



New South Wales

# Road Transport (Safety and Traffic Management) Amendment (Novice Drivers) Bill 2007

## 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 (Safety and Traffic Management) Act 1999* (*the Principal Act*):

- (a) to extend the requirement for a zero prescribed concentration of alcohol (*PCA*) for drivers holding an Australian learner licence or a New South Wales provisional licence to visiting drivers holding an overseas learner licence or an interstate or overseas provisional licence (or equivalent), and
- (b) to extend certain offences relating to alcohol and other drug use, that are currently directed at the holders of a New South Wales full driver licence who are supervising drivers holding an Australian learner licence, to visiting drivers holding an interstate or overseas full driver licence and to the supervision of visiting drivers holding an overseas learner licence (or equivalent), and
- (c) to make other minor, consequential and ancillary amendments.

## 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 to be appointed by proclamation.

**Clause 3** is a formal provision that gives effect to the amendments to the Principal Act set out in Schedule 1.

**Clause 4** provides for the repeal of the proposed Act after all the amendments made by the proposed Act have commenced. Once the amendments have commenced the proposed Act will be spent and section 30 of the *Interpretation Act 1987* provides that the repeal of an amending Act does not affect the amendments made by that Act.

## **Schedule 1 Amendments**

### **Extension of requirement for zero prescribed concentration of alcohol**

The Principal Act prohibits the holders of learner licences issued in Australia and the holders of provisional licences issued in New South Wales from driving with any percentage of alcohol in their blood.

**Schedule 1 [2]** (which inserts the definitions of *learner licence* and *provisional licence*) and **[8]** make amendments to extend the requirement for a zero PCA to visiting drivers holding an overseas learner (or equivalent) licence or an interstate or overseas provisional (or equivalent) licence.

**Schedule 1 [8]** also makes amendments consequential on those referred to above, as do **Schedule 1 [4], [15] and [16]**.

### **Extension of offences relating to alcohol and other drug use by supervisors of learner drivers**

The Principal Act prohibits the holders of New South Wales driver licences (other than learner or provisional licence holders) from supervising drivers holding an Australian learner licence, while under the influence of alcohol or other drugs. (Specifically, the offences prohibit special category supervisors with the special range PCA in their blood, or supervisors with the low, mid or high range PCA in their blood, or under the influence of alcohol or drugs, or with prescribed illicit drugs or morphine or cocaine in their oral fluid, blood or urine, from supervising drivers holding an Australian learner licence.)

**Schedule 1 [2]** (which inserts the definitions of *driver licence*, *learner licence* and *provisional licence*) and **[9]** make amendments to extend the offences to visiting drivers holding an interstate or overseas driver licence (other than a learner or provisional or equivalent licence) and to the supervision of visiting drivers holding an overseas learner (or equivalent) licence. **Schedule 1 [14]–[16]** make consequential amendments. **Schedule 1 [5]** makes a consequential amendment and simplifies and consolidates existing categories of *special category drivers* for the purposes of the Principal Act.

**Other minor, consequential and ancillary amendments**

**Schedule 1 [1] and [7]** make amendments to effect a minor restructuring of Divisions in Part 2 of the Principal Act (making Division 1 a preliminary division dealing with interpretation and inserting a new Division 1AA containing offences involving prescribed concentrations of alcohol). **Schedule 1 [3], [10] and [11]** make consequential amendments.

**Schedule 1 [6]** inserts a new section 8A into proposed Division 1, which contains the various categories of prescribed concentrations of alcohol (currently located throughout the Dictionary) to which the offences in the proposed Division 1AA relate. **Schedule 1 [16]** makes a consequential amendment.

**Schedule 1 [12]** enables regulations of a savings or transitional nature to be made as a consequence of the enactment of the proposed Act.

**Schedule 1 [13]** inserts a transitional provision into the Principal Act. The effect of this provision is that legal proceedings for offences committed before the commencement of the proposed amendments will continue to be determined under the law as it stood before that commencement.

**Schedule 1 [17]** omits an otiose provision concerning references to the holder of a driver licence in Part 2 of the Principal Act.





New South Wales

# Road Transport (Safety and Traffic Management) Amendment (Novice Drivers) Bill 2007

## Contents

---

	Page
1 Name of Act	2
2 Commencement	2
3 Amendment of Road Transport (Safety and Traffic Management) Act 1999 No 20	2
4 Repeal of Act	2
Schedule 1 Amendments	3





New South Wales

# Road Transport (Safety and Traffic Management) Amendment (Novice Drivers) Bill 2007

No. , 2007

---

## A Bill for

An Act to amend the *Road Transport (Safety and Traffic Management) Act 1999* to extend the requirement for a zero prescribed concentration of alcohol to visiting overseas or interstate novice drivers; and for other purposes.

