

FIRST PRINT

## MOTOR TRAFFIC (STAYSAFE) AMENDMENT BILL 1987

NEW SOUTH WALES



### EXPLANATORY NOTE

**(This Explanatory Note relates to this Bill as introduced into Parliament)**

The Transport (Staysafe) Amendment Bill 1987 is cognate with this Bill.

The object of this Bill is to amend the Motor Traffic Act 1909 so as—

- (a) to make provisions enabling the issue of drivers' licences of different classes, each displaying a photograph of the licensee;
- (b) to declare that the Commissioner for Motor Transport may refuse to grant any such licence if the applicant has not produced satisfactory evidence of identity and residential address;
- (c) to transfer to the Principal Act from regulations made under it the powers of the Commissioner to grant, renew, suspend or cancel drivers' licences;
- (d) to provide that, if a person is disqualified by the Principal Act or a court from holding a driver's licence because of a conviction for a traffic offence, each driver's licence held by the person is cancelled;
- (e) to enable an interstate or other visiting driver to appeal against the suspension of an exemption from holding a New South Wales driver's licence; and
- (f) except in limited cases, to require a notice suspending or cancelling, or suspending an exemption from holding, a driver's licence to set out the date on which it becomes effective.

The Bill also contains minor amendments to the Principal Act for the purpose of statute law revision and savings and transitional provisions as a consequence of—

- (a) the amendments described above; and

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- (b) the intention to repeal the provisions of the Transport Act 1930 relating to drivers' licences for public vehicles.

The intention is that all motor vehicle drivers' licences will be issued under the Principal Act, as amended by the proposed Act.

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Clause 1 specifies the short title of the proposed Act.

Clause 2 provides that the amendments relating to drivers' licences to be made by the proposed Act will commence on a day or days proclaimed by the Governor-in-Council.

Clause 3 defines the Principal Act.

Clause 4 gives effect to the Schedules of amendments.

Clause 5 gives effect to the Schedule of savings and transitional provisions.

**SCHEDULE 1—AMENDMENTS RELATING TO THE GRANTING OF DRIVERS' LICENCES**

Schedule 1 (1) substitutes the definition of "Licensed" in section 2 (Interpretation) of the Principal Act because drivers' licences are to be granted under that Act instead of under the regulations.

Schedule 1 (2) amends section 3 (Regulations) of the Principal Act so as to make it clear that regulations may be made with respect to the issue of, and other administrative details concerning, licences to be granted under that Act, as amended by the proposed Act.

Schedule 1 (3) substitutes section 3A (Part II and the regulations not to apply in certain cases) of the Principal Act so as to make it clear that that Act, as amended by the proposed Act, does not apply to the registration of public vehicles registered under the Transport Act 1930 (but will apply to the licensing of their drivers).

Schedule 1 (4) makes minor amendments to the Principal Act as a consequence of the intended transfer to that Act of the drivers' licensing scheme presently provided by the regulations made under it.

Schedule 1 (5) makes minor amendments to the Principal Act as a consequence of the intended transfer to that Act of the drivers' licensing scheme presently provided by and under the Transport Act 1930.

Schedule 1 (6) inserts proposed sections 11AA, 11AB and 11AC into the Principal Act. Of the proposed sections:

Section 11AA (Grant and renewal of drivers' licences) empowers the Commissioner to grant and renew drivers' licences of different classes. The Commissioner may refuse to grant or renew a licence if—

- (a) the applicant has not been photographed so as to provide, or provided, a photograph suitable for use on the licence:

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- (b) there is not sufficient evidence of the applicant's identity; or
- (c) any relevant requirement made of the applicant by the regulations has not been satisfied.

Drivers' licences will be subject to general terms and conditions fixed by the regulations and other terms and conditions, if any, which may be imposed on particular licences. Any photograph taken or provided under the proposed section is not to be used for any purpose except reproducing the driver's image on the licence.

Section 11AB (Suspension or cancellation of drivers' licences by the Commissioner) enables the suspension or cancellation of drivers' licences for prescribed reasons. A licence has no legal effect while suspended.

Section 11AC (Renewal of suspended drivers' licences) allows a driver's licence to be renewed even while it is suspended, but without affecting the period of suspension.

SCHEDULE 2—MISCELLANEOUS AMENDMENTS RELATING TO DRIVERS' LICENCES

Schedule 2 (1), (2) and (4) respectively amend sections 4B (Races, attempts on speed records, etc.), 7A (Offences committed by disqualified drivers, etc.) and 10A (Disqualification for certain major offences) of the Principal Act, which presently provide for the automatic suspension of the driving licence of a person who commits any offence under those sections, as a consequence of the intended insertion of proposed section 10AA into that Act. Under the scheme provided by that proposed section, any such licence will be cancelled instead of suspended.

Schedule 2 (3) repeals and re-enacts subsections (1)–(3) of section 10 (Court may impose penalty and disqualify driver on conviction) of the Principal Act. The proposed subsections—

- (a) re-state the general penalty for an offence under the Principal Act for which no specific penalty is provided; and
- (b) provide that, if a court exercises its option under that section to disqualify a person from obtaining a driver's licence, because of the person's committing any offence under that Act, the disqualification will not operate to suspend the licence but result in cancellation of the licence under proposed section 10AA.

Schedule 2 (5) inserts proposed section 10AA (Effect of disqualification) into the Principal Act which will—

- (a) cancel any driver's licence of a person disqualified from holding such a licence; and
- (b) create an offence if a person disqualified from holding a driver's licence fails to surrender it to the Commissioner.



