



New South Wales

Road Transport (Driver Licensing) Bill 1998

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The objects of this Bill are:

- (a) to enable the establishment of a system for licensing drivers that will be part of a nationally consistent scheme for driver licensing and to provide necessary powers for the making of regulations about issuing licences, renewal of licences, cancelling, varying and suspending licences, licence classes, qualifications for licences, testing and other related matters, and
 - (b) to provide for the establishment of a demerit points system for the suspension and cancellation of licences that is intended to be part of a nationally consistent demerit points system, and
 - (c) to provide for learner and provisional licences in a way that is consistent with the treatment of other licences, and
 - (d) to make other savings and transitional provisions, and
 - (e) to make consequential and other amendments to certain Acts.
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The provisions of the proposed Act reflect, with some variations and additions, the Primary Principles relating to driver licensing laws prepared by the National Road Transport Commission of the Commonwealth after consultation with the States and Territories, as part of the national road transport reform process.

Part 1 Preliminary

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on a day or days to be appointed by proclamation.

Clause 3 sets out the objects of the proposed Act. These include the establishment of a driver licensing scheme as part of a uniform national approach to driver licensing, the definition of responsibilities with respect to driver licensing, the provision of a means of identifying persons as licensed drivers, the provision of a means of enforcing road safety standards and other objects related to driver licensing and its purposes. Additional matters include the testing of drivers and provision for competency based assessment schemes.

Clause 4 provides that expressions used in the proposed Act have the meanings set out in the Dictionary at the end of the proposed Act.

Clause 5 applies the *Acts Interpretation Act 1901* of the Commonwealth to the proposed Act.

Clause 6 provides that the proposed Act binds the Crown but provides that the Crown will not be liable to be prosecuted for an offence.

Clause 7 provides that notes included in the proposed Act do not form part of the proposed Act.

Part 2 Driver licensing system

Division 1 Functions of Authority generally

Clause 8 sets out the principal functions of the Roads and Traffic Authority (the *Authority*) under the proposed Act. They are to administer the driver licensing system, to maintain a driver licence register, to maintain a demerit points register, to provide information and to exercise such other functions as are conferred by or under the proposed Act.

Clause 9 prohibits the Authority from issuing a driver licence unless it is satisfied that a person is a resident of this State, is eligible for a licence and has surrendered any licence issued elsewhere in Australia or overseas. A licence will not be able to be renewed if a person no longer resides within this State.

Clause 10 gives the Authority power to fix fees for services provided by the Authority in connection with the licensing of drivers and other matters.

Clause 11 provides for the recognition of driver licences issued by other States or Territories and for information about offences, incurring demerit points, that are committed by drivers licensed in other States or Territories to be given to the relevant driver licensing authority by the Authority. The Authority must also take the same action, if it receives information about offences committed in other jurisdictions by drivers licenced in this State, as it would have taken if the offences had been committed in this State.

Clause 12 prevents the Authority from releasing information contained in any driver licence register maintained by it or the demerit points register that is of a personal nature or has commercial sensitivity except as provided by the regulations or under another law.

Clause 13 confers on the Authority power to delegate its functions under the proposed Act.

Division 2 Demerit points system

Clause 14 sets out the Authority's obligations to maintain a demerit points register and to record the appropriate number of points against a person where an offence is committed and the relevant proceedings are completed. If a person is not licensed in Australia, any points are to be taken into account if the person subsequently applies for or obtains a driver licence in this State.

Clause 15 enables regulations to be made prescribing offences for which offenders will incur demerit points and also enables the Authority, by notice published in the Gazette, to recognise additional offences as offences that incur demerit points for offenders and specify the points incurred for each offence. The offences may be under the law of this State or another jurisdiction. The regulations are to set out the offences that are to be included in the uniform national schedule of demerit points.

Clause 16 sets out the consequences of incurring 12 or more demerit points within a 3 year period before an offence is committed for persons who hold licences other than provisional or learner licences. If that number of points is

incurred, a notice of licence suspension for the period specified in the proposed section is issued by the Authority. A person who receives a notice may elect (within 21 days) to be of good behaviour for 12 months. If such an election is made, the suspension does not commence but will commence for twice the original period if the person incurs 2 or more demerit points during the good behaviour period. Demerit points incurred after a notice of suspension, and before suspension or the good behaviour period begins, will be taken into account from the end of the suspension period or the good behaviour period.

Clause 17 enables the Authority to suspend or cancel a provisional licence if the holder of the licence incurs more than 4 demerit points and enables regulations to be made as to notices to be given, periods of suspension and circumstances when suspension will be imposed.

Clause 18 provides that periods of suspension under the proposed Act will be in addition to periods of suspension imposed under other laws of this State and that any such other periods of suspension or of disqualification will not affect demerit points incurred under the proposed Act. It also provides that the Authority may decide not to provide an opportunity to show cause where a driver licence is suspended or cancelled under the proposed Division.

Division 3 Regulations

Clause 19 sets out the general regulation-making power under the proposed Act.

Clause 20 sets out particular regulation-making powers relating to the proposed driver licensing system and the identification of licensed drivers. The powers relate to matters including the issue and refusal of driver licences, the renewal of driver licences, the periods driver licences are to be in force, the fixing of fees, the collection of licence fees, the refunds of fees, the classes of driver licences, the maintenance of the driver licence register and the demerit points register, the form of driver licences and other matters.

Clause 21 provides for the review of prescribed decisions under the proposed Act by the Administrative Decisions Tribunal.

Part 3 Offences

Clause 22 makes it an offence to obtain a driver licence by false statement or misrepresentation or other dishonest means or to possess, without lawful excuse, a driver licence obtained by such means. There will be a maximum penalty of 20 penalty units (\$2,200).

Clause 23 makes it an offence to possess an Australian driver licence, or an article resembling an Australian driver licence, without lawful excuse. It also makes it an offence to alter a driver licence, or to produce a driver licence that is altered, in a way that is calculated to deceive, or to forge, or fraudulently use, alter or lend, a driver licence. There will be a maximum penalty of 20 penalty units (\$2,200).

Clause 24 enables a police officer or other authorised person to seize a driver licence or article that is produced to the police officer or person if he or she reasonably suspects that it has been obtained in contravention of proposed section 22 or is unlawfully in the possession of the person who produced it. The proposed section also sets out the grounds on which a reasonable suspicion may be based, requires any seized licence to be forwarded to the Authority and provides for its disposal by the Authority.

Clause 25 makes it an offence for a person to fail to produce his or her driver licence to a court, when requested to do so by the court, if charged with a breach of the proposed Act or regulations under the proposed Act. There will be a maximum penalty of 20 penalty units (\$2,200).

Clause 26 provides for documents signed by the Authority and relating to matters on its records to be admitted as evidence in court proceedings. The proposed section also enables courts to admit as evidence documents issued under laws of other jurisdictions relating to driver licences, driving offences and demerit points.

Clause 27 provides that proceedings for offences under the proposed Act are to be taken before a Local Court constituted by a Magistrate sitting alone.

Part 4 Miscellaneous

Clause 28 enables the Minister to make an order suspending the operation of the regulations or specified provisions of the regulations. Any such order must be consistent with provisions relating to application orders and emergency orders in the *National Road Transport Commission Act 1991* of the Commonwealth.

Clause 29 enables the Minister to declare, by notice published in the Gazette, that the proposed Act and the regulations, or specified provisions of the proposed Act or the regulations, apply to specified areas or do not apply to specified roads or road related areas.

Clause 30 enables the Minister to declare, by notice published in the Gazette, that the proposed Act and the regulations, or specified provisions of the proposed Act or the regulations, do not apply to a person or vehicle in a specified location or circumstance.

Clause 31 indemnifies individuals from civil liability for acts or omissions done in good faith in the course of carrying out duties under the proposed Act or the regulations. It also indemnifies individuals from civil or criminal liability for carrying out a test or examination and, in good faith, expressing opinions to the Authority as a result of reporting information to the Authority disclosing that a person is or may be unfit to drive or that licensing a person to drive may be dangerous.

Clause 32 provides for matters relating to requirements to be photographed for the purposes of a driver licence. It enables the Authority to refuse to issue or renew a driver licence if an applicant fails to attend to have a photograph taken or, in a case where it is impracticable to attend, fails to provide a photograph or sufficient evidence as to identity and residential address. The proposed section also contains restrictions on the use of photographs by the Authority and requires negatives to be destroyed following the issue of the relevant driver licence. It makes it an offence, with a maximum penalty of 20 penalty units, to reproduce the photographic likeness of a person depicted, or to be depicted, in a licence.

Clause 33 enables the Authority to cancel a licence because of a speeding offence if a speeding offence is dealt with by way of penalty notice.

Clause 34 enables the Authority to recover any unpaid fees payable under the proposed Act or regulations as a debt due to the Authority in a court of competent jurisdiction.

Clause 35 provides that any driver licence register and the demerit points register may be kept in the form of, or as part of, one or more computer databases or in such other form as the Authority considers appropriate.

Clause 36 is a formal provision giving effect to Schedules 1 and 2, which contain consequential amendments to Acts.

Clause 37 is a formal provision giving effect to Schedule 3, which contains savings, transitional and other provisions consequent on the enactment of the proposed Act.

