



New South Wales

# Traffic Amendment (Street and Illegal Drag Racing) Act 1997 No 74

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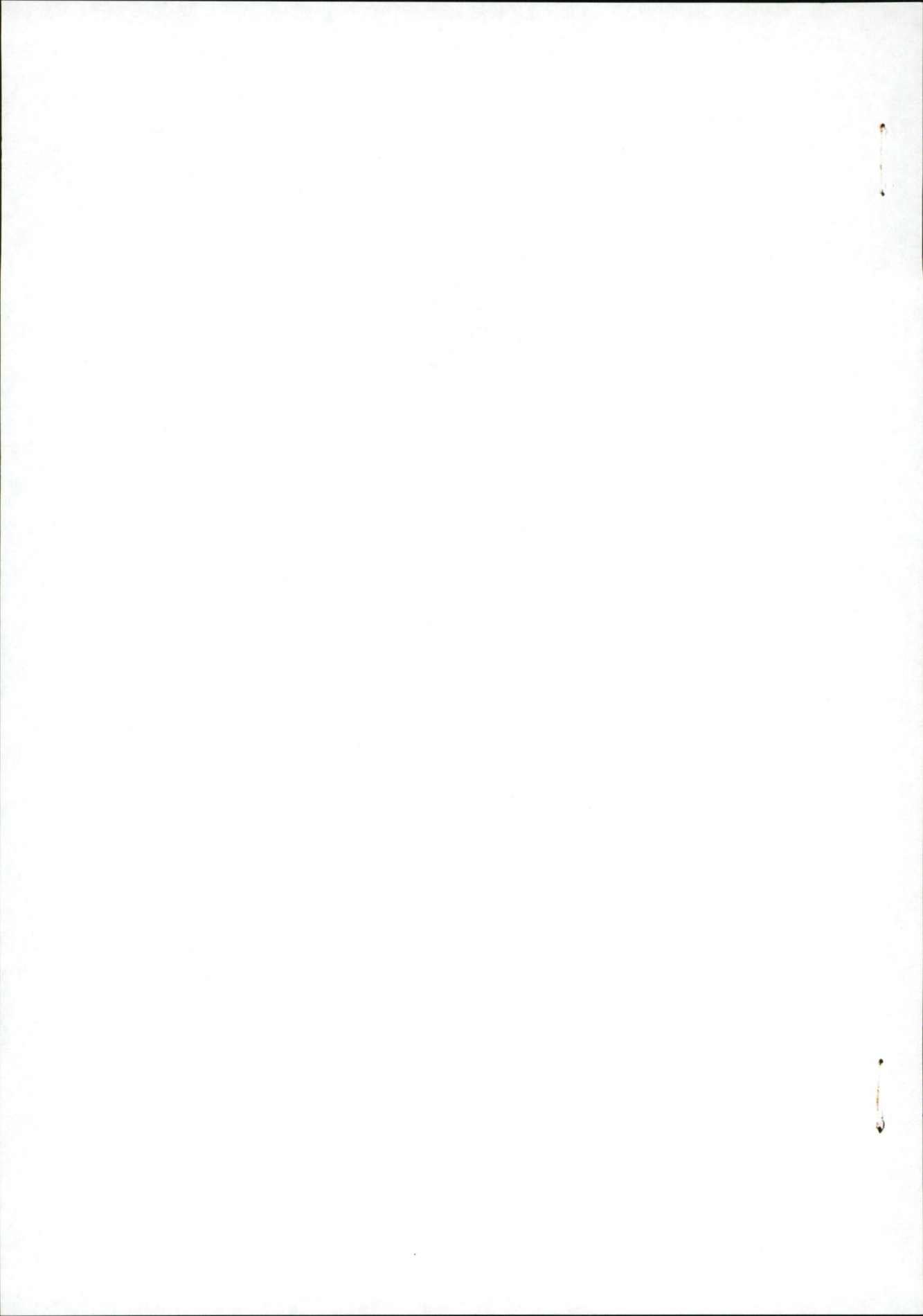
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New South Wales

