



New South Wales

# Road Transport Legislation Amendment Bill 2020

## Explanatory note

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

## Overview of Bill

The object of this Bill is to make miscellaneous amendments to the *Road Transport Act 2013* and related legislation following a statutory review of the Act.

The Bill amends the *Road Transport Act 2013* (the *principal Act*) as follows—

- (a) to increase from 6 months to 2 years the period within which proceedings for certain offences must be commenced,
- (b) to require Transport for NSW, when cancelling or suspending a driver licence for certain speeding offences or alcohol or other drug related driving offences, to take into account any period of suspension already served by the driver,
- (c) to allow the Commissioner of Police to suspend a foreign driver licence holder who is caught speeding by more than 30 kilometres per hour or who has been issued with penalty notices for offences for which the total demerit point value is 13 or more,
- (d) to allow statutory rules to provide for the suspension or cancellation of the registration of a motor vehicle if it displays offensive or discriminatory material,
- (e) to make other minor and miscellaneous amendments.

The Bill also—

- (a) amends the *Driving Instructors Act 1992* to remove the requirement for the Commissioner of Police to inquire into the character of applicants for driving instructor licences, and
- (b) amends the *Photo Card Act 2005* to enable—
  - (i) Transport for NSW to use and release information contained in the Photo Card Register for purposes related to digital Photo Cards, and

- (ii) the statutory rules to provide for the use of personal or commercially sensitive information in the Photo Card Register, and
- (c) amends the *Road Transport (General) Regulation 2013* to—
  - (i) increase from 6 months to 2 years the period within which proceedings for certain offences under the *Road Transport (Vehicle Registration) Regulation 2017* must be commenced, and
  - (ii) make consequential amendments, and
- (d) amends the *Road Transport (Vehicle Registration) Regulation 2017* to enable Transport for NSW to suspend the registration of a registrable vehicle if the registered operator of the vehicle has committed the offence of failing to nominate the driver of a vehicle who committed a camera recorded offence, rather than only if it is the registered operator's second or subsequent offence of that kind, and
- (e) makes consequential amendments to the *Fines Act 1996* and the *Road Transport (Driver Licensing) Regulation 2017*.

## 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.

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

### Second and subsequent offences

**Schedule 1[2]–[7]** provide that for the purpose of determining whether an offence is a second or subsequent offence, the 5-year period commences on the date of the earlier offence.

**Schedule 1[8]** provides that for the purpose of determining whether an offence is a second or subsequent offence, a court may find that a previous offence committed in another jurisdiction is an equivalent offence to a new offence.

### Demerit points

**Schedule 1[12]** provides that demerit points, incurred by a learner or provisional licence holder, for offences taken into account for a notice of licence suspension or licence ineligibility are taken to be deleted from the NSW demerit points register on the commencement of the period of suspension or ineligibility or on determination of an appeal in relation to the suspension or ineligibility. **Schedule 1[10] and [11]** are consequential amendments.

### Use of information and photographs by Transport for NSW

**Schedule 1[36]** provides that Transport for NSW may use information recorded in the NSW registers required to be kept under the principal Act for the purpose of exercising its functions, including delegated functions. This does not affect the provisions of Part 3.5 of the principal Act in relation to protection of stored photographs.

**Schedule 1[14]** authorises Transport for NSW to release certain photographs stored by Transport for NSW—

- (a) with the consent of the person whose photograph it is, and
- (b) in relation to licences under the *Tattoo Parlours Act 2012*.

**Schedule 1[13]** provides that the restrictions on the use of photographs stored by Transport for NSW do not apply to a photograph provided to Transport for NSW by a person for the sole purpose of establishing the person's identity.

### **Liability for camera recorded offences and parking offences**

**Schedule 1[17] and [19]** provide that if a person nominates another person as the person in charge of a vehicle, the nomination must include the date of birth and licence details of the person in charge, rather than the name and address only. **Schedule 1[24] and [26]** are consequential amendments.

**Schedule 1[25]** increases the maximum penalty from 100 penalty units to 200 penalty units for a corporation that commits an offence relating to failing to correctly nominate the person in charge of the vehicle at the time of an offence.

### **Dealing with offences**

**Schedule 1[27]** updates the provision that enables penalty notices to be issued for offences under the road transport legislation and other related legislation, in line with the standard penalty notice provision in other NSW legislation. **Schedule 1[18], [20]–[23] and [35]** are consequential amendments.

**Schedule 1[28]** amends section 200 to—

- (a) increase from 100 penalty units to 200 penalty units the maximum penalty the Local Court may impose for an offence against section 188(1) or (2) or 189(4), and
- (b) clarify that Transport for NSW can commence proceedings for offences against the road transport legislation.