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Schedule 2 (6) repeals and re-enacts section 21 (Commissioner to notify certain decisions) of the Principal Act for the purpose of—

- (a) giving a right of appeal to a Local Court to any person whose exemption from holding a driver's licence (applicable because the person holds an authority to drive granted outside New South Wales) is suspended by the Commissioner; and
- (b) requiring the Commissioner to state, in a notice suspending or cancelling, or suspending an exemption from holding, a driver's licence to set out the date on which it becomes effective (taking into account the time allowed for an appeal), except where medical unfitness or incompetence of a driver is the reason for the suspension or cancellation.

Schedule 2 (7) makes a minor amendment to section 22 (Appeals) of the Principal Act as a consequence of the proposed re-enactment of section 21 of that Act.

SCHEDULE 3—AMENDMENTS FOR THE PURPOSE OF STATUTE LAW  
REVISION

The minor amendments proposed to be made to the Principal Act by this Schedule include—

- (a) updating references to the General Traffic Act 1900; and
- (b) altering terminology to conform with that used in the Local Courts Act 1982.

SCHEDULE 4—SAVINGS AND TRANSITIONAL PROVISIONS

Clause 1 of Schedule 4 contains provisions—

- (a) saving regulations, conditions of driving licences, and suspensions and disqualifications imposed under the Principal Act which would otherwise be repealed by amendments to be made by the proposed Act; and
- (b) saving driving licences issued under the regulations made under the Principal Act and references to any such licence in other Acts or instruments.

Clause 2 of Schedule 4 permits regulations to be made under the Principal Act containing further savings and for transitional matters relating to the effect of the proposed Act or the intended Transport (Staysafe) Amendment Act 1987. Such a regulation could deem a driver's licence issued pursuant to the Transport Act 1930 to be of a class to be prescribed under the Principal Act, as amended by the proposed Act.

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# MOTOR TRAFFIC (STAYSAFE) AMENDMENT BILL 1987

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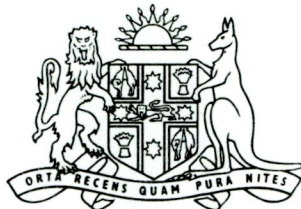
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# MOTOR TRAFFIC (STAYSAFE) AMENDMENT BILL 1987

NEW SOUTH WALES



No. , 1987

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## A BILL FOR

An Act to amend the Motor Traffic Act 1909 with respect to the licensing of drivers of motor vehicles; and for other purposes.

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See also Transport (Staysafe) Amendment Bill 1987.



*Motor Traffic (Staysafe) Amendment 1987*

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**BE** it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:

**5 Short title**

1. This Act may be cited as the "Motor Traffic (Staysafe) Amendment Act 1987".

**Commencement**

2. (1) Except as provided by subsection (2), this Act shall commence  
10 on the date of assent to this Act.

(2) The several provisions of Schedules 1 and 2, and section 4 in its application to those provisions, shall commence on such day or days as may be appointed by the Governor and notified by proclamation published in the Gazette.

**15 Principal Act**

3. The Motor Traffic Act 1909 is referred to in this Act as the Principal Act.

**Amendment of Act No. 5, 1909**

4. The Principal Act is amended in the manner set forth in Schedules  
20 1-3.

**Savings and transitional provisions**

5. Schedule 4 has effect.

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## SCHEDULE 1

(Sec. 4)

## AMENDMENTS RELATING TO THE GRANTING OF DRIVERS' LICENCES

5 (1) Section 2 (**Interpretation**)—

Section 2 (1), definition of "Licensed"—

Omit the definition, insert instead:

"Licensed" means licensed under this Act.

10 (2) Section 3 (**Regulations**)—

## (a) Section 3 (1) (j)—

Omit ", and that the drivers of such vehicles shall be licensed,".

## (b) Section 3 (1) (j)—

15 Omit "and such drivers licensed either provisionally or otherwise. Any regulation under this paragraph may provide for the issue of a restricted licence authorising the licensee to drive subject to compliance with any special terms or conditions set forth in such licence by the Commissioner".

## (c) Section 3 (1) (m), (m1)—

Omit section 3 (1) (m), insert instead:

## 20 (m) make provision for or with respect to—

(i) the manner and duration of registration of motor vehicles; and

(ii) the transfer and renewal of any such registration;

## (m1) make provision for or with respect to—

25 (i) the qualifications and testing of applicants for drivers' licences;

(ii) the issue, duration, renewal, suspension, cancellation and surrender of those licences;

30 (iii) the imposition, whether by the Commissioner or otherwise, of terms and conditions to which those licences, any particular driver's licence or drivers' licences of any class shall be subject; and

*Motor Traffic (Staysafe) Amendment 1987*SCHEDULE 1—*continued*AMENDMENTS RELATING TO THE GRANTING OF DRIVERS' LICENCES—*continued*

- (iv) the payment of determined fees in respect of the issue or renewal of those licences or in respect of the testing of those applicants;

(d) Section 3 (1) (n), proviso—

5 Omit the proviso.

(3) Section 3A—

Omit the section, insert instead:

**Part II and the regulations not to apply in certain cases**

10 3A. This Part and the regulations do not apply to or in relation to the registration of—

- (a) motor vehicles which are registered as public vehicles under the Transport Act 1930; or
- (b) motor omnibuses which are owned by the Urban Transit Authority.

15 (4) Section 4E (**Prescribed concentration of alcohol in driver's blood**)—

(a) Section 4E (1)—

Omit “and in accordance with the regulations” wherever occurring, insert instead “this Act”.

