

**MOTOR TRAFFIC (TRANSPORT ADMINISTRATION)
AMENDMENT ACT 1988 No. 110**

NEW SOUTH WALES



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**MOTOR TRAFFIC (TRANSPORT ADMINISTRATION)
AMENDMENT ACT 1988 No. 110**

NEW SOUTH WALES



Act No. 110, 1988

An Act to amend the Motor Traffic Act 1909 as a consequence of the enactment of the Transport Administration Act 1988 and the repeal of the Traffic Authority Act 1976 and the General Traffic Act 1900, and for other purposes. [Assented to 21 December 1988]

Motor Traffic (Transport Administration) Amendment 1988

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the Motor Traffic (Transport Administration) Amendment Act 1988.

Commencement

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

Amendment of Motor Traffic Act 1909 No. 5

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

SCHEDULE 1—AMENDMENTS

(Sec. 3)

(1) Long title—

Omit “the regulation of motor vehicles and their drivers”, insert instead “the regulation of vehicles and of vehicular and pedestrian traffic”.

(2) Section 1—

Omit the section, insert instead:

Short title

1. This Act may be cited as the Traffic Act 1909.

(3) Section 1A (**Arrangement**)—

Omit the section.

(4) Section 2 (**Definitions**)—

(a) Section 2 (1), definitions of “Approved camera detection device”, “Approved radar speed measuring device”—

Omit “motor vehicle” wherever occurring, insert instead “vehicle”.

(b) Section 2 (1)—

After the definition of “Approved radar speed measuring device”, insert:

“Authority” means the Roads and Traffic Authority constituted under the Transport Administration Act 1988.

(c) Section 2 (1), definition of “Commissioner”—

Omit the definition.

SCHEDULE 1—AMENDMENTS—*continued*

- (d) Section 2 (1), definition of “Driver”—
Omit “motor” wherever occurring.
- (e) Section 2 (1), definition of “Driver’s licence”—
Omit the definition, insert instead:
“Driver’s licence” includes a probationary licence, a provisional licence, a restricted licence and a learner’s licence under this Act.
- (f) Section 2 (1)—
After the definition of “Drug”, insert:
“Horse” includes any animal used for the carriage of persons or goods.
- (g) Section 2 (1), definition of “Learner’s permit”—
Omit the definition.
- (h) Section 2 (1)—
After the definition of “Regulation”, insert:
“Rider”, in relation to a horse, includes a person having charge of the horse.
- (i) Section 2 (1), definition of “Shared traffic zone”—
Omit the definition, insert instead:
“Shared traffic zone” means a public street or part of a public street designated as a shared traffic zone in accordance with section 3B.
- (j) Section 2 (1), definition of “Superintendent”—
Omit the definition.
- (k) Section 2 (1), definition of “Traffic Authority”—
Omit the definition.
- (l) Section 2 (1A)—
Omit the subsection.
- (m) Section 2 (2A)—
Omit the subsection, insert instead:
(2A) In this Act, a reference to a licence in respect of a motor vehicle, being a licence of any class, is a reference to a licence which authorises the holder to drive motor vehicles of a class which includes the motor vehicle.
- (n) Section 2 (4)—
Omit “learner’s permit”, insert instead “learner’s licence”.

*Motor Traffic (Transport Administration) Amendment 1988*SCHEDULE 1—AMENDMENTS—*continued*

- (5) Section 2A (**Administration of Act**), section 2B (**Commissioner to be charged with collection of fees etc. and the keeping of records**), section 2C (**Enforcement by police**), section 2D (**Duty of Commissioner of Police**)—

Omit the sections.

- (6) Part 1A—

After Part 1, insert:

**PART 1A—FUNCTIONS OF AUTHORITY RELATING
TO TRAFFIC ARRANGEMENTS ETC.**

Definitions

2E. (1) In this Part—

“approaches”, in relation to an intersection or railway crossing, means so much of the approaches to the intersection or crossing as consists of public streets or of parts of public streets;

“functions” includes powers, authorities and duties;

“intersection” means an intersection or junction of public streets;

“public authority” means a public or local authority constituted by or under an Act, and includes—

- (a) the Police Force; and
- (b) any Government department or administrative office; and
- (c) a statutory body representing the Crown; and
- (d) a person or body prescribed by the regulations for the purposes of this definition;

“traffic” includes vehicular traffic and pedestrian traffic;

“traffic control facility” means—

- (a) traffic control lights on public streets, and equipment used in connection with traffic control lights; or
- (b) any sign, marking, structure or device containing or relating to a requirement or direction, contravention of which is an offence arising under—
 - (i) this Act or the regulations; or
 - (ii) any other Act, regulation or by-law prescribed for the purposes of this subparagraph (other than the Local Government Act 1919 or any ordinance under that Act); or

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- (c) any sign, device or line referred to in section 270N (1) (c) of the Local Government Act 1919; or
- (d) any other sign, marking, structure or device that is intended to promote safe or orderly traffic movement on public streets or to warn, advise or inform the drivers of vehicles, or pedestrians, of any matter or thing in relation to vehicular or pedestrian traffic or road conditions or hazards; or
- (e) any bridge or subway or other facility for use by pedestrians over, across, under or alongside a public street; or
- (f) any other thing prescribed as a traffic control facility by the regulations.