Clause 38 provides for the review of the proposed Act 5 years after the date of assent to the proposed Act.

Schedules

Schedule 1 contains consequential amendments to various Acts. In particular, it contains amendments to the *Traffic Act 1909* that remove provisions dealing with the licensing of drivers under that Act, and other related matters, that are dealt with in the proposed Act.

Schedule 2 contains amendments to the *Traffic Act 1909* relating to penalties for offences and licence disqualifications. In particular, the amendments provide for the following:

- (a) The increase in the maximum penalty for a second or subsequent offence of driving under the influence of alcohol or any other drug from 20 penalty units to 30 penalty units and 9 months imprisonment to 12 months imprisonment.
- (b) The increase in the maximum penalty for a second or subsequent offence of refusing a drug test or altering its results from 30 penalty units to 50 penalty units and 18 months imprisonment to 2 years imprisonment.
- (c) The increase in the automatic licence disqualification, from 1 year to 3 years, for a first offence of refusing a drug test or altering its results, and from 3 years to 5 years for a second or subsequent such offence.
- (d) The creation of a separate offence of driving without a licence when never having been licensed in the previous 5 years to make certain the occasions when an offence is committed in those circumstances. Under recent amendments to the Act, increased maximum penalties and automatic licence disqualifications apply to any such second or subsequent offence (namely, 18 months imprisonment and 3 years automatic licence disqualification).
- (e) The restriction of the increased penalties and disqualifications for that offence of driving without a licence when never having been licensed so that they apply to persons never having been licensed in Australia rather than to persons never having been licensed in any other part of the world.
- (f) The removal of the restriction against the application of "on-the-spot" fines for offences carrying a penalty of a term of imprisonment in the case of that offence of driving without a licence when never having been licensed. At the time of the offence, a police officer issuing a traffic infringement notice may not be in a position to determine whether it is a second offence.

A reference in paragraphs (a) and (b) above to increased penalties for a second or subsequent offence includes a first offence if the person has in the previous 5 years been convicted of another major traffic offence.

Schedule 3 contains savings, transitional and other provisions consequent on the enactment of the proposed Act.

The **Dictionary** contains definitions of words and expressions used in the proposed Act.



New South Wales

Road Transport (Driver Licensing) Bill 1998

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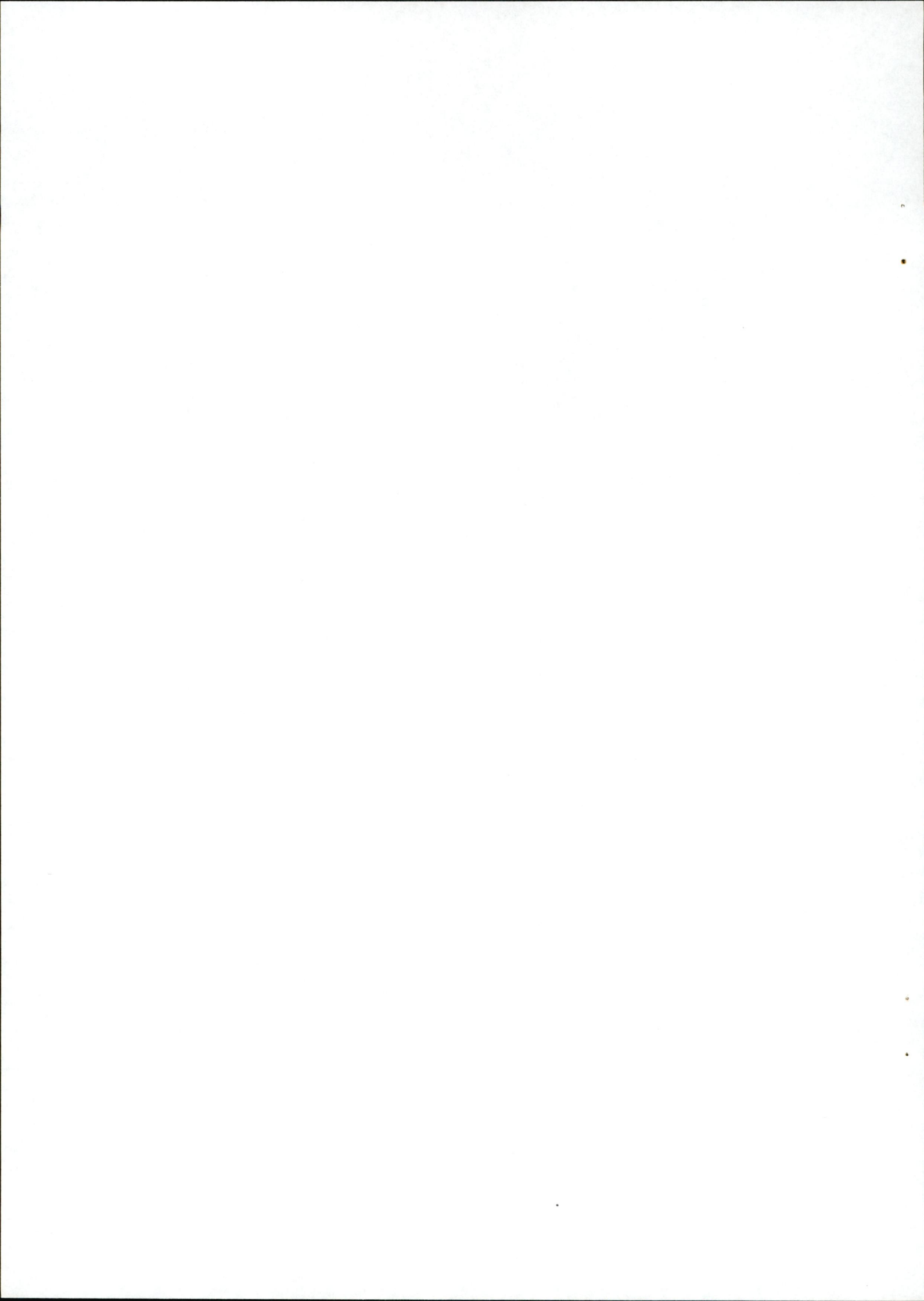
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The dictionary defines the following words and expressions

Australian driver licence	learner licence
Authority	Ministerial Council
class	motor vehicle
conditional licence	national schedule of demerit points
corresponding law	penalty notice
demerit points register	photograph
drive	probationary licence
driver licence	provisional licence
driver licence receipt	restricted licence
driver licence register	road
exercise	road related area
function	
jurisdiction	





New South Wales

Road Transport (Driver Licensing) Bill 1998

No. , 1998

A Bill for

An Act to provide for the licensing of drivers and for related matters as part of the system of nationally consistent road transport laws and for additional matters relating to learner and provisional licences; to make consequential and other amendments to the *Traffic Act 1909* and other Acts; and for other purposes.

The Legislature of New South Wales enacts:

Part 1 Preliminary

1 Name of Act

This Act is the *Road Transport (Driver Licensing) Act 1998*.

2 Commencement

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This Act commences on a day or days to be appointed by proclamation.

3 Objects of Act

The objects of this Act are:

- (a) to provide for the establishment of a driver licensing system, in accordance with agreements scheduled to the *National Road Transport Commission Act 1991* of the Commonwealth, as part of a uniform national approach to driver licensing, that is designed to provide:
 - (i) uniform licence classes for the drivers of motor vehicles, and 15
 - (ii) uniform attendant eligibility criteria for those licence classes, and
- (b) to define the responsibilities of people in respect of driver licensing, and 20
- (c) to provide a means of identifying persons as licensed drivers of motor vehicles, and
- (d) to facilitate the regulation of drivers of motor vehicles in the interests of safety and efficiency and law enforcement generally, and 25
- (e) to provide a means of enforcing safety standards relating to the driving of motor vehicles on roads and road related areas, and

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- (f) to facilitate:
- (i) the recovery of expenses incurred in administering the driver licensing system, and
 - (ii) the collection of fees payable under this Act or the regulations, and
- (g) to provide for other matters relating to learner licences and provisional licences, and
- (h) to improve road safety and transport efficiency and reduce the costs of administering road transport.

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Note. This Act and the regulations under this Act establish a driver licensing system, including a demerit points system and providing for the issue, suspension, cancellation and renewal of driver licences and the classes of driver licences. Offences relating to unlicensed driving are to be found in the *Traffic Act 1909*. Licences may be cancelled for offences under that Act and under the *Fines Act 1996* as a result of failure to pay fines, in addition to the Authority's powers of cancellation under this Act and the regulations.

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4 Definitions

Expressions used in this Act that are defined in the Dictionary at the end of this Act have the meanings given to them in the Dictionary unless the context or subject-matter otherwise indicates or requires.

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5 Application of Commonwealth Acts Interpretation Act 1901

- (1) The provisions of the *Acts Interpretation Act 1901* of the Commonwealth apply to the interpretation of this Act and the regulations, except that, in relation to New South Wales:
- (a) "Gazette" is to refer to the New South Wales Government Gazette, and
 - (b) "Minister" is to refer to the responsible Minister of New South Wales.
- (2) This section does not prevent the *Interpretation Act 1987* from applying to this Act and the regulations to the extent that it can do so consistently with the application of the *Acts Interpretation Act 1901* of the Commonwealth.