**Schedule 1[29]** extends the period within which proceedings may be brought for certain offences against the principal Act from 6 months to 2 years from the date the offence was alleged to have been committed.

### **Suspension of foreign driver licence holders**

**Schedule 1[30]** allows the Commissioner of Police to suspend the authority of a foreign driver licence holder to drive in NSW if the holder, in a 3-year period, is issued with penalty notices for offences to a total of 13 or more demerit points. **Schedule 1[1] and [16]** are consequential amendments.

**Schedule 1[31]** allows a police officer to issue a licence suspension notice immediately to a foreign driver licence holder if it appears to the police officer that the holder has exceeded a speed limit by more than 30 kilometres per hour but less than 45 kilometres per hour.

### **Seizure and confiscation sanctions for motor vehicles owned by corporations**

**Schedule 1[32]** allows a police officer to seize and impound a motor vehicle, or remove and confiscate number-plates of a motor vehicle, if the police officer reasonably believes the registered operator of the motor vehicle is a corporation and the motor vehicle—

- (a) has been operated on a road so as to commit certain serious offences, or
- (b) has been driven by a disqualified driver at more than 30 kilometres per hour over the speed limit, or
- (c) has been driven by a disqualified driver, or a person who has never been licensed, who has been convicted, more than once in the previous 5-year period, of specified driving while disqualified offences.

### **Other amendments**

**Schedule 1[9]** removes the requirement for Transport for NSW to keep a public database of declarations and orders made by the Minister for Transport and Roads (the *Minister*) under sections 18 and 19 of the principal Act. Those sections enable the Minister to order that specific areas, vehicles, persons or animals are excluded from the operation of the road transport legislation. The Minister's orders will continue to be published in the Gazette.

**Schedule 1[15]** requires Transport for NSW to take into account the period of an immediate suspension given to a driver by a police officer in relation to a speeding offence or an alcohol or

other drug related driving offence when Transport for NSW is determining the period of a cancellation or suspension to impose for the same offence.

**Schedule 1[33] and [34]** enable Transport for NSW to waive or remit certain fees payable for services provided by Transport for NSW without having to publish a notice of the waiver in the Gazette, as is currently the case to amend, waive or revoke fees. The fixing or amending of fees will continue to be published in the Gazette.

**Schedule 1[37]** enables the statutory rules to provide for the suspension or cancellation of the registration of a registrable vehicle on the grounds of displaying offensive or discriminatory material.

**Schedule 1[38]** inserts savings and transitional provisions.

## **Schedule 2      Amendment of other legislation**

**Schedule 2.1** amends the *Driving Instructors Act 1992* to remove the requirements—

- (a) for Transport for NSW to notify the Commissioner of Police of each application for a driving instructor licence and consider the Commissioner's report, and
- (b) for the Commissioner of Police to inquire into the character of an applicant for a driving instructor licence and provide a report to Transport for NSW.

**Schedule 2.2** amends the *Fines Act 1996* in relation to the nomination of another person as the person in charge of a vehicle, where a penalty reminder notice has been issued. The nomination will be required to include the date of birth and licence details of the person in charge, rather than the name and address only.

**Schedule 2.3** amends the *Photo Card Act 2005* to enable—

- (a) Transport for NSW to use information contained in the Photo Card Register for the purpose of exercising its functions, including delegated functions, and
- (b) Transport for NSW to release information contained in the Photo Card Register for the purposes of the issue or use of a digital Photo Card or to verify the authenticity of a digital Photo Card, and
- (c) the statutory rules to provide for the use of information in the Photo Card Register that is of a personal nature or is commercially sensitive, in addition to providing for the release of the information, as is currently the case.

**Schedule 2.4** amends the *Road Transport (General) Regulation 2013* to—

- (a) extend the period within which proceedings may be brought for certain offences against the *Road Transport (Vehicle Registration) Regulation 2017* from 6 months to 2 years from the date the offence was alleged to have been committed, and
- (b) makes consequential amendments to the removal of the requirement for Transport for NSW to maintain a database containing orders made by the Minister in relation to the application of road transport legislation.

**Schedule 2.5** amends the *Road Transport (Driver Licensing) Regulation 2017* to remove the authorisation of Transport for NSW to use the information in the NSW driver licence register for the purpose of exercising its functions, consequential on the proposed insertion of this authorisation into the principal Act.

