



New South Wales

Road Transport (General) Bill 1999

Explanatory note

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

The following Bills are cognate with this Bill:

- the *Road Transport (Safety and Traffic Management) Bill 1999*
- the *Road Transport Legislation Amendment Bill 1999*

Overview of Bill

The objects of this Bill are as follows:

- (a) to provide for the enforcement of the provisions of the **road transport legislation** (which includes the proposed Act, the *Road Transport (Driver Licensing) Act 1998*, the *Road Transport (Heavy Vehicles Registration Charges) Act 1995*, the proposed *Road Transport (Safety and Traffic Management) Act 1999*, the *Road Transport (Vehicle Registration) Act 1997*, other prescribed Acts or provisions of Acts and regulations made under those Acts) and various other Acts and regulations.
- (b) to facilitate the efficient administration of the road transport legislation by:
 - (i) enabling the Administrative Decisions Tribunal to review certain decisions made under the road transport legislation, and

- (ii) enabling the Minister to make certain declarations and orders in respect of the application of the road transport legislation to roads and road related areas and to people, vehicles and animals.
- (c) to re-enact (with some modifications) provisions currently contained in the *Traffic Act 1909* (which is to be repealed by the proposed *Road Transport Legislation Amendment Act 1999*), including provisions concerning matters such as written off and wrecked vehicles, the detention, impounding and forfeiture of vehicles, police powers and unauthorised vehicle use.
- (d) to provide for matters of a savings and transitional nature consequent on the enactment of the proposed Act, the proposed *Road Transport (Safety and Traffic Management) Act 1999* and the proposed *Road Transport Legislation Amendment Act 1999*.

Outline of provisions

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 defines certain words and expressions used in the proposed Act.

Clause 4 provides that notes in the proposed Act do not form part of the Act.

Part 2 Administration of road transport legislation

Division 1 Road transport legislation

Clause 5 defines the concept of *road transport legislation* for the purposes of the proposed Act. It is defined to mean the following:

- (a) the proposed Act.
- (b) the *Road Transport (Driver Licensing) Act 1998*.
- (c) the *Road Transport (Heavy Vehicles Registration Charges) Act 1995*.

- (d) the proposed *Road Transport (Safety and Traffic Management) Act 1999*.
- (e) the *Road Transport (Vehicle Registration) Act 1997*.
- (f) any other Act or regulation (or any provision of such an Act or regulation) prescribed by the regulations.
- (g) any regulation made under any of the above Acts (or any provision of such an Act).

The proposed section makes it clear that the provisions of the proposed Act do not apply to the road transport legislation if the legislation provides otherwise either expressly or by necessary intendment. It also provides that an Act or regulation (or a provision of an Act or regulation) cannot be prescribed by the regulations to be part of the road transport legislation without the concurrence of the Minister administering the Act or regulation to be prescribed.

Division 2 Inter-relationship between road transport legislation and other law

Clause 6 makes provision for the relationship between the road transport legislation and other laws. In particular, it provides that (unless the regulations provide otherwise) an Act that forms part of the road transport legislation prevails over any other Act or statutory rule to the extent of any inconsistency. It also provides that a statutory rule made under the road transport legislation prevails over any other Act or statutory rule to the extent of any inconsistency in respect of driver licensing, vehicle registration or traffic on roads or road related areas (and other related matters).

Division 3 Responsible persons for vehicles under road transport legislation

Clause 7 defines the concept of the *responsible person* for a vehicle for the purposes of the road transport legislation. A person is a responsible person for a vehicle if the person is any of the following:

- (a) in relation to a registered vehicle:
 - (i) a registered operator of the vehicle, except where the vehicle has been disposed of by the operator, or
 - (ii) if the vehicle has been disposed of by a previous registered operator—a person who has acquired the vehicle from the operator, or

- (iii) a person who has a legal right to possession of the vehicle (including any person who has the use of the vehicle under a lease or hire-purchase agreement, but not the lessor while the vehicle is being leased under any such agreement).
- (b) in relation to an unregistered vehicle to which a trader's plate is affixed:
 - (i) the person to whom the trader's plate is issued under the *Road Transport (Vehicle Registration) Act 1997*, or
 - (ii) a person who has a legal right to possession of the vehicle (including any person who has the use of the vehicle under a lease or hire-purchase agreement, but not the lessor while the vehicle is being leased under any such agreement).
- (c) in relation to an unregistered vehicle to which no trader's plate is affixed:
 - (i) a person who was last recorded as a registered operator of the vehicle, or
 - (ii) a person who has a legal right to possession of the vehicle (including any person who has the use of the vehicle under a lease or hire-purchase agreement, but not the lessor while the vehicle is being leased under any such agreement).
- (d) a person (or a person who belongs to a class of persons) prescribed by the regulations for the purposes of the definition.

The concept of the responsible person for a vehicle will replace the concept of **owner** of a vehicle that is presently used in the *Traffic Act 1909* and other related legislation, which is presently defined in a number of inconsistent ways.

Clause 8 provides that (unless the regulations provide otherwise) the provisions of the road transport legislation and certain other laws that apply to the responsible person for a vehicle are read as applying to each such responsible person in the case of vehicles that have more than one responsible person.

Division 4 Alteration of scope of operation of road transport legislation

Clause 9 enables the Minister to declare, by order published in the Gazette, that the road transport legislation (or any specified provision of it) applies to a specified area of the State that is open to or used by the public or does not apply to a specified road or road related area.

The proposed section consolidates in one place the provisions of section 2A of the *Traffic Act 1909*, section 29 of the *Road Transport (Driver Licensing) Act 1998* and section 25 of the *Road Transport (Vehicle Registration) Act 1997*. Those sections will be repealed by the proposed *Road Transport Legislation Amendment Act 1999*.

Clause 10 enables the Minister to declare, by order published in the Gazette, that the road transport legislation (or any specified provision of it) does not apply to a vehicle, person or animal in a specified location or circumstance.

The proposed section consolidates in one place the provisions of section 30 of the *Road Transport (Driver Licensing) Act 1998* and section 25A of the *Road Transport (Vehicle Registration) Act 1997*. Those sections will be repealed by the proposed *Road Transport Legislation Amendment Act 1999*.

Clause 11 requires the Minister administering the proposed Act to consult with the Minister administering the *Motor Accidents Act 1988* before making a declaration under proposed section 9 or 10 in respect of the *Road Transport (Vehicle Registration) Act 1997* (or regulations made under that Act).

The proposed section substantially re-enacts the requirement presently contained in section 25 (1A) of the *Road Transport (Vehicle Registration) Act 1997*. That section will be repealed by the proposed *Road Transport Legislation Amendment Act 1999*.

Clause 12 enables the Minister, by notice published in the Gazette, to order the suspension or variation of regulations made under the road transport legislation in a manner that is consistent with the provisions relating to application orders and emergency orders in the intergovernmental agreements scheduled to the *National Road Transport Commission Act 1991* of the Commonwealth.

The proposed section consolidates in one place the provisions of section 28 of the *Road Transport (Driver Licensing) Act 1998* and section 24 of the *Road Transport (Vehicle Registration) Act 1997*. Those sections will be repealed by the proposed *Road Transport Legislation Amendment Act 1999*.

Clause 13 requires the Roads and Traffic Authority (the **Authority**) to maintain a database of declarations and orders made under the Division. It also requires the Authority to give the public access to the database of declarations and orders made under the Division in accordance with the regulations.

Division 5 Authority documents

Clause 14 provides that the Authority may issue a single authority document to a person that authorises the person to carry out functions under more than one provision of the road transport legislation.

Part 3 Enforcement of road transport legislation and other legislation

Division 1 Penalty notices

This Division substantially re-enacts the provisions of section 18B of the *Traffic Act 1909*.

Clause 15 enables police officers and other authorised officers to issue penalty notices for alleged offences against the road transport legislation and certain other legislation that are prescribed by regulations as penalty notice offences.

Clause 16 provides for how penalty notices are to be served.

Clause 17 provides that the payment of a penalty prescribed by the regulations for a penalty notice offence:

- (a) prevents further proceedings against any person for the alleged offence, and
- (b) is not to be regarded as an admission of liability for the purposes of any civil claim arising out of the same circumstances.

Clause 18 provides that nothing in the Division limits the provisions of any other Act relating to proceedings that may be taken in respect of offences.

Division 2 Production of licences and identification of drivers and passengers

Clause 19 enables an authorised officer, in the execution of his or her duties under the road transport legislation, to require the driver or rider of a vehicle to produce his or her driver licence and to state his or her name and address. A failure to comply with such a requirement will be an offence for which the maximum penalty will be 20 penalty units.

The proposed section re-enacts (with some modifications) section 5 (1) of the *Traffic Act 1909*, which at present confers power only on police officers. The new section will also confer the power on persons who are authorised officers for the purposes of the proposed Act and applies to the road transport legislation generally.

Clause 20 enables an authorised officer to require passengers and other persons accompanying learner drivers or other persons attending a motor registry for a test or other examination to produce their driver licences and state their names and addresses. A failure to comply with such a requirement will be an offence for which the maximum penalty will be 20 penalty units.

The proposed section substantially re-enacts the provisions of section 5 (1B) and (1C) of the *Traffic Act 1909*, except that it applies to the road transport legislation generally.

Clause 21 enables an authorised officer to require the person responsible for a vehicle to disclose the identity of the driver of the vehicle at the time of an alleged offence. A failure to comply with such a requirement will be an offence for which the maximum penalty will be 20 penalty units.

The proposed section substantially re-enacts the provisions of section 5 (3) and (4) of the *Traffic Act 1909*, except that the new section will also confer the power on persons who are authorised officers for the purposes of the proposed Act and applies to the road transport legislation generally.

Clause 22 requires a person who is charged with an offence under the road transport legislation to produce his or her driver licence to the court hearing the charge. A failure to comply with that requirement will be an offence for which the maximum penalty will be 20 penalty units.

The proposed section substantially re-enacts the provisions of section 9 of the *Traffic Act 1909*, except that the new section applies to the road transport legislation generally. It will also replace section 25 of the *Road Transport (Driver Licensing) Act 1998*, which is to be repealed by the proposed *Road Transport Legislation Amendment Act 1999*.

Clause 23 makes it an offence for a person to demand the production of another person's driver licence while knowing that he or she is not authorised by law to do so. The maximum penalty for such an offence will be 20 penalty units.

The proposed section substantially re-enacts the provisions of section 11AD of the *Traffic Act 1909*.

Division 3 Licence disqualification

Clause 24 confers a general power (subject to certain other specific provisions of the road transport legislation) for a court that convicts a person of an offence under the road transport legislation to disqualify a person from holding a driver licence.

The proposed section substantially re-enacts the provisions of section 10 of the *Traffic Act 1909*, except that it applies to the road transport legislation generally.

Clause 25 provides for the automatic disqualification of persons from holding a driver licence if convicted of a major offence. Proposed section 3 defines **major offence** to include serious offences such as offences involving dangerous driving, speeding or alcohol or other drug use.

The proposed section substantially re-enacts the provisions of section 10A of the *Traffic Act 1909*.

Clause 26 provides that if a person is disqualified under the road transport legislation from holding a driver licence (whether or not by court order), the disqualification operates to cancel permanently any driver licence held by the person. It also prevents a person from obtaining another licence during a period of disqualification. It will be an offence for a disqualified person not to surrender a licence on conviction to the court (if it is in the person's possession at conviction) or to the Authority (if it is not in the person's possession at conviction). The maximum penalty for any such offence will be 20 penalty units.

The proposed section substantially re-enacts the provisions of section 10AA of the *Traffic Act 1909*, except that it applies to the road transport legislation generally.

Division 4 Habitual traffic offenders

This Division substantially re-enacts the provisions of section 10EA of the *Traffic Act 1909*.

Clause 27 defines the concept of **relevant offence** for the purposes of the Division.

Relevant offences include offences under the *Crimes Act 1900* in which death or bodily harm is caused by the driving of a motor vehicle, negligent driving causing death or grievous bodily harm, reckless or dangerous driving, driving when affected by alcohol or other drugs, prescribed speeding offences and driving without a licence or while disqualified. The relevant offences include any offence for which a person is convicted in another State or Territory, so long as the offence is of the same kind as a relevant offence committed in this State.

The scheme will apply to a third offence that would trigger a declaration of an habitual traffic offender even though the person is not convicted but the charge is only found to be proven under section 556A of the *Crimes Act 1900*.

Clause 28 provides that a person is declared to be an habitual traffic offender by the proposed section if the person is convicted by a court of a relevant offence for the third or more time within a period of 5 years before that conviction. The 3 traffic offences giving rise to the declaration will need to have occurred on different occasions. However, under proposed section 31 the court may remove the declaration, but only in special cases where the disqualification imposed by the declaration would be disproportionate and unjust.

Clause 29 provides that the Authority must give written warnings to the holders of driver licences who are liable to be declared to be habitual traffic offenders if they are convicted of another relevant offence.

Clause 30 provides for a mandatory 5-year disqualification period from driving on the third conviction (and on each subsequent conviction) in 5 years for relevant traffic offences. However, the court may order a longer period of disqualification if it thinks fit. It may also order a shorter period (but not shorter than 2 years), but only in special cases where the disqualification imposed by the declaration would be disproportionate and unjust. The normal 5-year disqualification (and each additional 5-year disqualification) will not commence until all existing disqualifications are completed.

Clause 31 provides that there is no court appeal against the declaration of an habitual traffic offender or the disqualification imposed by the declaration. However, it provides for the quashing of a declaration by the court that convicts an habitual traffic offender in certain circumstances.

Clause 32 provides that a disqualification under the Division is in addition to any other penalty imposed for the offence giving rise to the declaration.

Division 5 Suspension of licences and visiting driver privileges

Clause 33 enables the Commissioner of Police to suspend a driver licence for a period not exceeding 14 days if the Commissioner is satisfied that the driver is an incompetent, reckless or careless driver or is found to be under the influence of liquor.

The proposed section is based on section 10B of the *Traffic Act 1909*, but unlike that provision, is limited to the suspension of driver licences.

Clause 34 enables a police officer to suspend, by written notice, a person's driver licence within 48 hours after the person is charged with certain offences involving alcohol or drug use under the proposed *Road Transport (Safety and Traffic Management) Act 1999*. The suspension has effect until the charge is heard and determined by a court. A person to whom a notice is given must surrender the driver licence to which the notice relates. A failure to do so will constitute an offence for which the maximum penalty will be 20 penalty units.

The proposed section substantially re-enacts the provisions of section 10C of the *Traffic Act 1909*.

Clause 35 enables a police officer to suspend, by written notice, a visiting interstate driver's authority to drive in New South Wales under State law within 48 hours after the driver is charged with certain offences involving alcohol or drug use under the proposed *Road Transport (Safety and Traffic Management) Act 1999*. The suspension has effect until the charge is heard and determined by a court.

The proposed section substantially re-enacts the provisions of section 10D of the *Traffic Act 1909*.

Division 6 Downgrading of licences

Clause 36 enables the Authority to issue a new driver licence to a former holder of a certain kind of cancelled licence in substitution for the cancelled licence. However, the new licence will not authorise any such person to drive vehicles of the class to which the cancelled licence related.

The proposed section substantially re-enacts the provisions of section 11AE of the *Traffic Act 1909*.

Division 7 Compensation orders by courts in respect of offences under road transport legislation

Clause 37 enables a court that convicts a person of an offence under the road transport legislation to order the defendant to pay compensation for loss of time or expense incurred in consequence of the offence.

The proposed section substantially re-enacts the provisions of section 14 of the *Traffic Act 1909*, except that it applies to the road transport legislation generally.

Clause 38 enables a court to order a person (other than a police officer or the Authority) who lays an information or makes a complaint for an offence under the road transport legislation to pay the defendant compensation for loss of time if the proceedings for the offence are dismissed or withdrawn.

The proposed section substantially re-enacts the provisions of section 15 of the *Traffic Act 1909*, except that it applies to the road transport legislation generally and does not apply to informations or complaints laid or made by the Authority.

Division 8 Detention, impounding and forfeiture of vehicles

Clause 39 provides for the impounding of a vehicle used for any practice prohibited under proposed section 41 of the proposed *Road Transport (Safety and Traffic Management) Act 1999* or for actual street racing (prohibited by proposed section 40 of the proposed *Road Transport (Safety and Traffic Management) Act 1999*). Any such vehicle may be seized on any public place. However, it may only be seized on private property with the consent of the owner or under a search warrant issued under proposed section 41.

The impounded car may (in accordance with Schedule 1) be kept by police until the offence has been dealt with by law or until the statutory period prescribed under proposed section 40 in relation to the offence has expired, unless an owner of the vehicle comes forward to show that the offence was committed without his or her consent or knowledge.

The proposed section substantially re-enacts the provisions of section 4BB of the *Traffic Act 1909*.