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Clause 6 Road Transport (Driver Licensing) Bill 1998

Part 1 Preliminary

6 Act to bind Crown

- (1) This Act binds the Crown in right of New South Wales and, in so far as the legislative power of the Parliament of New South Wales permits, the Crown in all its other capacities.
- (2) This Act does not make the Crown liable to be prosecuted for an offence. 5

7 Notes

Notes included in this Act do not form part of this Act.

Part 2 Driver licensing system

Division 1 Functions of Authority generally

8 Functions of Authority

The functions of the Authority under this Act are as follows:

- (a) to administer the driver licensing system established by this Act and the regulations, 5
- (b) to maintain a driver licence register in accordance with this Act and the regulations,
- (c) to maintain a demerit points register in accordance with this Act and the regulations, 10
- (d) to provide information about drivers in accordance with the regulations,
- (e) to exercise such other functions as are conferred or imposed by or under this Act.

9 Authority not to issue or renew licence in certain circumstances 15

- (1) The Authority must not issue a driver licence to a person unless it is satisfied that the person is a resident of this State and that:
 - (a) the person is eligible to be issued with, or to apply for, the driver licence, and 20
 - (b) if the person is the holder of an Australian driver licence or a licence to drive a motor vehicle in a foreign country, that licence has been surrendered,
in accordance with the regulations.
- (2) However, the Authority may issue a driver licence to a person without the person surrendering the person's licence to drive a motor vehicle in a foreign country in circumstances prescribed by the regulations. 25
- (3) The Authority must not renew a driver licence of a person if it is satisfied that the person is no longer a resident of this State. 30
- (4) Subsections (1) and (3), to the extent that they require a person to be a resident of this State, do not apply to a person who resides temporarily outside this State.

- (5) This section does not limit the other circumstances in which the Authority may refuse to issue or renew a licence.

10 Fixing fees

- (1) The Authority may, by notice published in the Gazette, fix fees, or amend or revoke fees, for services provided by the Authority in connection with the licensing of drivers, or the renewal or late renewal of driver licences, and other matters related to services provided by the Authority under this Act or the regulations. 5
- (2) This section does not prevent any other law fixing fees for services provided by the Authority or fees being fixed under the regulations. 10

11 Mutual recognition

- (1) The Authority must, in accordance with the regulations, recognise:
- (a) driver licences issued by another jurisdiction, and 15
 - (b) licence conditions that apply to those licences, other than conditions that apply only in circumstances that are unique to that other jurisdiction or that are prescribed by the regulations.
- (2) The regulations may provide for the effect of the recognition of driver licences and licence conditions by the Authority. 20
- (3) If:
- (a) a person:
 - (i) commits an offence in this State that is included in the national schedule of demerit points, or 25
 - (ii) pays the amount specified in a penalty notice for such an offence, and
 - (b) the person holds a driver licence issued by another driver licensing authority,
- the Authority must, as soon as practicable, transmit all relevant information about the offence to the other driver licensing authority. 30
- (4) If:
- (a) a person:
 - (i) commits an offence in this State that is included in the national schedule of demerit points, or 35

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- (ii) pays the amount specified in a penalty notice for such an offence, and
- (b) the person is not the holder of an Australian driver licence, the Authority must transmit the relevant information about the offence to the driver licensing authority of the jurisdiction in which the person ordinarily resides. 5
- (5) However, the Authority is not required to transmit any information until after:
- (a) if the person appeals against a conviction for the offence and the appeal is dismissed or discontinued, the dismissal or discontinuance of the appeal, or 10
- (b) if the person does not appeal, the last time at which the person could have appealed, or
- (c) if the person does not pay the penalty specified in a penalty notice issued to the person in respect of the offence and the person does not elect to have the matter dealt with by a court, the time for the person to have the matter so dealt with has elapsed. 15
- (6) If the Authority receives information about a person from another driver licensing authority under a provision of a law of the other jurisdiction that corresponds to this section, the Authority must take the action it would have taken if the offence had been committed in this State. 20
- 12 Security of information in registers**
- The Authority must ensure that information contained in a driver licence register established under the regulations or the demerit points register that is of a personal nature or that has commercial sensitivity for the person about whom it is kept is not released except as provided by the regulations or under another law. 25
- 13 Delegation by Authority** 30
- (1) The Authority may, by signed instrument, delegate to a person prescribed by the regulations all or any of its powers (other than this power of delegation) under this Act or the regulations.
- (2) Nothing in this section affects any other power or delegation that the Authority has under any other Act. 35

Division 2 Demerit points system

14 Demerit points register

- (1) The Authority must maintain a demerit points register in accordance with this Act and the regulations.
- (2) The Authority must record, in the demerit points register, against a person the number of demerit points specified in the regulations if the person:
 - (a) is convicted, or found guilty, of an offence specified in the national schedule of demerit points or any other offence specified in the regulations, or recognised, under section 15, or
 - (b) pays the penalty specified in a penalty notice issued to the person in respect of the offence, or
 - (c) has not paid the penalty specified in a penalty notice issued to the person in respect of the offence, the person has not elected to have the matter dealt with by a court and the time for the person to have the matter so dealt with has lapsed.
- (3) Demerit points recorded against a person who does not hold an Australian driver licence must be taken into account if the person subsequently obtains or applies for a driver licence within 3 years of the date of the offence for which the demerit points are incurred.
- (4) For the purposes of subsection (3), if a person who applies for a driver licence has incurred 12 or more demerit points within a 3 year period ending on the day on which the person last committed an offence for which demerit points have been recorded against the person:
 - (a) the Authority may refuse the person's application, or
 - (b) the Authority may grant the licence and take action under section 16.
- (5) Without limiting any other provision of this section, the Authority may correct any mistake, error or omission in the demerit points register, subject to any requirements of the regulations.

Note. If the holder of a driver licence issued by another driver licensing authority commits an offence in this State that warrants demerit points, the Authority must transmit all relevant information about the offence to the other authority (see section 11 (3)).

15 Offences for which demerit points are incurred

- (1) The regulations may prescribe:
- (a) the offences (relating to the driving or use of motor vehicles), and the number of demerit points incurred for each offence, that comprise the national schedule of demerit points, and 5
 - (b) additional offences (relating to the driving or use of motor vehicles) created under a law of this State for which demerit points may be incurred and the number of demerit points incurred for each offence. 10
- (2) The Authority may, by notice published in the Gazette:
- (a) recognise offences (relating to the driving or use of motor vehicles) created under a law of this State or another jurisdiction that are not on the national schedule of demerit points as being offences for which the Authority will record demerit points against persons, and 15
 - (b) specify the number of demerit points incurred for each of those offences.
- (3) The Authority may, by notice published in the Gazette, revoke the recognition of an offence under subsection (2) or amend the number of demerit points specified for an offence. Any such revocation or amendment takes effect on the day the notice is published in the Gazette, or on such later day as may be specified in the notice. 20
- (4) A regulation or a notice under this section may specify different numbers of demerit points for the same offence in different circumstances (whether or not the offence is contained in the national schedule of demerit points). 25
- (5) An offence is taken to be recognised under this section on the day the notice is published in the Gazette, or on such later day as may be specified in the notice. 30
- (6) A revocation or amendment under subsection (3) does not affect any demerit points incurred before the revocation or amendment takes effect.

16 Consequences of incurring demerit points

- (1) **Recording of demerit points**
Demerit points incurred by a person for an offence for which demerit points may be incurred under this Act or the regulations are to be recorded in the demerit points register in respect of the day on which the offence was committed. 5

- (2) **Licence suspension for demerit points**
The Authority must give a notice of licence suspension to the holder of a driver licence (not being a provisional licence or learner licence) who incurs 12 or more demerit points within the 3 year period ending on the day on which the person last committed an offence for which demerit points have been recorded against the person. 10

Note. Provisional licence holders are dealt with in section 17.

- (3) Despite subsection (2), the Authority is not required to take action under that subsection if it is of the opinion that it would be unreasonable to do so, having regard to the date when any relevant offence was committed. 15

- (4) The notice of licence suspension must specify the date on which the suspension is to take effect and must contain any other matters specified by the regulations. The date specified must not be earlier than 28 days after the notice is given. 20

- (5) The period of licence suspension under subsection (2) is the period applicable under the following table:

Licence suspension for demerit points 25

Number of demerit points incurred within previous 3 years	Period of licence suspension	
12 to 15	3 months	
16 to 19	4 months	
20 or more	5 months	30

- (6) If a person who has been served with a notice of licence suspension does not make an election under subsection (8), the person's driver licence is suspended for the period applicable under this section from the date specified in the notice.