**Schedule 2.6** amends the *Road Transport (Vehicle Registration) Regulation 2017* to enable Transport for NSW to suspend the registration of a registrable vehicle if the registered operator of the vehicle has committed the offence of failing to nominate the driver of a vehicle who committed a camera recorded offence, rather than only if it is the registered operator's second or subsequent offence of that kind.



New South Wales

# Road Transport Legislation Amendment Bill 2020

## Contents

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|                   |   | Page      |
|-------------------|---|-----------|
|                   | 1 Name of Act                                     | 2         |
|                   | 2 Commencement                                    | 2         |
| <b>Schedule 1</b> | <b>Amendment of Road Transport Act 2013 No 18</b> | <b>3</b>  |
| <b>Schedule 2</b> | <b>Amendment of other legislation</b>             | <b>11</b> |



New South Wales

# Road Transport Legislation Amendment Bill 2020

No. \_\_\_\_\_, 2020

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## **A Bill for**

An Act to make miscellaneous amendments to the *Road Transport Act 2013* and related legislation following a statutory review of that Act.

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**The Legislature of New South Wales enacts—**

**1 Name of Act**

This Act is the *Road Transport Legislation Amendment Act 2020*.

**2 Commencement**

- (1) This Act commences on the date of assent to this Act, except as provided by subsections (2) and (3).
- (2) Schedule 2.5 commences immediately after the commencement of Schedule 4.86 to the *Statute Law (Miscellaneous Provisions) Act 2020*.
- (3) Schedule 1[2]–[8], [17]–[27], [31], [32] and [35] and Schedule 2.2 commence on a day or days to be appointed by proclamation.

|  |  |    |
|--|--|----|
| <b>Schedule 1</b>  | <b>Amendment of Road Transport Act 2013 No 18</b>  | 1  |
| <b>[1] Section 4 Definitions</b>   |  | 2  |
|  | Insert in alphabetical order in section 4(1)—  | 3  |
|  | <i>foreign driver licence</i> means a licence, however described, to drive a motor vehicle that is—                            | 4  |
|  | (a) held by a person who is ordinarily resident in a foreign country and not a permanent resident of Australia, and            | 5  |
|  | (b) issued in the country in which the person is ordinarily resident.  | 6  |
| <b>[2] Section 9 Determination of “first offence” and “second or subsequent offence”</b> |  | 7  |
|  | Omit “, within the applicable re-offending period (if any) for the offence concerned,” from section 9(2)(a).                   | 8  |
| <b>[3] Section 9(2)(c)</b>   |  | 9  |
|  | Insert at the end of section 9(2)(b)—  | 10 |
|  | , and  | 11 |
|  | (c) the person committed the previous offence within the applicable re-offending period for the offence concerned.             | 12 |
| <b>[4] Section 9(2A)</b>   |  | 13 |
|  | Omit “(the <i>new offence</i> ), that offence”.  | 14 |
|  | Insert instead “or the statutory rules (the <i>new offence</i> ), the new offence”.  | 15 |
| <b>[5] Section 9(2A)(a)</b>  |  | 16 |
|  | Omit “being convicted of”. Insert instead “committing”.  | 17 |
| <b>[6] Section 9(3)</b>  |  | 18 |
|  | Omit “subsection (2)(a)”. Insert instead “subsection (2)(c)”.  | 19 |
| <b>[7] Section 9(3)(a)</b>   |  | 20 |
|  | Insert “immediately before the person committed the new offence” after “years”.  | 21 |
| <b>[8] Section 9(5)(f)</b>   |  | 22 |
|  | Insert at the end of section 9(5)(e)—  | 23 |
|  | , or   | 24 |
|  | (f) for a previous offence committed in another jurisdiction—a court finds that the previous offence is an equivalent offence. | 25 |
| <b>[9] Section 22 Database of declarations and orders made under this Division</b>       |  | 26 |
|  | Omit the section.  | 27 |
| <b>[10] Section 40 Suspension or cancellation of licence</b>                             |  | 28 |
|  | Omit section 40(4) and (5).  | 29 |
| <b>[11] Section 41 Licence ineligibility</b>   |  | 30 |
|  | Omit section 41(6) and (7).  | 31 |



