



New South Wales

Motor Sports Bill 2021

Explanatory note

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

Overview of Bill

The object of this Bill is to regulate motor sports to—

- (a) support the expansion of motor sports in New South Wales, and
- (b) facilitate the conduct of major motor sports events in New South Wales.

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.

Clause 3 provides for the Dictionary in the proposed Act, Schedule 3 to define certain terms used in the proposed Act.

Clause 4 sets out the objects of the proposed Act.

Part 2 Motor racing other than on licensed racing grounds

Division 1 Authorisation to conduct motor race

Clause 5 provides that the Minister may specify certain matters in relation to a motor race by order published in the Gazette. The matters that may be specified by the Minister are as follows—

- (a) the land on which the motor race, including associated events and ancillary activities, may be conducted (the *event area*),
- (b) the period during which the motor race may be conducted in the event area (the *event period*),
- (c) the person (the *promoter*) who is entitled to apply for an authorisation to conduct the motor race (a *motor race authorisation*),
- (d) the way and time in which the application must be made,
- (e) the government sector agency that is to be the government coordinating agency for the motor race.

Clause 6 enables the Minister to give a motor race authorisation for a motor race, for a period of up to 5 years, on the advice of the government coordinating agency for the motor race.

Clause 7 provides that a motor race authorisation may be given subject to conditions that the Minister considers reasonable to impose, including conditions relating to certain matters specified in the proposed section. The Minister may change the conditions at any time by giving written notice to the promoter and must give the promoter written notice of the change before changing the conditions. The government coordinating agency must review the conditions within 4 months after the end of each motor race authorised by the motor race authorisation to decide whether the conditions remain appropriate.

Clause 8 requires a promoter, as a condition of a motor race authorisation, to prepare certain plans that must be approved by an organisation nominated to approve the plans or by the government coordinating agency.

Clause 9 requires a promoter, as a condition of a motor race authorisation, to comply with a reasonable direction in relation to certain matters given by the government coordinating agency for the motor race.

Clause 10 requires a promoter to comply with the conditions of the motor race authorisation and sets out the consequences for failing to comply with a condition. The government coordinating agency for the motor race may cancel the motor race authorisation if satisfied of certain matters, including the promoter's failure to comply with a condition. The proposed section makes it an offence to fail to comply with a condition. It is a defence if the promoter establishes that the commission of the offence was due to causes over which the promoter had no control, and the promoter took reasonable precautions and exercised due diligence to prevent the commission of the offence.

Clause 11 enables the Premier, by written notice to the promoter for a motor race, to cancel or vary an order of the Minister for the motor race or the motor race authorisation, including by imposing conditions or restrictions. The Premier may take the action only on the advice of certain persons and if the Premier is reasonably satisfied it is necessary because of a significant risk of harm to persons from a natural or other threat. The Premier is not required to consult with the promoter before taking the action.

Clause 12 provides that the promoter for a motor race is responsible for the motor race, associated events and ancillary activities, and for works or other things occurring on or to the land within the event area for the motor race—

- (a) during the event period for the motor race, and
- (b) outside the event period if the land is fenced and cordoned off in accordance with a works approval given under proposed Part 2, Division 2.

Division 2 Carrying out works

Clause 13 defines certain words used in the proposed Division.

Clause 14 requires a promoter who proposes to carry out works associated with the motor race, associated events or ancillary activities to satisfy certain consultation requirements in relation to the proposed works.

Clause 15 provides that a promoter may apply to the government coordinating agency for approval (a *works approval*) to carry out works associated with the motor race, associated events or ancillary activities. The proposed section sets out requirements relating to—

- (a) the way in which the application must be made, and
- (b) the content of the application, and
- (c) the requirements that must be met before the application is decided.

Clause 16 requires the government coordinating agency to consult with certain bodies and persons and be satisfied of certain matters before giving a works approval for a motor race.

Clause 17 provides that a works approval may authorise the carrying out of works to the extent the works are reasonably necessary for the purposes of the motor race, associated events and ancillary activities, including works specified in the proposed section. The proposed section also provides that a works approval must not authorise particular works.

Clause 18 provides that a works approval authorises the promoter to carry out the works specified in the works approval and do anything reasonably necessary to carry out those works. The works approval must specify certain matters, may authorise works carried out outside the event area and event period for the motor race and may be given subject to conditions.

Clause 19 provides that a promoter, during the period in which works are carried out under a works approval, is taken to be the exclusive owner of the land on which the works are carried out for the purposes of the appointment of a principal contractor for the works and other purposes prescribed by the regulations. The proposed section also provides that it is a condition of the motor race authorisation that the promoter carries out works only in accordance with the works approval.