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- (7) On the commencement of a period of suspension or a period of good behaviour (see subsection (8)), all demerit points recorded in the demerit points register against the person at the date of the notice are taken to be deleted.
- (8) **Alternative to suspension** 5
A person who incurs at least 12 demerit points within the 3 year period ending on the day on which the person last committed an offence for which demerit points have been recorded against the person may, within 21 days after being served with a notice of licence suspension by the Authority, notify the Authority in writing that he or she elects, as an alternative to undergoing the suspension, to be of good behaviour for a period of 12 months from the day on which the licence would otherwise be suspended. 10
- (9) If a person who makes an election in accordance with subsection (8) incurs 2 or more demerit points during the 12 months' good behaviour period, the Authority must give the person a notice suspending the person's driver licence, commencing on a day specified in the notice, for twice the period that would have applied to the person under this section if the person had not made the election. 15 20
- (10) On the commencement of the period of suspension referred to in subsection (9), all demerit points recorded in the demerit points register against the person at the date of the notice, and taken into account for the purpose of the notice, are taken to be deleted. 25
- (11) Despite subsections (7) and (10), demerit points incurred by a person:
- (a) after the person is served with a notice of licence suspension but before the suspension begins, or
 - (b) if the person makes an election in accordance with subsection (8), after the person is served with the notice of licence suspension and before the 12 months' period of good behaviour begins, 30
- are not taken to be deleted under this section when the suspension or period of good behaviour begins and are to be taken into account for the purposes of subsection (2) from the end of the period of licence suspension or period of good behaviour. 35

- (12) Nothing in subsection (7) or (10) prevents the Authority from retaining records of deleted demerit points incurred by any person.

17 Demerit points incurred by provisional licence holders

- (1) The Authority may suspend or cancel the driver licence of the holder of a provisional licence if the holder incurs 4 or more demerit points. 5
- (2) The regulations may make provision for or with respect to the following:
- (a) notices of suspension or cancellation to holders of provisional licences who incur 4 or more demerit points, 10
 - (b) periods of licence suspension to be imposed on holders of provisional licences who incur 4 or more demerit points,
 - (c) the circumstances in which a period of suspension, rather than cancellation, may be imposed by the Authority on holders of provisional licences who incur 4 or more demerit points. 15

18 General matters relating to demerit points penalties

- (1) A period of licence suspension under section 16 is in addition to any period of licence suspension imposed under another law of this State. 20
- (2) Demerit points recorded in the demerit points register against a person are not affected by a period of licence suspension or disqualification imposed by a court in Australia, or under another law in force in this State. 25
- (3) Nothing in this section prevents the regulations from requiring the Authority to take into account any prior period of suspension ended by a disqualification when determining whether to issue a new driver licence to a person who has completed any such period of disqualification. 30

- (4) The Authority may decide to suspend or cancel a driver licence under this Division without the holder of the licence having been provided an opportunity to show cause why the licence should not be suspended or cancelled.

Division 3 Regulations

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19 Regulations generally

- (1) The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act. 10
- (2) The regulations may apply, adopt or incorporate, whether wholly or in part or with or without modifications, publications of the National Road Transport Commission that have been approved by the Ministerial Council or any other publication, either as published or as in force from time to time. 15
- (3) The regulations may create offences punishable by a penalty not exceeding 20 penalty units.

20 Driver licensing system

- (1) The regulations are to provide for a system of licensing drivers of motor vehicles that are used on roads or road related areas that: 20
- (a) provides a means of authorising the driving of motor vehicles on roads and road related areas, and
- (b) enables the identification of persons as licensed drivers of motor vehicles.
- (2) Without limiting the scope of regulations under subsection (1), the regulations may: 25
- (a) provide for the issue or refusal to issue driver licences and renewal of driver licences or refusal of renewal, and for the imposition of conditions on driver licences, and for the replacement of and refusal to replace driver licences, and 30
- (b) provide for the cancellation, variation and suspension of driver licences, and

- (c) fix the periods for which a driver licence or renewal remains in force, and
- (d) require the production of specified information by:
 - (i) applicants for driver licences or renewals or variation of driver licences, or 5
 - (ii) holders of driver licences, and
- (e) provide for the recognition by the Authority of things done under a corresponding law of another jurisdiction, and
- (f) fix fees for services provided by the Authority in connection with the licensing of drivers or the renewal or late renewal of driver licences and other matters related to services provided under this Act or the regulations, and 10
- (g) provide for a refund, or partial refund, of fees fixed under this Act or the regulations (including refunds resulting from concessions for fees), and 15
- (h) provide for concessions (either in part or in full) for fees fixed under this Act or the regulations for specified classes of people, and
- (i) provide for the collection and recovery of fees fixed under this Act or the regulations, and 20
- (j) provide for the approval by the Authority of the form in which applications are to be made to the Authority, and the form in which documents are to be issued by the Authority, for the purposes of this Act and the regulations, and
- (k) provide that this Act or the regulations, or specified provisions of this Act or the regulations, do not apply to a driver, or drivers of a kind, identified in the regulations, and 25
- (l) allow the Authority to revoke, in the manner and in circumstances specified in the regulations, an exemption for a driver, or drivers of a kind, given under a regulation made for the purposes of paragraph (k), and 30
- (m) prescribe different classes of driver licences, and grade each class by reference to the driving skills required for each class, and the eligibility criteria for the issue of each class of licence, and 35

-
- (n) allow the Authority to exempt a person or class of persons from the requirement to hold a driver licence or a driver licence of a particular class (whether or not subject to conditions imposed by the Authority), and
- (o) provide for the maintenance of a driver licence register and matters relating to the demerit points register, and 5
- (p) prescribe:
- (i) the form in which the Authority is to issue evidence of the authority to drive a motor vehicle provided by a driver licence, and 10
- (ii) the circumstances in which that evidence must be surrendered or returned to the Authority, and
- (q) provide for the issue of certificates by the Authority for the purposes of section 26 (1), and
- (r) regulate the payment and application of fees paid under this Act or the regulations, and 15
- (s) enable the Authority to correct any mistake, error or omission in the driver licence register, and
- (t) provide for competency based assessment schemes relating to driver licensing, and 20
- (u) provide for the service of notices or other documents by the Authority and the date on which the service of any such notice or other document is to be taken to have been effected, and
- (v) require persons who are: 25
- (i) applicants for driver licences or renewal or variation of driver licences, and
- (ii) holders of driver licences,
to submit to tests or retesting or medical or other examinations for the purpose of assessing fitness to hold or continue to hold a driver licence, or a varied driver licence, and 30
- (w) provide for the waiver of fees, and
- (x) provide for driver training schemes.

Clause 20 Road Transport (Driver Licensing) Bill 1998

Part 2 Driver licensing system
Division 3

- (3) The classes of driver licence that may be prescribed include, but are not limited to, conditional licences, provisional licences and learner licences.
- (4) The regulations may impose a fee in respect of services provided by the Authority in connection with the licensing of drivers or the renewal or late renewal of driver licences, and other matters related to services provided under this Act or the regulations, despite the fact that the fee may also comprise a tax. 5

21 Review of prescribed decisions by Administrative Decisions Tribunal 10

- (1) A person aggrieved by a decision made in relation to the person under this Act or the regulations may apply to the Administrative Decisions Tribunal for a review of the decision if it belongs to a class of decisions prescribed by the regulations for the purposes of this subsection. 15
- (2) Despite subsection (1), a regulation referred to in that subsection prescribing a class of decisions may limit the class of persons who may make an application for a review of a decision referred to in the subsection.
- (3) A regulation referred to in subsection (1) prescribing a class of decisions cannot be made without the concurrence of the Minister administering the *Administrative Decisions Tribunal Act 1997*. 20

Part 3 Offences

Note. Offences relating to driving while unlicensed are dealt with in sections 6 and 7A of the *Traffic Act 1909*.

22 Obtaining driver licence by false statements

- (1) A person must not: 5
- (a) by a false statement or any misrepresentation or other dishonest means, obtain or attempt to obtain a driver licence or the renewal of a driver licence, or
 - (b) without lawful authority or excuse, possess a driver licence obtained or renewed using those means. 10
- Maximum penalty: 20 penalty units.
- (2) A driver licence so obtained or renewed is void, and the Authority may alter the driver licence register accordingly.
- (3) Subsection (1) does not apply to a driver licence receipt issued by another jurisdiction. 15

23 Unlawful possession of driver licence

- (1) A person who, without lawful authority or excuse, has in his or her possession:
- (a) an Australian driver licence, or
 - (b) any article resembling an Australian driver licence and calculated to deceive, 20
- is guilty of an offence.
- Maximum penalty: 20 penalty units.
- (2) A person who alters a driver licence in a way that is calculated to deceive is guilty of an offence. 25
- Maximum penalty: 20 penalty units.
- (3) A person who produces a driver licence altered in a manner that is calculated to deceive is guilty of an offence.
- Maximum penalty: 20 penalty units.

- (4) A person who forges or fraudulently alters or uses, or fraudulently lends or allows to be used by any other person, a driver licence is guilty of an offence.

Maximum penalty: 20 penalty units.

24 Seizure of driver licences

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- (1) A police officer or a person authorised in writing by the Authority:

(a) to whom any Australian driver licence, or any article resembling an Australian driver licence, is produced by a person representing it to be the person's driver licence, and

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(b) who reasonably suspects that the licence or article:

(i) has been obtained in contravention of section 22, or

(ii) is unlawfully in the possession of the person who produced it,

may, with no authority other than this section, seize the licence or article.

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- (2) A person by whom any licence or article is produced as referred to in subsection (1) (a) and who fails to provide, at the request of a police officer or authorised person to whom it was produced (and on being supplied with adequate materials), a specimen of his or her signature is guilty of an offence.