(b) Section 4E (1A)—

20 Omit “the regulations”, insert instead “this Act”.

(5) Section 10A (**Disqualification for certain major offences**)—

Section 10A (2) (a1) (i), (a) (i), (3) (a1) (i), (a) (i)—

Omit “under this Act or under the Transport Act 1930” wherever occurring.



*Motor Traffic (Staysafe) Amendment 1987*SCHEDULE 1—*continued*AMENDMENTS RELATING TO THE GRANTING OF DRIVERS' LICENCES—*continued*

## (6) Sections 11AA–11AC—

After section 11, insert:

**Grant and renewal of drivers' licences**

5 11AA. (1) Drivers' licences of such classes as may be prescribed may be granted and renewed by the Commissioner.

(2) An application for the grant or renewal of a driver's licence shall be made in accordance with the regulations.

(3) The Commissioner may refuse to grant or renew a driver's licence if the applicant—

10 (a) has not attended at a district registry or another place nominated in or under the regulations and there submitted to the taking, by a person approved by the Commissioner, of a photograph of the applicant which is suitable for use on the licence; or

15 (b) where, in the opinion of the Commissioner, it is impracticable for the person to so attend, has not provided the Commissioner with a photograph of the applicant considered by the Commissioner as suitable for use on the licence,

20 or if the applicant has not provided, in support of the application, such evidence as is required by the regulations or the Commissioner to establish the identity and residential address of the applicant.

25 (4) The Commissioner may refuse to grant or renew a driver's licence if any requirement made by or under the regulations with respect to—

(a) the driving ability, knowledge of relevant matters, physical or mental fitness, age, or relevant experience, of the applicant;

30 (b) the period for which the applicant has held a learner's permit or driver's licence of a different class from that of the licence applied for;

*Motor Traffic (Staysafe) Amendment 1987*SCHEDULE 1—*continued*AMENDMENTS RELATING TO THE GRANTING OF DRIVERS' LICENCES—*continued*

(c) any record of convictions the applicant may have for offences relating to the driving of motor vehicles, whether within or outside New South Wales; or

(d) the payment of a determined fee in respect of the licence,  
5 has not been satisfied.

(5) A driver's licence shall be subject to such terms and conditions—

(a) as may be prescribed in respect of the class of licences to which it belongs; or

10 (b) as may be imposed on the licence by or under this Act or the regulations.

(6) Without affecting the generality of subsection (5), terms or conditions of a driver's licence may—

15 (a) require the periodic payment of determined fees in respect of the licence and provide for the expiration of the licence in default of payment of any such fee; and

(b) limit the duration of the licence.

20 (7) Any photograph taken or provided under this section shall not be used for the purpose of forming a record of the person to whom it relates or for any other purpose except the reproduction on a licence of a likeness of that person.

**Suspension or cancellation of drivers' licences by the Commissioner**

25 11AB. (1) Subject to section 21, the Commissioner may suspend or cancel a driver's licence for any reason set out in the regulations.

(2) The Commissioner may decide to suspend or cancel a driver's licence without the licensee having been provided an opportunity to show cause why the licence should not be suspended or cancelled.

*Motor Traffic (Staysafe) Amendment 1987*SCHEDULE 1—*continued*AMENDMENTS RELATING TO THE GRANTING OF DRIVERS'  
LICENCES—*continued*

(3) During any period for which a driver's licence is suspended under this section, the licence has no legal effect.

**Renewal of suspended drivers' licences**

11AC. The Commissioner may renew a driver's licence—

- 5 (a) which the Commissioner has decided to suspend, whether or not the period of suspension has commenced; or
- (b) which the Commissioner of Police has suspended,
- but renewal of the licence does not affect the period of suspension.

## SCHEDULE 2

10

(Sec. 4)

MISCELLANEOUS AMENDMENTS RELATING TO DRIVERS'  
LICENCES

(1) Section 4B (**Races, attempts on speed records, etc.**)—

Section 4B (2), (2A)—

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Omit section 4B (2), insert instead:

(2) Where a person is convicted by a court of an offence under subsection (1)—

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- (a) except as provided by paragraph (b), the person is disqualified by the conviction and without any specific order for 12 months; or
- (b) if the court at the time of the conviction thinks fit to order a shorter or a longer period of disqualification—the person is disqualified for the period specified in the order,

from holding a driver's licence under this Act.



*Motor Traffic (Staysafe) Amendment 1987*SCHEDULE 2—*continued*MISCELLANEOUS AMENDMENTS RELATING TO DRIVERS' LICENCES—*continued*

(2A) Any disqualification under this section is in addition to any penalty imposed for the offence.

(2) Section 7A (**Offences committed by disqualified drivers, etc.**)—

## (a) Section 7A (1)—

5 Omit the subsection.

## (b) Section 7A (4)—

Omit “upon the conviction”, insert instead “for the offence”.

## (c) Section 7A (5)—

Omit the subsection.

10 (3) Section 10 (**Court may impose penalty and disqualify driver on conviction**)—

Section 10 (1)–(3)—

Omit the subsections, insert instead:

15 (1) Any court before which a person is convicted of an offence under this Act for which no penalty is specifically provided may impose a penalty not exceeding \$500 for the offence.

## (2) Subject to sections 4B, 7A and 10A, where—

(a) a person is convicted by a court of an offence against this Act or the regulations; and

20 (b) at the time of the conviction, the court so orders,

the person is disqualified from holding a driver's licence under this Act for such period as the court specifies.