Clause 40 provides for further measures against the offender if the offence is found proven in court or (in the case of an offence under proposed section 41 of the proposed *Road Transport (Safety and Traffic Management) Act 1999*) is dealt with by payment of the penalty under a penalty notice. For a first offence, the vehicle is automatically liable to impounding for 3 months. For a second or subsequent offence under proposed section 40 or proposed section 41 of the proposed *Road Transport (Safety and Traffic Management) Act 1999*, the vehicle is automatically forfeited to the Crown. A court dealing with the offence has a discretion to reduce these measures if, in its opinion, there is good reason to do so.

The proposed section substantially re-enacts the provisions of section 4BC of the *Traffic Act 1909*.

Clause 41 provides for the issue of search warrants for the purpose of enabling a police officer to impound a vehicle operated as referred to in proposed section 39 that is located on private property.

The proposed section substantially re-enacts the provisions of section 4BD of the *Traffic Act 1909*.

Division 9 Imputed liability for certain offences under road transport legislation

Clause 42 provides for the circumstances in which directors and managers of corporations will be taken to be liable for offences committed by corporations against the road transport legislation.

Clause 43 specifies the circumstances in which the responsible person for a vehicle in relation to which a designated offence has occurred will be taken to have committed the offence even where the person was not the driver of the vehicle. The designated offences relate to camera-detected traffic light offences, camera-recorded speeding offences and certain parking offences under the proposed *Road Transport (Safety and Traffic Management) Act 1999*.

In essence, the responsible person at the time of the offence will be treated as if the person were the actual offender unless:

- (a) the person proves, in accordance with the proposed section, that the vehicle was stolen or illegally taken or used, or
- (b) the person discloses, in accordance with the procedures provided in the proposed section, the identity and address of the driver, or

- (c) the person proves, in accordance with the proposed section, that the person did not know (and could not with reasonable diligence have known) the name and address of the driver.

The proposed section also places a duty on the responsible person for a vehicle involved in a camera-detected traffic light offence or a camera-recorded speeding offence to disclose the identity and address of the driver (if known). A failure to comply with the duty or the false nomination of a driver will be offences for which the maximum penalty will be 5 penalty units.

Nothing in the proposed section affects the liability of the actual offender.

The proposed section substantially re-enacts the provisions of 18A of the *Traffic Act 1909*, except that references to owners of vehicles are replaced with references to responsible persons for vehicles.

Division 10 Service of documents

Clause 44 specifies how documents that are required to be served on or given to a person under the road transport legislation may be duly served on or given to such a person.

Clause 45 specifies how documents that are required to be lodged with the Authority under the road transport legislation may be duly lodged with the Authority.

Division 11 Evidentiary provisions in relation to road transport legislation

Clause 46 provides for documents signed by the Authority and relating to matters on its records concerning the road transport legislation to be admitted into evidence in court proceedings. The proposed section also enables courts to admit as evidence documents issued under laws of other jurisdictions relating to certain matters.

The proposed section consolidates in one place the provisions of section 26 of the *Road Transport (Driver Licensing) Act 1998* and section 22 of the *Road Transport (Vehicle Registration) Act 1997*. Those sections will be repealed by the proposed *Road Transport Legislation Amendment Act 1999*.

Division 12 Proceedings for offences under road transport legislation

Clause 47 provides for proceedings for offences against the road transport legislation to be dealt with summarily by a Local Court constituted by a Magistrate sitting alone.

The proposed section consolidates in one place the provisions of section 27 of the *Road Transport (Driver Licensing) Act 1998* and section 22A of the *Road Transport (Vehicle Registration) Act 1997*. Those sections will be repealed by the proposed *Road Transport Legislation Amendment Act 1999*.

Division 13 Review of decisions under road transport legislation

Clause 48 provides for aggrieved persons to apply to the Administrative Decisions Tribunal for a review of certain decisions made in respect of such persons under the road transport legislation.

The proposed section consolidates in one place the provisions of section 21 of the *Road Transport (Driver Licensing) Act 1998* and section 17 of the *Road Transport (Vehicle Registration) Act 1997*. Those sections will be repealed by the proposed *Road Transport Legislation Amendment Act 1999*. The proposed section also provides for the review by the Tribunal of certain decisions that are presently appealable to a court.

Division 14 Personal liability for carrying out duties under road transport legislation

Clause 49 indemnifies individuals from civil liability for acts or omissions done in good faith in the course of carrying out duties under the road transport legislation. 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.

The proposed section consolidates in one place the provisions of section 31 of the *Road Transport (Driver Licensing) Act 1998* and section 28 of the *Road Transport (Vehicle Registration) Act 1997*. Those sections will be repealed by the proposed *Road Transport Legislation Amendment Act 1999*.

Part 4 Further provisions concerning vehicles, roads and road related areas

Division 1 Police powers

Clause 50 enables police officers who have been authorised by the Commissioner of Police to enter premises carrying on the business of repairing vehicles and search vehicles on the premises to ascertain whether or not vehicles or vehicle parts have been stolen. It will be an offence for a person to wilfully delay or obstruct any such officer. the maximum penalty for which will be 20 penalty units.

The proposed section substantially re-enacts the provisions of section 7C of the *Traffic Act 1909*, except that the maximum penalty for the offence is increased from 5 penalty units to 20 penalty units.

Clause 51 provides for the Commissioner of Police to authorise the use by police of tyre deflation devices in police pursuits and provides an exception for police officers from any provision that would otherwise prevent their use on or near a road or road related area. Examples of those provisions are section 630 of the *Local Government Act 1993* (concerning the placing of dangerous articles in a public place) and clause 11 of the *Roads (General) Regulation 1994* (concerning placing things on roads).

The proposed section substantially re-enacts the provisions of section 24 of the *Traffic Act 1909*.

Division 2 Unauthorised use of vehicles

Clause 52 makes it an offence for a person to use a motor vehicle or trailer without first obtaining the consent of the owner. The maximum penalty for such an offence will be 20 penalty units.

The proposed section substantially re-enacts the provisions of section 8A of the *Traffic Act 1909*.

Clause 53 makes it an offence for a person to procure the use of any motor vehicle or trailer by fraud or misrepresentation (or to aid or abet any such person). The maximum penalty for such an offence will be 20 penalty units.

The proposed section substantially re-enacts the provisions of section 8B of the *Traffic Act 1909*.

Division 3 Written off and wrecked motor vehicles

This Division re-enacts the provisions of Part 3E of the *Traffic Act 1909* in substantially the same form, except that applications for the release of an impounded vehicle that can presently be made to a Local Court may instead be made to the Administrative Decisions Tribunal.

Clause 54 provides that the object of the Division is to provide for the collection of information concerning written off and wrecked motor vehicles, and for the taking of other measures in relation to such motor vehicles, to assist in preventing the registration of stolen motor vehicles and detecting motor vehicle theft and for other purposes connected with the administration and execution of the proposed Act.

Clause 55 defines certain expressions used in the Division. For instance, **auto-dismantler** is defined to include a person who carries on the business of demolishing or dismantling motor vehicles. A **dealer** is defined to include a person who carries on the business of buying, selling or exchanging motor vehicles. An **insurer** is defined to include a person who carries on the business of insuring motor vehicles.

Clause 56 provides that a motor vehicle is **wrecked** for the purposes of the Division if it is demolished or dismantled or is in some other condition prescribed by the regulations.

Clause 57 provides that a motor vehicle is **written off** for the purposes of the Division if a determination is made by an insurer in respect of the motor vehicle that it should be written off or should not be repaired (for example, because it has been stolen or because of the cost of repairs required to be made to the vehicle) or in other circumstances prescribed by the regulations.

Clause 58 provides that the Authority is to keep a register of written off and wrecked vehicles. The register may include information notified to the Authority under the Division and such other information as the Authority considers appropriate. Access to the register is to be limited to certain specified people and bodies (for example, law enforcement agencies).

Clause 59 requires insurers to provide to the Authority the information prescribed by the regulations concerning motor vehicles that are written off. For example, the regulations may require the vehicle identifier and information as to the type of damage (if any) sustained by the motor vehicle. The requirement to provide information will apply only in respect of late model motor vehicles (vehicles that are less than 15 years old or of such age as may be prescribed by the regulations).

Clause 60 requires auto-dismantlers to provide to the Authority the information prescribed by the regulations concerning motor vehicles that are wrecked. As with insurers, the regulations may require the vehicle identifier and information as to the type of damage (if any) sustained by the motor vehicle. The requirement to provide information will apply only in respect of late model motor vehicles (vehicles that are less than 15 years old or of such age as may be prescribed by the regulations).

Clause 61 requires dealers to provide to the Authority the information prescribed by the regulations concerning motor vehicles that are written off. As with insurers and auto-dismantlers, the regulations may require the vehicle identifier and information as to the type of damage (if any) sustained by the motor vehicle. The requirement to provide information will apply only in respect of late model motor vehicles (vehicles that are less than 15 years old or of such age as may be prescribed by the regulations).

Clause 62 provides that the regulations may require other persons to provide information about written off or wrecked motor vehicles.

Clause 63 makes it an offence to provide false or misleading information to the Authority. The maximum penalty for the offence will be 20 penalty units.

Clause 64 makes it an offence to obtain unauthorised access to or interfere with the register of written off and wrecked motor vehicles. The maximum penalty for the offence will be 20 penalty units.

Clause 65 makes it an offence for there to be unauthorised disclosure of information obtained in connection with the administration or execution of the provisions of the Division. The maximum penalty for the offence will be 20 penalty units.

Clause 66 provides that an insurer, auto-dismantler, dealer or other person may be required to remove, deface, obliterate or destroy the vehicle identifier on any part of a motor vehicle that has been written off or wrecked. This requirement may be made by the regulations or by the Authority.

Clause 67 provides that the Authority may refuse to register a motor vehicle that has the vehicle identifier of a motor vehicle that has been noted on the register as being written off or wrecked. This will not apply if the Authority is satisfied that the vehicle has been repaired, restored or recovered or in other circumstances prescribed by the regulations.

Clause 68 enables the regulations to provide that the Division, or specified provisions, do not apply in respect of any person or motor vehicle or apply only as specified.

Clause 69 enables the Authority to exempt persons from the operation of the Division.

Part 5 Miscellaneous

Clause 70 provides that the proposed Act binds the Crown.

Clause 71 enables the Governor to make regulations for the purposes of the proposed Act.

Clause 72 enables the regulations to exempt (or authorise the Authority to exempt) certain vehicles, persons or animals from the operation of the proposed Act or regulations (or specified provisions of the proposed Act or regulations).

Clause 73 enables the Authority to recover any unpaid fees or charges payable under the proposed Act or regulations as a debt due to the Authority in a court of competent jurisdiction.

Clause 74 gives effect to Schedule 2 containing savings, transitional and other provisions.

Clause 75 provides for a review of the operation of the proposed Act to be undertaken after 5 years from the date of assent to the proposed Act.

Schedules

Schedule 1 contains provisions regulating dealing with vehicles impounded under Division 8 of Part 3, including the conditions on which they may be returned to owners who were not party to the offences and provisions for the sale or other disposal of impounded or forfeited motor vehicles.

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Explanatory note

Schedule 2 contains savings and transitional provisions, including a power to make regulations of a savings or transitional nature consequent on the enactment of the proposed Act, the proposed *Road Transport (Safety and Traffic Management) Act 1999* and the proposed *Road Transport Legislation Amendment Act 1999*.



New South Wales

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Road Transport (General) Bill 1999

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New South Wales

Road Transport (General) Bill 1999

No. , 1999

A Bill for

An Act to provide for the administration and enforcement of road transport legislation; to make provision with respect to written off and wrecked vehicles; to provide for the review of decisions made under road transport legislation; to make further provision with respect to the use of vehicles on roads and road related areas; and for other purposes.

See also Road Transport (Safety and Traffic Management) Bill 1999 and Road Transport Legislation Amendment Bill 1999

Clause 1 Road Transport (General) Bill 1999

Part 1 Preliminary

The Legislature of New South Wales enacts:

Part 1 Preliminary

Note. This Act and the regulations made under it form part of the **road transport legislation** identified by section 5. Other road transport legislation includes the *Road Transport (Driver Licensing) Act 1998*, the *Road Transport (Heavy Vehicles Registration Charges) Act 1995*, the *Road Transport (Safety and Traffic Management) Act 1999*, the *Road Transport (Vehicle Registration) Act 1997* and the regulations made under those Acts. As part of the road transport legislation, this Act is subject to various provisions in this Act concerning the administration and enforcement of the road transport legislation generally.

1 Name of Act

This Act is the *Road Transport (General) Act 1999*.

2 Commencement

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

3 Definitions (cf Traffic Act, s 2)

(1) In this Act:

Australian driver licence has the same meaning as it has in the *Road Transport (Driver Licensing) Act 1998*.

authorised officer means:

- (a) a police officer, or
- (b) a person who is appointed for the time being by the Authority as an authorised officer for the purposes of the provision in which the expression is used, or
- (c) a person (or a person belonging to a class or description of persons) prescribed by the regulations.

Authority means the Roads and Traffic Authority.

drive includes the following:

- (a) be in control of the steering, movement or propulsion of a vehicle,
- (b) in relation to a trailer, draw or tow the trailer,
- (c) ride a vehicle.

driver means any person driving a vehicle, and includes any person riding a cycle.	1
	2
driver licence has the same meaning as it has in the <i>Road Transport (Driver Licensing) Act 1998</i> .	3
	4
exercise a function includes perform a duty.	5
function includes a power, authority or duty.	6
home address of a person means the person's current place of abode.	7
	8
horse includes any animal used for the carriage of persons or goods.	9
learner licence has the same meaning as it has in the <i>Road Transport (Driver Licensing) Act 1998</i> .	10
	11
light rail vehicle has the same meaning as it has in the <i>Road Transport (Safety and Traffic Management) Act 1999</i> .	12
	13
major offence means:	14
(a) a crime or offence referred to in the definition of convicted person in section 25 (1), or	15
	16
(b) any other crime or offence that, at the time it was committed, was a major offence under this Act or the <i>Traffic Act 1909</i> .	17
	18
motor vehicle means a vehicle that is built to be propelled by a motor that forms part of the vehicle.	19
	20
penalty notice means a penalty notice issued under Division 1 of Part 3.	21
	22
prescribed speeding offence means an offence under the <i>Road Transport (Safety and Traffic Management) Act 1999</i> (or regulations made under that Act) involving the use of a vehicle on a road or road related area at an excessive speed, being an offence that is prescribed by the regulations.	23
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registered , in relation to a vehicle, means registered under the <i>Road Transport (Vehicle Registration) Act 1997</i> .	28
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registered operator has the same meaning as it has in the <i>Road Transport (Vehicle Registration) Act 1997</i> .	30
	31
registrable vehicle has the same meaning as it has in the <i>Road Transport (Vehicle Registration) Act 1997</i> .	32
	33
responsible person for a vehicle—see section 7.	34
rider of an animal includes a person having charge of the animal.	35

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 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
- (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) a shoulder of a road, or
- (f) any other area that is open to or used by the public and that has been declared under section 9 to be an area to which specified provisions of this Act or the regulations apply.

road transport legislation —see section 5.

trader's plate has the same meaning as it has in the *Road Transport (Vehicle Registration) Act 1997*.

traffic includes vehicular traffic and pedestrian traffic.

trailer means a vehicle that is built to be towed, or is towed, by a motor vehicle, but does not include a motor vehicle that is being towed.

use of a vehicle includes standing the vehicle on a road or road related area.

vehicle means:

- (a) any description of vehicle on wheels (including a light rail vehicle) but not including any other vehicle used on a railway or tramway, or
 - (b) any other vehicle prescribed by the regulations.
- (2) A reference in a provision of this Act relating to the road transport legislation (other than this Act or the regulations) to an expression that is defined in the legislation includes, for the purposes of the application of the provision to the legislation, the expression as defined in the legislation.

4 Notes

Notes included in this Act are explanatory notes and do not form part of this Act.

Note. For the purposes of comparison, a number of provisions of this Act contain bracketed notes in headings drawing attention ("cf") to equivalent or comparable (though not necessarily identical) provisions of other Acts. For instance, the abbreviation "Traffic Act" in the notes is a reference to the *Traffic Act 1909* (as in force immediately before its repeal).

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Clause 5	Road Transport (General) Bill 1999	
Part 2	Administration of road transport legislation	
Division 1	Road transport legislation	

Part 2 Administration of road transport legislation

Division 1 Road transport legislation

5 What is the road transport legislation?

- (1) In this Act, the *road transport legislation* means the following:
 - (a) this Act.
 - (b) the *Road Transport (Driver Licensing) Act 1998*.
 - (c) the *Road Transport (Heavy Vehicles Registration Charges) Act 1995*.
 - (d) the *Road Transport (Safety and Traffic Management) Act 1999*.
 - (e) the *Road Transport (Vehicle Registration) Act 1997*.
 - (f) any other Act or regulation (or any provision of such an Act or regulation) prescribed by the regulations.
 - (g) any regulation made under any Act referred to in paragraphs (a)–(f) (or any provision of such an Act).
- (2) A regulation referred to in subsection (1) (f) prescribing an Act or regulation (or provision of an Act or regulation) cannot be made without the concurrence of the Minister administering the Act or regulation concerned.
- (3) A provision of this Act relating to the road transport legislation does not apply to the road transport legislation if that legislation provides otherwise either expressly or by necessary intendment.

