

MOTOR TRAFFIC (STAYS SAFE) AMENDMENT ACT 1987
No. 95

NEW SOUTH WALES



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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]

See also Transport (Staysafe) Amendment Act 1987.

Motor Traffic (Staysafe) Amendment 1987

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.

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*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.

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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.

Motor Traffic (Staysafe) Amendment 1987

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

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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.

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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.

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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)".

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.

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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.