|  |                            |
|--|----------------------------|
| <b>[12] Section 41A</b>  | 1                          |
| Insert after section 41—   | 2                          |
| <b>41A Deletion of demerit points</b>  | 3                          |
| (1) All demerit points recorded in the NSW demerit points register against a person at the date of a notice of licence suspension or notice of licence ineligibility given to the person under this Division, and taken into account for the purposes of the notice, are taken to be deleted—  | 4<br>5<br>6<br>7           |
| (a) if the person’s driver licence has been suspended under this Division—on the commencement of the period of suspension, or  | 8<br>9                     |
| (b) if the person has become ineligible under this Division to be issued with, and to apply for, a driver licence—on the commencement of the period of licence ineligibility, or   | 10<br>11<br>12             |
| (c) if the person has lodged an appeal in relation to the licence suspension or licence ineligibility—on the determination of the appeal.  | 13<br>14                   |
| (2) Demerit points that are taken not to be deleted in the circumstances referred to in subsection (1) are to be taken into account for the purposes of sections 40(1) and 41(1) from the end of the period of licence suspension or period of licence ineligibility, as the case may be.  | 15<br>16<br>17<br>18       |
| (3) Nothing in this section prevents Transport for NSW from retaining records of deleted demerit points incurred by any person.  | 19<br>20                   |
| <b>[13] Section 55 Photographs to which this Part applies</b>  | 21                         |
| Insert at the end of the section—  | 22                         |
| (2) This Part does not apply to a photograph provided to Transport for NSW by a person for the sole purpose of establishing the person’s identity.   | 23<br>24                   |
| <b>[14] Section 57 Release of photographs prohibited</b>   | 25                         |
| Insert after section 57(1)(h)—   | 26                         |
| (ha) with the consent of the person whose likeness is shown in the photograph or on the database, or   | 27<br>28                   |
| (hb) to the Secretary, within the meaning of the <i>Tattoo Parlours Act 2012</i> , for the purpose of enabling the Secretary to exercise functions in relation to licences under that Act, or  | 29<br>30<br>31             |
| <b>[15] Section 59 Cancellation or suspension of driver licence for certain speeding offences or alcohol or other drug related driving offences</b>  | 32<br>33                   |
| Insert after section 59(4A)—   | 34                         |
| (4B) In determining the period specified in a notice to be served on a person under subsection (3) or (4), Transport for NSW is required to take into account the period during which the person’s driver licence was suspended under an immediate licence suspension notice given to the person under section 224 for the same offence. | 35<br>36<br>37<br>38<br>39 |
| <b>[16] Section 107 Definitions</b>  | 40                         |
| Omit the definition of <i>foreign driver licence</i> from section 107(1).  | 41                         |
| <b>[17] Section 183 Definitions</b>  | 42                         |
| Insert in alphabetical order in section 183(1)—  | 43                         |

|   |          |
|---|----------|
| <i>nomination details</i> of a person means—  | 1        |
| (a) the person’s name, address and date of birth, and   | 2        |
| (b) the number of the person’s Australian driver licence or foreign driver licence, and   | 3<br>4   |
| (c) if a person holds a foreign driver licence—the jurisdiction that issued the foreign driver licence.   | 5<br>6   |
| <b>[18] Sections 183(1) (definition of “relevant nomination document”), 185(3), 186(1)(a), 187 and 224(2)(a) and (4)(b1), (b2), (c) and (d)</b>       | 7<br>8   |
| Omit “served with” wherever occurring. Insert instead “issued with”.  | 9        |
| <b>[19] Sections 185(1), 186(1) and (1A), 187(b), 190(3) and 191(c)</b>   | 10       |
| Omit “name and address” and “names and addresses” wherever occurring.   | 11       |
| Insert instead “nomination details”.  | 12       |
| <b>[20] Section 185 When responsible person not liable for parking offence</b>  | 13       |
| Omit “service on” wherever occurring in section 185(1)(a) and (b).  | 14       |
| Insert instead “the issue to”.  | 15       |
| <b>[21] Sections 185(2) and (3) and 186(2)</b>  | 16       |
| Omit “served on” wherever occurring. Insert instead “issued to”.  | 17       |
| <b>[22] Section 186 Duty to inform if person not driver of vehicle committing camera recorded offence</b>   | 18<br>19 |
| Omit “service” from section 186(1). Insert instead “the issue”.   | 20       |
| <b>[23] Section 186(3)</b>  | 21       |
| Omit “served”. Insert instead “issued”.   | 22       |
| <b>[24] Section 188 Offences relating to nominations</b>  | 23       |
| Omit “that name and address” from section 188(1). Insert instead “the nomination details”.  | 24       |
| <b>[25] Sections 188(1) and 189(4)</b>  | 25       |
| Omit “100 penalty units” wherever occurring in the penalty provisions.  | 26       |
| Insert instead “200 penalty units”.   | 27       |
| <b>[26] Section 188(3)</b>  | 28       |
| Omit “either a false name or address (or both a false name and address) for the person is”.   | 29       |
| Insert instead “false nomination details for the person are”.   | 30       |
| <b>[27] Section 195</b>   | 31       |
| Omit sections 195–199. Insert instead—  | 32       |
| <b>195 Penalty notices</b>  | 33       |
| (1) An authorised officer may issue a penalty notice to a person if it appears to the officer that the person has committed a penalty notice offence. | 34<br>35 |
| (2) A penalty notice offence is an offence against the following that is prescribed by the statutory rules as a penalty notice offence—               | 36<br>37 |