Clause 20 requires the promoter, unless otherwise authorised by the government coordinating agency, to do the following—

- (a) remove any rubbish from the event area,
- (b) repair all damage and, as far as is practicable, return the land to its previous condition if the land is damaged or otherwise affected by the promoter's activities.

The work must be completed within a reasonable time after the event period, and the government coordinating agency may cause the work to be carried out if the promoter fails to carry out the work within the time. The proposed section provides for the government coordinating agency to recover the cost of carrying out the work from the promoter.

Clause 21 provides that the proposed Division does not apply to Mount Panorama at Bathurst.

Division 3 Roads and traffic

Subdivision 1 Preliminary

Clause 22 provides for the interaction of the proposed Division with road transport legislation.

Clause 23 enables penalty notices to be issued in relation to offences created by the proposed Division.

Subdivision 2 Traffic management plan

Clause 24 requires the promoter for a motor race to prepare a traffic management plan in consultation with certain bodies. The plan must identify—

- (a) the roads affected by (the *traffic management area*)—
 - (i) the motor race, associated events and ancillary activities, and
 - (ii) the works authorised by the works approval for the motor race, and
- (b) the period during which the powers under the proposed Division may be used (the *traffic management period*).

A traffic management plan does not apply to a private road unless the owner or occupier of the private road has given written consent. A traffic management plan, or an amendment to the plan,

does not have effect unless Transport for NSW has given written approval to the plan or amendment.

Subdivision 3 Motor race event lanes

Clause 25 defines certain words and expressions used in the proposed Subdivision.

Clause 26 provides that a motor race event lane may be created during the traffic management period on land in the traffic management area if authorised by the traffic management plan. A person must not drive a vehicle in a motor race event lane unless authorised by the proposed section.

Clause 27 enables a promoter to issue a permit (a *motor race event lane permit*) to a person to authorise a vehicle driven by, or carrying, the person to be in a motor race event lane. The motor race event lane permit must be prominently displayed at all times the vehicle is in a motor race event lane. The proposed section enables a police officer to direct the person in charge of a vehicle in a motor race event lane to produce for inspection the motor race event lane permit relied on by the person. The proposed section makes it an offence for the person in charge of the vehicle to fail to immediately comply with the direction.

Subdivision 4 Road closures

Clause 28 enables a promoter to, in accordance with a traffic management plan, control and regulate traffic and temporarily close a road. A road must not be closed under the proposed section unless the roads authority for the road has given public notice of the proposed closure at least 7 days before the closure. Public notice is to be given in a way approved by the government coordinating agency.

Clause 29 enables the roads authority for a road to close the road to provide integrated road and transport services for a motor race or associated events if certain conditions are met.

Clause 30 provides that roads, including roads on land outside the traffic management area for a motor race, may if asked by the promoter, be closed by the roads authority for the road during the traffic management period. The road may not be closed for more than 3 consecutive days. Public notice of the closure is not required to be given by the roads authority.

Clause 31 provides that a road must not be closed under the proposed Subdivision for a period longer than is necessary to serve the purpose for which the road is closed.

Clause 32 makes it an offence for a person to do the following in relation to road closures under the proposed Subdivision—

- (a) bring a vehicle onto a road closed to vehicles if the person knows the road is closed,
- (b) fail to remove a vehicle from a road closed to vehicles as soon as practicable after being directed to remove the vehicle by an authorised officer,
- (c) enter a road closed to pedestrians if the person knows the road is closed,
- (d) fail to leave a road closed to pedestrians as soon as practicable after being directed to leave by an authorised officer,
- (e) damage, remove or interfere with a sign or barrier erected for the purpose of closing a road.

The proposed section provides that a person is taken to know a road is closed if there is a sign or barrier indicating the road is closed. A person does not commit an offence under the proposed section for anything done with the approval of an authorised officer.

Subdivision 5 Removal of vehicles

Clause 33 provides for the removal of unattended motor vehicles or trailers in a traffic management area during the traffic management period. The proposed section only has effect in relation to a traffic management area during the traffic management period if the promoter has notified the public.

Clause 34 enables the government coordinating agency to direct that an unattended motor vehicle or trailer be removed from land in a traffic management area during the traffic management period. The direction must not be given unless the government coordinating agency reasonably believes the removal of the vehicle or trailer is necessary to enable—

- (a) the conduct of the motor race or an associated event, or
- (b) works authorised to be carried out by the works approval.

It is not necessary that the vehicle or trailer is standing unlawfully for a direction to be given. A person must not be required to pay a tow-away charge for the removal of the vehicle or trailer if the vehicle or trailer is not standing unlawfully. The *Road Transport Act 2013*, section 143 applies to the vehicle or trailer as if the vehicle or trailer were unlawfully standing on a prescribed place.

