

## ROAD MAINTENANCE (CONTRIBUTION).

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No. 22 of 1978.

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**AN ACT to amend the Road Maintenance (Contribution) Act, 1965-1976.**

*[Assented to 18th May, 1978.]*

**BE** it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

1. (1) This Act may be cited as the *Road Maintenance (Contribution) Act Amendment Act, 1978.* Short title and citation.

(2) In this Act the Road Maintenance (Contribution) Act, 1965-1976 is referred to as the principal Act.

(3) The principal Act as amended by this Act may be cited as the Road Maintenance (Contribution) Act, 1965-1978.

Commence-  
ment.

2. This Act shall come into operation on a date to be fixed by proclamation.

Heading  
added.

3. The principal Act is amended by adding immediately above section 1 the heading "PART I.—GENERAL".

Section 15  
amended.

4. Subsection (5) of section 15 of the principal Act is amended by deleting the words "Registrar of Companies appointed under", in lines two and three, and inserting in lieu thereof the words "Commissioner for Corporate Affairs appointed pursuant to".

Part II  
added.

5. The principal Act is amended by adding immediately after section 20 a Part as follows—

PART II.—RECIPROCAL ENFORCEMENT AGAINST  
DIRECTORS OF BODIES CORPORATE.

Interpreta-  
tion and  
application.

21. In this Part—

"director", in relation to a body corporate, includes each person occupying the position of director of the body corporate by whatever name called and includes a person in accordance with whose directions or instructions the directors of the body corporate are accustomed to act;

“fine” includes a pecuniary penalty, pecuniary forfeiture, pecuniary compensation and fees, charges and costs payable under a conviction or order of a court in the exercise of summary jurisdiction;

“reciprocating court” means a court of a reciprocating State or Territory declared by proclamation under section twenty-two of this Act to be a reciprocating court;

“reciprocating State or Territory” means another State, or a Territory, of the Commonwealth declared by proclamation under section twenty-two of this Act to be a reciprocating State or Territory.

22. (1) The Governor may by proclamation—

Appoint-  
ment of  
reciprocating  
States and  
Territories  
reciprocating  
courts.

(a) declare another State, or a Territory, of the Commonwealth, being a State or Territory having laws with provisions corresponding to this Part, to be a reciprocating State or Territory for the purposes of this Part; and

(b) declare a court having summary jurisdiction in a reciprocating State or Territory to be a reciprocating court for the purposes of this Part.

(2) For the purposes of subsection (1) of this section a court may be declared singly or in conjunction with another or others by such description or class or by means of such references as the Governor thinks fit.

(3) The Governor may by a subsequent proclamation vary or cancel any proclamation made under this section.

Enforcement  
of interstate  
fine against  
directors  
of bodies  
corporate.

23. (1) Where under a conviction or order of a reciprocating court made in exercise of its summary jurisdiction in respect of a law specified in the Third Schedule to this Act a fine is payable by a body corporate and it appears that one or more directors of that body corporate is or are normally, permanently, or temporarily resident in this State, or is or are in this State, and the clerk of the Court of Petty Sessions at Perth receives a request in writing from the clerk or other corresponding officer of that reciprocating court for the enforcement of the conviction or order accompanied by—

- (a) a certified copy of the conviction or order;
- (b) a certificate under the hand of the clerk or corresponding officer making the request certifying the amount of the fine outstanding under the conviction or order; and
- (c) a certificate purporting to be signed by the Commissioner for Corporate Affairs appointed pursuant to the Companies Act, 1961 or by the officer holding the corresponding office under any corresponding Act or ordinance for the time being in force in any State or Territory of the Commonwealth stating that it appears from a return or returns lodged with him pursuant to the relevant law relating to companies that a person was a director of a specified body corporate on any date or during any period on or during which the offence to which the conviction or order relates was committed—

he shall—

- (d) register the conviction or order by filing in the court of petty sessions the certified copy of the conviction or order; and

- (e) note the date of the registration on the copy.

(2) Upon the registration of a conviction or order under subsection (1) of this section—

- (a) the conviction or order shall for the purposes of this Part be deemed to be a conviction or order of a court of petty sessions requiring payment by such director or directors as mentioned in subsection (1) of this section of the amount of the fine stated in the certificate referred to in subsection (1) of this section as outstanding;
- (b) the clerk of the court of petty sessions shall for the purposes of this Part issue a warrant of execution for the purpose of recovering the amount of the fine required to be paid by levying against the goods and chattels of such director or any one or more of such directors; and
- (c) the warrant so issued shall be deemed to be a warrant of execution issued by a Justice under the Justices Act, 1902 and the provisions of that Act shall, with all necessary adaptations, apply and extend accordingly with respect to the enforcement of that warrant.

(3) Where the clerk of petty sessions receives, subsequent to the request for the enforcement of the conviction or order and before the warrant is executed, a notification from the clerk or other corresponding officer of the reciprocating court of payment by or on behalf of the body corporate, or by or on behalf of a director of the body corporate of an amount in satisfaction in whole or in part of the amount of the fine outstanding, he shall—

- (a) note the particulars of such payment on the certified copy of the conviction or order filed in the court; and

(b) arrange for the return of the warrant issued pursuant to subsection (2) of this section, and

(i) withdraw it, if the amount of the fine has been paid in full; or

(ii) if part of the amount of the fine remains outstanding, amend the amount stated in the warrant to show the amount still outstanding, and thereafter the warrant may be enforced in respect of such altered amount.

(4) Where pursuant to this section more than one person is obliged to pay a fine the obligations to do so are discharged if the fine is paid by or on behalf of any one of those persons.

(5) A sum of money paid to or received by a clerk of petty sessions in satisfaction in whole or in part of a fine payable under a conviction or order enforced under subsection (2) of this section shall be remitted forthwith to the clerk or corresponding officer of the reciprocating court by which the conviction or order was made.

Effect of  
enforcement  
by recipro-  
cating court.

24. A sum of money paid to or received by a clerk of petty sessions in this State from a reciprocating court in satisfaction in whole or in part of a fine payable under a conviction or order of a court having summary jurisdiction enforced by the reciprocating court shall be paid to or received by and applied by the clerk of petty sessions as if the sum had been paid to him by the body corporate by which the fine was payable in satisfaction in whole or in part of the fine. .

6. The principal Act is further amended by adding a Schedule as follows—

Third  
Schedule  
added.

## THIRD SCHEDULE

S.23

1. The Road Maintenance (Contribution) Act, 1958, as amended from time to time or as re-enacted with or without amendments from time to time, of New South Wales.
  2. Part II of the Commercial Vehicles Act 1958, as amended from time to time or as re-enacted with or without amendments from time to time, of Victoria.
  3. The Roads (Contribution to Maintenance) Act of 1957, as amended from time to time or as re-enacted with or without amendments from time to time, of Queensland.
  4. The Road Maintenance (Contribution) Act, 1963, as amended from time to time or as re-enacted with or without amendments from time to time, of South Australia.
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