---

<b>The Legislature of New South Wales enacts:</b>	1
<b>1 Name of Act</b>	2
This Act is the <i>Road Transport (Safety and Traffic Management) Amendment (Novice Drivers) Act 2007</i> .	3 4
<b>2 Commencement</b>	5
This Act commences on a day to be appointed by proclamation.	6
<b>3 Amendment of Road Transport (Safety and Traffic Management) Act 1999 No 20</b>	7 8
The <i>Road Transport (Safety and Traffic Management) Act 1999</i> is amended as set out in Schedule 1.	9 10
<b>4 Repeal of Act</b>	11
(1) This Act is repealed on the day following the day on which this Act commences.	12 13
(2) The repeal of this Act does not, because of the operation of section 30 of the <i>Interpretation Act 1987</i> , affect any amendment made by this Act.	14 16



---

<b>Schedule 1</b>	<b>Amendments</b>	1	
	(Section 3)	2	
<b>[1]</b>	<b>Part 2, Division 1, heading</b>	3	
	Omit the heading. Insert instead:	4	
	<b>Division 1</b>	<b>Interpretation</b>	5
<b>[2]</b>	<b>Section 8 General definitions</b>	6	
	Insert before section 8 (3):	7	
	(1) In this Part:	8	
	<i>driver licence</i> means the following:	9	
	(a) a licence issued under a law in force in a State or internal Territory authorising the holder to drive one or more classes of motor vehicle on a road or road related area,	10 11 12	
	(b) a driver licence receipt for a licence referred to in paragraph (a),	13 14	
	(c) a foreign driver licence.	15	
	<i>learner licence</i> means the following:	16	
	(a) a learner licence within the meaning of the <i>Road Transport (Driver Licensing) Act 1998</i> or a driver licence receipt for such a licence,	17 18 19	
	(b) a foreign driver licence that has the same or similar effect as a licence referred to in paragraph (a).	20 21	
	<i>provisional licence</i> means the following:	22	
	(a) a provisional P1 licence or a provisional P2 licence,	23	
	(b) a licence issued under a law in force in a State or internal Territory, or a foreign driver licence, that has the same or similar effect as a licence referred to in paragraph (a) or is prescribed by the regulations as an equivalent licence for the purposes of this definition,	24 25 26 27 28	
	(c) a driver licence receipt for a licence referred to in paragraph (a) or for a State or internal Territory licence referred to in paragraph (b).	29 30 31	
<b>[3]</b>	<b>Section 8 (3) and (4)</b>	32	
	Omit “this Division” wherever occurring. Insert instead “this Part”.	33	

---

<b>[4] Section 8 (3) (a)</b>	1
Omit “, or the holder of a provisional licence issued under the <i>Road Transport (Driver Licensing) Act 1998</i> ,”.	2
	3
Insert instead “or a provisional licence”.	4
<b>[5] Section 8 (3) (b)</b>	5
Omit section 8 (3) (b) and (c). Insert instead:	6
(b) if the person is not authorised to drive that motor vehicle in New South Wales because the person, in New South Wales or elsewhere, has had his or her application for a relevant driver licence or authority refused, has been disqualified from driving, has had a relevant driver licence or authority suspended or cancelled or has never obtained a relevant driver licence or authority, or	7
	8
	9
	10
	11
	12
	13
<b>[6] Section 8A</b>	14
Insert after section 8:	15
<b>8A Prescribed concentrations of alcohol</b>	16
In this Part:	17
(a) <i>novice range prescribed concentration of alcohol</i> means a concentration of more than zero grammes, but less than 0.02 grammes, of alcohol in 100 millilitres of blood, and	18
	19
	20
(b) <i>special range prescribed concentration of alcohol</i> means a concentration of 0.02 grammes or more, but less than 0.05 grammes, of alcohol in 100 millilitres of blood, and	21
	22
	23
(c) <i>low range prescribed concentration of alcohol</i> means a concentration of 0.05 grammes or more, but less than 0.08 grammes, of alcohol in 100 millilitres of blood, and	24
	25
	26
(d) <i>middle range prescribed concentration of alcohol</i> means a concentration of 0.08 grammes or more, but less than 0.15 grammes, of alcohol in 100 millilitres of blood, and	27
	28
	29
(e) <i>high range prescribed concentration of alcohol</i> means a concentration of 0.15 grammes or more of alcohol in 100 millilitres of blood.	30
	31
	32

