



New South Wales

# Road Transport Amendment (Driver Licence Disqualification) Bill 2017

## Explanatory note

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

## Overview of Bill

The object of this Bill is to amend the *Road Transport Act 2013* with respect to driver licence disqualification and other sanctions that may be imposed under that Act for offences, in particular offences relating to unauthorised driving. The Bill:

- (a) confers on the Local Court power to remove outstanding driver licence disqualification periods, and
- (b) abolishes the habitual traffic offender scheme, and
- (c) provides for clearer delineation and flexibility of periods of driver licence disqualification for unauthorised driving offences, and
- (d) reduces the maximum periods of imprisonment that may be imposed for unauthorised driving offences, and
- (e) enables additional sanctions concerning vehicles to be imposed for unauthorised driving offences and in relation to recidivist unauthorised drivers.

## Outline of provisions

**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.

## **Schedule 1      Amendment of Road Transport Act 2013 No 18**

### **Removal of outstanding driver licence disqualification periods**

**Schedule 1 [15]** inserts proposed Division 3A into Part 7.4 to enable a person who is disqualified from holding or obtaining a driver licence as a consequence of committing motor vehicle offences or being declared as an habitual traffic offender to apply to the Local Court for an order removing his or her driver licence disqualifications. An order may be made if the person has not been convicted of any driving offence for the relevant offence-free period (being 4 years for disqualifications arising from certain serious offences and 2 years in other cases) and the Local Court considers that it is appropriate taking into account relevant circumstances such as the safety of the public, the person's complete driving record and the person's family and employment obligations.

A person will be ineligible to apply for the removal of disqualifications if the person has been convicted of serious offences under the Act or the *Crimes Act 1900* of causing death or grievous bodily harm by the use of a motor vehicle, of predatory or menacing driving, of failing to stop and assist after an accident and of certain other serious driving offences.

### **Abolition of habitual traffic offender scheme**

**Schedule 1 [14]** repeals Division 3 of Part 7.4 (Habitual traffic offenders), which provides for the declaration of habitual traffic offenders and the imposition of additional periods of driver licence disqualification.

**Schedule 1 [13]** makes a consequential amendment to omit section 208 (2) of the Act.

### **Penalties and driver licence disqualifications for offences by disqualified drivers or by drivers not holding a licence**

Division 2 of Part 3.4 of the Act makes it an offence for a person to drive a motor vehicle while unlicensed or to employ or permit an unlicensed driver to drive a motor vehicle. It also makes it an offence for a person to drive a motor vehicle (or apply for a driver licence) while disqualified or if the person's driver licence has been cancelled or suspended. In addition to specifying the maximum fines or periods of imprisonment that may be imposed for offences, sections 53 and 54 provide for automatic disqualification of drivers for stated periods on conviction of first or second or subsequent offences.

**Schedule 1 [1], [3] and [4]** decrease the maximum periods of imprisonment that may be imposed for offences against sections 53 and 54 relating to driving without a licence (eg 6 months in cases where a current period of 18 months applies and 12 months in some cases where a current period of 2 years applies). In the case of the cancellation or suspension of a licence for non-payment of a fine, a period of imprisonment of 6 months will only apply for a second or subsequent offence.

**Schedule 1 [10]** inserts proposed section 205A to provide for the period of driver licence disqualification in relation to offences against sections 53 and 54. The Table to the proposed section provides for default periods of disqualification but confers a discretion on the court to impose a shorter or longer period (but not shorter than the minimum period specified in the Table for the offence).

**Schedule 1 [2] and [5]** omit the existing provisions in sections 53 and 54 relating to driver licence disqualification for offences under those sections.

**Schedule 1 [6]** provides that the court may increase or decrease the 12-month period of driver licence disqualification for offences under section 116 relating to certain conduct associated with road or drag racing in the same way it may do so for the 12-month period of disqualification for offences under section 115 relating to road or drag racing.

**Schedule 1 [7]–[9]** make consequential amendments.

### **Commencement of disqualification period etc**

**Schedule 1 [12]** inserts section 207A to make it clear that disqualification periods commence on the date of conviction unless the court orders a later date, so that disqualification periods for a number of offences are not cumulative unless the court so orders.

**Schedule 1 [11]** inserts section 206B to consolidate provisions (currently in section 224 and the statutory rules) that require a court to take a period of immediate or other suspension under a police licence suspension notice into account in deciding any period of licence disqualification following conviction for the offence or for any back-up or related offence in respect of the offence for which the suspension notice was given. **Schedule 1 [16]** makes a consequential amendment.

### **Immediate driver licence suspensions**

**Schedule 1 [17]** amends section 225 to ensure that the period of an immediate driver licence suspension (that is, a driver licence suspension imposed by a police officer when a driver is charged with certain serious driving offences) has effect despite any other suspension to which the licence is subject or the lifting of that other suspension.

### **Additional sanctions concerning vehicles for unauthorised driving offences**

**Schedule 1 [18]–[20]** amend Part 7.6 of the Act to enable the additional sanctions concerning vehicles that may be imposed under that Part (such as vehicle impounding or confiscation of number-plates) to be imposed for certain offences under sections 53 and 54 by disqualified or unlicensed drivers. The additional sanctions apply to recidivist offenders and to offenders committing speeding offences of 30 km/hr or more over the speed limit (instead of 45 km/hr or more that currently applies for drivers generally).

### **Savings and transitional provisions**

**Schedule 1 [21]** amends Schedule 4 to the Act to make provisions of a savings or transitional nature consequent on the enactment of the proposed Act.