Division 2 Inter-relationship between road transport legislation and other law

6 General relationship with other laws (cf Traffic Act, ss 11 and 17)

(1) **Other Acts and laws not affected except as provided by this section**

Nothing in the road transport legislation:

- (a) affects any of the provisions of any other Act or any statutory rule, or takes away any powers vested in any person or body by any other Act or statutory rule, except as provided by this section, or
- (b) affects any liability of any person at common law except to the extent that the road transport legislation provides otherwise expressly or by necessary intendment.

(2) **This Act generally prevails over other legislation in cases of inconsistency**

However (subject to subsection (3)):

- (a) an Act that forms part of the road transport legislation prevails over any other Act or statutory rule to the extent of any inconsistency, and
- (b) a statutory rule that forms part of the road transport legislation prevails over any other Act or statutory rule to the extent of any inconsistency in respect of driver licensing, vehicle registration or traffic on roads or road related areas (or other related matters).

(3) **Regulations may displace operation of subsection (2)**

Despite subsection (2), the regulations may provide that any other Act or a statutory rule (or any provision of another Act or statutory rule) prevails over an inconsistent provision of the road transport legislation.

Note. The expression **statutory rule** is defined in section 21 (1) of the *Interpretation Act 1987* to mean:

- (a) a regulation, by-law, rule or ordinance:
 - (i) that is made by the Governor, or
 - (ii) that is made by a person or body other than the Governor, but is required by law to be approved or confirmed by the Governor, or
- (b) a rule of court.

Clause 7	Road Transport (General) Bill 1999	
Part 2	Administration of road transport legislation	
Division 3	Responsible persons for vehicles under road transport legislation	

Division 3 Responsible persons for vehicles under road transport legislation

7 Who is a responsible person for a vehicle

- (1) In the road transport legislation, the *responsible person* for a vehicle is:
 - (a) in relation to a registered vehicle—each of the following persons:
 - (i) a registered operator of the vehicle, except where the vehicle has been disposed of by the operator.
 - (ii) if the vehicle has been disposed of by a previous registered operator—a person who has acquired the vehicle from the operator.
 - (iii) a person who has a legal right to possession of the vehicle (including any person who has the use of the vehicle under a lease or hire-purchase agreement, but not the lessor while the vehicle is being leased under any such agreement), and
 - (b) in relation to an unregistered vehicle to which a trader's plate is affixed—each of the following persons:
 - (i) the person to whom the trader's plate is issued under the *Road Transport (Vehicle Registration) Act 1997*.
 - (ii) a person who has a legal right to possession of the vehicle (including any person who has the use of the vehicle under a lease or hire-purchase agreement, but not the lessor while the vehicle is being leased under any such agreement), and
 - (c) in relation to an unregistered vehicle to which no trader's plate is affixed—each of the following persons:
 - (i) a person who was last recorded as a registered operator of the vehicle.
 - (ii) a person who has a legal right to possession of the vehicle (including any person who has the use of the vehicle under a lease or hire-purchase agreement, but not the lessor while the vehicle is being leased under any such agreement), and
 - (d) any other person (or class of persons) prescribed by the regulations for the purposes of this definition.

- (2) For the purposes of subsection (1)(d), the regulations may prescribe different persons for different provisions of the road transport legislation.

8 Rights, liabilities and obligations of multiple responsible persons

- (1) Subject to any regulations made under subsection (2), if more than one person is the responsible person for a vehicle at any one time, a reference in any relevant legislation to the responsible person for a vehicle within the meaning of this Act or any other road transport legislation is taken to include a reference to each person who is a responsible person for such a vehicle.
- (2) The regulations may provide for the determination of the respective rights, liabilities and obligations of each responsible person for a vehicle under any relevant legislation, but only with the concurrence of the Minister administering the relevant legislation.
- (3) In this section:
- relevant legislation* means:
- (a) a provision of the road transport legislation, or
 - (b) a provision of any other Act (or a provision of a regulation made under any such Act) concerned with the responsible person for a vehicle within the meaning of this Act or any other road transport legislation.

Division 4 Alteration of scope of operation of road transport legislation

9 Power to include or exclude areas in road transport legislation (cf Traffic Act, s 2A)

- (1) The Minister may declare, by order published in the Gazette, that the road transport legislation, or any specified provision of the road transport legislation:
- (a) applies to a specified area of the State that is open to or used by the public, or
 - (b) does not apply to a specified road or road related area.
- (2) The declaration has effect until it is revoked, or for the period specified in the declaration.

10	Power to exclude vehicles, persons or animals from road transport legislation	1
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(1)	The Minister may declare, by order published in the Gazette, that the road transport legislation (or a specified provision of the road transport legislation) does not apply to a vehicle, person or animal in any location or circumstance specified in the order.	3
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(2)	The declaration has effect until it is revoked, or for the period specified in the declaration.	7
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11	Consultation required with Minister administering Motor Accidents Act 1988 in certain cases (cf Traffic Act, s 2A)	9
		10
	Before making a declaration under section 9 or 10 in respect of the <i>Road Transport (Vehicle Registration) Act 1997</i> (or any regulation made under that Act), the Minister is to consult with the Minister administering the <i>Motor Accidents Act 1988</i> .	11
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12	Application orders and emergency orders	15
(1)	The Minister may, by notice published in the Gazette, order that the operation of any regulations made under the road transport legislation, or of specified parts of the regulations:	16
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		18
(a)	is suspended for a specified period, or	19
(b)	is varied in a manner specified by the Minister.	20
(2)	An order must be consistent with the provisions relating to application orders and emergency orders in the agreements scheduled to the <i>National Road Transport Commission Act 1991</i> of the Commonwealth.	21
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		24
(3)	An order may have effect for the whole of the State or for a specified area.	25
		26
(4)	If the Australian Transport Council terminates an emergency order, the Minister must publish notice of the termination in the Gazette.	27
		28
(5)	In this section:	29
	<i>Australian Transport Council</i> means the Australian Transport Council referred to in section 3 of the <i>National Road Transport Commission Act 1991</i> of the Commonwealth or its successor.	30
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13	Authority to maintain database of declarations and orders made under this Division	1
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(1)	The Authority is to maintain a database, in accordance with the regulations, containing information about declarations and orders made under this Division that are in force from time to time.	3
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(2)	The database may be kept in the form of, or as part of, a computer database or in such other form as the Authority considers appropriate.	6
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(3)	The Authority is to give members of the public access to information contained in the database in accordance with the regulations.	9
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(4)	A failure by the Authority to comply with this section does not affect the validity of any declaration or order.	12
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Division 5	Authority documents	14
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14	Authority may issue single authority document to authorised officers	16
		17
(1)	The Authority may, by means of a single document, authorise a person to carry out functions under one or more authorisation provisions.	18
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(2)	In this section, <i>authorisation provision</i> means a provision of the road transport legislation that enables the Authority to authorise a person to carry out functions under the legislation	21
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Part 3 Enforcement of road transport legislation and other legislation

Division 1 Penalty notices

15 Penalty notices for certain offences (cf Traffic Act, s 18B (1), (6) and (7))

- (1) A police officer or other authorised officer may serve a penalty notice on a person if it appears to the officer that the person has committed any of the following offences:
- (a) an offence under a provision of the road transport legislation (including an offence by virtue of the operation of section 43 of this Act) that is prescribed by the regulations as a penalty notice offence.
 - (b) an offence under the *Driving Instructors Act 1992* or any regulation made under that Act that is prescribed by the regulations as a penalty notice offence.
 - (c) an offence under section 650 (1) or (4) of the *Local Government Act 1993* (including an offence by virtue of the operation of section 651 of that Act).
 - (d) an offence under the *Motor Accidents Act 1988* or the regulations made under that Act that is prescribed by the regulations as a penalty notice offence.
 - (e) an offence under the *Motor Vehicles Taxation Act 1988* or any regulation made under that Act that is prescribed by the regulations as a penalty notice offence.
 - (f) an offence under the *Passenger Transport Act 1990* or any regulation made under that Act that is prescribed by the regulations as a penalty notice offence.
 - (g) an offence under the *Recreation Vehicles Act 1983* or any regulation made under that Act that is prescribed by the regulations as a penalty notice offence.
 - (h) an offence under the *Roads Act 1993* or any regulation made under that Act (including an offence by virtue of the operation of section 244 of that Act) that is prescribed by the regulations as a penalty notice offence.

- (i) an offence under the *Tow Truck Act 1989* or the *Tow Truck Industry Act 1998* or any regulation made under either Act that is prescribed by the regulations as a penalty notice offence. 1
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- (2) A penalty notice is a notice to the effect that, if the person served does not wish to have the matter determined by a court, the person can pay, within the time and to the person specified in the notice, the amount of penalty prescribed by the regulations for the offence if dealt with under this Division. 5
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- (3) The regulations may: 10
 - (a) prescribe an offence for the purposes of this section: 11
 - (i) by specifying the offence, or 12
 - (ii) by referring to the provision creating the offence, or 13
 - (iii) by providing that all offences under a specified Act, Part of an Act, or Division of a Part of an Act, or under specified regulations (being an Act, a Part or a Division or regulations referred to in subsection (1)) are prescribed as penalty notice offences, or 14
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 - (iv) by providing that all offences under any such Act, Part, Division or regulations (other than such of those offences as are specified in the regulations) are prescribed as penalty notice offences, and 19
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 - (b) prescribe the amount of penalty payable for the offence if dealt with under this section, and 23
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 - (c) prescribe different amounts of penalties for different offences or classes of offences, and 25
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 - (d) prescribe different amounts of penalties for the same kind of offence or class of offence committed in specified circumstances. 27
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- (4) An offence in respect of which a penalty of imprisonment may be imposed under the road transport legislation (except an offence against section 25 (2) of the *Road Transport (Driver Licensing) Act 1998*) or the *Motor Accidents Act 1988* cannot be prescribed by the regulations as a penalty notice offence. 30
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- (5) The amount of a penalty prescribed under this section for an offence is not to exceed the maximum amount of penalty that could be imposed for the offence by a court. 35
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- 16 Service of penalty notices** (cf Traffic Act, s 18B (2)) 1
- (1) A penalty notice may be served personally or by post. 2
- (2) A penalty notice that relates to an offence of which the responsible 3
person for a vehicle is guilty by virtue of section 43 or the owner is 4
guilty by virtue of section 651 of the *Local Government Act 1993* 5
may: 6
- (a) be served personally or by post, or 7
- (b) be addressed to the responsible person or owner without 8
naming the responsible person for the vehicle or owner or 9
stating his or her address and may be served by leaving it on 10
or attaching it to the vehicle. 11
- 17 Payment of penalty notices** (cf Traffic Act, s 18B (4)–(5)) 12
- (1) If the amount of penalty prescribed for an alleged offence is paid 13
under this Division, no person is liable to any further proceedings 14
for the alleged offence. 15
- (2) Subsection (1) does not affect any power of the Authority under 16
section 36. 17
- (3) Payment under this section is not to be regarded as an admission of 18
liability for the purpose of, and does not in any way affect or 19
prejudice, any civil claim, action or proceeding arising out of the 20
same occurrence. 21
- 18 Effect of Division on other kinds of proceedings** (cf Traffic Act, s 18B 22
(8)) 23
- This Division does not limit the operation of any other provision of, 24
or made under, this or any other Act relating to proceedings that 25
may be taken in respect of offences. 26

**Division 2 Production of licences and identification of
drivers and passengers****19 Authorised officer may require production of driver licence and
name and address from driver or rider** (cf Traffic Act, s 5 (1) and (1A))

(1) An authorised officer may, in the execution of his or her functions under the road transport legislation, require the driver or rider of a vehicle or horse to do any or all of the following:

- (a) produce his or her driver licence (in the case of the driver of a motor vehicle),
- (b) state his or her name,
- (c) state his or her home address.

(2) A person must not:

- (a) refuse to comply with a requirement of an authorised officer under subsection (1), or
- (b) state a false name or home address.

Maximum penalty: 20 penalty units.

(3) In subsection (1), a reference to a driver of a vehicle (in the case of a motor vehicle) includes, where the driver is the holder of a learner licence and the motor vehicle is not a motor cycle, a reference to a holder of a driver licence occupying the seat in or on the motor vehicle next to the driver.

**20 Authorised officer may require production of driver licence and
name and address from certain passengers** (cf Traffic Act, s 5 (1B) and (1C))

(1) A person occupying the seat in or on a motor vehicle (other than a motor cycle) next to a driver who holds a learner licence must, when required to do so by an authorised officer, produce the person's driver licence and state the person's name and home address.

Maximum penalty: 20 penalty units.

Clause 20 Road Transport (General) Bill 1999

Part 3 Enforcement of road transport legislation and other legislation

Division 2 Production of licences and identification of drivers and passengers

- (2) A person accompanying another person who is attending a motor registry for the purpose of undergoing any test or examination required by the road transport legislation must, on request, produce his or her driver licence and state his or her name and home address if:
- (a) the request is made by an authorised officer, and
 - (b) the person making the request believes on reasonable grounds that the person accompanying the person who is to undergo the test or examination has been giving driving instruction to that person.

Maximum penalty: 20 penalty units.

- (3) In this section:
- motor registry* means a place at which registration of a vehicle can be effected by or on behalf of the Authority.

21 Authorised officer may require responsible person for vehicle and others to disclose identity of driver who commits offence (cf Traffic Act, s 5 (3) and (4))

- (1) If the driver of a motor vehicle is alleged to have committed an offence under the road transport legislation:
- (a) the responsible person for the vehicle, or the person having the custody of the vehicle, must, when required to do so by an authorised officer, immediately give information (which must, if so required, be given in the form of a written statement signed by the responsible person) as to the name and home address of the driver, and
 - (b) any other person must, if required to do so by an authorised officer, give any information that it is in the person's power to give and that may lead to the identification of the driver.

Maximum penalty: 20 penalty units.

- (2) It is a defence to a prosecution for an offence under subsection (1)
- (a) if the defendant proves to the satisfaction of the court that he or she did not know and could not with reasonable diligence have ascertained the driver's name and home address.

- (3) A written statement purporting to be given under subsection (1) (a) and to contain particulars of the name and home address of the driver of a motor vehicle at the time of commission of an alleged offence under the road transport legislation that is produced in any court in proceedings against the person named in the statement as the driver for such an offence is evidence without proof of signature that the person was the driver of the vehicle at the time of the alleged offence if the person does not appear before the court.
- 22 Production of driver licence to court** (cf Traffic Act, s 9)
- (1) A person who is the holder of a driver licence and who is charged with a breach of the road transport legislation must produce his or her driver licence to the court at the hearing of the charge.
- (2) A person must not, without reasonable excuse, fail to comply with subsection (1).
- Maximum penalty: 20 penalty units.
- 23 Unauthorised demand for production of driver licence** (cf Traffic Act, s 11AD)
- (1) A person must not (knowing that he or she is not by law authorised to require its production) demand production by another person of that other person's driver licence.
- Maximum penalty: 20 penalty units.
- (2) For the purposes of this section, the making of a statement that could reasonably be understood, by the person to whom the statement is made, as indicating that that person is being required to produce his or her driver licence is taken to be a demand for its production.
- (3) Nothing in this section prohibits a request for production of a driver licence as a means of evidencing the identity or age of a person:
- (a) in connection with the supply of any goods or services, or
- (b) in connection with the conferring of any right, title or benefit, or
- (c) in other circumstances.
- where it is reasonable for the person making the request to require evidence of the other person's identity or age.