|             |  |                      |
|-------------|--|----------------------|
| (a)         | the road transport legislation,  | 1                    |
| (b)         | the <i>Driving Instructors Act 1992</i> or the regulations under that Act,   | 2                    |
| (c)         | the <i>Heavy Vehicle (Adoption of National Law) Act 2013</i> or the local regulations under that Act,  | 3<br>4               |
| (d)         | section 650(1) or (4) or 650A(1) or (4) of the <i>Local Government Act 1993</i> , including by operation of section 651 of that Act,   | 5<br>6               |
| (e)         | the <i>Motor Accident Injuries Act 2017</i> , the <i>Motor Accidents Compensation Act 1999</i> or the regulations under those Acts,  | 7<br>8               |
| (f)         | the <i>Recreation Vehicles Act 1983</i> or the regulations under that Act,   | 9                    |
| (g)         | the <i>Roads Act 1993</i> or the regulations under that Act, including by operation of section 244 of that Act.  | 10<br>11             |
| (3)         | The <i>Fines Act 1996</i> applies to a penalty notice issued under this section.   | 12                   |
|             | <b>Note.</b> The <i>Fines Act 1996</i> provides that, if a person issued with a penalty notice does not wish to have the matter determined by a court, the person may pay the amount specified in the notice and is not liable to any further proceedings for the alleged offence. | 13<br>14<br>15<br>16 |
| (4)         | The amount payable under a penalty notice issued under this section is the amount prescribed for the alleged offence by the statutory rules, not exceeding the maximum amount of penalty that could be imposed for the offence by a court.   | 17<br>18<br>19<br>20 |
| (5)         | This section does not limit the operation of any other provision of, or made under, this or any other Act relating to proceedings that may be taken in relation to offences.   | 21<br>22<br>23       |
| (6)         | An offence for which a penalty of imprisonment may be imposed under the road transport legislation, except an offence against section 53(3) of this Act, cannot be prescribed by the statutory rules as a penalty notice offence.  | 24<br>25<br>26       |
| (7)         | In addition to a manner of issuing a penalty notice provided for by the <i>Fines Act 1996</i> , a penalty notice for the following offences may be issued by leaving the notice on the vehicle in relation to which the offence was committed—                                     | 27<br>28<br>29       |
| (a)         | an offence for which the responsible person for the vehicle is guilty because of Division 2,   | 30<br>31             |
| (b)         | an offence for which the owner is guilty because of section 651 of the <i>Local Government Act 1993</i> .  | 32<br>33             |
| (8)         | The regulations may specify the classes of authorised officer who are authorised to issue a penalty notice for a specified penalty notice offence.   | 34<br>35             |
| <b>[28]</b> | <b>Section 200 Proceedings for offences</b>  | 36                   |
|             | Insert after section 200(2)—   | 37                   |
| (3)         | Despite subsection (2), the maximum monetary penalty that may be imposed by the Local Court for an offence against section 188(1) or (2) or 189(4) is 200 penalty units or the maximum monetary penalty provided for the offence, whichever is less.                               | 38<br>39<br>40<br>41 |
| (4)         | Without limiting section 14 of the <i>Criminal Procedure Act 1986</i> , proceedings for an offence against the road transport legislation may be commenced by Transport for NSW or a person authorised in writing by Transport for NSW.  | 42<br>43<br>44       |
| <b>[29]</b> | <b>Section 202</b>   | 45                   |
|             | Insert after section 201—  | 46                   |