## **Traffic Amendment (Street and Illegal Drag Racing) Act 1997 No 74**

Act No 74, 1997

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An Act to amend the *Traffic Act 1909* with respect to the use and confiscation of vehicles in connection with illegal drag racing and other activities; to make a consequential amendment to the *Search Warrants Act 1985*; and for related purposes. [Assented to 10 July 1997]

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

**1 Name of Act**

This Act is the *Traffic Amendment (Street and Illegal Drag Racing) Act 1997*.

**2 Commencement**

This Act commences on a day or days to be appointed by proclamation.

**3 Amendment of Traffic Act 1909 No 5**

The *Traffic Act 1909* is amended as set out in Schedule 1.

**4 Amendment of Search Warrants Act 1985 No 37**

The *Search Warrants Act 1985* is amended as set out in Schedule 2.

**5 Transitional provisions**

- (1) An amendment made by this Act does not apply in relation to an alleged offence committed before the commencement of the amendment.
- (2) However, the amendment made by Schedule 1 [7] extends to motor vehicles impounded or forfeited before the commencement of the amendment.

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## **Schedule 1 Amendment of Traffic Act 1909**

(Section 3)

**[1] Section 4BA Conduct associated with street and drag racing and other activities**

Omit "the driving wheels" from section 4BA (1).  
Insert instead "one or more of the driving wheels".

**[2] Section 4BB Removal and impounding of vehicles used for certain offences**

Omit section 4BB (1). Insert instead:

- (1) A police officer who reasonably believes that a motor vehicle:
  - (a) is being or has (on that day or during the past 10 days) been operated on a public street so as to commit an offence under section 4B or 4BA, or
  - (b) is the subject of a period of impounding, or the subject of forfeiture, under section 4BC,

may seize and take charge of the motor vehicle and cause it to be removed to a place determined by the Commissioner of Police.

**[3] Section 4BB (1A)**

Insert after section 4BB (1):

- (1A) A motor vehicle may be seized under subsection (1) from:
  - (a) a public place, or
  - (b) any other place, with the consent of the owner or occupier of the place or under the authority of a search warrant issued under section 4BD.

**[4] Section 4BB (6), (7)**

Insert after section 4BB (5):

- (6) The regulations may make provision for or with respect to requiring the owner or driver of a motor vehicle to pay a fee in relation to the towing of the vehicle under this section. The whole or any part of the fee that is unpaid may be recovered from the owner or driver of the motor vehicle by the Commissioner of Police as a debt due to the Crown in any court of competent jurisdiction. A certificate in writing given by a police officer as to the fact and cost of towing is evidence of those matters.

- (7) In this section:

*public place* includes any place that members of the public are entitled to use.

**[5] Section 4BC Impounding or forfeiture of vehicles on proof or admission of offence**

Omit section 4BC (5).

**[6] Section 4BD**

Insert after section 4BC:

**4BD Search warrants**

- (1) A police officer may apply to an authorised justice for a search warrant if the police officer has reasonable grounds for believing that there is or, within 72 hours, will be on any premises a motor vehicle that has been operated as referred to in section 4BB.
- (2) An authorised justice to whom such an application is made may, if satisfied that there are reasonable grounds for doing so, issue a search warrant authorising a police officer named in the warrant:
- (a) to enter the premises, and

- (b) to search the premises for such a motor vehicle, and
  - (c) to seize such a motor vehicle, and otherwise deal with it, in accordance with section 4BB.
- (3) Part 3 of the *Search Warrants Act 1985* applies to a search warrant issued under this section.
- (4) In this section, *authorised justice* and *premises* have the same meanings as they have in the *Search Warrants Act 1985*.

**[7] Schedule 2 Impounded and forfeited vehicles**

Insert after clause 3 (2):

- (3) This clause does not apply in the case of a vehicle impounded in the circumstances referred to in section 4BB (1) (b), except as prescribed by the regulations.