Clause 24	Road Transport (General) Bill 1999
Part 3	Enforcement of road transport legislation and other legislation
Division 3	Licence disqualification

Division 3 Licence disqualification

24	Court may impose penalty and disqualify driver on conviction (cf Traffic Act, s 10)	3
		4
(1)	Subject to section 25 of this Act, section 40 of the <i>Road Transport (Safety and Traffic Management) Act 1999</i> and sections 25 and 25A of the <i>Road Transport (Driver Licensing) Act 1998</i> , a court that convicts a person of an offence under the road transport legislation may, at the time of the conviction, order the disqualification of the person from holding a driver licence for such period as the court specifies.	5
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(2)	If the court makes an order disqualifying the person, the person is disqualified from holding a driver licence for the period specified by the court.	12
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(3)	Any disqualification under this section is in addition to any penalty imposed for the offence.	15
		16
(4)	The regulations may:	17
(a)	provide that any driver licence held by a person (or class of persons) who has been convicted of the offence of driving a motor vehicle on a road or road related area at a speed which is dangerous to the public under the <i>Road Transport (Safety and Traffic Management) Act 1999</i> or of any other prescribed speeding offence is subject to a speed inhibitor condition, and	18
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(b)	provide a penalty for any breach of any such condition, and	25
(c)	prescribe any matter necessary or convenient to be prescribed in relation to devices referred to in the definition of <i>speed inhibitor condition</i> in subsection (7).	26
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		28
(5)	The court is to cause particulars of each conviction or order under the road transport legislation to be forwarded to the Authority.	29
		30
(6)	Section 556A of the <i>Crimes Act 1900</i> does not apply if a person is charged before a court with any of the following offences if, at the time of or during the period of 5 years immediately before the court's determination in respect of the charge, section 556A is or has been applied to or in respect of the person in respect of a charge for another offence (whether of the same or a different kind) of the class referred to in this subsection:	31
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- (a) an offence under section 42 of the *Road Transport (Safety and Traffic Management) Act 1999* of driving negligently (being driving occasioning death or grievous bodily harm). 1
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- (b) an offence under section 42 of the *Road Transport (Safety and Traffic Management) Act 1999* of driving a motor vehicle on a road or road related area furiously or recklessly or at a speed or in a manner which is dangerous to the public. 4
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- (c) an offence under section 9, 12 (1), 15 (4), 16, 43 or 70 of the *Road Transport (Safety and Traffic Management) Act 1999*. 8
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- (d) an offence of aiding, abetting, counselling or procuring the commission of any such offence. 10
11
- (e) an offence referred to in section 10 (5) of the *Traffic Act 1909* as in force immediately before its repeal that was committed before that repeal. 12
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- (7) In this section: 15
- road transport legislation** does not include the *Road Transport (Heavy Vehicles Registration Charges) Act 1995* or regulations made under that Act. 16
17
18
- speed inhibitor condition** means a condition limiting a driver licence to the driving of a motor vehicle to which is affixed a sealed device that prevents the engine from propelling the vehicle at a speed in excess of 60km/hr. 19
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22
- 25 Disqualification for certain major offences** (cf Traffic Act, s 10A) 23
- (1) **Definitions** 24
- In this section: 25
- automatic disqualification** means a disqualification under this section from holding a driver licence without specific order of a court. 26
27
28
- convicted person** means: 29
- (a) a person who is, in respect of the death of or bodily harm to another person caused by or arising out of the use of a motor vehicle driven by the person at the time of the occurrence out of which the death of or harm to the other person arose, convicted of: 30
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34
- (i) the crime of murder or manslaughter, or 35
- (ii) an offence under section 33, 35, 53 or 54 or any other provision of the *Crimes Act 1900*, or 36
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- (b) a person who is convicted of an offence under section 51A of the *Crimes Act 1900*, or 1
- (c) a person who is convicted of an offence under any of the 2
following provisions: 3
 - (i) section 42 of the *Road Transport (Safety and Traffic 4
Management) Act 1999* of driving a motor vehicle on 5
a road or road related area furiously or recklessly or at 6
a speed or in a manner which is dangerous to the 7
public. 8
 - (ii) section 42 of the *Road Transport (Safety and Traffic 9
Management) Act 1999* of driving a motor vehicle 10
negligently (being driving occasioning death or 11
grievous bodily harm). 12
 - (iii) section 43 of the *Road Transport (Safety and Traffic 13
Management) Act 1999*. 14
 - (iv) section 9 (1), (2) (a) or (b), (3) (a) or (b), (4) (a) or (b) 15
or section 15 (4) or 16 of the *Road Transport (Safety 16
and Traffic Management) Act 1999*. 17
 - (v) section 22 (2) of the *Road Transport (Safety and 18
Traffic Management) Act 1999*. 19
 - (vi) section 12 (1) (a) or (b) of the *Road Transport (Safety 20
and Traffic Management) Act 1999*. 21
 - (vii) section 29 (2) of the *Road Transport (Safety and 22
Traffic Management) Act 1999*. 23
 - (viii) section 70 of the *Road Transport (Safety and Traffic 24
Management) Act 1999*, or 25
- (d) a person who is convicted of aiding, abetting, counselling or 26
procuring the commission of, or being an accessory before 27
the fact to, any such crime or offence. 28

conviction means the conviction in respect of which a person is a 29
convicted person. 30

ordered disqualification means disqualification under this section 31
from holding a driver licence that is ordered by a court. 32

- (2) **Disqualification if no previous major offence** 33
If, at the time of the conviction of the convicted person or during the 34
period of 5 years before the conviction (whether that period 35
commenced before or commences after the commencement of this 36
section), the convicted person is not or has not been convicted of 37
any other major offence (whether of the same or a different kind): 38
39

- (a) where the conviction is for an offence under section 9 (1) or (2) of the *Road Transport (Safety and Traffic Management) Act 1999*:
 - (i) the person is automatically disqualified for 6 months from holding a driver licence, or
 - (ii) if the court that convicts the person thinks fit to order a shorter period (but not shorter than 3 months) of disqualification—the person is disqualified from holding a driver licence for such shorter period as may be specified in the order, or
- (b) where the conviction is for an offence under section 9 (3) or 12 (1) of the *Road Transport (Safety and Traffic Management) Act 1999*:
 - (i) the person is automatically disqualified for 12 months from holding a driver licence, or
 - (ii) if the court that convicts the person thinks fit to order a shorter period (but not shorter than 6 months) or longer period of disqualification—the person is disqualified from holding a driver licence for such period as may be specified in the order, or
- (c) where the conviction is for an offence under section 29 (2) of the *Road Transport (Safety and Traffic Management) Act 1999*:
 - (i) the person is automatically disqualified for 3 years from holding a driver licence, or
 - (ii) if the court that convicts the person thinks fit to order a shorter period (but not shorter than 6 months) or longer period of disqualification—the person is disqualified from holding a driver licence for such period as may be specified in the order, or
- (d) where the conviction is for any other offence:
 - (i) the person is automatically disqualified for a period of 3 years from holding a driver licence, or
 - (ii) if the court that convicts the person thinks fit to order a shorter period (but not shorter than 12 months) or longer period of disqualification—the person is disqualified from holding a driver licence for such period as may be specified in the order.

(3) **Disqualification if previous major offence**

If, at the time of the conviction of the convicted person or during the period of 5 years before the conviction (whether that period commenced before or commences after the commencement of this section), the convicted person is or has been convicted of one or more other major offences (whether of the same or a different kind):

(a) where the conviction is for an offence under section 9 (1) or (2) of the *Road Transport (Safety and Traffic Management) Act 1999*:

- (i) the person is automatically disqualified for 12 months from holding a driver licence, or
- (ii) if the court that convicts the person thinks fit to order a shorter period (but not shorter than 6 months) or longer period of disqualification—the person is disqualified from holding a driver licence for such period as may be specified in the order, or

(b) where the conviction is for an offence under section 9 (3) or 12 (1) of the *Road Transport (Safety and Traffic Management) Act 1999*:

- (i) the person is automatically disqualified for 3 years from holding a driver licence, or
- (ii) if the court that convicts the person thinks fit to order a shorter period (but not shorter than 12 months) or longer period of disqualification—the person is disqualified from holding a driver licence for such period as may be specified in the order, or

(c) where the conviction is for an offence under section 29 (2) of the *Road Transport (Safety and Traffic Management) Act 1999*:

- (i) the person is automatically disqualified for 5 years from holding a driver licence, or
- (ii) if the court that convicts the person thinks fit to order a shorter period (but not shorter than 12 months) or longer period of disqualification—the person is disqualified from holding a driver licence for such period as may be specified in the order, or

(d) where the conviction is for any other offence:

- (i) the person is automatically disqualified for 5 years from holding a driver licence, or

- (ii) if the court that convicts the person thinks fit to order a shorter period (but not shorter than 2 years) or longer period of disqualification—the person is disqualified from holding a driver licence for such period as may be specified in the order. 1
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- (4) **Calculation of disqualification periods in case of multiple offences** 6
If 2 or more convictions of a person are made, whether or not at the 7
same time, for crimes or offences arising out of a single incident 8
involving the use of a motor vehicle or trailer, the following 9
provisions apply: 10
- (a) for the purpose of ascertaining which of subsections (2) and 11
(3) should apply in relation to any such conviction: 12
- (i) the other of those convictions are to be disregarded, 13
and 14
- (ii) subsection (2) or (3) (as the case may require) is, 15
accordingly, to be the applicable subsection, and 16
- (b) the maximum period of automatic disqualification in respect 17
of all those crimes or offences is to be: 18
- (i) if subsection (2) is applicable—3 years, or 19
- (ii) if subsection (3) is applicable—5 years, and 20
- (c) any minimum period of ordered disqualification is, in respect 21
of those crimes or offences, to be disregarded to the extent 22
that the total period of ordered and (where relevant) 23
automatic disqualification would exceed: 24
- (i) where subsection (2) is applicable—12 months, or 25
- (ii) where subsection (3) is applicable—2 years. 26
- However, nothing in paragraph (c) prevents the court, if it thinks fit, 27
from making any order it could have made if that paragraph had not 28
been enacted. 29
- (5) **Disqualification in addition to any other penalty** 30
Any disqualification under this section is in addition to any penalty 31
imposed for the offence. 32

26 Effect of disqualification (cf Traffic Act, s 10AA)

- (1) If, as a consequence of being convicted of an offence by a court under the road transport legislation, a person is disqualified (whether or not by an order of the court) from holding a driver licence, the disqualification operates to cancel, permanently, any driver licence held by the person at the time of his or her disqualification.
 - (2) A disqualification to hold an Australian driver licence held under a law in force in another State or internal Territory by a person who holds a driver licence issued in this State is, for the purposes of subsection (1), to be treated as if it were a disqualification to hold the driver licence issued in this State.
 - (3) A person who is so disqualified must:
 - (a) if present at the court (being a court in this State) and in possession of his or her driver licence—surrender the licence to the court immediately after being convicted, or
 - (b) if present at the court (being a court in this State) but not in possession of the licence or if not present at the court—surrender the licence to the Authority as soon as practicable after being convicted, or
 - (c) if the person is to be treated under subsection (2) as having been disqualified from holding a driver licence issued in this State—surrender the licence to the Authority as soon as practicable after being disqualified from holding the Australian driver licence referred to in that subsection.
- Maximum penalty: 20 penalty units.
- (4) A person who is disqualified from holding a driver licence cannot obtain another driver licence during the period of disqualification.
 - (5) If a licence is surrendered to the court, the licence is to be delivered to the Authority.

Division 4 Habitual traffic offenders**27 Relevant offences** (cf Traffic Act, s 10EA (1))(1) In this Division, a **relevant offence** means:

- (a) any of the following offences committed after the commencement of this Division of which a person has been convicted by a court in this State:
 - (i) a major offence.
 - (ii) a prescribed speeding offence.
 - (iii) an offence under section 25 (3) of the *Road Transport (Driver Licensing) Act 1998*.
 - (iv) an offence under section 25A (1), (2) or (3) of the *Road Transport (Driver Licensing) Act 1998*, or
- (b) an offence committed after the commencement of this Division of which a person has been convicted by a court in another State or Territory that would be an offence of the kind referred to in paragraph (a) if it had been committed in this State, or
- (c) a relevant offence within the meaning of section 10EA of the *Traffic Act 1909* as in force immediately before its repeal.

(2) A relevant offence includes an offence of the kind referred to in subsection (1) (a) in respect of which the charge is found proven (but without proceeding to a conviction) under section 556A of the *Crimes Act 1900* if the offence would, if it were a relevant offence, give rise to the declaration of the person under this Division as an habitual traffic offender. In that case, a reference in this Division to the conviction of the person for a relevant offence includes a finding that the charge for the offence is proven.

28 Declaration of persons as habitual traffic offenders (cf Traffic Act, s 10EA (2))

A person is, by this section, declared to be an habitual traffic offender if:

- (a) a court in this State convicts the person of a relevant offence, and
- (b) the person has, in the period of 5 years before the conviction, also been convicted of at least 2 other relevant offences committed on different occasions.

29 Warning to be given to persons liable to be declared habitual traffic offenders (cf Traffic Act, s 10EA (14))

- (1) The Authority is required to give written warnings to the holders of driver licences who are liable to be declared to be habitual traffic offenders if they are convicted of another relevant offence.
- (2) The declaration of an habitual traffic offender is not invalid merely because of a failure to give the warning, but any such failure may be taken into account by a court when determining whether a declaration should be quashed.

30 Period of disqualification of habitual traffic offender (cf Traffic Act, s 10EA (4)–(7) and (10)–(13))

- (1) If a person is declared by section 28 to be an habitual traffic offender, the person is disqualified by the declaration (and without any specific order of a court) for a period of 5 years from holding a driver licence, except as provided by this Division.
- (2) If the court that convicts the person of the offence giving rise to the declaration thinks fit, the court may order a longer period of disqualification (including disqualification for life).
- (3) If the court that convicts the person of the offence giving rise to the declaration determines that a 5-year disqualification is a disproportionate and unjust consequence having regard to the total driving record of the person and the special circumstances of the case, the court may order a shorter period of disqualification (but not shorter than 2 years).
- (4) If a court orders a shorter or longer period of disqualification, the court must state its reasons for doing so.
- (5) A declaration of an habitual traffic offender ceases to be in force when the period of disqualification imposed by the declaration is completed.
- (6) The period of any disqualification under this Division does not commence until all other disqualifications, and all other periods of licence cancellation or suspension, imposed on the person by or under this or any other Act have been completed.

- (7) Further declarations have effect under this Division even though they occur while an existing declaration is in force, and the consequent periods of disqualification do not commence until all existing disqualifications under this Division have been completed. It does not matter that some of the relevant offences giving rise to a further declaration also gave rise to an earlier declaration.
- (8) If, while an existing disqualification under this Division is in force, the person is disqualified by a court or automatically under another provision of this or any other Act, that further disqualification does not commence until all existing disqualifications under this Division have been completed.
- 31 Quashing of declaration and bar against appeals** (cf Traffic Act, s 10EA (3), (7) and (8))
- (1) The declaration of a person as an habitual traffic offender by section 28 may be quashed by a court that convicts the person of a relevant offence (at the time of the conviction or at a later time) if it determines that the disqualification imposed by the declaration is a disproportionate and unjust consequence having regard to the total driving record of the person and the special circumstances of the case.
- (2) If a court quashes a declaration under this section, the court must state its reasons for doing so.
- (3) However, a declaration or disqualification under this Division cannot be appealed to any court whether under this or any other Act.
- 32 Disqualification in addition to any other penalty** (cf Traffic Act, s 10EA (9))
- A disqualification under this Division is in addition to any penalty imposed for the offence giving rise to the declaration.

Division 5 Suspension of licences and visiting driver privileges

33 Suspension of licence by Commissioner of Police (cf Traffic Act, s 10B)

- (1) The Commissioner of Police may suspend a driver licence of any driver, for a period not exceeding 14 days, who:
 - (a) is in the Commissioner's opinion an incompetent, reckless or careless driver, or
 - (b) is found under the influence of liquor.
- (2) The Commissioner of Police must immediately:
 - (a) notify the Authority that the Commissioner has suspended the licence and the grounds for the suspension, and
 - (b) report to the Authority whether in the Commissioner's opinion a further suspension or the cancellation of the licence is warranted or is desirable in the interest of public safety.
- (3) A driver licence that is suspended under this section is to be surrendered by the holder and forwarded to the Authority with the notification of the suspension.

34 Immediate suspension of licence in certain circumstances (cf Traffic Act, s 10C)

- (1) If a person is charged by a police officer with an offence under section 9 (3) or (4), 15 (4), 16 or 22 (2) of the *Road Transport (Safety and Traffic Management) Act 1999*, the same or another police officer may, at any time within 48 hours after the person has been charged, give the person a suspension notice.
- (2) A **suspension notice** is a notice, in a form approved by the Authority:
 - (a) informing the person that until the charge is heard and determined by a court (or until the charge is withdrawn, if that should happen) any driver licence held by the person is suspended:
 - (i) on and from a date specified in the notice, or
 - (ii) if the notice so specifies—immediately on receipt of the notice, and

- (b) informing the person of the right of review in accordance with section 48 (Notice of decision and review rights to be given by administrators) of the *Administrative Decisions Tribunal Act 1997* or alternative appeal right, and
- (c) requiring the person:
 - (i) to surrender every such licence, on or before a date specified in the notice, to a police officer, or
 - (ii) if the notice so specifies—to surrender every such licence in the person's possession immediately to the police officer who gave the person the notice.
- (3) Any driver licence held by a person to whom a suspension notice is given is suspended, in accordance with the terms of the notice, until the charge is heard and determined by a court or withdrawn.
- (4) Particulars of each suspension notice given under this section are to be forwarded to the Authority immediately after the notice is given.
- (5) A person who is given a suspension notice must surrender his or her driver licence in compliance with the notice.
- Maximum penalty: 20 penalty units.
- (6) If, on the determination of the charge by a court, the person is disqualified from holding or obtaining a licence for a specified time:
 - (a) the court must take into account the period of suspension under this section when deciding whether to make any order under section 25, and
 - (b) to the extent (if any) that the court so orders, a suspension under this section may be regarded as satisfying all or part of any mandatory minimum period of disqualification required by that section to be imposed when the charge is proved.
- (7) For the purposes of this section:
 - (a) a person is charged with an offence when particulars of the offence are notified in writing to the person by a police officer, and
 - (b) a charge is withdrawn when the person charged is notified in writing of that fact by a police officer or when it is withdrawn before the court, and
 - (c) a charge is determined by a court when the offence is proved or the information is dismissed.