---

<b>[7] Part 2, Division 1AA, heading</b>	1
Insert before section 9:	2
<b>Division 1AA Offences involving prescribed concentrations of alcohol</b>	3
	4
<b>[8] Sections 9 (1A), 10 (4) (a) and 14 (1) (a1)</b>	5
Omit “, or of a provisional licence issued under the <i>Road Transport (Driver Licensing) Act 1998</i> ,” wherever occurring.	6
	7
Insert instead “or a provisional licence”.	8
<b>[9] Sections 9 (1) (c), (2) (c), (3) (c) and (4) (c), 11B (1) (c) and (3) (c) and 12 (1) (c)</b>	9
Omit “issued under the <i>Road Transport (Driver Licensing) Act 1998</i> ” wherever occurring.	10
	11
	12
<b>[10] Section 14 Arrest following failed breath test</b>	13
Omit “(within the meaning of section 8)” from section 14 (1) (a).	14
<b>[11] Section 31 Detention of vehicle in certain cases</b>	15
Omit “Division 1”. Insert instead “Division 1AA”.	16
<b>[12] Schedule 2 Savings, transitional and other provisions</b>	17
Insert at the end of clause 1 (1):	18
<i>Road Transport (Safety and Traffic Management) Amendment (Novice Drivers) Act 2007</i>	19
	20
<b>[13] Schedule 2, Part 7</b>	21
Insert after Part 6:	22
<b>Part 7 Provisions consequent on enactment of Road Transport (Safety and Traffic Management) Amendment (Novice Drivers) Act 2007</b>	23
	24
	25
	26
<b>11 Definition</b>	27
In this Part:	28
<i>amending Act</i> means the <i>Road Transport (Safety and Traffic Management) Amendment (Novice Drivers) Act 2007</i> .	29
	30

---

<b>12</b>	<b>Amendments not to apply to offences occurring before commencement of amendments</b>	1 2
(1)	Proceedings for offences committed, or alleged to have been committed, before the commencement of Schedule 1 to the amending Act are to be determined as if the amending Act had not been enacted.	3 4 5 6
(2)	Accordingly, the law (including any relevant provision of this Act) that would have been applicable to the proceedings had the amending Act not been enacted continues to apply to the proceedings as if the amending Act had not been enacted.	7 8 9 10
<b>[14]</b>	<b>Dictionary</b>	11
	Insert “, except in Part 2,” before “has the same meaning” in the definition of <i>driver licence</i> in clause 1.	12 13
<b>[15]</b>	<b>Dictionary, clause 1</b>	14
	Insert in alphabetical order:	15
	<i>driver licence receipt</i> means a receipt that is issued:	16
(a)	following an application for a licence issued under a law in force in a State or internal Territory authorising the holder to drive a motor vehicle on a road or road related area, and	17 18 19
(b)	after payment of any applicable fee.	20
	<i>foreign driver licence</i> means a licence to drive a motor vehicle held by a person who is ordinarily resident in a foreign country and who is not a permanent resident of Australia, being a licence issued in that foreign country.	21 22 23 24
	<i>provisional P1 licence</i> means:	25
(a)	a provisional licence issued in accordance with clause 15 (1) of the <i>Road Transport (Driver Licensing) Regulation 1999</i> , or	26 27 28
(b)	any class of licence prescribed by the regulations under this Act that replaces any such licence.	29 30
	<i>provisional P2 licence</i> means:	31
(a)	a provisional licence issued in accordance with clause 15A (1) of the <i>Road Transport (Driver Licensing) Regulation 1999</i> , or	32 33 34
(b)	any class of licence prescribed by the regulations under this Act that replaces any such licence.	35 36

---

<b>[16] Dictionary, clause 1</b>	1
Omit the definitions of <i>high range prescribed concentration of alcohol</i> ,	2
<i>learner licence</i> , <i>low range prescribed concentration of alcohol</i> , <i>middle</i>	3
<i>range prescribed concentration of alcohol</i> , <i>novice range prescribed</i>	4
<i>concentration of alcohol</i> and <i>special range prescribed concentration of</i>	5
<i>alcohol</i> .	6
<b>[17] Dictionary, clause 3 (2)</b>	7
Omit the subclause.	8