**[8] Schedule 2, clause 9**

Insert after clause 8:

**9 Disposal of vehicles**

- (1) The Commissioner may cause an impounded or forfeited vehicle to be offered for sale in the circumstances prescribed by the regulations. The sale is to be by public auction or public tender.
- (2) The vehicle may be disposed of otherwise than by sale if the Commissioner believes on reasonable grounds that the vehicle has no monetary value or that the proceeds of the sale would be unlikely to exceed the costs of sale.
- (3) If the vehicle offered for sale is not sold, the Commissioner may dispose of the vehicle otherwise than by sale.
- (4) The regulations may make provision for or with respect to the disposal of the proceeds of any such sale, including provisions for or with respect to entitling persons to seek to be paid any such proceeds.

## **Schedule 2 Amendment of Search Warrants Act 1985**

(Section 4)

### **Section 10 Definitions**

Insert "section 4BD of the *Traffic Act 1909*," in the definition of *search warrant* in alphabetical order of Acts.

[Minister's second reading speech made in—  
Legislative Assembly on 18 June 1997  
Legislative Council on 27 June 1997]

BY AUTHORITY



First print



New South Wales

## Traffic Amendment (Street and Illegal Drag Racing) Bill 1997

### 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 *Traffic Act 1909* so as to amend the provisions of the Act that relate to street and illegal drag racing.

The Bill will:

- (a) make it an offence to undergo sustained loss of traction by one or more driving wheels, and
  - (b) enable a police officer to impound a motor vehicle within 10 days after a "street or illegal drag racing" offence has been committed or after conviction by a court, and
  - (c) enable a police officer to impound such a vehicle that is located on private property (as well as on a public place), and provide for the issue of warrants for this purpose, and
  - (d) enable recovery of a fee for towing from the owner or driver of an impounded motor vehicle, and
  - (e) provide for the sale or other disposal of impounded or forfeited motor vehicles.
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## Outline of provisions

**Clause 1** sets out the name (also called the short title) of the proposed Act.

**Clause 2** provides for the proposed Act to commence on a proclaimed day or days.

**Clauses 3 and 4** are formal provisions giving effect to the Schedules of amendments.

**Clause 5** contains transitional provisions. Generally, the amendments do not apply in relation to offences already committed. However, the provisions relating to the disposal of vehicles extend to vehicles already impounded or forfeited.