35 Suspension of driving privileges of visiting driver (cf Traffic Act, s 10D)

(1) In this section:

authorised visiting driver means a person:

- (a) who is not the holder of a driver licence issued in New South Wales, and
- (b) who, being the holder of a licence or permit issued in a place outside New South Wales, has the benefit of any provision of the road transport legislation conferring on the person authority to drive in New South Wales.

suspension notice, in relation to a person charged as referred to in subsection (2), means a notice, in a form approved by the Authority, informing the person:

- (a) that until the charge is heard and determined by a court or is withdrawn (if that should happen) his or her authority to drive in New South Wales is suspended:
 - (i) on and from a date specified in the notice, or
 - (ii) if the notice so specifies—immediately on receipt of the notice, and
- (b) informing the person of the right of review in accordance with section 48 (Notice of decision and review rights to be given by administrators) of the *Administrative Decisions Tribunal Act 1997* or alternative appeal right.

(2) If an authorised visiting driver is charged by a police officer with an offence under section 9 (3) or (4), 15 (4), 16 or 22 (2) of the *Road Transport (Safety and Traffic Management) Act 1999*, the same or another police officer may, at any time within 48 hours after the person has been charged, give the person a suspension notice.

(3) Any authority of a person to whom a suspension notice is given to drive in New South Wales is suspended, in accordance with the terms of the notice, until the charge is heard and determined by a court or withdrawn.

(4) Particulars of each suspension notice given under this section are to be forwarded to the Authority immediately after the notice is given.

(5) For the purposes of this section:

- (a) a person is charged with an offence when particulars of the offence are notified in writing to the person by a police officer, and

- (b) a charge is withdrawn when the person charged is notified in writing of that fact by a police officer or when it is withdrawn before the court. and 1
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- (c) a charge is determined by a court when the offence is proved or the information is dismissed. 4
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Division 6 Downgrading of licences 6 7

36 Downgrading of driver licences (cf Traffic Act, s 11AE) 8

- (1) If a driver licence is cancelled as a special measure and the offence or offences (or alleged offence or offences) that gave rise to the cancellation arose wholly or mainly out of the use of a motor vehicle or trailer of a class prescribed for the purposes of this section, the Authority may issue the former licensee with another driver licence in substitution for the cancelled driver licence that does not authorise the driving of motor vehicles or trailers of that class. 9
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- (2) For the purposes of this section, a driver licence is cancelled as a special measure if it is cancelled by: 17
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 - (a) the operation of the road transport legislation as a result of the imposition on the licensee of a period of disqualification from holding a driver licence, or 19
20
21
 - (b) the Authority under the *Road Transport (Driver Licensing) Act 1998* because of: 22
23
 - (i) the licensee's driving record of offences or alleged offences, or 24
25
 - (ii) an alleged speeding offence referred to in section 33 of the *Road Transport (Driver Licensing) Act 1998*. 26
27
- (3) The regulations may make provision for or with respect to the exercise by the Authority of its power under this section. 28
29
- (4) Nothing in this section: 30
 - (a) limits any discretion of the Authority under the road transport legislation to decline to issue a driver licence to a person or cancel a driver licence, or 31
32
33
 - (b) permits the issue of any driver licence to a person who for the time being is disqualified from holding one. 34
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Clause 37	Road Transport (General) Bill 1999	
Part 3	Enforcement of road transport legislation and other legislation	
Division 7	Compensation orders by courts in respect of offences under road	

Division 7	Compensation orders by courts in respect of offences under road transport legislation	1
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37	Court may order compensation for damages and other losses (cf Traffic Act, s 14)	4
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	A court that convicts a person of an offence under the road transport legislation may order any person to pay such an amount as compensation for loss of time or expense incurred in consequence of the offence of which the defendant was convicted as the court thinks fit.	6
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38	Compensation for loss of time (cf Traffic Act, s 15)	11
	(1) If an information or complaint is laid or made by any person (other than a police officer or the Authority) for any offence under the road transport legislation and the proceedings are dismissed or withdrawn, the court concerned may, if it thinks fit, order that the person bringing the proceedings pay to the defendant, in addition to any costs, such compensation for loss of time or otherwise as seems reasonable.	12
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	(2) Subsection (1) extends to a court hearing an appeal in any such proceedings.	19
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Division 8	Detention, impounding and forfeiture of vehicles	21
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		23
39	Removal and impounding of vehicles used for certain offences (cf Traffic Act, s 4BB)	24
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	(1) A police officer who reasonably believes that a motor vehicle:	26
	(a) is being or has (on that day or during the past 10 days) been operated on a road or road related area so as to commit an offence under section 40 or 41 of the <i>Road Transport (Safety and Traffic Management) Act 1999</i> , or	27
		28
		29
		30
	(b) is the subject of a period of impounding, or the subject of forfeiture, under section 40,	31
		32
	may seize and take charge of the motor vehicle and cause it to be removed to a place determined by the Commissioner of Police.	33
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- (2) A motor vehicle may be seized under subsection (1) from: 1
- (a) a public place, or 2
 - (b) any other place, with the consent of the owner or occupier of 3
the place or under the authority of a search warrant issued 4
under section 41. 5
- (3) For the purpose of exercising the powers conferred by subsection 6
(1), a police officer may cause any locking device or other feature 7
of the motor vehicle concerned that is impeding the exercise of 8
those powers to be removed, dismantled or neutralised and may, if 9
the driver or any other person will not surrender the keys to the 10
vehicle, start the vehicle by other means. 11
- (4) Any motor vehicle removed to a place in accordance with 12
subsection (1) may, subject to the regulations, be impounded at that 13
place or may be moved to and impounded at any other place 14
determined by the Commissioner of Police. 15
- (5) A motor vehicle that may be removed under subsection (1) or (4): 16
- (a) may be moved by its being driven, whether or not under 17
power, or by its being towed or pushed, or in any other 18
manner whatever, and 19
 - (b) may be moved by one or more police officers or, at the 20
direction of a police officer, by persons engaged by the 21
Commissioner of Police, and may be impounded at premises 22
under the control of the Commissioner or of another 23
authority or person. 24
- (6) Schedule 1 has effect with respect to a motor vehicle impounded 25
under this section. 26
- (7) The regulations may make provision for or with respect to requiring 27
the responsible person for or driver of a motor vehicle to pay a fee 28
in relation to the towing of the vehicle under this section. The whole 29
or any part of the fee that is unpaid may be recovered from the 30
responsible person or driver of the motor vehicle by the 31
Commissioner of Police as a debt due to the Crown in any court of 32
competent jurisdiction. A certificate in writing given by a police 33
officer as to the fact and cost of towing is evidence of those matters. 34
- (8) In this section: 35
- public place** includes any place that members of the public are 36
entitled to use. 37

Clause 40	Road Transport (General) Bill 1999
Part 3	Enforcement of road transport legislation and other legislation
Division 8	Detention, impounding and forfeiture of vehicles

40	Impounding or forfeiture of vehicles on proof or admission of offence (cf Traffic Act, s 4BC)	1
		2
(1)	A motor vehicle used in connection with an offence under section 40 or 41 of the <i>Road Transport (Safety and Traffic Management) Act 1999</i> , being in either case the first offence by the offender under the provision concerned, that is found to be proven before any court is by the finding liable to be impounded for a period of 3 months, unless the court by order otherwise directs under subsection (3).	3
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(2)	A motor vehicle used in connection with an offence under section 40 or 41 of the <i>Road Transport (Safety and Traffic Management) Act 1999</i> , being in either case a second or subsequent offence by the offender under the provision concerned, that is found to be proven before any court is by the finding liable to be forfeited to the Crown, unless the court by order otherwise directs under subsection (3).	9
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(3)	The court before which an offence under section 40 or 41 of the <i>Road Transport (Safety and Traffic Management) Act 1999</i> is found to be proven may, for reasons of the avoidance of any undue hardship to any person or other injustice perceived by the court, by its order direct that a period of impounding imposed by this section be reduced or dispensed with, or that a forfeiture imposed by this section be commuted to a period of impounding.	15
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(4)	The period for which a vehicle was impounded under section 39 is to be reckoned as counting towards a period of impounding imposed by or under this section.	22
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(5)	Any impounding or forfeiture under this section is in addition to any other penalty that may be imposed for the offence concerned, but for the purposes of any rights of appeal against a penalty so imposed by the court finding the offence to be proven, the impounding or forfeiture is taken to be, or to be part of, that penalty.	25
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(6)	For the purposes of this section, payment of the amount specified:	30
(a)	in a penalty notice issued in respect of an offence under section 41 of the <i>Road Transport (Safety and Traffic Management) Act 1999</i> , or	31
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		33
(b)	in any process issued subsequent to such a penalty notice,	34
	as the amount that is payable in order to dispose of the alleged offence without having it dealt with by a court, has the same effect as a finding by a court that the offence was proven.	35
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		37

- (7) Schedule 1 has effect with respect to a motor vehicle impounded or forfeited under this section.

41 Search warrants (cf Traffic Act, s 4BD)

- (1) A police officer may apply to an authorised justice for a search warrant if the police officer has reasonable grounds for believing that there is or, within 72 hours, will be on any premises a motor vehicle that has been operated as referred to in section 39.
- (2) An authorised justice to whom such an application is made may, if satisfied that there are reasonable grounds for doing so, issue a search warrant authorising a police officer named in the warrant:
- (a) to enter the premises, and
 - (b) to search the premises for such a motor vehicle, and
 - (c) to seize such a motor vehicle, and otherwise deal with it, in accordance with section 39.
- (3) Part 3 of the *Search Warrants Act 1985* applies to a search warrant issued under this section.
- (4) In this section, *authorised justice* and *premises* have the same meanings as they have in the *Search Warrants Act 1985*.

Division 9 Imputed liability for certain offences under road transport legislation

42 Directors and managers liable for offences committed by corporations

- (1) If a corporation contravenes a provision of the road transport legislation, each person who:
- (a) is a director of the corporation, or
 - (b) is concerned in the management of the corporation,
- is to be treated as having contravened the same provision if the person knowingly authorised or permitted the contravention.
- (2) A person may, under this section, be proceeded against and convicted for a contravention of a provision of the road transport legislation whether or not the corporation has been proceeded against or convicted for a contravention of the same provision.

- (ii) satisfies the authorised officer that the responsible person did not know and could not with reasonable diligence have ascertained such name and address, or
 - (b) in any other case—the responsible person:
 - (i) within 21 days after service on the responsible person of a summons in respect of the offence, supplies by statutory declaration to the informant the name and address of the person who was in charge of the vehicle at all relevant times relating to the parking offence concerned, or
 - (ii) satisfies the court hearing the proceedings for the offence that the responsible person did not know and could not with reasonable diligence have ascertained such name and address.
- (4) **Duty to inform if person not driver of vehicle committing camera-detected traffic light offence or camera-recorded speeding offence**
A person who:
 - (a) is served with a penalty notice or a summons in respect of a camera-detected traffic light offence or camera-recorded speeding offence, and
 - (b) was not the driver of the vehicle to which the offence relates at the time the offence occurred.
 must, within 21 days after service of the notice or summons, supply by statutory declaration to the authorised officer under section 15 (in the case of a notice) or the informant (in the case of a summons) the name and address of the person who was in charge of the vehicle at the time the offence occurred.
- (5) **Offence—failure to comply with subsection (4)**
A person must comply with subsection (4) unless the person satisfies:
 - (a) in the case of a notice—the authorised officer, or
 - (b) in the case of a summons—the court dealing with the camera-detected traffic light offence or camera-recorded speeding offence, or
 - (c) in either case—the court dealing with the offence of failing to comply with subsection (4).

- that he or she did not know and could not with reasonable diligence
have ascertained that name and address. 1
2
- Maximum penalty: 3
- (a) if the offence relates to a vehicle registered otherwise than in
the name of a natural person—10 penalty units. or 4
5
- (b) in any other case—5 penalty units. 6
- (6) **Offence—false nomination of person in charge of vehicle** 7
A person must not, in a statutory declaration supplied under 8
subsection (4), falsely nominate another person as the person who 9
was in charge of the vehicle at the time the offence occurred. 10
- Maximum penalty: 11
- (a) if the offence relates to a vehicle registered otherwise than in 12
the name of a natural person—10 penalty units. or 13
- (b) in any other case—5 penalty units. 14
- (7) **When responsible person for vehicle not liable for camera-detected
traffic light offence or camera-recorded speeding offence** 15
A person who is served with a penalty notice or a summons in 16
respect of a camera-detected traffic light offence or camera-recorded 17
speeding offence is not guilty of that offence by operation of this 18
section if the person: 19
20
- (a) complies with subsection (4) in relation to the offence. or 21
- (b) satisfies the authorised officer (in the case of a notice) or the 22
court (in the case of a summons) that he or she did not know 23
and could not with reasonable diligence have ascertained the 24
name and address of the person who was in charge of the 25
vehicle at the time the offence occurred. 26
- (8) **Statutory declaration is evidence (unless contrary evidence is
adduced)** 27
A statutory declaration under subsection (3) or (4), if produced in 28
any proceedings against the person named in the declaration and in 29
respect of the designated offence concerned, is evidence (unless 30
contrary evidence is adduced): 31
32
- (a) in the case of a statutory declaration relating to a parking 33
offence—that the person was in charge of the vehicle at all 34
relevant times relating to the parking offence. or 35

- (b) in the case of a statutory declaration relating to a camera-detected traffic light offence or camera-recorded speeding offence—that the person was the driver of the vehicle at the time the offence occurred. 1
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- (9) **Statutory declaration to relate to one designated offence** 5
 A statutory declaration that relates to more than one designated offence does not constitute a statutory declaration under, or for the purposes of, subsection (3) or (4). 6
7
8
- (10) **Section does not derogate from any other law** 9
 The provisions of this section are in addition to and not in derogation of any other provisions of this or any other Act. 10
11
- (11) **Definitions** 12
 In this section: 13
- camera-detected traffic light offence*** means a traffic light offence as defined in section 57 of the *Road Transport (Safety and Traffic Management) Act 1999* in respect of which the penalty notice or the summons indicates that the offence was detected by an approved camera detection device. 14
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- camera-recorded speeding offence*** means a speeding offence in respect of which the penalty notice or the summons indicates that the offence was detected by an approved speed measuring device and recorded by an approved camera recording device (within the meaning of the *Road Transport (Safety and Traffic Management) Act 1999*). 19
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- designated offence*** means: 25
- (a) a camera-detected traffic light offence, or 26
 (b) a camera-recorded speeding offence, or 27
 (c) a parking offence. 28
- parking offence*** means any offence of standing or parking a motor vehicle or trailer or of causing or permitting a motor vehicle or trailer to stand, wait or be parked in contravention of any regulation made under the *Road Transport (Safety and Traffic Management) Act 1999*. 29
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Division 10 Service of documents

44 Service of documents on persons generally

- (1) Any document that is authorised or required by or under the road transport legislation to be given to or served on any person (other than a corporation) may be given or served:
- (a) personally, or
 - (b) by means of a letter addressed to the person and sent by post to the person's business or home address, or
 - (c) by means of a letter addressed to the person and left at the person's business or home address with a person who appears to be of or above the age of 16 years and to reside at that address.
- (2) Any document that is authorised or required by or under the road transport legislation to be given to or served on any person (being a corporation) may be given or served:
- (a) by means of a letter addressed to the corporation and sent by post to the address of any of its registered offices, or
 - (b) by means of a letter addressed to the corporation and left at the address of any of the corporation's registered offices with a person who appears to be of or above the age of 16 years and to be employed at that address.
- (3) Despite subsections (1) and (2), the regulations may:
- (a) provide for additional means of giving or serving documents, or
 - (b) provide that a document of a class specified by the regulations be given or served only in the manner prescribed by the regulations, or
 - (c) provide for the date on which service of a document is taken to have been effected.
- (4) This section does not apply to a penalty notice to which section 16 applies.

45 Lodgment of documents with Authority

- (1) If provision is made by or under the road transport legislation for the lodging of a notice or other document with the Authority, it is sufficient if the notice or other document is sent by post to, or lodged at, an office of the Authority.
- (2) Despite subsection (1), the regulations may:
 - (a) provide for additional means of lodging a notice or other document with the Authority, or
 - (b) provide that a notice or other document of a class specified by the regulations be lodged with the Authority only in the manner prescribed by the regulations, or
 - (c) provide for the date on which lodgment of a notice or other document is taken to have been effected.
- (3) In this section, *lodgment* of a notice or other document includes the giving of a notice or other document.