|             |   |                      |
|-------------|---|----------------------|
| <b>202</b>  | <b>Period within which certain other proceedings may be commenced</b>   | 1                    |
| (1)         | Despite the <i>Criminal Procedure Act 1986</i> or another Act, proceedings for an offence against the following provisions may be commenced not later than 2 years after the date alleged to be the date on which the offence was committed—  | 2<br>3<br>4<br>5     |
| (a)         | section 49(1),  | 6                    |
| (b)         | section 54(1)(b), (3)(b), (4)(b), (5)(a)(ii) and (5)(b)(ii),  | 7                    |
| (c)         | section 69(1)(a) and (2)(a),  | 8                    |
| (d)         | section 110, 111 or 112, to the extent that the offence arises out of an incident in relation to which the person was charged with an offence against section 117(1) and the driving occasioned death or grievous bodily harm,  | 9<br>10<br>11<br>12  |
| (e)         | section 117(1) if the driving occasioned death or grievous bodily harm,   | 13                   |
| (f)         | section 145,  | 14                   |
| (g)         | section 146.  | 15                   |
| (2)         | Despite the <i>Criminal Procedure Act 1986</i> or another Act, the regulations may provide that proceedings for an offence against the regulations made under this Act may be commenced not later than a period, not exceeding 2 years, after the date alleged to be the date on which the offence was committed. | 16<br>17<br>18<br>19 |
| <b>[30]</b> | <b>Section 223A</b>   | 20                   |
|             | Insert after section 223—   | 21                   |
| <b>223A</b> | <b>Suspension of foreign driver</b>   | 22                   |
| (1)         | The Commissioner of Police may suspend the authority of the holder of a foreign driver licence to drive in this jurisdiction if the total number of demerit points specified under section 32 for all relevant offences during the relevant 3-year period is 13 or more.  | 23<br>24<br>25<br>26 |
| (2)         | The suspension must not exceed 14 days.   | 27                   |
| (3)         | The Commissioner of Police must immediately—  | 28                   |
| (a)         | notify Transport for NSW that the Commissioner has suspended the authority and the grounds for the suspension, and  | 29<br>30             |
| (b)         | report to Transport for NSW whether in the Commissioner’s opinion a further suspension or the cancellation of the authority is warranted or is desirable in the interest of public safety.  | 31<br>32<br>33       |
| (4)         | In this section—  | 34                   |
|             | <i>relevant 3-year period</i> means the 3-year period immediately before the suspension under this section would commence.  | 35<br>36             |
|             | <i>relevant offence</i> means an offence against an Act or statutory rule—  | 37                   |
| (a)         | for which a penalty notice has been issued to the holder of a foreign driver licence, and   | 38<br>39             |
| (b)         | for which demerit points may, but have not yet been, incurred.  | 40                   |
| <b>[31]</b> | <b>Section 224 When immediate licence suspension notice may be issued by police officer</b>   | 41<br>42             |
|             | Insert “or as the holder of a foreign driver licence” after “driven” in section 224(1)(c)(ii).  | 43                   |