**Schedule 1** contains amendments to the *Traffic Act 1909* for the purposes described above.

**Schedule 2** contains a consequential amendment to the *Search Warrants Act 1985*.

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New South Wales

# Traffic Amendment (Street and Illegal Drag Racing) Bill 1997

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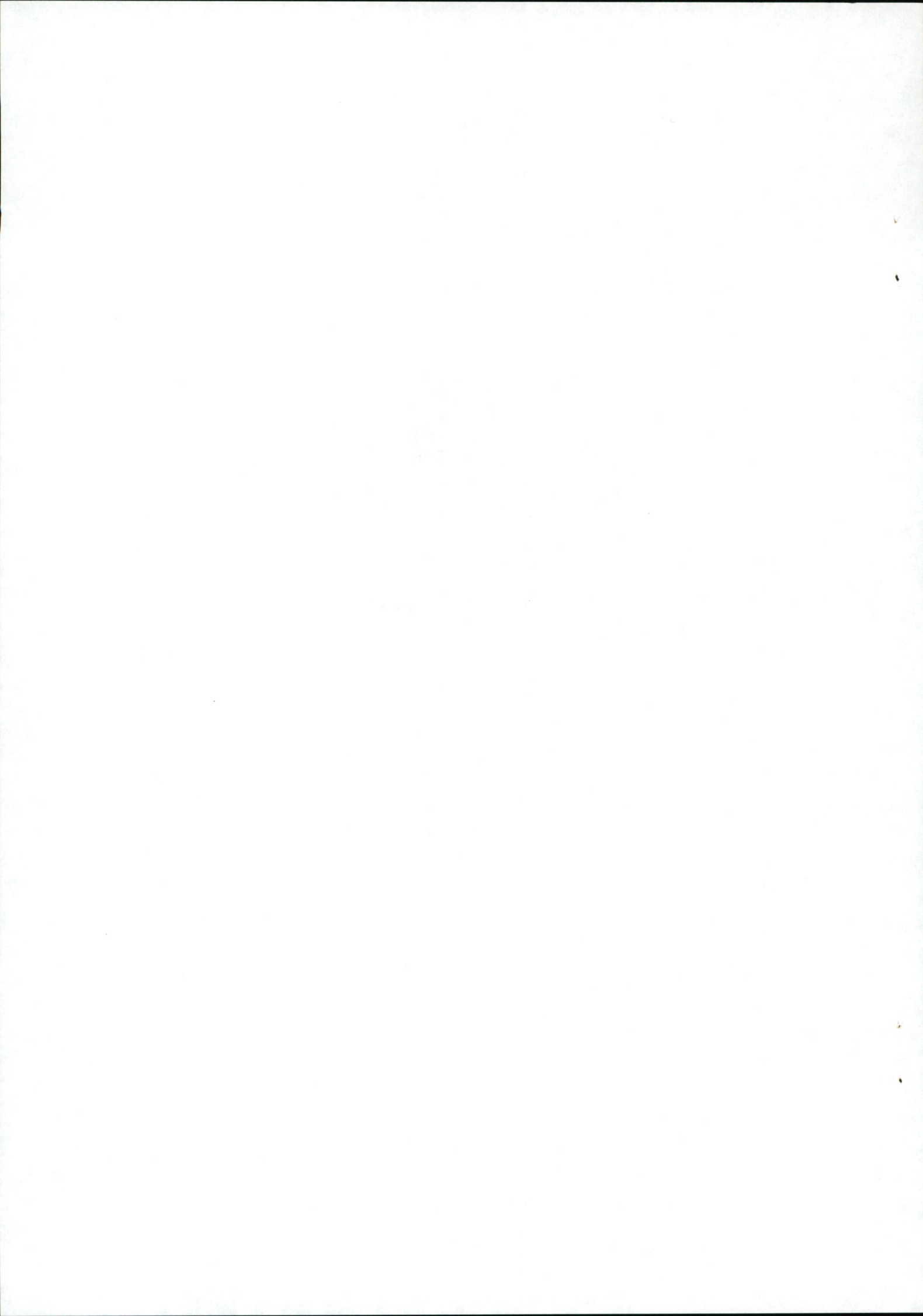
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## Schedules

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New South Wales

## Traffic Amendment (Street and Illegal Drag Racing) Bill 1997

No. , 1997

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### A Bill for

An Act to amend the *Traffic Act 1909* with respect to the use and confiscation of vehicles in connection with illegal drag racing and other activities; to make a consequential amendment to the *Search Warrants Act 1985*; and for related purposes.

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

**1 Name of Act**

This Act is the *Traffic Amendment (Street and Illegal Drag Racing) Act 1997*.

**2 Commencement**

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This Act commences on a day or days to be appointed by proclamation.

**3 Amendment of Traffic Act 1909 No 5**

The *Traffic Act 1909* is amended as set out in Schedule 1.

**4 Amendment of Search Warrants Act 1985 No 37**

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The *Search Warrants Act 1985* is amended as set out in Schedule 2.

**5 Transitional provisions**

- (1) An amendment made by this Act does not apply in relation to an alleged offence committed before the commencement of the amendment. 15
- (2) However, the amendment made by Schedule 1 [7] extends to motor vehicles impounded or forfeited before the commencement of the amendment.