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Maximum penalty: 20 penalty units.

- (3) The grounds on which a reasonable suspicion, sufficient to authorise a seizure under this section, may be formed include (but are not limited to) any one or more of the following:

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(a) a lack of resemblance between the person depicted in a photograph affixed to the Australian driver licence or article, purporting to be a photograph of the holder, and the person who produced the Australian driver licence or article,

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(b) a lack of resemblance between a signature inscribed on the Australian driver licence or article, purporting to be the signature of the holder, and a specimen signature provided by the person who produced the Australian driver licence or article,

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- (c) a refusal by the person, after producing the Australian driver licence or article, to comply with a request under subsection (2).
- (4) An Australian driver licence or article seized under this section must be forwarded to the Authority. The Authority may: 5
- (a) return the Australian driver licence to the person who produced it, if it is satisfied that the driver licence was lawfully in the possession of the person who produced it, or
- (b) in any other case, deal with it in such manner as it thinks fit. 10
- (5) The holder of a genuine and valid Australian driver licence seized under this section does not commit any offence merely because he or she is not in possession of the licence at any time after the seizure and before the licence is returned. 15

25 Production of licence to court

- (1) If a person who is the holder of a driver licence is charged with a breach of this Act or the regulations, the person must produce his or her driver licence to the court at the hearing of the charge when requested to do so by the court. 20
- (2) A person who fails, without reasonable excuse, to comply with subsection (1) is guilty of an offence.

Maximum penalty: 20 penalty units.

26 Evidentiary provisions

- (1) A document that appears to be signed on behalf of the Authority certifying a matter that appears in or can be calculated from the demerit points register or any driver licence register or another record kept by the Authority under this Act or the regulations is admissible as evidence. 25
- (2) Any such document may: 30
- (a) certify particulars by reference to a specified date or period, and

- (b) certify particulars that appear in or can be calculated from (or do not appear in or cannot be calculated from) records maintained under section 12 (1) of the *Traffic Act 1909* as in force immediately before it was amended by Schedule 1 to this Act. 5
- (3) A document that is issued under the law of another jurisdiction that relates to:
- (a) whether a person has or does not have an Australian driver licence or other authority to drive a motor vehicle, the extent of the authority conferred by a licence or other authority and any conditions of that licence or other authority, or 10
- (b) any offence found to have been committed by a person in relation to the driving or use of a motor vehicle or in relation to driver licensing, including any penalty imposed or other order made in respect of that offence, or 15
- (c) demerit points incurred by a person,
is admissible as evidence.
- (4) The court must accept the documents as proof of the facts stated in them if there is no evidence to the contrary. 20
- (5) A court may admit into evidence other documents prescribed by the regulations in the circumstances set out in the regulations.

27 Proceedings for offences

Proceedings for an offence against this Act or the regulations are to be taken before a Local Court constituted by a Magistrate sitting alone. 25

Part 4 Miscellaneous

28 Application orders and emergency orders

- (1) The Minister may order, by notice published in the Gazette, that the operation of the regulations, or of specified provisions of the regulations: 5
 - (a) is suspended for a specified period, or
 - (b) is varied in a manner specified by the Minister.
- (2) An order must be consistent with the provisions relating to application orders and emergency orders in the agreements scheduled to the *National Road Transport Commission Act 1991* of the Commonwealth. 10
- (3) An order may have effect for the whole of the State or for a specified area.
- (4) If the Ministerial Council terminates an emergency order, the Minister must publish notice of the termination in the Gazette. 15

29 Power to include or exclude areas

- (1) The Minister may declare, by notice published in the Gazette, that this Act and the regulations, or specified provisions of this Act or the regulations:
 - (a) apply to a specified area of this State that is open to or used by the public, or 20
 - (b) do not apply to a specified road or road related area.
- (2) The declaration has effect until it is revoked by the Minister by notice published in the Gazette, or for the period specified in the declaration. 25

30 Power to exclude persons or vehicles

- (1) The Minister may declare, by notice published in the Gazette, that this Act or the regulations, or specified provisions of this Act or the regulations, do not apply to a person or a vehicle in any location or circumstance specified in the notice. 30

- (2) The declaration has effect until it is revoked by the Minister by notice published in the Gazette, or for the period specified in the declaration.

31 Personal liability

- (1) An individual does not incur civil liability for an act or omission done honestly and in good faith in the course of his or her duties under this Act or the regulations. 5
- (2) A liability that would, apart from subsection (1), attach to an individual because of an act or omission done honestly and in good faith in the course of his or her duties attaches instead to: 10
- (a) for an act or omission of a police officer, the Crown, or
- (b) for an act or omission of a person acting for the Authority, the Authority.
- (3) An individual does not incur civil or criminal liability for carrying out a test or examination in accordance with the regulations and expressing to the Authority in good faith an opinion formed as a result of having carried out the test or examination. 15
- (4) An individual does not incur civil or criminal liability for reporting to the Authority, in good faith, information that discloses or suggests that: 20
- (a) another person is or may be unfit to drive, or
- (b) it may be dangerous to allow another person to hold, to be issued or to have renewed, a driver licence or a variation of a driver licence. 25

32 Additional matters relating to identity

- (1) The Authority may refuse to issue or renew a driver licence: 30
- (a) if the applicant has not attended at a motor registry or another place nominated in or under the regulations and there submitted to the taking, by a person approved by the Authority, of a photograph of the applicant that is suitable for use on the driver licence, or

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- (b) if, in the opinion of the Authority, it is impracticable for the applicant to so attend, the applicant has not provided the Authority with a photograph of the applicant considered by the Authority as suitable for use on the driver licence, or 5
- (c) if the applicant has not provided, in support of the application, such evidence as is required by the regulations or the Authority to establish the identity and residential address of the applicant.
- (2) Any photograph taken or provided under this section must not be used by the Authority for the purpose of forming a record of the person to whom it relates or for any other purpose except the reproduction on a driver licence of a likeness of that person. 10
- (3) Without affecting the generality of subsection (2), any negative of, or data capable of being used for reproducing the likeness of a person depicted in, a photograph taken under this section must be destroyed by the Authority immediately following the issue of the driver licence concerned. 15
- (4) A person employed or engaged in connection with any aspect of the production of driver licences that feature a photograph of the holder, or otherwise concerned in the administration of this Act or the regulations, who, otherwise than in the administration of this Act or the regulations: 20
- (a) reproduces, by photographic or other means, the likeness of a person that is depicted, or is to be depicted, in a licence, or 25
- (b) causes or permits another person to do so,
- is guilty of an offence.
- Maximum penalty (subsection (4)): 20 penalty units.
- 33 Cancellation of driver licences by Authority** 30
- (1) A driver licence may be cancelled by the Authority because of an alleged speeding offence, if, in respect of the alleged offence:
- (a) the holder has paid a penalty prescribed for the purposes of section 18B of the *Traffic Act 1909*, or
- (b) an order has been made under Division 4 of Part 3 of the *Fines Act 1996* against the holder. 35

- (2) The Authority may decide to cancel a driver licence under this section without the holder having been provided an opportunity to show cause why the licence should not be cancelled.
- (3) If a person's driver licence is cancelled by the Authority under this section, the Authority may refuse to issue the person with any further licence for a period determined by the Authority and specified in a notice served on the person by the Authority. 5
- (4) Nothing in this section limits any discretion of the Authority to decline to issue a driver licence to a person.
- (5) In this section: 10
- speeding offence* means an offence:
- (a) that involves exceeding a speed limit for the purposes of section 4A of the *Traffic Act 1909*, or exceeding a maximum speed fixed by the *Motor Traffic Regulations 1935* as referred to in section 4A (5B) of the *Traffic Act 1909*, and 15
- (b) that is prescribed for the purposes of section 4A (5B) of the *Traffic Act 1909*.
- 34 Unpaid fees**
- An amount of any unpaid fees payable under this Act or the regulations is a debt due to the Authority and may be recovered in a court of competent jurisdiction. 20
- 35 Form of registers**
- Any driver licence register maintained under the regulations and the demerit points register may be kept in the form of, or as part of, one or more computer databases or in such other form as the Authority considers appropriate. 25
- 36 Amendment of Acts**
- The Acts specified in Schedules 1 and 2 are amended as set out in those Schedules. 30
- 37 Savings, transitional and other provisions**
- Schedule 3 has effect.

38 Review of Act

- (1) The Minister is to review this Act to determine whether the policy objectives of the Act remain valid and whether the terms of the Act remain appropriate for securing those objectives.
- (2) The review is to be undertaken as soon as possible after the period of 5 years from the date of assent to this Act. 5
- (3) A report on the outcome of the review is to be tabled in each House of Parliament within 12 months after the end of the period of 5 years.

Schedule 1 Amendment of Acts

(Section 36)

1.1 Children (Criminal Proceedings) Act 1987 No 55

Section 28 Jurisdiction of the Children's Court

Omit "*Motor Traffic Act 1909* or the *Transport Act 1930*" from section 28 (2) (b). 5

Insert instead "*Road Transport (Driver Licensing) Act 1998* or any other applicable Act".

1.2 Crown Lands Act 1989 No 6

Section 167 Requirement to state name and address 10

Omit "driver's licence" from section 167 (3).