(3) Any disqualification under this section is in addition to any penalty imposed for the offence.

*Motor Traffic (Staysafe) Amendment 1987*

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SCHEDULE 2—*continued*

MISCELLANEOUS AMENDMENTS RELATING TO DRIVERS' LICENCES—*continued*

(4) Section 10A (**Disqualification for certain major offences**)—

(a) Section 10A (5)—

Omit the subsection, insert instead:

5 (5) Any disqualification under this section is in addition to any penalty imposed for the offence.

(b) Section 10A (6), (7)—

Omit the subsections.

(5) Section 10AA—

After section 10A, insert:

10 **Effect of disqualification**

10AA. (1) When, as a consequence of being convicted of an offence by a court, a person is disqualified (whether or not by an order of the court) from holding a driver's licence—

15 (a) any driver's licence held by the person shall be deemed to have been cancelled; and

(b) the person shall, immediately after being convicted, deliver each such licence to the Commissioner.

(2) If a person fails to deliver a licence as required by this section, the person is guilty of an offence against this Act.

20 (6) Section 21—

Omit the section, insert instead:

**Commissioner to notify certain decisions**

21. (1) Where the Commissioner decides—

25 (a) to refuse to grant, renew or transfer, or decides to cancel, the registration of a motor vehicle;

(b) to refuse to grant or renew, or decides to suspend or to cancel, a driver's licence; or

*Motor Traffic (Staysafe) Amendment 1987*SCHEDULE 2—*continued*MISCELLANEOUS AMENDMENTS RELATING TO DRIVERS' LICENCES—*continued*

- (c) to suspend an exemption from holding a driver's licence which applies because a person is the holder of a licence, an equivalent of a licence or a permit granted outside New South Wales,

5 the Commissioner shall cause—

- (d) the person applying for the grant, renewal or transfer of the registration or the grant or renewal of the licence;
- (e) the holder of the registration or licence suspended or cancelled; or
- 10 (f) the person having the benefit of the exemption,

as the case may be, to be served personally or by post with a notice setting out the decision and the reason for it.

15 (2) A decision of the Commissioner to cancel the registration of a motor vehicle shall have effect on and from the date on which the holder of the registration is notified in accordance with subsection (1).

(3) A decision of the Commissioner to suspend or cancel, or to suspend an exemption from holding, a driver's licence—

20 (a) shall, where the licence is suspended or cancelled or the exemption is suspended because the holder or person having the benefit of the exemption is medically unfit or incompetent to drive a motor vehicle, have effect on and from the date on which the holder or person is notified in accordance with subsection (1); or

25 (b) shall, subject to subsection (6), where the licence is suspended or cancelled or the exemption is suspended for any other reason, have effect on and from the date appointed in the notice by the Commissioner.



*Motor Traffic (Staysafe) Amendment 1987*SCHEDULE 2—*continued*MISCELLANEOUS AMENDMENTS RELATING TO DRIVERS' LICENCES—*continued*

(4) Except where an earlier date is appointed on the written request of the holder of a licence or person having the benefit of the exemption, a date appointed under subsection (3) (b)—

- 5 (a) in the case of personal service of the notice, shall not be earlier than 22 days after the date of service; or
- (b) in the case of service of the notice by post, shall not be earlier than 24 days after the date of posting.

10 (5) Subsections (2) and (3) (a) do not affect the right of any person to appeal under section 22 or the powers of a Local Court under that section.

(6) Where—

- 15 (a) the Commissioner suspends or cancels, or suspends an exemption from holding, a driver's licence for any reason (other than medical unfitness or incompetence to drive a motor vehicle); and
- (b) the holder or person having the benefit of the exemption appeals in accordance with section 22,

the decision of the Commissioner to suspend or cancel the licence or to suspend the exemption shall have effect—

- 20 (c) only if the Court hearing the appeal confirms the decision or the appeal is withdrawn;
- (d) subject to any variation of the decision by the Court; and
- 25 (e) on and from the date on which the Court confirms the decision or on such later date as the Court may order or, if the appeal is withdrawn, on the date on which it is withdrawn.

(7) If a licence suspended by the Commissioner is renewed, the decision of the Commissioner shall have effect in accordance with this section with respect to the licence as renewed.

*Motor Traffic (Staysafe) Amendment 1987*SCHEDULE 2—*continued*MISCELLANEOUS AMENDMENTS RELATING TO DRIVERS'  
LICENCES—*continued*(7) Section 22 (**Appeals**)—

Section 22 (8)—

Omit “section 21 (3) (b) (ii)”, insert instead “section 21 (4)”.

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## SCHEDULE 3

(Sec. 4)

## AMENDMENTS FOR THE PURPOSE OF STATUTE LAW REVISION

(1) Section 2 (1), definition of “Superintendent”—

Omit “Metropolitan”, insert instead “General”.

10 (2) (a) Sections 3 (1) (g2) (x), 22—

Omit “court of petty sessions” wherever occurring, insert instead “Local Court”.

(b) Section 3 (1) (r)—

After “licence,”, insert “or to any”.

15 (3) (a) Section 4B (3)—

Omit “court of petty sessions holden before a stipendiary magistrate”, insert instead “Local Court constituted by a Magistrate”.

(b) Sections 4B (3), 22 (4), (5), (6)—

Omit “the court” wherever occurring, insert instead “the Court”.

20 (4) Section 7A (2), (3)—

Omit “for holding” wherever occurring, insert instead “from holding”.

(5) Section 18B (1) (c), (6)—

Omit “Metropolitan” wherever occurring, insert instead “General”.