Division 11 Evidentiary provisions in relation to road transport legislation**46 Certificate evidence and other evidentiary provisions** (cf Traffic Act, s 12)

- (1) A document that appears to be signed on behalf of the Authority certifying any of the following matters is admissible as evidence:
 - (a) a matter that appears in or can be calculated from the register of written off and wrecked motor vehicles kept by the Authority under Division 3 of Part 4,
 - (b) a matter that appears in or can be calculated from the demerit points register or any driver licence register kept by the Authority under the *Road Transport (Driver Licensing) Act 1998*,
 - (c) a matter that appears in or can be calculated from (or does not appear or cannot be calculated from) the Register of Registrable Vehicles kept by the Authority under the *Road Transport (Vehicle Registration) Act 1997*,
 - (d) a matter that appears in or can be calculated from another record kept by the Authority under the road transport legislation.

- (2) Any such document may: 1
- (a) certify particulars by reference to a specified date or period, 2
and 3
 - (b) certify particulars that appear in or can be calculated from (or 4
do not appear in or cannot be calculated from) records 5
maintained under section 12 of the *Traffic Act 1909* at any 6
time before it was repealed by the *Road Transport 7
Legislation Amendment Act 1999*. 8
- (3) A court may admit as evidence a document that is issued under the 9
law of another jurisdiction that relates to: 10
- (a) whether a person has or does not have an Australian driver 11
licence or other authority to drive a motor vehicle, the extent 12
of the authority conferred by a licence or other authority and 13
any conditions of that licence or other authority, or 14
 - (b) whether a person is or was disqualified from holding an 15
Australian driver licence or other authority to drive a motor 16
vehicle and the circumstances of any such disqualification, 17
or 18
 - (c) any offence found to have been committed by a person in 19
relation to the driving or use of a motor vehicle or in relation 20
to driver licensing, including any penalty imposed or other 21
order made in respect of that offence, or 22
 - (d) demerit points incurred by a person. 23
- (4) A court may admit as evidence a document that is issued under a 24
law of another jurisdiction that corresponds with this section and 25
that relates to: 26
- (a) the registration or non-registration of a registrable vehicle, or 27
 - (b) a person recorded on the Register of Registrable Vehicles 28
kept by the Authority under the *Road Transport (Vehicle 29
Registration) Act 1997* as a registered operator of a 30
registrable vehicle, or 31
 - (c) the GCM, GVM, load capacity or identification of a motor 32
vehicle, or 33
 - (d) any other matter relating to the use of registrable vehicles on 34
roads or road related areas. 35
- (5) The court must accept the documents as proof of the facts stated in 36
them if there is no evidence to the contrary. 37

- (6) A court may admit into evidence other documents prescribed by the regulations in the circumstances set out in the regulations. 1
- (7) In any proceedings in any court, proof that a registrable vehicle does not have a number-plate on it issued under the *Road Transport (Vehicle Registration) Act 1997* is evidence that the vehicle is not registered if there is no evidence to the contrary. 2
- (8) In this section: 3
- GCM (gross combination mass)* has the same meaning as it has in the *Road Transport (Vehicle Registration) Act 1997*. 4
- GVM (gross vehicle mass)* has the same meaning as it has in the *Road Transport (Vehicle Registration) Act 1997*. 5

Division 12 Proceedings for offences under road transport legislation 6

- 47 Proceedings for offences** (cf Traffic Act, s 19) 7
- Proceedings for an offence against the road transport legislation are to be dealt with summarily before a Local Court constituted by a Magistrate sitting alone. 8

Division 13 Review of decisions under road transport legislation 9

- 48 Review by Administrative Decisions Tribunal of certain decisions made under road transport legislation** (cf Traffic Act, s 10E) 10
- (1) A person aggrieved by any of the following decisions made in relation to the person may apply to the Administrative Decisions Tribunal for a review of the decision: 11
- (a) a decision of a police officer under section 34 to suspend the person's driver licence, 12
 - (b) a decision by a police officer under section 35 to suspend the person's authority to drive in New South Wales, 13
 - (c) a decision of the Commissioner of Police under section 40 (2) of the *Road Transport (Safety and Traffic Management) Act 1999* refusing to grant an approval under that subsection or imposing any condition on any such approval. 14

- (d) any other decision under the road transport legislation that belongs to a class of decisions prescribed by the regulations for the purposes of this subsection. 1
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3
- (2) An application for a review in respect of a decision referred to in subsection (1) (a) or (b) must be made before the charge that occasioned the suspension has been heard and determined by a court or withdrawn. 4
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- (3) Despite anything to the contrary in section 63 of the *Administrative Decisions Tribunal Act 1997*, in determining an application for a review of a decision referred to in subsection (1) (a) or (b), the Tribunal: 8
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11
 - (a) is not to vary or set aside a decision to suspend a driver licence or authority to drive unless it is satisfied that there are exceptional circumstances justifying a lifting or variation of the suspension, and 12
13
14
15
 - (b) is not, for the purposes of any such application, to take into account the circumstances of the offence with which the person making the application is charged. 16
17
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- (4) Despite subsection (1), a regulation referred to in subsection (1) (d) 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. 19
20
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- (5) A regulation referred to in subsection (1) (d) prescribing a class of decisions cannot be made without the concurrence of the Minister administering the *Administrative Decisions Tribunal Act 1997*. 23
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Division 14 Personal liability for carrying out duties under road transport legislation 26
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- 49 Indemnity from personal liability for honest and good faith carrying out of duties** 29
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- (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 the road transport legislation. 31
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 - (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: 34
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| (a) | if it is an act or omission of a police officer, to the Crown, or | 1 |
| (b) | if it is an act or omission of a person acting for the Authority, | 2 |
| | to the Authority. | 3 |
| (3) | An individual does not incur civil or criminal liability for carrying | 4 |
| | out a test or examination in accordance with the regulations made | 5 |
| | under the <i>Road Transport (Driver Licensing) Act 1998</i> and | 6 |
| | expressing to the Authority in good faith an opinion formed as a | 7 |
| | result of having carried out the test or examination. | 8 |
| (4) | An individual does not incur civil or criminal liability for reporting | 9 |
| | to the Authority, in good faith, information that discloses or | 10 |
| | suggests that: | 11 |
| (a) | another person is or may be unfit to drive, or | 12 |
| (b) | it may be dangerous to allow another person to hold, to be | 13 |
| | issued or to have renewed, a driver licence or a variation of | 14 |
| | a driver licence. | 15 |

Part 4 Further provisions concerning vehicles, roads and road related areas

Division 1 Police powers

50 Power of entry for tracing stolen motor vehicles or trailers or their parts (cf Traffic Act, s 7C)

(1) A police officer authorised to do so by the Commissioner of Police
may:

(a) enter, at any time, any premises or place on which the
business of carrying out repairs, resulting from accidents, to
damaged motor vehicles or trailers is ordinarily carried on,
and

(b) inspect any motor vehicle or trailer (or part of a motor
vehicle or trailer) that is found by the officer in or on those
premises or that place for the purpose of ascertaining
whether or not it is a stolen motor vehicle or trailer or part.

(2) A person must not wilfully delay or obstruct a police officer in the
exercise of his or her authority under subsection (1).

Maximum penalty (subsection (2)): 20 penalty units.

51 Use of tyre deflation devices in police pursuits (cf Traffic Act, s 24)

(1) The Commissioner of Police may authorise the use by police
officers of a device (a **tyre deflation device**) that causes the
deflation of the tyres of a vehicle, for use by police to stop or assist
in the stopping of a vehicle in connection with the pursuit of the
vehicle by police.

(2) Provision made by or under an Act that would operate to prohibit or
restrict the placement or deployment on or near a road or road
related area of a tyre deflation device does not apply to the placing
or deploying of a tyre deflation device by a police officer acting in
the exercise of his or her duties.

(3) This section ceases to have effect at the beginning of the day that is
1 year after the day on which this section commences unless either
House of Parliament passes a resolution that this section is not to
cease to have effect in accordance with this subsection.

- (4) Either House of Parliament may pass a resolution that this section is not to cease to have effect in accordance with subsection (3), but any such resolution has no effect unless passed before the time at which this section would, but for the resolution, cease to have effect.

Division 2 Unauthorised use of vehicles

52 **Motor vehicles or trailers not to be used without consent of owner** (cf Traffic Act, s 8A)

- (1) A person must not use any motor vehicle or trailer without first obtaining the consent of the owner.

Maximum penalty: 20 penalty units.

- (2) This section does not apply to a police officer in the execution of his or her duty under the road transport legislation.

53 **Procuring or hire of motor vehicle or trailer by fraud or misrepresentation** (cf Traffic Act, s 8B)

- (1) A person must not procure the use or hire of any motor vehicle or trailer by fraud or misrepresentation.

Maximum penalty: 20 penalty units.

- (2) A person must not aid or abet a person to procure the use or hire of any motor vehicle or trailer by fraud or misrepresentation.

Maximum penalty: 20 penalty units.

Division 3 Written off and wrecked motor vehicles

54 **Object of this Division** (cf Traffic Act, s 10ZC)

The object of this Division is to provide for the collection of information concerning written off and wrecked motor vehicles, and for the taking of other measures in relation to such motor vehicles, to assist in preventing the registration of stolen motor vehicles and detecting motor vehicle theft and for other purposes connected with the administration and execution of this Act.

55 Definitions (cf Traffic Act, s 10ZD)

(1) In this Division:

auto-dismantler has the same meaning as it has in the *Motor Dealers Act 1974* and includes any other person, or class of persons, declared to be an auto-dismantler by the regulations under this Act.

dealer has the same meaning as it has in the *Motor Dealers Act 1974* and includes any other person, or class of persons, declared to be a dealer by the regulations under this Act.

insurer means a person who carries on the business of insuring motor vehicles and includes any other person, or class of persons, declared to be an insurer by the regulations.

late model motor vehicle means a motor vehicle that is not more than 15 years old (age being determined from the date of manufacture) or, if the regulations prescribe a different age, not more than the age so prescribed.

motor vehicle includes a trailer.

register means the register of written off and wrecked motor vehicles kept by the Authority under this Division.

vehicle identifier, in relation to a motor vehicle, means:

(a) in the case of a motor vehicle manufactured before 1 January 1989, the number quoted on the compliance plate that uniquely identifies the vehicle and sets it apart from similar vehicles and that corresponds to the identification number of the vehicle that is permanently recorded elsewhere on the vehicle, or

(b) in any other case, the unique vehicle identification number (or "VIN") allocated to the motor vehicle in accordance with the International Standards Organisation's vehicle identification system required under an Australian Design Rule adopted by the regulations.

wrecked—see section 56.

written off—see section 57.

(2) A reference in this Division to a person who carries on a business excludes a person who carries on such a business only as an employee.

- 56 Meaning of "wrecked"** (cf Traffic Act, s 10ZE) 1
- For the purposes of this Division, a motor vehicle is *wrecked*: 2
- (a) if it is demolished or dismantled, or 3
 - (b) if it is in some other state or condition, or damaged in some 4
manner, prescribed by the regulations. 5
- 57 Meaning of "written off"** (cf Traffic Act, s 10ZF) 6
- For the purposes of this Division, a motor vehicle is *written off*: 7
- (a) if a determination is made by an insurer in respect of the 8
motor vehicle that the vehicle should be written off or should 9
not be repaired (for example, because the vehicle has been 10
stolen and has not been recovered or because the cost of 11
repairs required to be made to the vehicle exceeds the value 12
or insured value of the vehicle), or 13
 - (b) in any other circumstances prescribed by the regulations. 14
- 58 Register of written off and wrecked motor vehicles** (cf Traffic Act, s 10ZG) 15
- (1) The Authority is to keep a register of written off and wrecked motor 16
vehicles. 17
 - (2) The register may include information notified to the Authority under 18
this Division and such other information as the Authority considers 19
appropriate. 20
 - (3) The register may be kept in the form of, or as part of, a computer 21
database or in such other form as the Authority considers 22
appropriate. 23
 - (4) The Authority may authorise any person or class of persons to make 24
entries in the register. 25
 - (5) Access to the register is not available to members of the public 26
(except as provided by this section). 27
 - (6) The Authority may, on such conditions as the Authority considers 28
appropriate: 29
 - (a) allow a government department, a public authority, a local 30
authority or the Police Service to have access to the register. 31
and 32
33

(b)	allow a government department, a public authority, a local authority or the police force of another State, a Territory or the Commonwealth to have access to the register, and	1 2 3
(c)	allow an insurer, auto-dismantler or dealer to have access to the register, and	4 5
(d)	allow any other person or body, or class of persons or bodies, prescribed by the regulations to have access to the register.	6 7
(7)	The Authority may, on such conditions as the Authority considers appropriate, provide a person or body with information contained in the register.	8 9 10
59	Insurers to provide written off motor vehicle information to Authority (cf Traffic Act, s 10ZH)	11 12
(1)	An insurer must provide to the Authority the information prescribed by the regulations concerning each late model motor vehicle that is written off (anywhere in Australia) in the course of the business carried on by the insurer.	13 14 15 16
	Maximum penalty: 20 penalty units.	17
(2)	The information required to be provided under this section must be provided:	18 19
(a)	subject to paragraph (b), within 7 days after the motor vehicle is written off in the course of that business and before the motor vehicle is sold or otherwise disposed of in the course of that business, or	20 21 22 23
(b)	within the time prescribed by the regulations.	24
60	Auto-dismantlers to provide wrecked motor vehicle information to Authority (cf Traffic Act, s 10ZI)	25 26
(1)	An auto-dismantler must provide to the Authority the information prescribed by the regulations concerning each late model motor vehicle that is demolished or dismantled (anywhere in Australia) in the course of the business carried on by the auto-dismantler.	27 28 29 30
	Maximum penalty: 20 penalty units.	31

- (2) The information required to be provided under this section must be provided:
- (a) subject to paragraph (b), within 7 days after work is commenced in the course of that business for the purpose of demolishing or dismantling the motor vehicle and before the part of the motor vehicle to which the vehicle identifier is attached is sold or otherwise disposed of in the course of that business, or
 - (b) within the time prescribed by the regulations.
- 61 Dealers to provide motor vehicle information to Authority** (cf Traffic Act, s 10ZJ)
- (1) A dealer must provide to the Authority the information prescribed by the regulations concerning each late model motor vehicle that is in the care, custody or control of the dealer (anywhere in Australia) and that has been written off.
- Maximum penalty: 20 penalty units.
- (2) The information required to be provided under this section must be provided:
- (a) subject to paragraph (b), within 7 days after the motor vehicle comes into the care, custody or control of the dealer and before the motor vehicle is sold or otherwise disposed of in the course of the business carried on by the dealer, or
 - (b) within the time prescribed by the regulations.
- (3) A dealer does not commit an offence under this section in respect of a failure to provide information concerning a motor vehicle if the dealer satisfies the court that:
- (a) the dealer believed, on reasonable grounds, that the required information concerning the motor vehicle had already been provided to the Authority by an insurer under this Division, or
 - (b) the dealer did not know, and did not have reasonable cause to suspect, that the motor vehicle had been written off.
- (4) The regulations may extend this section so that it also applies to late model motor vehicles that have been wrecked, or that have been wrecked in any specified manner, in the same way as it applies to written off motor vehicles (in which case the section applies accordingly).