(2) A reference (however expressed) in this Part to any thing, person or traffic, on a public street, includes a reference to any thing, person or traffic above, over, across, in or under a public street.

Functions of the Authority relating to traffic arrangements etc.

- 2F. (1) The functions of the Authority include the following:
- (a) reviewing the traffic arrangements in the State, including arrangements in connection with the movement, regulation and control of traffic and the parking of vehicles;
 - (b) formulating or adopting plans and proposals for the improvement of those arrangements;
 - (c) establishing general standards and general principles in connection with—
 - (i) the design, construction, erection, affixing, marking, maintenance, repair, alteration, operation or removal of traffic control facilities; and
 - (ii) the design of intersections and the approaches to them or the approaches to railway level crossings, for purposes connected with traffic safety and the movement, regulation and control of traffic;
 - (d) promoting traffic safety;
 - (e) co-ordinating the activities of public authorities so far as those activities relate to—
 - (i) the carrying out of plans and proposals formulated or adopted by the Authority for the improvement of traffic arrangements; or

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SCHEDULE 1—AMENDMENTS—*continued*

- (ii) the design, construction, erection, affixing, marking, maintenance, repair, alteration, operation or removal of traffic control facilities; or
 - (iii) traffic safety; or
 - (iv) any other matter connected with the Authority's functions under this Part.
- (2) The Authority may—
- (a) promote traffic safety measures or activities, including measures or activities for—
 - (i) the safety and protection of the public, including pedestrians, on public streets; and
 - (ii) the prevention of accidents on public streets; and
 - (iii) the minimising of the effect of accidents on public streets; and
 - (iv) the protection of property from damage from accidents on public streets; and
 - (b) promote or engage in the dissemination and publication by suitable media of advice and information resulting from research or otherwise for the education and guidance of, and observance by, drivers of or persons travelling in vehicles, or persons on public streets, or manufacturers of, repairers of, or dealers in, vehicles or vehicle parts; and
 - (c) make reports or recommendations to the Minister, or any other person or body, in relation to the following:
 - (i) traffic arrangements, and the movement, regulation and control of traffic, on public streets;
 - (ii) traffic planning;
 - (iii) traffic safety;
 - (iv) the parking of vehicles;
 - (v) the operation, maintenance or alteration of traffic control facilities;
 - (vi) any other matter connected with the Authority's functions under this Part; and
 - (d) carry out or promote research or investigations into matters connected with any of the Authority's functions under this Part including research or investigations into—
 - (i) traffic control facilities; and
 - (ii) the cause of accidents, their incidence and the ways and means that may be adopted for their prevention or for controlling or mitigating their effects.

SCHEDULE 1—AMENDMENTS—*continued***Directions to public authorities**

2G. (1) The Authority may, from time to time, direct public authorities to implement plans or proposals formulated or adopted, general standards or general principles established, or other decisions made, by the Authority in the exercise or performance of the Authority's functions under this Part.

(2) The Authority may communicate directions under this section to such public authorities, and in such manner, as it thinks fit.

(3) While a direction communicated to a public authority under this section and applicable to its functions is in force, it is the duty of the public authority, by the exercise or performance of its functions in accordance with law, to comply with the direction, except where to do so—

- (a) would be impracticable because of emergency, accident or other special circumstances; or
- (b) would affect the functions of any person or body with respect to the laying or making of any information or complaint, the continuance or discontinuance of any proceedings for an alleged offence or any other manner of dealing with an alleged offence.

(4) The failure of a public authority to comply with a direction of the Authority under this section does not invalidate any act, matter or thing to which the direction relates, and in particular does not invalidate the construction, erection, affixing or marking of any traffic control facility or any direction that is contained in or relates to the facility.

(5) A direction may be given under this section so as to apply generally or in any particular case or class of cases.

(6) The power to give a direction includes the power to amend or revoke a direction.

(7) The Authority may bring proceedings in the Supreme Court for an order to require a public authority to comply with a direction under this section.

(8) The Supreme Court may, in any such proceedings, make such order as it thinks fit.

*Motor Traffic (Transport Administration) Amendment 1988*SCHEDULE 1—AMENDMENTS—*continued***Recommendations as to street lighting**

2H. (1) The Authority may, for the purpose of promoting traffic safety, make recommendations to a public authority in relation to the public authority's functions in connection with the lighting of public streets, including recommendations in relation to—

- (a) general principles relating to the provision of lighting on public streets; and
- (b) the need for lighting on any particular public street or part of a public street; and
- (c) the need for the improvement of lighting on any particular public street or part of a public street.

(2) It is the duty of a public authority to which recommendations are made under this section to give them proper consideration and, as far as may be reasonably practicable, to carry them into effect.

Miscellaneous provisions

2I. (1) If the provisions of this Part are inconsistent with the provisions of—

- (a) the Local Government Act 1919; or
- (b) any regulations, ordinances or by-laws made under any Act,

the provisions of this Part shall prevail.