*Motor Traffic (Staysafe) Amendment 1987*SCHEDULE 3—*continued*AMENDMENTS FOR THE PURPOSE OF STATUTE LAW REVISION—*continued*

## (6) Section 22 (1)—

Omit “held before a stipendiary magistrate”, insert instead “constituted by a Magistrate”.

## SCHEDULE 4

5

(Sec. 5)

## SAVINGS AND TRANSITIONAL PROVISIONS

**Savings**

1. (1) An amendment made to the Principal Act by this Act does not operate so as—
- 10 (a) to repeal any regulation which was in force under that Act immediately before the commencement of the amendment and which could be made under that Act, as amended by this Act;
- (b) to revoke any condition, restriction or limitation to which a licence issued under the regulations made under that Act was subject immediately before that commencement; or
- 15 (c) to terminate or reduce—
- (i) any period of suspension to which any such licence was subject; or
- (ii) any period of disqualification from obtaining a licence in force, immediately before that commencement.
- 20 (2) On and from the commencement of Schedule 1—
- (a) a reference in any other Act or in any regulation or other instrument (enacted, made or entered into before that commencement) to a licence issued in accordance with the regulations made under the Principal Act shall be read as a reference to a licence granted under the Principal Act, as amended by this Act;
- 25 and
- (b) a licence issued under the regulations made under the Principal Act and in force immediately before that commencement shall be deemed to be a licence granted under that Act, as amended by this Act.

*Motor Traffic (Staysafe) Amendment 1987*

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SCHEDULE 4—*continued*

SAVINGS AND TRANSITIONAL PROVISIONS—*continued*

**Regulations**

2. The Governor may make regulations under the Principal Act containing provisions of a savings or transitional nature consequent on the enactment of this Act or the Transport (Staysafe) Amendment Act 1987.