- 62 Regulations may extend obligation to provide information under this Division to others** (cf Traffic Act, s 10ZK) 1
2
The regulations may require any person who carries on a type of 3
business specified in the regulations to provide to the Authority the 4
information prescribed by the regulations concerning any late model 5
motor vehicle that is written off or wrecked and is in the care. 6
custody or control of the person (anywhere in Australia). 7
- 63 False or misleading information** (cf Traffic Act, s 10ZL) 8
A person must not, in purported compliance with this Division or 9
the regulations under this Division, provide information to the 10
Authority that the person knows to be false or misleading in a 11
material particular. 12
Maximum penalty: 20 penalty units. 13
- 64 Unauthorised access to or interference with register** (cf Traffic Act, s 10ZM) 14
15
A person must not, except as authorised by the Authority or other 16
lawful authority: 17
(a) obtain access to the register or information contained in the 18
register, or 19
(b) make, alter or delete an entry in the register, or 20
(c) interfere with the register in any other way. 21
Maximum penalty: 20 penalty units. 22
- 65 Unauthorised disclosure of information** (cf Traffic Act, s 10ZN) 23
A person must not disclose any information obtained in connection 24
with the administration or execution of this Division, except: 25
(a) with the consent of the person from whom the information 26
was obtained, or 27
(b) in connection with the administration or execution of this 28
Act or the regulations, or 29
(c) for the purposes of any legal proceedings arising out of this 30
Act or the regulations or of any report of such proceedings. 31
or 32
(d) with other lawful excuse. 33
Maximum penalty: 20 penalty units. 34

- 66 Removal of vehicle identifiers** (cf Traffic Act, s 10ZO) 1
- (1) An insurer, auto-dismantler, dealer or other person required to 2
provide information to the Authority under this Division may be 3
required to take any reasonable steps, or to ensure that such steps 4
are taken, to remove, deface, obliterate or destroy the vehicle 5
identifier on any part of a motor vehicle that has been written off or 6
wrecked. 7
- (2) The requirement may be made: 8
- (a) by the regulations, or 9
- (b) by notice in writing served on the person by the Authority. 10
- (3) A notice under this section may be served personally or by post. 11
- (4) A person must comply with a requirement made under this section. 12
Maximum penalty (subsection (4)): 20 penalty units. 13
- 67 Authority may refuse to register motor vehicle that has written off 14
or wrecked vehicle identifier** (cf Traffic Act, s 10ZP) 15
- (1) The Authority may refuse to register any motor vehicle under the 16
Road Transport (Vehicle Registration) Act 1997 (or regulations 17
made under that Act) if its vehicle identifier is the same as the 18
vehicle identifier of a motor vehicle that has been noted on the 19
register as being written off or wrecked. 20
- (2) Subsection (1) does not apply: 21
- (a) in the case of a motor vehicle that was written off because it 22
was stolen—if the Authority is satisfied that the motor 23
vehicle has been recovered, or 24
- (b) in the case of a motor vehicle that was written off because it 25
was damaged—if the Authority is satisfied that the motor 26
vehicle has been restored or repaired, or 27
- (c) in any other circumstances prescribed by the regulations. 28
- (3) This section does not limit the power of the Authority to refuse to 29
register a motor vehicle under any other provision of the *Road 30
Transport (Vehicle Registration) Act 1997* or regulations made 31
under that Act. 32

68 Variations to Division (cf Traffic Act, s 10ZQ)

The regulations may provide that this Division or any specified provision of this Division:

- (a) does not apply to and in respect of:
 - (i) any specified motor vehicle or class of motor vehicles, or
 - (ii) any specified person or class of persons, or
- (b) applies only in respect of:
 - (i) any specified motor vehicle or class of motor vehicles, or
 - (ii) any specified person or class of persons.

69 Exemptions (cf Traffic Act, s 10ZR)

- (1) The Authority may, by instrument in writing, exempt any person from the operation of all or any of the provisions of this Division.
- (2) An exemption:
 - (a) may be absolute or subject to conditions, and
 - (b) if subject to conditions, has effect only while the conditions are observed.

Part 5 Miscellaneous**70 Act to bind Crown**

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.

71 Regulations

- (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.
- (2) Without limiting subsection (1), the regulations may make provision for or with respect to the following:
 - (a) giving effect to the object of Division 3 of Part 4 (including prescribing the form and manner in which the information required to be provided under that Division is to be provided to the Authority).
 - (b) the fixing of fees for services provided by the Authority under this Act or the regulations.
 - (c) the collection and recovery of fees fixed under this Act or the regulations.
 - (d) the refund, or partial refund, of fees fixed under this Act or the regulations.
 - (e) the waiver or postponement of fees fixed under this Act or the regulations.
- (3) The regulations may impose a fee in respect of services provided by the Authority under this Act or the regulations despite the fact that the fee may also comprise a tax.
- (4) The regulations may create offences punishable by a penalty not exceeding 20 penalty units.

72	Regulations may exclude vehicles, animals and persons from this Act or the regulations	1
		2
(1)	The regulations may:	3
(a)	exempt a vehicle, person or animal (or a class of vehicles, persons or animals of a kind) identified in the regulations from the operation of this Act or the regulations (or specified provisions of this Act or the regulations), or	4
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(b)	authorise the Authority to exempt a vehicle, person or animal (or a class of vehicles, persons or animals of a kind) identified in the regulations from the operation of this Act or the regulations (or specified provisions of this Act or the regulations).	8
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(2)	An exemption granted by or under a regulation referred to in subsection (1) may be given unconditionally or on specified conditions.	13
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(3)	The regulations may provide for the Authority:	16
(a)	to suspend the operation of any regulation referred to in subsection (1) in such manner and in such circumstances as may be specified by the regulations, or	17
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(b)	to suspend the operation of an exemption given by it to any vehicle, person or animal in such manner and in such circumstances as may be specified by the regulations.	20
		21
		22
	or both.	23
73	Unpaid charges and fees (cf Traffic Act, s 19)	24
	Except as provided by section 39 (7), any amount of unpaid charges or fees payable under this Act is a debt due to the Authority and may be recovered in a court of competent jurisdiction.	25
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		27
74	Savings, transitional and other provisions	28
	Schedule 2 has effect.	29
75	Review of Act	30
(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.	31
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| (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. | 1 |
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| (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 | 3 |
| | 4 |

Schedule 1 Impounded and forfeited vehicles

(Sections 39 and 40)

1 Definitions

In this Schedule:

Commissioner means the Commissioner of Police.

registered interest, in relation to a motor vehicle, means an interest in the vehicle that is registered under the *Registration of Interests in Goods Act 1986*.

2 Registered operator and interested persons to be notified

- (1) The Commissioner is to give notice of:
 - (a) the impounding of a vehicle under section 39, or
 - (b) the impounding, or continued or further impounding, or forfeiture, of a vehicle under section 40,to the registered operator of the vehicle and to the holder of any registered interest in the vehicle.
- (2) The notice may be given personally or by post, and must be given within 14 days after the occurrence the subject of the notice.
- (3) The notice is to state the offence for which the vehicle stands impounded or forfeit.

3 Retention of vehicle impounded under section 39

- (1) The Commissioner is to retain a vehicle impounded under section 39 until such time as the offence for which it was impounded is dealt with by a court or by the offender under Division 1 of Part 3 of this Act, unless it is sooner released under clause 5 or 6 or in accordance with the regulations.
- (2) A vehicle that is retained in accordance with this clause until an offence is dealt with is thereafter to be dealt with as required by or under section 40.
- (3) This clause does not apply in the case of a vehicle impounded in the circumstances referred to in section 39 (1) (b), except as prescribed by the regulations.

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- 4 Retention of vehicle impounded or forfeited under section 40** 1
- (1) A vehicle impounded under section 40 is to be retained by the 2
Commissioner for the time required by or under that section, unless 3
it is sooner released under clause 5 or 6. 4
- (2) A vehicle forfeited under section 40 is to be retained by the 5
Commissioner until further directed by the Minister, unless it is 6
sooner released under clause 5 or 6. 7
- 5 Release of vehicle on application to Commissioner** 8
- (1) Application may be made by any person to the Commissioner for 9
the release of an impounded vehicle into the person's custody. 10
- (2) The Commissioner may release the vehicle to the applicant if: 11
- (a) the period for which the vehicle would be liable to be 12
impounded under section 40 as a result of a conviction for 13
the offence that gave rise to its impounding has expired and 14
the prescribed fees for storage of the vehicle by the 15
Commissioner have (except to the extent that the 16
Commissioner has waived payment of those fees) been paid, 17
or 18
- (b) although that period has not expired, the Commissioner is 19
satisfied, on such evidence as the Commissioner may 20
reasonably require, that: 21
- (i) the offence concerned was not committed with the 22
consent of the applicant, and 23
- (ii) the applicant did not know, and could not reasonably 24
be expected to have known, that the vehicle would be 25
used for the commission of the offence. 26
- and if the Commissioner is satisfied, on such evidence as the 27
Commissioner may reasonably require, that the applicant is 28
lawfully entitled to possession of the vehicle. 29
- (3) It is the duty of the Commissioner to endeavour to cause any 30
impounded vehicle to be available for collection by a person 31
entitled to its possession as soon as the person is entitled to it. 32
- (4) An applicant to whom a vehicle is released under this clause must 33
in writing acknowledge receipt of the vehicle from the custody of 34
the Commissioner. 35
- (5) The Commissioner may remit the whole or any part of the 36
prescribed fees for storage of a vehicle. 37
-

6 Release of vehicle on application to Administrative Decisions Tribunal

- (1) A person may apply to the Administrative Decisions Tribunal for an order for the release of an impounded vehicle into the person's custody.
- (2) An application under this clause stays any order or direction for forfeiture or disposal of the vehicle.
- (3) An application under this clause may be made whether or not an application has been made to the Commissioner under clause 5.
- (4) The Tribunal is not limited by the provisions of clause 5, and is entitled in any case to have regard not only to the public interest but to any alleged hardship or other circumstances of the case.
- (5) Subclause (4) applies even though the Commissioner may have refused an application under clause 5, and the Tribunal may order or refuse to order the release of an impounded vehicle as justice requires.
- (6) An applicant to whom a vehicle is released by order of the Tribunal must in writing acknowledge receipt of the vehicle from the custody of the Commissioner.
- (7) The Tribunal may determine whether or not the prescribed fees for storage of the vehicle by the Commissioner, or some of those fees, are payable by the applicant to the Commissioner.
- (8) A decision of the Tribunal made in proceedings determining an application under this clause is an appealable decision for the purposes of Part 1 of Chapter 7 of the *Administrative Decisions Tribunal Act 1997*.
- (9) The Tribunal may award costs under section 88 of the *Administrative Decisions Tribunal Act 1997* in respect of proceedings commenced by an application made under this clause.

7 Safe keeping of vehicles

The Commissioner has (in the Commissioner's official capacity) a duty to take all reasonable steps to secure an impounded vehicle against theft or damage while impounded.

8 Failure to prosecute

- (1) No action lies against the Crown, the Minister, the Commissioner or any police officer in respect of the seizure or impounding, under section 39, of a vehicle for an alleged offence for which no proceedings or process are taken or issued.
- (2) This clause does not protect a police officer from liability in respect of the seizure, otherwise than in good faith, of a motor vehicle.

9 Disposal of vehicles

- (1) The Commissioner may cause an impounded or forfeited vehicle to be offered for sale in the circumstances prescribed by the regulations. The sale is to be by public auction or public tender.
- (2) The vehicle may be disposed of otherwise than by sale if the Commissioner believes on reasonable grounds that the vehicle has no monetary value or that the proceeds of the sale would be unlikely to exceed the costs of sale.
- (3) If the vehicle offered for sale is not sold, the Commissioner may dispose of the vehicle otherwise than by sale.
- (4) The regulations may make provision for or with respect to the disposal of the proceeds of any such sale, including provisions for or with respect to entitling persons to seek to be paid any such proceeds

Schedule 2 Savings, transitional and other provisions

(Section 74)

Part 1 General

1 Regulations

- (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of the following Acts:
this Act
Road Transport (Safety and Traffic Management) Act 1999
Road Transport Legislation Amendment Act 1999
- (2) Any such provision may, if the regulations so provide, take effect from the date of assent to the Act concerned or a later date.
- (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
 - (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.
- (4) Regulations made as referred to in subclause (1) may have effect despite the terms of any savings or transitional provisions contained in this Schedule, if the regulations so provide.

**Part 2 Provisions consequent on enactment of this
Act, Road Transport (Safety and Traffic
Management) Act 1999 and Road Transport
Legislation Amendment Act 1999**

Division 1 Interpretation

2 Definitions

(1) In this Part:

amended provision means a provision of an Act or regulation amended by Schedule 2 or 3 to the amending Act.

amending Act means the *Road Transport Legislation Amendment Act 1999*.

repealed Act means the *Traffic Act 1909* as in force immediately before its repeal by the amending Act.

STM Act means the *Road Transport (Safety and Traffic Management) Act 1999*.

(2) For the purposes of this Part:

(a) a provision of this Act or the STM Act or any other road transport legislation corresponds to a provision of the repealed Act if the provision is in the same (or in substantially the same) terms as the provision in the repealed Act. and

(b) a function under this Act or the STM Act or any other road transport legislation corresponds to a function under the repealed Act if the function is the same (or substantially the same) as the function under the repealed Act.

Division 2 Continuing operation of repealed Act and amended provisions

3 Repealed Act and regulations made under it continue to apply in certain circumstances

- (1) The repealed Act and any regulations, declarations or orders made under that Act continue to apply with respect to the following matters as if this Act, the STM Act and the amending Act had not been enacted:
 - (a) an offence or alleged offence under the repealed Act or the regulations made under that Act.
 - (b) any proceedings for any such offence.
 - (c) any penalty notice issued under section 18B of the repealed Act that is in force immediately before the repeal of that section.
 - (d) any suspension of a licence by the Commissioner under section 10B of the repealed Act in force under that section immediately before the repeal of the repealed Act.
 - (e) any notice given to a person by a police officer under section 10C of the repealed Act (and any related period of suspension of a licence) in force under that section immediately before the repeal of that Act.
 - (f) any notice given to a person by a police officer under section 10D of the repealed Act (and any related period of suspension of an authority to drive in New South Wales) in force under that section immediately before the repeal of that Act.
 - (g) any appeal that is pending in a Local Court (or any entitlement to appeal to a Local Court that has not been exercised) immediately before the repeal of the repealed Act.
 - (h) any breath, blood or urine sample taken under that Act before the repeal of the repealed Act.
 - (i) any vehicle taken charge of or removed by a police officer under section 5A or 25 of the repealed Act that has not been returned before that repeal.
- (2) This clause is subject to any contrary provision in this Schedule.

4	Confiscation of keys under section 26A of repealed Act	1
	If keys are confiscated under section 26A of the repealed Act before its repeal, the provisions of the repealed Act (and any relevant regulations made under that Act) that would have applied in respect of the keys but for their repeal continue to apply in respect of the keys as if the Act and regulations had not been repealed.	2 3 4 5 6
5	Removal of unattended vehicles under section 26 of repealed Act	7
	If an unattended motor vehicle or trailer is removed under section 26 of the repealed Act before its repeal, the provisions of the repealed Act (and any relevant regulations made under that Act) that would have applied in respect of that vehicle but for their repeal continue to apply in respect of that vehicle as if the Act and regulations had not been repealed.	8 9 10 11 12 13
6	Seized, impounded and forfeited vehicles under repealed Act	14
(1)	If a motor vehicle is seized, impounded or forfeited under section 4BB or 4BC of the repealed Act before its repeal, the provisions of the repealed Act (and any relevant regulations made under that Act) that would have applied in respect of that vehicle but for their repeal continue to apply in respect of that vehicle as if the Act and regulations had not been repealed.	15 16 17 18 19 20
(2)	However, section 39 (1) (a) of this Act is taken to extend to a motor vehicle that was not seized before the repeal of section 4BB of the repealed Act as if the references to sections 40 and 41 of the STM Act include references to sections 4B and 4BA respectively of the repealed Act.	21 22 23 24 25
7	Offences under amended provisions	26
(1)	An amended provision as in force immediately before the commencement of a relevant item continues to apply to a relevant offence committed, or alleged to have been committed, before the commencement of that item.	27 28 29 30
(2)	In this clause:	31
	relevant item means an item of Schedule 2 or 3 to the amending Act that amends a provision of an Act or regulation that contains an offence.	32 33 34

relevant offence means an offence under an Act or regulation that is amended by a relevant item.

Note. Section 30 of the *Interpretation Act 1987* is a general provision preserving rights accruing and liabilities incurred before an amendment or repeal of a provision of an Act or statutory rule.

Division 3 Delegations, approvals and authorisations under repealed Act

8 Certain existing delegations taken to be delegations under the Transport Administration Act 1988

Any person who, immediately before the repeal of the repealed Act, was a delegate of the Authority in respect of the exercise of any function is taken to be a delegate of the Authority under section 50 of the *Transport Administration Act 1988* in respect of any corresponding function of the Authority under the STM Act or this Act (or the regulations made under the STM Act or this Act).

9 Approved existing control devices taken to be approved prescribed traffic control devices under the STM Act

- (1) Any existing traffic control device that is also a prescribed traffic control device within the meaning of Part 4 of the STM Act is taken to be installed or displayed on, near or above the road or road related area with appropriate authority for the purposes of Part 4 of the STM Act.
- (2) In this clause, **existing traffic control device** means a traffic control sign within the meaning of section 4D of the repealed Act:
 - (a) that was erected or displayed on or near a road or road related area with the authority of the Authority within the meaning of that section before its repeal or otherwise lawfully erected or displayed, and
 - (b) continued to be so erected or displayed immediately before the repeal of that section.

10 Approved speed measuring devices, approved speed measuring device and approved camera detection devices under repealed Act

- (1) A device that, immediately before the repeal of the repealed Act, was an approved speed measuring device for the purposes of that Act is taken to be an approved speed measuring device for the purposes of the STM Act.