Insert instead "driver licence".

1.3 Driving Instructors Act 1992 No 3

[1] Section 3 Definitions

Omit the definition of *driver's licence* in section 3 (1). 15

Insert instead:

driver licence means a licence (other than a learner licence, a provisional licence, a restricted licence or a probationary licence) under the *Road Transport (Driver Licensing) Act 1998*, or a corresponding licence under the law for the time being in force in any other State, or in any Territory or country, to drive all classes of motor vehicles (or motor vehicles of the relevant class). 20

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- [2] **Section 10 Prerequisites for licence**
Omit "driver's licence" wherever occurring in section 10 (b) and (c).
Insert instead "driver licence".
- [3] **Section 18 Grounds for refusal of application**
Omit "licences to drive motor vehicles under the *Traffic Act 1909*" 5
from section 18 (1) (f).
Insert instead "driver licences under the *Road Transport (Driver
Licensing) Act 1998*".
- [4] **Section 22 Form of licence**
Omit "driver's licence" from section 22 (a). 10
Insert instead "driver licence".
- [5] **Section 24 When licence is in force**
Omit "driver's licence" wherever occurring in section 24 (2) and
(3).
Insert instead "driver licence". 15
- [6] **Section 26 Grounds for suspension or cancellation of licence**
Omit "licences to drive motor vehicles under the *Traffic Act 1909*"
from section 26 (2) (c).
Insert instead "driver licences under the *Road Transport (Driver
Licensing) Act 1998*". 20
- [7] **Section 28 Return of licence**
Omit "driver's licence" from section 28 (4).
Insert instead "driver licence".
- [8] **Section 36 Grounds on which prohibition order may be made**
Omit "licences to drive motor vehicles under the *Traffic Act 1909*" 25
from section 36 (a).
Insert instead "driver licences under the *Road Transport (Driver
Licensing) Act 1998*".

1.4 Fines Act 1996 No 99

[1] Section 3 Definitions

Omit the definition of *driver's licence* from section 3 (1).
Insert instead:

driver licence means a driver licence under the *Road Transport (Driver Licensing) Act 1998*. 5

[2] Section 58 Summary of enforcement procedure

Omit "Driver's licence" from section 58 (1) (b).
Insert instead "Driver licence".

[3] Section 58 (1) (b) and (c) 10

Omit "driver's licence" wherever occurring.
Insert instead "driver licence".

[4] Section 60 What notice must say

Omit "driver's licence" from section 60 (1) (c).
Insert instead "driver licence". 15

[5] Part 4, Division 3, heading

Omit "Driver's licence".
Insert instead "Driver licence".

[6] Section 65 When enforcement action taken under this Division

Omit "driver's licence" wherever occurring in section 65 (3).
Insert instead "driver licence". 20

[7] Section 65, note

Omit "driver's licence". Insert instead "driver licence".

[8] Section 66 Suspension or cancellation of driver licence

Omit "driver's licence" wherever occurring.
Insert instead "driver licence". 25

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- [9] **Section 67 Cancellation of vehicle registration**
Omit "driver's licence" from section 67 (1) (a).
Insert instead "driver licence".
- [10] **Section 68 Suspension of dealings with Roads and Traffic Authority** 5
Omit "driver's licence" wherever occurring in section 68 (1) and (2).
Insert instead "driver licence".
- [11] **Section 69 Interim restoration or reinstatement of licence or registration pending appeal etc** 10
Omit "driver's licence" wherever occurring in section 69 (1), (2) and (3).
Insert instead "driver licence".
- [12] **Section 69 (3)** 15
Omit "*Traffic Act 1909*".
Insert instead "*Road Transport (Driver Licensing) Act 1998*".
- [13] **Section 70 Effect of enforcement action on vehicle insurance**
Omit "driver's licence" wherever occurring in section 70 (1) and (2).
Insert instead "driver licence". 20
- [14] **Section 71 When enforcement action taken under this Division**
Omit "driver's licence" from section 71 (1) (a).
Insert instead "driver licence".
- [15] **Section 99 Modification of enforcement procedures**
Omit "Driver's". Insert instead "Driver". 25

1.5 Forestry Act 1916 No 55

Section 38A Requirement to state name and address

Omit "driver's licence" wherever occurring in section 38A (1) and (3).

Insert instead "driver licence".

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1.6 Justices Act 1902 No 27

Section 63 Manner of service of summons

Omit "licence within the meaning of the *Traffic Act 1909*" from section 63 (6) (a).

Insert instead "driver licence within the meaning of the *Road Transport (Driver Licensing) Act 1998*".

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1.7 Law Enforcement (Controlled Operations) Act 1997 No 136

Section 17 Lawfulness of activities with respect to assumed names

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Omit "driver's licence" wherever occurring in section 17 (1).

Insert instead "driver licence".

1.8 National Parks and Wildlife Act 1974 No 80

Section 157 Requirement to state name and address

Omit "driver's licence" from section 157 (2).

20

Insert instead "driver licence".

1.9 Road Obstructions (Special Provisions) Act 1979 No 9

Section 4 Penalty for not moving a motor vehicle obstructing a public road

Omit "licence under the *Motor Traffic Act 1909*" from section 4 (4).
Insert instead "driver licence under the *Road Transport (Driver Licensing) Act 1998*".

5

1.10 Road Transport (Vehicle Registration) Act 1997 No 119

[1] Section 4 Definitions

Omit "motor" from paragraph (d) of the definition of *road related area*.

10

[2] Section 27B Use of dangerously defective motor vehicles

Omit "driver's licence" from section 27B (4) (b) (i).
Insert instead "driver licence".

1.11 Roads Act 1993 No 33

[1] Section 229 Authorised officer may require production of information

15

Omit "driver's licence" from section 229 (1).
Insert instead "driver licence".

[2] Section 264A National road transport regulations

Omit "motor" from paragraph (d) of the definition of *road related area* in section 264A (9).

20

1.12 Tow Truck Act 1989 No 158

[1] Section 19 What are the qualifications for a driver's certificate?

Omit "silver or gold driver's licence issued under the *Motor Traffic Regulations 1935*" from section 19 (b).

Insert instead "silver or gold driver licence issued under the *Road Transport (Driver Licensing) Act 1998*". 5

[2] Section 47 What are the grounds for action against the holder of a drivers certificate?

Omit "silver or gold driver's licence issued under the *Motor Traffic Regulations 1935*" from section 47 (d). 10

Insert instead "silver or gold driver licence issued under the *Road Transport (Driver Licensing) Act 1998*".

1.13 Traffic Act 1909 No 5

[1] Section 2 Definitions

Omit the definition of *Driver's licence* from section 2 (1). 15
Insert instead:

Driver licence means a driver licence within the meaning of the *Road Transport (Driver Licensing) Act 1998*.

[2] Section 2 (1), definition of "Licensed" 20

Omit "this Act".

Insert instead "the *Road Transport (Driver Licensing) Act 1998*".

[3] Section 2 (1)

Insert in alphabetical order:

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- [4] **Section 2 (1), definition of "Road related area"**
Omit "motor" from paragraph (d).
- [5] **Section 2 (2A)**
Insert "driver" before "licence" wherever occurring.
- [6] **Section 2 (4)** 5
Omit "learner's licence".
Insert instead "learner licence".
- [7] **Section 2 (4)**
Omit "driver's licence". Insert instead "driver licence".
- [8] **Section 3 Regulations** 10
Omit section 3 (1) (m1), (n) and (t).
- [9] **Section 4A Speed limits**
Omit "driver's licence" wherever occurring.
Insert instead "driver licence".
- [10] **Section 4B Races, attempts on speed records etc** 15
Omit "driver's licence under this Act" from section 4B (2).
Insert instead "driver licence".
- [11] **Section 4E Prescribed concentration of alcohol in person's blood**
Omit the definition of *driver's licence* from section 4E (1). 20
Insert instead:
driver licence does not (except in subsection (1B))
include a provisional licence or learner licence.

- [12] Section 4E (1), definition of "first-year provisional licence"**
Omit "this Act".
Insert instead "the *Road Transport (Driver Licensing) Act 1998*".
- [13] Section 4E (1), definition of "first-year provisional licence"**
Insert "driver" before "licence" where lastly occurring. 5
- [14] Section 4E (1A)**
Omit "this Act".
Insert instead "the *Road Transport (Driver Licensing) Act 1998*".
- [15] Section 4E (1B) (a) (i) and (d), (1D) (c), (1E) (b1), (1F) (b1), (1G) (b1) and (2A) (c)** 10
Omit "learner's licence" wherever occurring.
Insert instead "learner licence".
- [16] Section 4E (1B) (b) and (c), (1D) (c), (1E) (b1), (1F) (b1), (1G) (b1) and (2A) (c)** 15
Omit "driver's licence" wherever occurring.
Insert instead "driver licence".
- [17] Section 4E (1B) (d)**
Insert "driver" before "licence" where firstly occurring.
- [18] Section 4F Blood samples to be taken in certain cases** 20
Omit "driver's licence" from section 4F (2) (f).
Insert instead "driver licence".
- [19] Sections 4F (2) (f) and 5 (1A), (1B) and (2) (c)**
Omit "learner's licence" wherever occurring.
Insert instead "learner licence".