**MOTOR TRAFFIC (STAYSAFE) AMENDMENT ACT 1987**  
**No. 95**

NEW SOUTH WALES



**TABLE OF PROVISIONS**

1. Short title
2. Commencement
3. Principal Act
4. Amendment of Act No. 5, 1909
5. Savings and transitional provisions

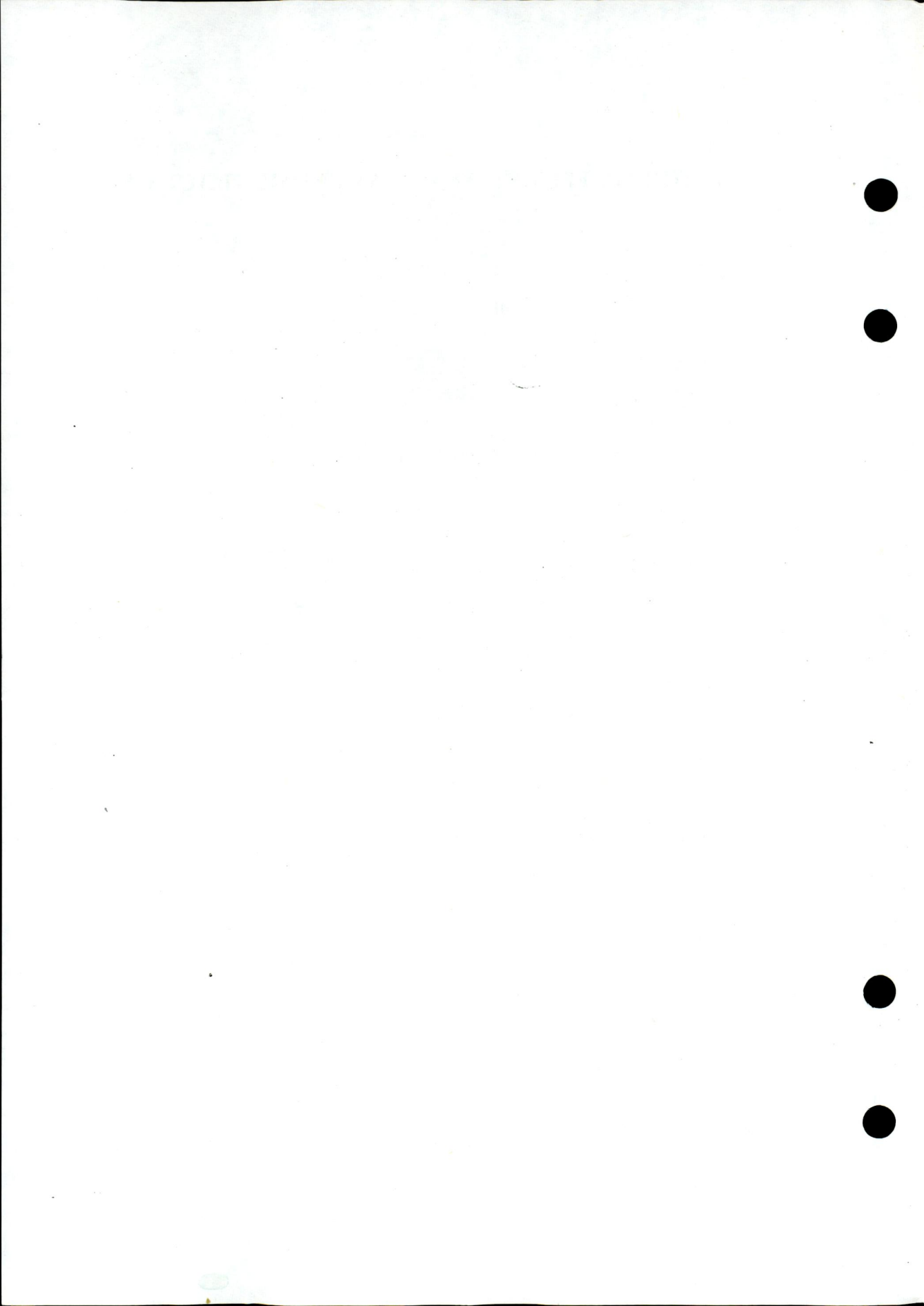
SCHEDULE 1—AMENDMENTS RELATING TO THE GRANTING OF DRIVERS' LICENCES

SCHEDULE 2—MISCELLANEOUS AMENDMENTS RELATING TO DRIVERS' LICENCES

SCHEDULE 3—AMENDMENTS FOR THE PURPOSE OF STATUTE LAW REVISION

SCHEDULE 4—SAVINGS AND TRANSITIONAL PROVISIONS

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**MOTOR TRAFFIC (STAYSAFE) AMENDMENT ACT 1987 No. 95**

NEW SOUTH WALES



**Act No. 95, 1987**

An Act to amend the Motor Traffic Act 1909 with respect to the licensing of drivers of motor vehicles; and for other purposes. [Assented to 12 June 1987]

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See also Transport (Staysafe) Amendment Act 1987.

*Motor Traffic (Staysafe) Amendment 1987*

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**BE** it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:

**Short title**

1. This Act may be cited as the "Motor Traffic (Staysafe) Amendment Act 1987".

**Commencement**

2. (1) Except as provided by subsection (2), this Act shall commence on the date of assent to this Act.

(2) The several provisions of Schedules 1 and 2, and section 4 in its application to those provisions, shall commence on such day or days as may be appointed by the Governor and notified by proclamation published in the Gazette.

**Principal Act**

3. The Motor Traffic Act 1909 is referred to in this Act as the Principal Act.

**Amendment of Act No. 5, 1909**

4. The Principal Act is amended in the manner set forth in Schedules 1-3.

**Savings and transitional provisions**

5. Schedule 4 has effect.

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## SCHEDULE 1

(Sec. 4)

AMENDMENTS RELATING TO THE GRANTING OF DRIVERS'  
LICENCES(1) Section 2 (**Interpretation**)—

Section 2 (1), definition of “Licensed”—

Omit the definition, insert instead:

“Licensed” means licensed under this Act.

(2) Section 3 (**Regulations**)—

## (a) Section 3 (1) (j)—

Omit “, and that the drivers of such vehicles shall be licensed,”.

## (b) Section 3 (1) (j)—

Omit “and such drivers licensed either provisionally or otherwise. Any regulation under this paragraph may provide for the issue of a restricted licence authorising the licensee to drive subject to compliance with any special terms or conditions set forth in such licence by the Commissioner”.

## (c) Section 3 (1) (m), (m1)—

Omit section 3 (1) (m), insert instead:

(m) make provision for or with respect to—

(i) the manner and duration of registration of motor vehicles; and

(ii) the transfer and renewal of any such registration;

(m1) make provision for or with respect to—

(i) the qualifications and testing of applicants for drivers' licences;

(ii) the issue, duration, renewal, suspension, cancellation and surrender of those licences;

(iii) the imposition, whether by the Commissioner or otherwise, of terms and conditions to which those licences, any particular driver's licence or drivers' licences of any class shall be subject; and

*Motor Traffic (Staysafe) Amendment 1987*

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SCHEDULE 1—*continued*

AMENDMENTS RELATING TO THE GRANTING OF DRIVERS' LICENCES—*continued*

- (iv) the payment of determined fees in respect of the issue or renewal of those licences or in respect of the testing of those applicants;

- (d) Section 3 (1) (n), proviso—

Omit the proviso.

- (3) Section 3A—

Omit the section, insert instead:

**Part II and the regulations not to apply in certain cases**

3A. This Part and the regulations do not apply to or in relation to the registration of—

- (a) motor vehicles which are registered as public vehicles under the Transport Act 1930; or  
 (b) motor omnibuses which are owned by the Urban Transit Authority.

- (4) Section 4E (**Prescribed concentration of alcohol in driver's blood**)—

- (a) Section 4E (1)—

Omit “and in accordance with the regulations” wherever occurring, insert instead “this Act”.

- (b) Section 4E (1A)—

Omit “the regulations”, insert instead “this Act”.

- (5) Section 10A (**Disqualification for certain major offences**)—

Section 10A (2) (a1) (i), (a) (i), (3) (a1) (i), (a) (i)—

Omit “under this Act or under the Transport Act 1930” wherever occurring.

SCHEDULE 1—*continued*AMENDMENTS RELATING TO THE GRANTING OF DRIVERS' LICENCES—*continued*

## (6) Sections 11AA–11AC—

After section 11, insert:

**Grant and renewal of drivers' licences**

11AA. (1) Drivers' licences of such classes as may be prescribed may be granted and renewed by the Commissioner.

(2) An application for the grant or renewal of a driver's licence shall be made in accordance with the regulations.

(3) The Commissioner may refuse to grant or renew a driver's licence if the applicant—

- (a) has not attended at a district registry or another place nominated in or under the regulations and there submitted to the taking, by a person approved by the Commissioner, of a photograph of the applicant which is suitable for use on the licence; or
- (b) where, in the opinion of the Commissioner, it is impracticable for the person to so attend, has not provided the Commissioner with a photograph of the applicant considered by the Commissioner as suitable for use on the licence,

or if the applicant has not provided, in support of the application, such evidence as is required by the regulations or the Commissioner to establish the identity and residential address of the applicant.

