at any time during the currency of the registration, of weighbridge tickets showing the weight of the vehicle; or for the determination of such weight at a weight approximating the average weight of motor vehicles of the same make and description;
- (d) impose a penalty not exceeding *ten* pounds for any breach of or failure to comply with any regulation or any condition, requirement, or request imposed or made by or under this Act or any regulation.

(2) A regulation may authorise any matter or thing to be from time to time determined, applied or regulated by the Commissioner either generally or in any class of cases or in any particular case, and may confer on

on the Commissioner or on any other prescribed person any power or authority necessary or convenient for carrying into effect all or any of the provisions of that or any other regulation or of this Act.

(3) A regulation may be made to apply to the whole or any part of the State, 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.

(4) The regulations shall—

- (a) be published in the Gazette;
- (b) take effect from the date of publication, or from a later date specified in the regulations;
- (c) be laid before both Houses of Parliament within fourteen sitting days if Parliament is then 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 fifteen sitting days after the regulations have been laid before such House disallowing any regulation or part thereof, the regulation or part shall thereupon cease to have effect.

20. (1) The Main Roads Act, 1924-1931, is amended— Amendment of Act No. 24, 1924.

(a) by inserting in paragraph (a) of subsection one of section ten after the words "subsequent Acts" the words "or under the Motor Vehicles (Taxation) Act, 1935"; Sec. 10. (County of Cumberland Main Roads Fund.)

(b) by inserting in paragraph (a) of subsection one of section twenty after the words "subsequent Acts" the words "or under the Motor Vehicles (Taxation) Act, 1935." Sec. 20. (County Main Roads Fund.)

(2) The Transport Act, 1930, as amended by subsequent Acts, is amended— Amendment of Act No. 18, 1930.

(a) by omitting from subsection one of section one hundred and seventy-one the words "at the time of the registration of such vehicle and at each renewal thereof." Sec. 171. (Taxes on public vehicles.)

(b)

- (b) by inserting next after paragraph (c) of sub-section one of section two hundred and two the following new paragraph:—  
 (d) all fees charged under the Motor Vehicles Taxation Management Act, 1935. Sec. 202.  
(Road Transport and Traffic Fund.)
- (c) by inserting at the end of paragraph (a) of sub-section one of section two hundred and four the words "or the Motor Vehicles (Taxation) Act, 1935." Sec. 204.  
(Public Vehicles Fund.)
- (d) by inserting in section two hundred and fifteen after the words and figures "Motor Vehicles (Taxation) Act, 1924" the words and figures "or the Motor Vehicles (Taxation) Act, 1935." Sec. 215.  
(Extension of Act to certain vehicles.)

SCHEDULE.

Sec. 2.

Number of Act.	Short Title.	Extent of Repeal.
1914, No. 34 ...	Motor Tax Management Act, 1914	The whole.
1916, No. 65 ...	Motor Tax Management (Amendment) Act, 1916.	The whole.
1924, No. 76 ...	Motor Vehicles (Taxation) Management Act, 1924.	The whole.
1926, No. 10 ...	Motor Vehicles Taxation (Management) Act, 1926.	The whole.
1930, No. 18 ...	Transport Act, 1930 ... ..	Secs. 182, 276, 277.