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- [20] Section 5 Offences**
Omit "driver's licence" wherever occurring in section 5 (1A), (1B), (1C) and (2) (c).
Insert instead "driver licence".
- [21] Section 5 (2) (c)** 5
Omit "issued under the regulations".
- [22] Section 6 Driver must be licensed**
Omit "driver's licence" wherever occurring.
Insert instead "driver licence".
- [23] Section 7 Unlawfully obtaining or possessing licences etc** 10
Omit the section.
- [24] Section 7A Offences committed by disqualified drivers etc**
Omit "by or under any Act" from section 7A (2).
- [25] Section 7A** 15
Omit "driver's licence" wherever occurring.
Insert instead "driver licence".
- [26] Section 7A (5)**
Insert after section 7A (4):
(5) Subsection (2) applies to a person who is disqualified from holding a licence, or whose licence is suspended or cancelled, by a court in Australia or under any law in this State or another State or Territory. 20
- [27] Section 10 Court may impose penalty and disqualify driver on conviction**
Omit "driver's licence under this Act" from section 10 (2). 25
Insert instead "driver licence".

Road Transport (Driver Licensing) Bill 1998

Schedule 1 Amendment of Acts

- [28] Section 10 (3B)**
Insert "under the *Road Transport (Driver Licensing) Act 1998*" after "regulations" wherever occurring.
- [29] Section 10 (3B)**
Omit "driver's licence". Insert instead "driver licence". 5
- [30] Sections 10A, 10AA, 10EA and 11AD**
Omit "driver's licence" wherever occurring.
Insert instead "driver licence".
- [31] Section 10C Immediate suspension of driver licence in certain circumstances** 10
Insert "driver" before "licence" wherever occurring in section 10C (1) and (5).
- [32] Section 10C (2) and (4)**
Insert "driver" before "licences" wherever occurring.
- [33] Section 10D Suspension of driving privileges of visiting driver** 15
Insert "driver" before "licence" where firstly occurring in section 10D (1) (b).
- [34] Section 10D (1) (b)**
Omit "regulations".
Insert instead "*Road Transport (Driver Licensing) Act 1998* or any regulations under that Act". 20
- [35] Section 10E Appeal against suspension of driver licence**
Insert "driver" before "licence" in section 10E (1).
- [36] Section 10EA**
Omit "drivers' licences" from section 10EA (14). 25
Insert instead "driver licences".
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- [37] Section 10N Tampering with monitoring devices or vehicle movement records**
Insert "driver" before "licence" in section 10N (3).
- [38] Section 11AA Grant and renewal of drivers' licences**
Omit the section. 5
- [39] Section 11AB Suspension or cancellation of drivers' licences by the Authority**
Omit the section.
- [40] Section 11AC Effect of suspension of licence**
Omit the section. 10
- [41] Section 11AD Demand for production of driver licence**
Insert "driver" before "licence" wherever occurring in section 11AD (2) and (3).
- [42] Section 11AE Downgrading of driver licences**
Insert "driver" before "licence" wherever occurring. 15
- [43] Section 11AE (1) (b)**
Omit "under section 11AB".
Insert instead "the *Road Transport (Driver Licensing) Act 1998*".
- [44] Section 11AE (1) (b) (i)**
Omit "section 11AB (3)". 20
Insert instead "section 33 of the *Road Transport (Driver Licensing) Act 1998*".
- [45] Section 12 Records and evidence**
Omit section 12 (1) and (2).
-

- [46] Section 17 Common law or statute liability**
Omit "Except as provided by section 17A, nothing" from section 17 (1).
Insert instead "Nothing".
- [47] Section 17A Indemnification for medical reporting** 5
Omit the section.
- [48] Section 18B Penalty notices for certain offences**
Insert after section 18B (1) (dc):
(dd) has committed any prescribed offence under the *Road Transport (Driver Licensing) Act 1998* or any regulation made under that Act. 10
- [49] Section 18B (4A)**
Omit "11AB or".
- [50] Section 21 Authority to notify certain decisions**
Omit section 21 (1). Insert instead: 15
(1) If the Authority decides to refuse to grant, renew or transfer, or decides to cancel, the registration of a motor vehicle or trailer, the Authority must cause:
(a) the person applying for the grant, renewal or transfer of the registration, or 20
(b) the holder of the registration suspended or cancelled,
to be served personally or by post with a notice setting out the decision and the reason for it.
- [51] Section 21 (3), (4), (6) and (7)** 25
Omit the subsections.
- [52] Section 21 (5)**
Omit "Subsections (2) and (3) (a) do".
Insert instead "Subsection (2) does".

- [53] Section 21 (8)**
Omit "driver's licence or".
- [54] Section 22 Appeals**
Omit section 22 (6A).
- [55] Section 22 (9)** 5
Omit "driver's licence or".
- [56] Schedule 1 Savings, transitional and other provisions**
Insert at the end of clause 1 (1):
Road Transport (Driver Licensing) Act 1998
- [57] Schedule 1, clause 1 (2)** 10
Omit "commencement of this clause".
Insert instead "assent to the Act concerned".
- 1.14 Transport Administration Act 1988 No 109**
- [1] Section 46 Constitution of RTA**
Insert ", the *Road Transport (Driver Licensing) Act 1998*" after "*Act 1995*" in section 46 (2) (a). 15
- [2] Section 78 Payment into Roads and Traffic Authority Fund**
Insert "and any fees paid under the *Road Transport (Driver Licensing) Act 1998*," after "*Recreation Vehicles Act 1983*," in section 78 (1) (b) (ii). 20

Road Transport (Driver Licensing) Bill 1998

Schedule 1 Amendment of Acts

1.15 Young Offenders Act 1997 No 54

Section 8 Offences covered by Act

Omit "licence or permit under the *Traffic Act 1909*" from section 8
(2) (b).

Insert instead "learner licence under the *Road Transport (Driver
Licensing) Act 1998*". 5

Schedule 2 Amendments to Traffic Act 1909 relating to penalties and disqualifications

(Section 36)

- [1] Section 5 Offences** 5
- Omit section 5 (2) (e). Insert instead:
- (e) in the case of a first offence to which paragraph (a) or (b) applies—to a penalty not exceeding 20 penalty units or to imprisonment for a period not exceeding 9 months or to both such penalty and imprisonment, or 10
 - (f) in the case of a second or subsequent offence to which paragraph (a) or (b) applies—to a penalty not exceeding 30 penalty units or to imprisonment for a period not exceeding 12 months or to both such penalty and imprisonment. 15
- [2] Section 5 (2AA)**
- Insert after section 5 (2):
- (2AA) For the purposes of subsection (2), if a person is guilty of an offence under subsection (2) (a) or (b), that offence: 20
 - (a) is a second or subsequent offence if and only if, within the period of 5 years immediately before being convicted of that offence, the person was convicted of a major offence, or
 - (b) otherwise is to be treated as a first offence. 25
- [3] Section 5AC Offences related to testing for drugs**
- Omit “and liable to a penalty not exceeding 30 penalty units or to imprisonment for a period not exceeding 18 months or to both that penalty and imprisonment” from section 5AC (2).

[4] Section 5AC (2A) and (2B)

Insert after section 5AC (2):

- (2A) A person who is guilty of an offence under subsection (2) is liable:
- (a) in the case of a first offence—to a penalty not exceeding 30 penalty units or to imprisonment for a period not exceeding 18 months or to both such penalty and imprisonment, or 5
 - (b) in the case of a second or subsequent offence—to a penalty not exceeding 50 penalty units or to imprisonment for a period not exceeding 2 years or to both such penalty and imprisonment. 10
- (2B) For the purposes of subsection (2A), if a person is guilty of an offence under subsection (2), that offence:
- (a) is a second or subsequent offence if and only if, within the period of 5 years immediately before being convicted of that offence, the person was convicted of a major offence, or 15
 - (b) otherwise is to be treated as a first offence.

[5] Section 6 Driver must be licensed 20

Omit "is liable, if the person has never been licensed" from section 6 (1C).

Insert instead "is, if the person has never been licensed, guilty of an offence under this subsection and is liable".

[6] Section 6 (1D) 25

Omit "a person who has never been licensed is convicted of an offence under subsection (1) (a)".

Insert instead "a person is convicted of an offence under subsection (1C)".

[7] Section 6 (1E) 30

Omit "subsections (1C), (1D) and (1G)".

Insert instead "subsection (1C)".

[8] Section 6 (1E)

Omit "in this State or elsewhere". Insert instead "in Australia".

[9] Section 6 (1F)

Omit "subsection (1) (a)". Insert instead "subsection (1C)".

[10] Section 6 (1F) (b)

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Omit the paragraph. Insert instead:

- (b) it is the first occasion on which the person is convicted of the offence, but within the period of 5 years immediately before being convicted of the offence, the person was convicted of an offence under section 7A.

10

[11] Section 6 (1H)

Insert after section 6 (1G):

- (1H) A person cannot be convicted under both subsection (1) (a) and subsection (1C) in respect of driving on the same occasion. A person charged with an offence under subsection (1C) can be convicted instead of an offence under subsection (1) (a), but a person charged with an offence under subsection (1) (a) cannot be convicted instead of an offence under subsection (1C).