(4) The Commissioner may refuse to grant or renew a driver's licence if any requirement made by or under the regulations with respect to—

- (a) the driving ability, knowledge of relevant matters, physical or mental fitness, age, or relevant experience, of the applicant;
- (b) the period for which the applicant has held a learner's permit or driver's licence of a different class from that of the licence applied for;

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SCHEDULE 1—*continued*

AMENDMENTS RELATING TO THE GRANTING OF DRIVERS' LICENCES—*continued*

(c) any record of convictions the applicant may have for offences relating to the driving of motor vehicles, whether within or outside New South Wales; or

(d) the payment of a determined fee in respect of the licence, has not been satisfied.

(5) A driver's licence shall be subject to such terms and conditions—

(a) as may be prescribed in respect of the class of licences to which it belongs; or

(b) as may be imposed on the licence by or under this Act or the regulations.

(6) Without affecting the generality of subsection (5), terms or conditions of a driver's licence may—

(a) require the periodic payment of determined fees in respect of the licence and provide for the expiration of the licence in default of payment of any such fee; and

(b) limit the duration of the licence.

(7) Any photograph taken or provided under this section shall not be used for the purpose of forming a record of the person to whom it relates or for any other purpose except the reproduction on a licence of a likeness of that person.

**Suspension or cancellation of drivers' licences by the Commissioner**

11AB. (1) Subject to section 21, the Commissioner may suspend or cancel a driver's licence for any reason set out in the regulations.

(2) The Commissioner may decide to suspend or cancel a driver's licence without the licensee having been provided an opportunity to show cause why the licence should not be suspended or cancelled.



*Motor Traffic (Staysafe) Amendment 1987*SCHEDULE 1—*continued*AMENDMENTS RELATING TO THE GRANTING OF DRIVERS' LICENCES—*continued*

(3) During any period for which a driver's licence is suspended under this section, the licence has no legal effect.

**Renewal of suspended drivers' licences**

11AC. The Commissioner may renew a driver's licence—

- (a) which the Commissioner has decided to suspend, whether or not the period of suspension has commenced; or
- (b) which the Commissioner of Police has suspended,

but renewal of the licence does not affect the period of suspension.

## SCHEDULE 2

(Sec. 4)

## MISCELLANEOUS AMENDMENTS RELATING TO DRIVERS' LICENCES

(1) Section 4B (**Races, attempts on speed records, etc.**)—

Section 4B (2), (2A)—

Omit section 4B (2), insert instead:

(2) Where a person is convicted by a court of an offence under subsection (1)—

- (a) except as provided by paragraph (b), the person is disqualified by the conviction and without any specific order for 12 months; or
- (b) if the court at the time of the conviction thinks fit to order a shorter or a longer period of disqualification—the person is disqualified for the period specified in the order,

from holding a driver's licence under this Act.

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SCHEDULE 2—*continued*

MISCELLANEOUS AMENDMENTS RELATING TO DRIVERS' LICENCES—*continued*

(2A) Any disqualification under this section is in addition to any penalty imposed for the offence.

(2) Section 7A (**Offences committed by disqualified drivers, etc.**)—

(a) Section 7A (1)—

Omit the subsection.

(b) Section 7A (4)—

Omit “upon the conviction”, insert instead “for the offence”.

(c) Section 7A (5)—

Omit the subsection.

(3) Section 10 (**Court may impose penalty and disqualify driver on conviction**)—

Section 10 (1)–(3)—

Omit the subsections, insert instead:

(1) Any court before which a person is convicted of an offence under this Act for which no penalty is specifically provided may impose a penalty not exceeding \$500 for the offence.

(2) Subject to sections 4B, 7A and 10A, where—

(a) a person is convicted by a court of an offence against this Act or the regulations; and

(b) at the time of the conviction, the court so orders,

the person is disqualified from holding a driver's licence under this Act for such period as the court specifies.

(3) Any disqualification under this section is in addition to any penalty imposed for the offence.

SCHEDULE 2—*continued*MISCELLANEOUS AMENDMENTS RELATING TO DRIVERS' LICENCES—*continued*(4) Section 10A (**Disqualification for certain major offences**)—

## (a) Section 10A (5)—

Omit the subsection, insert instead:

(5) Any disqualification under this section is in addition to any penalty imposed for the offence.

## (b) Section 10A (6), (7)—

Omit the subsections.

## (5) Section 10AA—

After section 10A, insert:

**Effect of disqualification**

10AA. (1) When, as a consequence of being convicted of an offence by a court, a person is disqualified (whether or not by an order of the court) from holding a driver's licence—

(a) any driver's licence held by the person shall be deemed to have been cancelled; and

(b) the person shall, immediately after being convicted, deliver each such licence to the Commissioner.

(2) If a person fails to deliver a licence as required by this section, the person is guilty of an offence against this Act.

## (6) Section 21—

Omit the section, insert instead:

**Commissioner to notify certain decisions**

21. (1) Where the Commissioner decides—

(a) to refuse to grant, renew or transfer, or decides to cancel, the registration of a motor vehicle;

(b) to refuse to grant or renew, or decides to suspend or to cancel, a driver's licence; or

SCHEDULE 2—*continued*MISCELLANEOUS AMENDMENTS RELATING TO DRIVERS'  
LICENCES—*continued*

- (c) to suspend an exemption from holding a driver's licence which applies because a person is the holder of a licence, an equivalent of a licence or a permit granted outside New South Wales,

the Commissioner shall cause—

- (d) the person applying for the grant, renewal or transfer of the registration or the grant or renewal of the licence;
- (e) the holder of the registration or licence suspended or cancelled; or
- (f) the person having the benefit of the exemption,

as the case may be, to be served personally or by post with a notice setting out the decision and the reason for it.