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## Schedule 1 Amendment of Traffic Act 1909

(Section 3)

**[1] Section 4BA Conduct associated with street and drag racing and other activities**

Omit "the driving wheels" from section 4BA (1).  
Insert instead "one or more of the driving wheels".

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**[2] Section 4BB Removal and impounding of vehicles used for certain offences**

Omit section 4BB (1). Insert instead:

(1) A police officer who reasonably believes that a motor vehicle:

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(a) is being or has (on that day or during the past 10 days) been operated on a public street so as to commit an offence under section 4B or 4BA, or

(b) is the subject of a period of impounding, or the subject of forfeiture, under section 4BC,

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may seize and take charge of the motor vehicle and cause it to be removed to a place determined by the Commissioner of Police.

**[3] Section 4BB (1A)**

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Insert after section 4BB (1):

(1A) A motor vehicle may be seized under subsection (1) from:

(a) a public place, or

(b) any other place, with the consent of the owner or occupier of the place or under the authority of a search warrant issued under section 4BD.

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**[4] Section 4BB (6), (7).**

Insert after section 4BB (5):

- (6) The regulations may make provision for or with respect to requiring the owner or driver of a motor vehicle to pay a fee in relation to the towing of the vehicle under this section. The whole or any part of the fee that is unpaid may be recovered from the owner or driver of the motor vehicle by the Commissioner of Police as a debt due to the Crown in any court of competent jurisdiction. A certificate in writing given by a police officer as to the fact and cost of towing is evidence of those matters. 5  
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- (7) In this section:  
*public place* includes any place that members of the public are entitled to use.

**[5] Section 4BC Impounding or forfeiture of vehicles on proof or admission of offence** 15

Omit section 4BC (5).

**[6] Section 4BD**

Insert after section 4BC:

**4BD Search warrants** 20

- (1) A police officer may apply to an authorised justice for a search warrant if the police officer has reasonable grounds for believing that there is or, within 72 hours, will be on any premises a motor vehicle that has been operated as referred to in section 4BB. 25
- (2) An authorised justice to whom such an application is made may, if satisfied that there are reasonable grounds for doing so, issue a search warrant authorising a police officer named in the warrant:
- (a) to enter the premises, and 30



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- (b) to search the premises for such a motor vehicle, and
- (c) to seize such a motor vehicle, and otherwise deal with it, in accordance with section 4BB.
- (3) Part 3 of the *Search Warrants Act 1985* applies to a search warrant issued under this section. 5
- (4) In this section, *authorised justice* and *premises* have the same meanings as they have in the *Search Warrants Act 1985*.
- [7] Schedule 2 Impounded and forfeited vehicles** 10
- Insert after clause 3 (2):
- (3) This clause does not apply in the case of a vehicle impounded in the circumstances referred to in section 4BB (1) (b), except as prescribed by the regulations.
- [8] Schedule 2, clause 9** 15
- Insert after clause 8:
- 9 Disposal of vehicles**
- (1) The Commissioner may cause an impounded or forfeited vehicle to be offered for sale in the circumstances prescribed by the regulations. The sale is to be by public auction or public tender. 20
- (2) The vehicle may be disposed of otherwise than by sale if the Commissioner believes on reasonable grounds that the vehicle has no monetary value or that the proceeds of the sale would be unlikely to exceed the costs of sale. 25
- (3) If the vehicle offered for sale is not sold, the Commissioner may dispose of the vehicle otherwise than by sale.
- (4) The regulations may make provision for or with respect to the disposal of the proceeds of any such sale, including provisions for or with respect to entitling persons to seek to be paid any such proceeds. 30

Traffic Amendment (Street and Illegal Drag Racing) Bill 1997

Schedule 2      Amendment of Search Warrants Act 1985

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**Schedule 2      Amendment of Search Warrants Act  
1985**

(Section 4)

**Section 10 Definitions**

Insert "section 4BD of the *Traffic Act 1909*," in the definition of *search warrant* in alphabetical order of Acts.      5