|   |    |
|---|----|
| <b>[32] Section 239A</b>  | 1  |
| Insert after section 239—   | 2  |
| <b>239A Extension of additional sanction to corporation owned motor vehicles</b>  | 3  |
| (1) A police officer may exercise an authorised power in relation to a motor vehicle if the police officer reasonably believes—   | 4  |
| (a) the registered operator of the motor vehicle is a corporation, and  | 5  |
| (b) a circumstance set out in subsection (2), (3) or (4) is made out.   | 6  |
| (2) The motor vehicle was operated on a road to commit a sanctionable offence—  | 7  |
| (a) on that day, or   | 8  |
| (b) during the past 10 days.  | 9  |
| (3) The motor vehicle is being operated on a road—  | 10 |
| (a) by a person who is disqualified from holding or obtaining a driver licence, and   | 11 |
| (b) to commit an offence, not being a camera recorded offence, of driving a vehicle at a speed more than 30 kilometres per hour over the designated speed limit applying to the driver for the length of road at the time the offence is committed. | 12 |
| (4) The motor vehicle is being operated on a road by a person—  | 13 |
| (a) who is disqualified from holding or obtaining a driver licence or who has never been licensed, and  | 14 |
| (b) who has been convicted of an offence against section 53(3) or 54(1) on 2 or more previous occasions within the past 5-year period.  | 15 |
| (5) The police officer is to notify Transport for NSW of the exercise of the authorised power.  | 16 |
| (6) Transport for NSW is, as soon as is practicable, to notify the registered operator of the motor vehicle of the exercise of the authorised power.  | 17 |
| (7) For the purposes of this Part—  | 18 |
| (a) the exercise of the authorised power of seizure and impoundment is taken to be the exercise of the power under section 239(1)(a), and   | 19 |
| (b) the exercise of the authorised power of confiscation of number-plates is taken to be the exercise of the power under section 239(1)(c), and   | 20 |
| (c) sections 240, 243 and 245–247 do not apply in relation to the exercise of an authorised power under this section, and   | 21 |
| (d) to avoid doubt, section 248(1)(b) and (2)(b) do not apply to a motor vehicle impounded or number-plates confiscated under this section, and   | 22 |
| (e) section 249(3) is taken to include the following paragraph after paragraph (b)—   | 23 |
| (c) for the exercise of an authorised power under section 239A—   | 24 |
| alleged extreme hardship to a person other than the driver of the motor vehicle who committed, or is alleged to have committed, the offence that led to the exercise of the power.  | 25 |
| (8) In this section—  | 26 |
| <b>authorised power</b> means—  | 27 |
| (a) to seize and take charge of a motor vehicle and cause it to be moved to a place determined by the Commissioner of Police, or  | 28 |
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| (b)  | to remove and confiscate the number-plates affixed to a motor vehicle and attach a number-plate confiscation notice to the motor vehicle.  | 1<br>2               |
| [33] | <b>Section 271 Fixing fees for services concerning driver licensing and vehicle registration</b>   | 3<br>4               |
|      | Omit “, or amend, waive or revoke fees,” from section 271(1).  | 5                    |
| [34] | <b>Section 271(2A)</b>   | 6                    |
|      | Insert after section 271(2)—   | 7                    |
|      | (2A) Transport for NSW may waive or remit all or part of a fee fixed under this section.   | 8<br>9               |
| [35] | <b>Section 276 Service of documents on persons generally</b>   | 10                   |
|      | Omit section 276(4).   | 11                   |
| [36] | <b>Section 277A</b>  | 12                   |
|      | Insert after section 277—  | 13                   |
|      | <b>277A Use of information in registers</b>  | 14                   |
|      | (1) Transport for NSW may use information recorded in a register required to be kept under this Act for the purpose of exercising its functions, including delegated functions.  | 15<br>16<br>17       |
|      | (2) Nothing in this section overrides Part 3.5.  | 18                   |
| [37] | <b>Schedule 1 Examples of statutory rule-making powers</b>   | 19                   |
|      | Insert after clause 3—   | 20                   |
|      | <b>3A Offensive or discriminatory material displayed on vehicles</b>   | 21                   |
|      | The suspension and cancellation of the registration of a registrable vehicle on the grounds of offensive or discriminatory material displayed on the vehicle, including the circumstances in which material is considered to be offensive or discriminatory. | 22<br>23<br>24<br>25 |
| [38] | <b>Schedule 4 Savings, transitional and other provisions</b>   | 26                   |
|      | Insert at the end of the Schedule, with appropriate Part and clause numbering—   | 27                   |
|      | <b>Provision consequent on enactment of Road Transport Legislation Amendment Act 2020</b>  | 28<br>29             |
|      | <b>Application of amendments</b>   | 30                   |
|      | (1) A <i>previous offence</i> , within the meaning of section 9, extends to an offence committed before the commencement of the amendments to section 9 made by the amending Act.  | 31<br>32<br>33       |
|      | (2) Section 41A applies in relation to notices given before the commencement of the section if, immediately before the commencement—   | 34<br>35             |
|      | (a) the period of suspension has not commenced, or   | 36                   |
|      | (b) the licence ineligibility has not taken effect.  | 37                   |

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| (3) | A period during which a driver licence is suspended under an immediate licence suspension notice is to be taken into account under section 59(4B) even if it occurred before the commencement of that subsection.   | 1<br>2<br>3        |
| (4) | Section 200(4) extends to an offence against the road transport legislation committed before the commencement of the subsection.  | 4<br>5             |
| (5) | Section 202 applies only in relation to an offence committed after the commencement of the section.   | 6<br>7             |
| (6) | The authority of the holder of a foreign driver licence to drive in this jurisdiction may be suspended under section 223A even if some or all of the demerit points were for an offence for which the penalty notice was issued before the commencement of the section. | 8<br>9<br>10<br>11 |
| (7) | In this clause, <i>amending Act</i> means the <i>Road Transport Legislation Amendment Act 2020</i> .  | 12<br>13           |