(2) A decision of the Commissioner to cancel the registration of a motor vehicle shall have effect on and from the date on which the holder of the registration is notified in accordance with subsection (1).

(3) A decision of the Commissioner to suspend or cancel, or to suspend an exemption from holding, a driver's licence—

- (a) shall, where the licence is suspended or cancelled or the exemption is suspended because the holder or person having the benefit of the exemption is medically unfit or incompetent to drive a motor vehicle, have effect on and from the date on which the holder or person is notified in accordance with subsection (1); or
- (b) shall, subject to subsection (6), where the licence is suspended or cancelled or the exemption is suspended for any other reason, have effect on and from the date appointed in the notice by the Commissioner.



SCHEDULE 2—*continued*MISCELLANEOUS AMENDMENTS RELATING TO DRIVERS'  
LICENCES—*continued*

(4) Except where an earlier date is appointed on the written request of the holder of a licence or person having the benefit of the exemption, a date appointed under subsection (3) (b)—

- (a) in the case of personal service of the notice, shall not be earlier than 22 days after the date of service; or
- (b) in the case of service of the notice by post, shall not be earlier than 24 days after the date of posting.

(5) Subsections (2) and (3) (a) do not affect the right of any person to appeal under section 22 or the powers of a Local Court under that section.

(6) Where—

- (a) the Commissioner suspends or cancels, or suspends an exemption from holding, a driver's licence for any reason (other than medical unfitness or incompetence to drive a motor vehicle); and
- (b) the holder or person having the benefit of the exemption appeals in accordance with section 22,

the decision of the Commissioner to suspend or cancel the licence or to suspend the exemption shall have effect—

- (c) only if the Court hearing the appeal confirms the decision or the appeal is withdrawn;
- (d) subject to any variation of the decision by the Court; and
- (e) on and from the date on which the Court confirms the decision or on such later date as the Court may order or, if the appeal is withdrawn, on the date on which it is withdrawn.

(7) If a licence suspended by the Commissioner is renewed, the decision of the Commissioner shall have effect in accordance with this section with respect to the licence as renewed.

*Motor Traffic (Staysafe) Amendment 1987*

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SCHEDULE 2—*continued*

MISCELLANEOUS AMENDMENTS RELATING TO DRIVERS' LICENCES—*continued*

(7) Section 22 (Appeals)—

Section 22 (8)—

Omit “section 21 (3) (b) (ii)”, insert instead “section 21 (4)”.

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SCHEDULE 3

(Sec. 4)

AMENDMENTS FOR THE PURPOSE OF STATUTE LAW REVISION

(1) Section 2 (1), definition of “Superintendent”—

Omit “Metropolitan”, insert instead “General”.

(2) (a) Sections 3 (1) (g2) (x), 22—

Omit “court of petty sessions” wherever occurring, insert instead “Local Court”.

(b) Section 3 (1) (r)—

After “licence,”, insert “or to any”.

(3) (a) Section 4B (3)—

Omit “court of petty sessions holden before a stipendiary magistrate”, insert instead “Local Court constituted by a Magistrate”.

(b) Sections 4B (3), 22 (4), (5), (6)—

Omit “the court” wherever occurring, insert instead “the Court”.

(4) Section 7A (2), (3)—

Omit “for holding” wherever occurring, insert instead “from holding”.

(5) Section 18B (1) (c), (6)—

Omit “Metropolitan” wherever occurring, insert instead “General”.

*Motor Traffic (Staysafe) Amendment 1987*SCHEDULE 3—*continued*AMENDMENTS FOR THE PURPOSE OF STATUTE LAW REVISION—*continued*

## (6) Section 22 (1)—

Omit “held before a stipendiary magistrate”, insert instead “constituted by a Magistrate”.

## SCHEDULE 4

(Sec. 5)

## SAVINGS AND TRANSITIONAL PROVISIONS

**Savings**

1. (1) An amendment made to the Principal Act by this Act does not operate so as—
  - (a) to repeal any regulation which was in force under that Act immediately before the commencement of the amendment and which could be made under that Act, as amended by this Act;
  - (b) to revoke any condition, restriction or limitation to which a licence issued under the regulations made under that Act was subject immediately before that commencement; or
  - (c) to terminate or reduce—
    - (i) any period of suspension to which any such licence was subject; or
    - (ii) any period of disqualification from obtaining a licence in force, immediately before that commencement.
- (2) On and from the commencement of Schedule 1—
  - (a) a reference in any other Act or in any regulation or other instrument (enacted, made or entered into before that commencement) to a licence issued in accordance with the regulations made under the Principal Act shall be read as a reference to a licence granted under the Principal Act, as amended by this Act; and
  - (b) a licence issued under the regulations made under the Principal Act and in force immediately before that commencement shall be deemed to be a licence granted under that Act, as amended by this Act.

*Motor Traffic (Staysafe) Amendment 1987*

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SCHEDULE 4—*continued*

SAVINGS AND TRANSITIONAL PROVISIONS—*continued*

**Regulations**

2. The Governor may make regulations under the Principal Act containing provisions of a savings or transitional nature consequent on the enactment of this Act or the Transport (Staysafe) Amendment Act 1987.