



New South Wales

Road Transport Amendment (Miscellaneous) Bill 2019

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* and the regulations made under that Act as follows—

- (a) to make further provision with respect to the removal of periods of disqualification from a person who is disqualified from holding a driver licence (a *disqualified driver*), in particular—
 - (i) to provide for the reopening of proceedings in cases where the Local Court has removed a period of disqualification from a disqualified driver who was, because of the nature of their offence, ineligible to have the period of disqualification removed, and
 - (ii) to ensure that convictions for offences under certain repealed road transport legislation are considered when determining whether to remove a period of disqualification from a disqualified driver, and
 - (iii) to make it clear that a reference to the date of an offence is a reference to the date on which the offence was committed,
- (b) to make it clear that the power of a police officer to arrest a person involved in an accident, for the purpose of enabling the person to be tested for alcohol and drug use, extends to accidents occurring off-road that result in the death of one or more persons,
- (c) to require a motor vehicle to be assessed as a total economic loss before classifying the vehicle as a statutory written-off vehicle.

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 the date of assent to the proposed Act, with the exception of Schedule 2, which commences on 13 December 2019.

Schedule 1 Amendments to Road Transport Act 2013 No 18 relating to disqualified drivers

Persons convicted of certain serious offences not eligible to apply for removal of period of disqualification

Schedule 1[1] defines certain serious offences to be *never-eligible offences* for the purposes of Division 3A of Part 7.4 of the *Road Transport Act 2013 (the principal Act)*. **Schedule 1[7]** provides that a disqualified driver is not eligible to make an application for an order removing a period of disqualification if the driver has ever been convicted of a never-eligible offence.

Schedule 1[9] provides for the review of an application for an order removing a period of disqualification from the applicant, but only if the order was made despite the applicant being ineligible to apply for the order because the applicant had previously committed a never-eligible offence.

Offences committed during relevant offence-free periods

Schedule 1[5] makes it clear that the date on which a person is convicted of an offence is not a relevant consideration for the purposes of a relevant offence-free period. The relevant date is the date on which the offence was committed. **Schedule 1[2]–[4], [6] and [8]** make consequential amendments.

Arrest for the purpose of alcohol and drug testing of persons involved in off-road accidents resulting in death

Schedule 1[10] makes it clear that the power of a police officer to arrest a person involved in an accident, for the purpose of enabling the person to be alcohol and drug tested, extends to accidents occurring off-road that result in the death of one or more persons.

Schedule 2 Amendments relating to statutory written-off vehicles

Currently, Part 4.5 of the principal Act provides for the following in relation to the assessment of damage to light vehicles—

- (a) a light vehicle damage assessment is carried out to determine whether the light vehicle is a total loss and whether the vehicle has suffered non-repairable damage,
- (b) a report on the light vehicle damage assessment is required to include a statement as to whether the vehicle is a total loss and whether the damage suffered by the vehicle is non-repairable damage,
- (c) a light vehicle that is assessed as being a total loss is to be registered on the NSW written-off light vehicles register.

A light vehicle that is on the NSW written-off light vehicles register cannot be registered, or have its registration renewed or transferred unless the repair of the light vehicle is authorised under the principal Act.

Part 4.5A of the principal Act provides for a scheme that is substantially the same in relation to heavy vehicles.

Schedule 2.1[1] replaces the term *non-repairable damage* with the term *statutory write-off assessment criteria*, in relation to light vehicles, to reflect the terminology used in the industry.

Schedule 2.1[4] replaces the term *light vehicle damage assessment* with the term *total loss assessment*, in relation to light vehicles, to reflect the terminology used in the industry and other jurisdictions.

Schedule 2.1[7] provides that a total loss assessment, in relation to a light vehicle, is not required to assess whether the vehicle has suffered damage of a type specified in the statutory write-off assessment criteria unless the vehicle is a total loss.

Schedule 2.1[13] and [15] clarify that references to written-off warning labels for vehicles in Part 4.5 of the principal Act are references to warning labels for written-off light vehicles.

Schedule 2.1[16] replaces the term *non-repairable damage* with the term *statutory write-off assessment criteria*, in relation to heavy vehicles, to reflect the terminology used in the industry.

Schedule 2.1[18] replaces the term *heavy vehicle damage assessment* with the term *total loss assessment*, in relation to heavy vehicles, to reflect the terminology used in the industry and other jurisdictions.

Schedule 2.1[21] provides that a total loss assessment, in relation to a heavy vehicle, is not required to assess whether the vehicle has suffered damage of a type specified in the statutory write-off assessment criteria unless the vehicle is a total loss.

Schedule 2.1[27] and [29] clarify that references to written-off warning labels for vehicles in Part 4.5A of the principal Act are references to warning labels for written-off heavy vehicles.

Schedule 2.2[1], [17], [19], [22] and [36] omit clauses of the *Road Transport (Vehicle Registration) Regulation 2017* that require vehicles to be categorised as written-off vehicles despite the vehicles not being determined to be a total loss.

The remaining provisions of **Schedule 2.1 and 2.2** and **Schedule 2.3** and make consequential amendments.