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| (2) | A device that, immediately before the repeal of the repealed Act, was an approved camera recording device for the purposes of that Act is taken to be an approved camera recording device for the purposes of the STM Act. | 1
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| (3) | A device that, immediately before the repeal of the repealed Act, was an approved camera detection device for the purposes of that Act is taken to be an approved camera detection device for the purposes of the STM Act. | 5
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| 11 | Certain authorisations by Commissioner of Police under repealed Act preserved | 9
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| (1) | A police officer who was duly authorised by the Commissioner of Police under the repealed Act to install or inspect (or both) approved camera recording devices and whose authorisation was still in force immediately before the repeal of that Act is taken to have been duly authorised by the Commissioner of Police under the STM Act to install or inspect (or both) approved camera recording devices, as the case may be. | 11
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| (2) | A police officer who was duly authorised by the Commissioner of Police under the repealed Act to install or inspect (or both) approved camera detection devices and whose authorisation was still in force immediately before the repeal of that Act is taken to have been duly authorised by the Commissioner of Police under the STM Act to install or inspect (or both) approved camera detection devices, as the case may be. | 18
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| (3) | A police officer who was duly authorised by the Commissioner of Police under the repealed Act to carry out a breath analysis and whose authorisation was still in force immediately before the repeal of that Act is taken to have been duly authorised by the Commissioner of Police under the STM Act to carry out a breath analysis. | 25
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12	Approval by Commissioner of Police under section 4B of repealed Act to conduct races, speed record attempts or speed or other trials	1
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	An approval granted by the Commissioner of Police under section 4B of the repealed Act for an activity referred to in section 4B (1) of that Act that is in force immediately before the repeal of that Act is taken to be an approval for that activity granted by the Commissioner under section 40 of the STM Act and subject to the same conditions (if any) originally imposed.	4
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13	Authorised officers under sections 25 and 26 of repealed Act are authorised officers under section 75 and 76 of STM Act	10
		11
	(1) A person who is an authorised officer within the meaning of paragraph (a) of the definition of <i>authorised officer</i> in section 25 (3) of the repealed Act immediately before its repeal is taken to be an authorised officer within the meaning of paragraph (a) of the definition of <i>authorised officer</i> in section 75 (4) of the STM Act.	12
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	(2) A person who is an authorised officer within the meaning of paragraph (a) of the definition of <i>authorised officer</i> in section 26 (8) of the repealed Act immediately before its repeal is taken to be an authorised officer within the meaning of paragraph (a) of the definition of <i>authorised officer</i> in section 76 (9) of the STM Act.	17
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Division 4	Declarations, orders, exemptions and notices under repealed Act and other legislation	22
		23
14	Declarations in respect of areas made under repealed Act and road transport legislation	24
		25
	(1) In this clause:	26
	<i>existing area declaration</i> means:	27
	(a) a declaration in force under section 2A of the repealed Act immediately before the repeal of that Act. and	28
		29
	(b) a declaration in force under section 29 of the <i>Road Transport (Driver Licensing) Act 1998</i> immediately before the commencement of Schedule 2.36 [10] to the amending Act. and	30
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	(c) a declaration in force under section 25 of the <i>Road Transport (Vehicle Registration) Act 1997</i> immediately before the commencement of Schedule 2.38 [10] to the amending Act.	34
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relevant commencement means:

- (a) in relation to a declaration in force under section 2A of the repealed Act—the commencement of Schedule 1 to the amending Act in its application to the repealed Act, and
 - (b) in relation to a declaration in force under section 29 of the *Road Transport (Driver Licensing) Act 1998*—the commencement of Schedule 2.36 [10] to the amending Act, and
 - (c) in relation to a declaration in force under section 25 of the *Road Transport (Vehicle Registration) Act 1997*—the commencement of Schedule 2.38 [10] to the amending Act.
- (2) An existing area declaration is taken:
- (a) to be a declaration in force under section 9 of this Act, and
 - (b) to relate to the same area of the State or road or road related area (as the case may be) to which it applied immediately before the relevant commencement, and
 - (c) to relate to:
 - (i) if the provisions of the Acts or regulations to which it applies are still in force after the relevant commencement—the same provisions, or
 - (ii) if the provisions of the Acts or regulations to which it applies are repealed on or before the relevant commencement—provisions in the road transport legislation that correspond to the repealed provisions.
- (3) Nothing in this clause prevents the revocation of any declaration.

15 Declarations in respect of persons, vehicles or animals made under certain road transport legislation

- (1) In this clause:

existing non-application declaration means:

- (a) a declaration in force under section 30 of the *Road Transport (Driver Licensing) Act 1998* immediately before the commencement of Schedule 2.36 [11] to the amending Act, and
- (b) a declaration in force under section 25A of the *Road Transport (Vehicle Registration) Act 1997* immediately before the commencement of Schedule 2.38 [11] to the amending Act.

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- relevant commencement*** means:
- (a) in relation to a declaration in force under section 30 of the *Road Transport (Driver Licensing) Act 1998*—the commencement of Schedule 2.36 [11] to the amending Act, and
 - (b) in relation to a declaration in force under section 25A of the *Road Transport (Vehicle Registration) Act 1997*—the commencement of Schedule 2.38 [11] to the amending Act.
- (2) An existing non-application declaration is taken:
- (a) to be a declaration in force under section 10 of this Act, and
 - (b) to relate to the same persons, vehicles or animals in the locations and circumstances to which it applied immediately before the relevant commencement, and
 - (c) to relate to:
 - (i) if the provisions of the Acts or regulations to which it applies are still in force after the relevant commencement—the same provisions, or
 - (ii) if the provisions of the Acts or regulations to which it applies are repealed on or before the relevant commencement—provisions in the road transport legislation that correspond to the repealed provisions.
- (3) Nothing in this clause prevents the revocation of any declaration.
- 16 Orders under certain road transport legislation suspending or varying regulations**
- (1) In this clause:
- existing suspension or variation order*** means:
- (a) an order in force under section 28 of the *Road Transport (Driver Licensing) Act 1998* immediately before the commencement of Schedule 2.36 [9] to the amending Act, and
 - (b) an order in force under section 24 of the *Road Transport (Vehicle Registration) Act 1997* immediately before the commencement of Schedule 2.38 [9] to the amending Act.

relevant commencement means:

- (a) in relation to an order in force under section 28 of the *Road Transport (Driver Licensing) Act 1998*—the commencement of Schedule 2.36 [9] to the amending Act. and
- (b) in relation to an order in force under section 24 of the *Road Transport (Vehicle Registration) Act 1997*—the commencement of Schedule 2.38 [9] to the amending Act.
- (2) An existing suspension or variation order is taken:
 - (a) to be a order in force under section 12 of this Act. and
 - (b) to apply to the same area as it applied immediately before the relevant commencement. and
 - (c) if the order suspended regulations—to suspend the same regulations for the same period as specified by the order in force immediately before the relevant commencement. and
 - (d) if the order varied regulations—to vary the same regulations in the manner specified by the Minister in the order in force immediately before the relevant commencement.
- (3) Nothing in this clause prevents the revocation or amendment of any order.

17 Exemption under section 100 of repealed Act

Any exemption given by the Authority under section 100 of the repealed Act in respect of all or any of the provisions of Part 3A of that Act that is in force immediately before the repeal of that Act is taken to be an exemption under section 68 of the STM Act in respect of the corresponding provisions of Division 2 of Part 5 of that Act and subject to the same conditions (if any).

18 Notices under section 4AE of repealed Act

A notice given under section 4AE of the repealed Act requiring a person to remove or surrender a prohibited speed measuring evasion article that is in force immediately before the repeal of that section that provides for compliance within a period that expires after that repeal is taken:

(a)	to be a notice given under the corresponding provision of section 49 of the STM Act. and	1
		2
(b)	to require the person to remove or surrender the article at the expiry of the same period and in the same manner as originally specified in the notice.	3
		4
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Division 5	Licence disqualification and suspension under repealed Act	6
		7
19	Disqualification under repealed Act	8
(1)	Section 26 of this Act applies to any disqualification from holding a driver licence to which section 10AA of the repealed Act applied immediately before its repeal.	9
		10
		11
(2)	However, section 26 (2) does not apply to any person who was disqualified by a court before the repeal of section 10AA.	12
		13
20	Declarations of habitual traffic offender under section 10EA of repealed Act	14
		15
	If a person is declared to be an habitual traffic offender by section 10EA of the repealed Act and that declaration is in force immediately before the repeal of that section by the amending Act:	16
		17
		18
(a)	the declaration is taken to be a declaration in force as a declaration under Division 4 of Part 3 of this Act, and	19
		20
(b)	the period of disqualification imposed by the declaration is taken to be the period that is unexpired immediately before the repeal of section 10EA.	21
		22
		23
21	Suspensions under section 10C and 10D of repealed Act	24
(1)	If, immediately before the repeal of section 10C of the repealed Act by the amending Act, a police officer:	25
		26
(a)	has a right to suspend a person's driver licence under that section within 48 hours of the person being charged with an offence referred in section 10C (1) of that Act as in force immediately before its repeal, and	27
		28
		29
		30
(b)	the period referred to in paragraph (a) has not expired immediately before that repeal.	31
		32
	any police officer is taken to have that right under section 34 of this Act for the balance of the 48 hour period that has not expired.	33
		34

- (2) If, immediately before the repeal of section 10D of the repealed Act by the amending Act, a police officer:
- (a) has a right to suspend a person's authority to drive under that section within 48 hours of the person being charged with an offence referred in section 10C (1) of that Act as in force immediately before its repeal, and
 - (b) the period referred to in paragraph (a) has not expired immediately before that repeal.
- any police officer is taken to have that right under section 35 of this Act for the balance of the 48 hour period that has not expired.

Division 6 Appeals and reviews

22 Decisions under road transport legislation that are reviewable by Administrative Decisions Tribunal

- (1) Until the regulations provide otherwise:
- (a) any person who was entitled under a right of review provision to apply to the Administrative Decisions Tribunal for a review of a decision is taken to be entitled to apply to the Tribunal for a review of the decision under section 48 of this Act, and
 - (b) any application to the Tribunal made under a right of review provision that is pending or has been heard (but that has not been finally determined) immediately before the repeal of the right of review provision is taken to be an application made under section 48 of this Act.
- (2) For the purposes of subclause (1), the Tribunal has the same functions by operation of section 48 of this Act as it would have had under the right of review provision concerned.
- (3) In this clause:
- right of review provision*** means:
- (a) section 21 of the *Road Transport (Driver Licensing) Act 1998* as in force immediately before its repeal by the amending Act, and
 - (b) section 17 of the *Road Transport (Vehicle Registration) Act 1997* as in force immediately before its repeal by the amending Act.

23 Existing appeal rights under certain road transport legislation	1
(1) The provisions of the <i>Road Transport (Driver Licensing) Act 1998</i> (and the regulations made under that Act) as in force immediately before the commencement of Schedule 2.36 [12] to the amending Act continue to apply to:	2
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(a) any appeal under the <i>Road Transport (Driver Licensing) Act 1998</i> (or under a regulation under that Act) that is pending in a Local Court immediately before that commencement. and	6
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	8
(b) any right to appeal to a Local Court that is available to a person under that Act or regulation immediately before that commencement.	9
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(2) The provisions of the <i>Road Transport (Vehicle Registration) Act 1997</i> (and the regulations made under that Act) as in force immediately before the commencement of Schedule 2.38 [11] to the amending Act continue to apply to:	12
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	15
(a) any appeal under the <i>Road Transport (Vehicle Registration) Act 1997</i> (or under a regulation under that Act) that is pending in a Local Court immediately before that commencement. and	16
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(b) any right to appeal to a Local Court that is available to a person under that Act or regulation immediately before that commencement.	20
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24 Interim appeals rights to the Local Court pending exercise of jurisdiction by Administrative Decisions Tribunal	23
	24
(1) The regulations may make provision for or with respect to:	25
(a) appeals against any decision (or class of decisions) of the Authority under the road transport legislation instead of a review of any such decision or class of decisions by the Administrative Decisions Tribunal. and	26
	27
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(b) applications for orders of the kind referred to in clause 6 of Schedule 1 for the release of an impounded vehicle.	30
	31
(2) In particular, and without limiting subclause (1), the regulations may:	32
	33
(a) provide that section 48 or clause 6 of Schedule 1 does not apply to a decision or class of decisions. and	34
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(b)	provide for the manner of notification of specified decisions by the Authority or any other person to persons affected by the decisions, and	1 2 3
(c)	confer jurisdiction on a Local Court in respect of the following:	4 5
(i)	to hear and determine appeals against specified decisions, or classes of decisions, of the Authority under this Act or the regulations.	6 7 8
(ii)	to hear and determine applications for orders for the release of an impounded vehicle, and	9 10
(d)	set out the actions that may be taken by a Local Court or must be taken by the Authority or any other person after the determination of an appeal or an application.	11 12 13
(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.	14 15 16
(4)	Nothing in subclause (2) prevents:	17
(a)	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 48 of this Act after the lodgment of any such appeal, or	18 19 20 21
(b)	the hearing or determination of an application to a Local Court in respect of the release of an impounded vehicle that is made amenable to an application to the Administrative Decisions Tribunal under clause 6 of Schedule 1 to this Act after the lodgment of any such application.	22 23 24 25 26
(5)	Nothing in this clause limits clause 1.	27
Division 7	Written off and wrecked vehicles	28
25	Written off and wrecked vehicles under repealed Act	29
(1)	A register of written off and wrecked motor vehicles maintained by the Authority under section 10ZG of the repealed Act immediately before the repeal of that section is taken to be the register of written off and wrecked vehicles under section 58 of this Act.	30 31 32 33

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- (2) If, immediately before the repeal of Part 3E of the repealed Act, a person was under a duty under a provision of that Part to provide information to the Authority within a period that expires after the repeal of that Part (the *original duty*):
- (a) the person is taken to be under a duty to provide the information under the provision of Division 3 of Part 4 of this Act that corresponds to the provision of Part 3E of the repealed Act (including any relevant regulations made under that Part) that imposed the original duty (the *new duty*), and
 - (b) the new duty is taken to relate to the same information to which the original duty extended, and
 - (c) the period within which the new duty must be carried out expires on the same date on which the original duty would, but for the repeal of Part 3E of the repealed Act, have expired.
- (3) If a notice given by the Authority to a person under section 10ZO of the repealed Act is in force immediately before the repeal of that section and that notice imposes a requirement that is to be complied with within a period that expires after the repeal of that section (the *original notice*):
- (a) the original notice is taken to be a notice given by the Authority to that person under section 66 of this Act (the *new notice*), and
 - (b) the new notice is taken to impose the same requirement on the person as the original notice, and
 - (c) the period within which the requirement imposed by the new notice must be complied with expires on the same date as was specified in the original notice.
- (4) Any exemption granted by the Authority under section 10ZR of the repealed Act that is in force immediately before the repeal of that section (the *original exemption*) is taken:
- (a) to be an exemption granted by the Authority under section 69 of this Act, and
 - (b) to exempt the person from the provisions of Division 3 of Part 4 of this Act that correspond to the provisions of Part 3E of the repealed Act from which the person was exempted by the original exemption, and

- (c) is subject to the same conditions (if any) as applied to the original exemption.

Note. Clause 3 of this Schedule ensures that the provisions of Part 3E of the repealed Act (and any associated regulation made under that Part), along with other provisions of the repealed Act, will continue to apply to a person who has committed an offence under that Part before its repeal.

Division 8 Heavy vehicle monitoring

26 Application of STM Act to matters formerly regulated by Part 3A of repealed Act

If a vehicle movement record:

- (a) was required under Part 3A of the repealed Act as in force immediately before the repeal of that Part by the amending Act to be kept for a period of at least 12 months, and
- (b) the period of 12 months had not expired before that repeal.

Division 2 of Part 5 of the STM Act is taken to apply to that record for the unexpired period as if it were a vehicle movement record within the meaning of that Division.

Division 9 Miscellaneous

27 Certificates under section 12 of the repealed Act and other repealed provisions of road transport legislation

Section 46 is taken to extend to any matter that could (but for their repeal by the amending Act) have been the subject of a certificate under any of the following provisions:

- (a) section 12 of the repealed Act.
- (b) section 26 of the *Road Transport (Driver Licensing) Act 1998*.
- (c) section 22 of the *Road Transport (Vehicle Registration) Act 1997*.

28	Indemnity for personal liability under repealed provisions of road transport legislation to continue in force for past acts and omissions	1
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		3
	Section 31 of the <i>Road Transport (Driver Licensing) Act 1998</i> and	4
	section 28 of the <i>Road Transport (Vehicle Registration) Act 1997</i>	5
	continue to apply with respect to acts or omissions occurring before	6
	their repeal by the amending Act as if this Act and the amending	7
	Act had not been enacted.	8
29	Fees and charges payable under repealed Act	9
(1)	Any fee or charge payable to the Authority under the repealed Act	10
	immediately before its repeal is taken to be payable to the Authority	11
	under this Act.	12
(2)	Any fee or charge payable to any other person under the repealed	13
	Act immediately before its repeal is taken to be payable to that	14
	person under this Act.	15
30	References to provisions of repealed Act and regulations to be read as corresponding provision	16
		17
	A reference in any other Act (other than the STM Act or the	18
	amending Act) or other instrument to a provision of the repealed	19
	Act or a regulation made under that Act is to be read as a reference	20
	to the corresponding provision of the road transport legislation.	21
	unless the regulations or the context otherwise requires.	22
31	Effect of this Part	23
	Nothing in this Part prevents the amendment or revocation of any	24
	delegation, authorisation, approval, declaration or order.	25