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[12] Section 7A Offences committed by disqualified drivers etc

Omit "an offence under section 6 (1) (a) (being an offence committed by a person who has never been licensed as referred to in section 6 (1E))" from section 7A (2B) (b).

Insert instead "an offence under section 6 (1C)".

25

[13] Section 10A Disqualification for certain major offences

Omit ", 5 (2) or 5AC (2)" wherever occurring in section 10A (2) (b) and (3) (b).

Insert instead "or 5 (2)".

[14] Section 10A (2) (b1)

Insert after section 10A (2) (b):

- (b1) where the conviction is for an offence under section 5AC (2):
 - (i) the person shall be disqualified by the conviction and without any specific order for 3 years from holding any such licence, or 5
 - (ii) where the court upon the conviction thinks fit to order a shorter period (but not shorter than 6 months) or longer period of disqualification, the person shall be disqualified for such period as may be specified in the order, or 10

[15] Section 10A (2) (c) 15

Omit "and (b)". Insert instead ", (b) and (b1)".

[16] Section 10A (3) (b1)

Insert after section 10A (3) (b):

- (b1) where the conviction is for an offence under section 5AC (2): 20
 - (i) the person shall be disqualified by the conviction and without any specific order for 5 years from holding any such licence, or
 - (ii) where the court upon the conviction thinks fit to order a shorter period (but not shorter than 12 months) or longer period of disqualification, the person shall be disqualified for such period as may be specified in the order, or 25 30

Road Transport (Driver Licensing) Bill 1998

Amendments to Traffic Act 1909 relating to penalties and Schedule 2
disqualifications

[17] Section 10A (3) (c)

Omit "and (b)". Insert instead ", (b) and (b1)".

[18] Section 10EA

Omit "an offence under section 6 (1) (a) (being an offence committed by a person who has never been licensed as referred to in section 6 (1E))" from section 10EA (1) (a) (iii). 5

Insert instead "an offence under section 6 (1C)".

[19] Section 18B Penalty notices for certain offences

Insert "(except an offence against section 6 (1C))" after "imposed under this Act" in section 18B (6). 10

Schedule 3 Savings, transitional and other provisions

(Section 37)

Part 1 General

- 1 Regulations** 5
- (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of the following Acts:
this Act
- (2) Any such provision may, if the regulations so provide, take effect from the date of assent to the Act concerned or a later day. 10
- (3) To the extent to which any such provision takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as:
- (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication, or 15
- (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication. 20

Part 2 Provisions consequent on enactment of this Act

- 2 References to licences under Traffic Act 1909**
- Any reference (however expressed) in any other Act or instrument made under any Act or any other instrument of any kind to: 25
- (a) the licensing or authorising of a person under the *Traffic Act 1909* to drive a motor vehicle or class of motor vehicles, or
- (b) a driver's licence or licence under the *Traffic Act 1909*, or 30

(c) a driver's licence.

is taken to be a reference to the licensing of a person under this Act or to a driver licence under this Act or the regulations, as the case requires.

3 Offences under Traffic Act 1909

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(1) The *Traffic Act 1909*, as in force immediately before the commencement of a relevant item, applies to a relevant offence committed, or alleged to have been committed, before the commencement of that item.

(2) In this clause:

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relevant item means an item of Schedule 1.13 to this Act that amends a provision of the *Traffic Act 1909* that contains an offence.

relevant offence means an offence under a provision of the *Traffic Act 1909* that is amended by a relevant item.

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4 Appeals

(1) The regulations may make provision for or with respect to appeals against any decision (or class of decisions) of the Authority under this Act or the regulations, if section 21 has not commenced, or if no decision (or class of decisions) has been prescribed by the regulations for the purposes of that section.

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(2) In particular, and without limiting subclause (1), the regulations may:

(a) provide for the manner of notification of specified decisions by the Authority to persons affected by the decisions, and

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(b) confer jurisdiction on a Local Court to hear and determine appeals against specified decisions, or classes of decisions, of the Authority under this Act or the regulations, and

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(c) set out the actions that may be taken by a Local Court or must be taken by the Authority after the determination of an appeal.

- (3) A regulation referred to in subclause (1) may provide that a decision of a Local Court is final and not subject to any appeal or review by another court or body.
- (4) Nothing in subclause (2) prevents the hearing or determination of an appeal to a Local Court in respect of a decision of the Authority that is made reviewable by the Administrative Decisions Tribunal under section 21 after the lodgment of any such appeal. 5
- (5) Nothing in this clause limits clause 1.
- 5 Existing demerit points** 10
- (1) A person against whom demerit points are recorded under the *Motor Traffic Regulations 1935*, as in force before the commencement of this clause, is taken to have incurred those demerit points under this Act or the regulations.
- (2) Any such demerit points are taken to be recorded against the person in the demerit points register for the purposes of section 16 and may be taken into account for the purposes of that section. 15
- 6 Indemnity**
- Nothing in this Act affects an indemnity extended to a person under section 17A of the *Traffic Act 1909*, as in force immediately before the commencement of Schedule 1.13 [47] to this Act. 20
- 7 Certain existing authorities and delegations taken to be delegations under Act** 25
- Any person who, immediately before the commencement of this clause, was:
- (a) authorised by or under the *Traffic Act 1909* (as in force immediately before that commencement) to carry out any function of the Authority in relation to the licensing of drivers, or 30
- (b) a delegate of the Authority in respect of the exercise of any such function,
- is taken to be a delegate of the Authority under section 13 of this Act in respect of any corresponding function under this Act or the regulations. 35

8 Transitional provision—second or subsequent offence of unlicensed driving

A person who is convicted of an offence under section 6 (1) (a) of the *Traffic Act 1909* that was committed before the commencement of this clause is not to be regarded as being convicted of a second or subsequent offence for the purposes of that Act merely because the person had been issued with a penalty notice under section 18B of that Act in respect of an earlier occasion on which the person was alleged to have committed the offence.

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Dictionary

(Section 4)

Australian driver licence means:

- (a) a driver licence, or
- (b) a licence, probationary licence, conditional licence, restricted licence, provisional licence or driver licence receipt (other than a learner licence) issued under a law in force in a State or internal Territory authorising the holder to drive a motor vehicle on a road or road related area. 5

Authority means the Roads and Traffic Authority. 10

class of a driver licence means a class of licence established by the regulations.

conditional licence means a licence issued as a conditional licence in accordance with the regulations.

corresponding law means the law of another jurisdiction under which authority is given to drive motor vehicles on roads or road related areas. 15

demerit points register means the register required to be maintained under section 14.

drive includes having control over the steering, movement or propulsion of a vehicle and also includes ride a vehicle. 20

driver licence means:

- (a) a licence (including a conditional licence, a provisional licence and a learner licence) issued in accordance with the regulations authorising the holder to drive one or more classes of motor vehicle on a road or road related area, or 25
- (b) a driver licence receipt.

driver licence receipt means a receipt that:

- (a) is issued following an application for an Australian driver licence and after payment of any applicable fee, and
- (b) authorises the holder to drive one or more classes of motor vehicle on a road or road related area. 30

driver licence register means the register required to be maintained under section 8 and the regulations.

exercise of a function includes the performance of a duty.

function includes a power, authority and duty.

jurisdiction means a State, the Commonwealth or a Territory.

learner licence means a licence or permit issued to a person under a law in force in a State or internal Territory to authorise the person to drive a motor vehicle on a road or road related area for the purpose of learning to drive a motor vehicle. 5

Ministerial Council has the same meaning as it has in the *National Road Transport Commission Act 1991* of the Commonwealth.

motor vehicle means a vehicle that is built to be propelled by a motor that forms part of the vehicle. 10

national schedule of demerit points means the driving offences and corresponding demerit points prescribed in the regulations as comprising the national schedule of demerit points.

penalty notice means a notice issued under section 18B of the *Traffic Act 1909* or a penalty reminder notice issued under the *Fines Act 1996*. 15

photograph includes a digitised, electronic or computer generated image in a form approved by the Authority.

probationary licence means a licence to drive a motor vehicle:

- (a) issued to a person who applies for a driver licence following a period of disqualification from driving ordered by a court in Australia, or 20
- (b) issued to replace an equivalent licence issued under a corresponding law.

provisional licence means a licence (other than a learner licence) to drive a motor vehicle, issued under a law in force in a State or internal Territory, that is subject to conditions, restrictions, or qualifications. 25

restricted licence means an authority to drive a motor vehicle issued at the direction of a court in Australia that authorises the holder to drive only in the course of his or her employment or in other specified restricted circumstances. 30

road means an area that is open to or used by the public and is developed for, or has as one of its main uses, the driving or riding of motor vehicles.

Road Transport (Driver Licensing) Bill 1998

Dictionary

road related area means:

- (a) an area that divides a road, or
- (b) a footpath or nature strip adjacent to a road, or
- (c) an area that is open to the public and is designated for use by cyclists or animals, or 5
- (d) an area that is not a road and that is open to or used by the public for driving, riding or parking vehicles, or
- (e) any other area that is open to or used by the public and that has been declared under section 29 to be an area to which specified provisions of this Act or the regulations apply. 10