Division 4 Entry to areas

Clause 35 provides that, in the proposed Division, *ticket* includes a permit or authority, however expressed. The proposed section also provides that the proposed Division applies to part of the event area for a motor race in the same way as it applies to the event area.

Clause 36 provides that the exercise of powers under the proposed Division in relation to the event area for a motor race is subject to limitations specified in the motor race authorisation.

Clause 37 enables a promoter or an authorised officer to prohibit, regulate or otherwise control the entry of persons, vehicles or vessels to the event area by erecting a sign or giving a direction to a relevant person. The proposed section makes it an offence for the person to contravene a sign or direction.

Clause 38 provides that an authorised officer may ask a person, as a condition of entry to an event area, to do the following—

- (a) undergo a search of the person conducted using an electronic device, including by the use of a hand-held scanning device or by passing through a detection device,
- (b) allow a search to be conducted of articles in the person's possession, including the content of the articles,
- (c) remove an item of outer clothing and allow it to be searched,
- (d) if the person wishes to enter in a vehicle or vessel—allow the vehicle or vessel to be searched.

A failure to comply with a request given under the proposed section is grounds for the person to be directed to leave the area.

Clause 39 makes it an offence for a person in an event area to obstruct another person in the performance of the other person's work or duties.

Clause 40 enables the promoter or an authorised officer to give a reasonable direction to a person for the purposes of securing good order, management and enjoyment of an event area. A failure to comply with the direction is grounds for the person to be directed to leave the area.

Clause 41 enables an authorised officer to ask a person who is in the event area to do the following—

- (a) produce a ticket for inspection if a ticket is required to be held in the area,
- (b) permit any article in the person's possession to be inspected, including by opening it and inspecting its contents.

A failure to comply with a request given under the proposed section is grounds for the person to be directed to leave the area.

Clause 42 makes it an offence for a person to enter or remain on a motor racing track during a motor race unless the person is a participant in the motor race, is engaged in the control or management of the motor race or is authorised to be on the track.

Clause 43 enables an authorised officer to direct a person to leave the event area. It is an offence for a person to fail to comply with the direction. The authorised officer may remove the person if

the person fails to comply with the direction. The authorised officer may use reasonable force and may confiscate a ticket held by the person for entry into the event area.

Clause 44 enables the promoter, the government coordinating agency for the motor race or an authorised officer to make a visual recording of a person who is removed from the event area. The visual recording may be used and disclosed in accordance with the motor race authorisation.

Division 5 Application of other laws

Subdivision 1 Application of legislation

Clause 45 enables regulations made under the proposed Act to restrict the application of the proposed Subdivision.

Clause 46 provides for the interaction of specified Acts with things authorised, permitted or required to be done by or under the proposed Part.

Clause 47 provides that the *Road Transport Act 2013*, section 115 and the *Roads Act 1993*, including an instrument made in relation to section 115 or under the *Roads Act 1993*, do not apply during the event period for a motor race in relation to the conduct of the motor race or associated event. The proposed section also provides that a road temporarily closed for the conduct of a motor race or an associated event is taken not to be a road or road-related area for the purposes of the road transport legislation for the duration of the closure.

Subdivision 2 Protection from liability

Clause 48 defines certain words used in the proposed Subdivision.

Clause 49 protects persons from liability in nuisance in certain circumstances.

Clause 50 provides that compensation is not payable by or on behalf of a protected person, as defined in the proposed section, for certain acts done in good faith. The proposed section does not apply to acts causing the death of a person or personal injury to a person. In addition, the proposed section does not affect compensation payable by a protected person under an indemnity or other agreement.

Clause 51 provides that compensation is not payable by or on behalf of a promoter, or an employee or agent of a promoter, for economic loss arising from certain acts. The proposed section does not apply to acts causing the death of a person, personal injury to a person or damage to property. In addition, the proposed section does not affect compensation payable by a protected person under an indemnity or other agreement.

Division 6 Protection of commercial interests of promoter

Clause 52 makes it an offence for a person to use an official title or insignia for a motor race for a commercial purpose without the approval of the promoter.

Clause 53 requires certain persons to ensure, for a specified period, no advertising material is on a building or structure on land designated as an advertising controlled site for a motor race by the government coordinating agency. The proposed offence does not apply to certain advertising material, including advertising material exempted from the proposed section by the regulations and advertising material the government coordinating agency permits to be on a particular building or structure.