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| <b>Schedule 2</b> | <b>Amendment of other legislation</b>  | 1        |
| <b>2.1</b>        | <b>Driving Instructors Act 1992 No 3</b>   | 2        |
| [1]               | <b>Section 10 Prerequisites for licence</b>  | 3        |
|                   | Omit “after considering a report on the person made under section 13 or any other relevant matter,” from section 10(4)(b).                     | 4<br>5   |
| [2]               | <b>Sections 12 and 13</b>  | 6        |
|                   | Omit the sections.   | 7        |
| [3]               | <b>Section 14 Consideration of information</b>   | 8        |
|                   | Omit “report of” from section 14(1). Insert instead “information received from”.   | 9        |
| [4]               | <b>Section 14(2)</b>   | 10       |
|                   | Omit the subsection.   | 11       |
| <b>2.2</b>        | <b>Fines Act 1996 No 99</b>  | 12       |
| [1]               | <b>Section 38 Circumstances in which person issued with penalty reminder notice for vehicle or vessel offence is not liable to pay penalty</b> | 13<br>14 |
|                   | Omit “name and address” from section 38(1)(a).   | 15       |
|                   | Insert instead “nomination details”.   | 16       |
| [2]               | <b>Section 38(1)(b)</b>  | 17       |
|                   | Omit “that name and address”. Insert instead “the nomination details”.   | 18       |
| [3]               | <b>Section 38(3F)</b>  | 19       |
|                   | Omit “either a false name or address (or both a false name and address) for the person is”.  | 20       |
|                   | Insert instead “false nomination details for the person are”.  | 21       |
| [4]               | <b>Section 38(4)</b>   | 22       |
|                   | Insert in alphabetical order—  | 23       |
|                   | <i>Australian driver licence</i> has the same meaning as in the <i>Road Transport Act 2013</i> .   | 24<br>25 |
|                   | <i>foreign driver licence</i> has the same meaning as in the <i>Road Transport Act 2013</i> .  | 26<br>27 |
|                   | <i>nomination details</i> of a person means—   | 28       |
|                   | (a) the person’s name, address and date of birth, and  | 29       |
|                   | (b) if the offence relates to a vehicle—   | 30       |
|                   | (i) the number of the person’s Australian driver licence or foreign driver licence, and  | 31<br>32 |
|                   | (ii) if the person holds a foreign driver licence—the jurisdiction that issued the licence.  | 33<br>34 |
| <b>2.3</b>        | <b>Photo Card Act 2005 No 20</b>   | 35       |
| [1]               | <b>Section 13D, heading</b>  | 36       |
|                   | Insert “or use” after “Release”.   | 37       |



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| <b>[2] Section 13D</b>  | 1                          |
| Omit “may use and release information (including photographs) in the Register to the Secretary or the Chief Executive Officer of Service NSW if the release of the information is for the purpose of the issue of a digital Photo Card”.  | 2<br>3<br>4                |
| Insert instead—   | 5                          |
| may—  | 6                          |
| (a) use information, including photographs, in the Register for the purpose of exercising its functions, including delegated functions, or  | 7<br>8                     |
| (b) release information, including photographs, in the Register if the release of the information is for the purposes of—   | 9<br>10                    |
| (i) the issue of a digital Photo Card, or   | 11                         |
| (ii) the use of a digital Photo Card, or  | 12                         |
| (iii) verifying the authenticity of a digital Photo Card.   | 13                         |
| <b>[3] Section 15 Security of information on Register</b>   | 14                         |
| Insert “or used” after “released”.  | 15                         |
| <b>2.4 Road Transport (General) Regulation 2013</b>   | 16                         |
| <b>[1] Part 2, Division 1 Database of declarations and orders</b>   | 17                         |
| Omit the Division.  | 18                         |
| <b>[2] Clause 149</b>   | 19                         |
| Insert after clause 148—  | 20                         |
| <b>149 Limitation period for certain offences</b>   | 21                         |
| For the purposes of section 202(2) of the Act, the following provisions of the <i>Road Transport (Vehicle Registration) Regulation 2017</i> are prescribed as provisions for which proceedings may be commenced not later than 2 years after the date alleged to be the date for an offence on which the offence was committed— | 22<br>23<br>24<br>25<br>26 |
| (a) clause 68(8)–(10),  | 27                         |
| (b) clause 69(4) and (6),   | 28                         |
| (c) clause 85(5),   | 29                         |
| (d) clause 93.  | 30                         |
| <b>[3] Schedule 1 Fees</b>  | 31                         |
| Omit the matter relating to item 1.   | 32                         |
| <b>2.5 Road Transport (Driver Licensing) Regulation 2017</b>  | 33                         |
| <b>Clause 104 Use of information by TfNSW</b>   | 34                         |
| Omit the clause.  | 35                         |

**2.6 Road Transport (Vehicle Registration) Regulation 2017**

1

**Clause 45 Suspension or cancellation of registration by Authority**

2

Omit “a second or subsequent offence under section 188(1) of the Act or a former corresponding provision in relation to any vehicle of the registered operator in any 3 year period” from clause 45(3).

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Insert instead “an offence under section 188(1) of the Act”.

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