Clause 54 enables the government coordinating agency to authorise a person as an advertising enforcement officer for the motor race for the purposes of the proposed section. The government coordinating agency must provide each advertising enforcement officer with an identification card which must be produced for inspection if asked. An advertising enforcement officer may obliterate or remove any advertising material that contravenes proposed section 53 and enter on land if necessary to carry out the obliteration or removal. An advertising enforcement officer is not entitled to enter a part of premises used only for residential purposes, except with the consent

of the occupier of the part. An advertising enforcement officer must cause as little damage as possible when exercising functions under the proposed section.

Division 7 Miscellaneous

Clause 55 specifies the obligations of the government sector agency in relation to a motor race. The proposed section also enables the Minister to give a written direction to a government sector agency requiring it to comply with a request by the government coordinating agency in certain circumstances.

Clause 56 enables the regulations to require a promoter to pay a fee for the exercise of any function of the Minister or a government sector agency under the proposed Part in relation to the motor race.

Part 3 Enforcement

Clause 57 enables the Minister to appoint certain persons as an authorised officer for the purposes of the proposed Act. The Minister must provide each authorised officer, other than a police officer, with an identification card which the authorised officer must produce for inspection in certain circumstances.

Clause 58 specifies the purposes for which an authorised officer may exercise functions conferred by the proposed Part (an *authorised purpose*).

Clause 59 confers power on authorised officers to enter premises at a reasonable hour in the daytime or when business is in progress or is usually carried out on the premises and enables an authorised officer to be accompanied by assistants if necessary. Entry may be effected with or without the authority of a search warrant. The proposed section does not authorise entry to any part of premises used for residential purposes unless the occupier has given permission or the authorised officer is authorised to enter by a search warrant. An authorised officer may, at premises lawfully entered, do anything the authorised officer considers necessary to be done for an authorised purpose, including things specified in the proposed section.

Clause 60 enables a search warrant to be granted for premises if there are reasonable grounds to believe there has been a contravention of the proposed Act on the premises or there is in or on the premises a matter or thing connected with an offence under the proposed Act or regulations under the proposed Act.

Clause 61 enables authorised officers to, by written notice given to a person, require the person to give information the authorised officer reasonably requires for an authorised purpose.

Clause 62 provides that a person is not excused from giving information on the grounds the information might incriminate the person or make the person liable to a penalty. Information given by a person in compliance with the requirement is not admissible in evidence against the person in criminal proceedings if certain circumstances are met. However, this restriction does not prevent information from being admitted in proceedings for an offence under the proposed Part or the *Crimes Act 1900*, Part 5A.

Clause 63 makes it an offence for a person, without lawful excuse, to fail to comply with a requirement to give information under the proposed Part. A person is not guilty of the offence unless the person was warned on that occasion that failure to comply is an offence. The proposed section also makes it an offence for a person to—

- (a) give information knowing that the information is false or misleading in a material respect, or
- (b) obstruct, hinder or interfere with an authorised officer in the exercise of the authorised officer's functions.

Part 4 Miscellaneous

Part 4 contains various provisions relating to the general operation of the proposed Act, including provisions relating to the following—

- (a) the regulation of airspace over an area that is an event area for a motor race and at which a motor race is being held,
- (b) the amendment or repeal of instruments made under the proposed Act,
- (c) the liability of executives in relation to a contravention of a provision of the proposed Act by a corporation,
- (d) the nature of proceedings for offences under the proposed Act or regulations, including for offences to be dealt with summarily before the Local Court or the Supreme Court in its summary jurisdiction,
- (e) enabling offences prescribed by the regulations as penalty notice offences to be dealt with by the issue of a penalty notice rather than through court proceedings,
- (f) the power to make regulations.

The proposed Part also repeals the *Motor Racing (Sydney and Newcastle) Act 2008*, the *Motor Sports (World Rally Championship) Act 2009* and the *Mount Panorama Motor Racing Act 1989* and instruments made under the Acts.

Schedule 1 Savings, transitional and other provisions

Schedule 1 contains savings, transitional and other provisions consequent on the enactment of the proposed Act.

Schedule 2 Amendment of Acts and an instrument

Schedule 2.1 amends the *Law Enforcement (Powers and Responsibilities) Act 2002* to apply Part 5, Division 4 of that Act relating to search warrants to warrants issued under the proposed Act, section 60.

Schedule 2.2 amends the *Major Events Act 2009* to exclude a motor race, within the meaning of the proposed Act, from the application of that Act.

Schedule 2.3 updates a reference in the *Protection of the Environment Operations (Clean Air) Regulation 2021* to a motor race authorised under the *Motor Racing (Sydney and Newcastle) Act 2008* to a motor race authorised under the proposed Act.

Schedule 3 Dictionary

Schedule 3 defines certain words and expressions used in the proposed Act.