(2) Nothing in this Part applies to or in respect of any sign, mark, structure or device containing or relating to a requirement or direction, contravention of which gives rise to an offence under the Local Government Act 1919, or any ordinance under that Act, but not under any other Act or any regulation.

(3) Any person who or body which would not, but for this subsection, have the power to co-operate with, or do or perform any act or thing in conjunction with, the Authority is hereby authorised so to co-operate or do or perform the act or thing.

(7) Section 3 (Regulations)—**(a) Section 3—**

Omit "motor" wherever occurring (except in section 3 (1) (g2), (j)–(m), (q1), (q2), (q7), (q11) and (q12) and (1A)).

(b) Section 3—

Omit "Commissioner" wherever occurring (except in the expression "Commissioner of Police"), insert instead "Authority".

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- (c) Section 3 (1) (g2) (ix)—
Omit “him”, insert instead “the Authority”.
- (d) Section 3 (1) (m)—
At the end of section 3 (1) (m) (ii), insert:
; and
(iii) the payment of fees in respect of the granting, transfer or renewal of any such registration;
- (e) Section 3 (1) (m1) (iv), (s)—
Omit “determined fees” wherever occurring, insert instead “fees”.
- (f) Section 3 (1) (o1)–(o6)—
Before section 3 (1) (p), insert:
(o1) regulate pedestrian traffic on public streets, and make provisions as to the marking of crossing-places for pedestrian traffic and special measures to be taken and precautions to be observed by drivers for the safety of pedestrians;
(o2) prohibit the obstruction of pedestrian traffic on public streets;
(o3) prohibit or regulate the use of stalls or other means for the sale of goods, or the carrying out of any other business or trade, in a public street;
(o4) provide for the regulation of horses and the riders of horses on public streets;
(o5) prohibit or restrict the use of horses on specified public streets or within public streets in any specified area either generally or within certain hours;
(o6) prohibit or regulate the driving or leading of animals in public streets;
- (g) Section 3 (1B)—
Omit the subsection, insert instead:
(1B) In subsection (1) (q5), a reference to a vehicle includes a reference to the remains of a vehicle.
- (h) Section 3 (2) (c)—
Omit “or the Traffic Authority”, insert instead “or any other person”.
- (8) Section 3A—
Omit the section.

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(9) Section 3B—

At the end of Part 2, insert:

Shared traffic zones

3B. (1) If the Authority is of the opinion that it would be appropriate for the use of a specified public street or a specified part of a public street to be shared among pedestrian traffic, vehicular traffic and persons riding horses so that no one form of traffic has a right of precedence over another form, the Authority may, by notice published in the Gazette, designate that street or part of a street as a shared traffic zone.

(2) The Authority may, from time to time, by notice published in the Gazette, vary or revoke a designation made under subsection (1).

(3) The regulations may make provision for or with respect to—

- (a) the use of a shared traffic zone by pedestrian traffic, vehicular traffic and persons riding horses; and
- (b) the erection or placement of obstacles and other structures within such a zone, or on its perimeter for the purpose of marking its boundaries; and
- (c) the activities that may be carried on within such a zone.

(4) The provisions of this Act and the regulations, in so far as they relate to public streets and the use of public streets by pedestrian traffic, vehicular traffic or persons riding horses, apply to a shared traffic zone except to the extent that those provisions are inconsistent with the provisions of regulations made for the purposes of this section.

(10) Section 4A (**Speed limits**)—

Omit “Traffic Authority” wherever occurring, insert instead “Authority”.

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

(a) Section 4B (1)—

Omit “motor” wherever occurring.

(b) Section 4B (2)—

After “subsection (1)”, insert “in relation to a motor vehicle”.

(12) Section 4C (**Schemes to assist children to cross public streets with safety**)—

(a) Section 4C (5)—

Omit “driver of a motor vehicle”, insert instead “driver or rider of a vehicle or horse”.

*Motor Traffic (Transport Administration) Amendment 1988*SCHEDULE 1—AMENDMENTS—*continued*

- (b) Section 4C (5)—
After “vehicle” where secondly occurring, insert “or horse”.
- (13) Section 4D (**Traffic control signs**)—
- (a) Section 4D—
Omit “Traffic Authority” wherever occurring, insert instead “Authority”.
- (b) Section 4D (1)—
Omit “in accordance with section 7A of the General Traffic Act 1900”.
- (c) Section 4D (2)—
Omit “drivers or riders of motor vehicles”, insert instead “pedestrians or the drivers or riders of vehicles or horses”.
- (d) Section 4D (5) (a)—
Omit “motor vehicles”, insert instead “pedestrians or the drivers or riders of vehicles or horses”.
- (14) Section 4DA (**Photographic evidence of traffic light offences**)—
Section 4DA (1)—
Omit “Traffic Authority”, insert instead “Authority”.
- (15) Section 4E (**Prescribed concentration of alcohol in driver’s blood**)—
Section 4E (1), (1D), (1JA), (1L), (2AA), (3)—
Omit “learner’s permit” wherever occurring, insert instead “learner’s licence”.
- (16) Section 5 (**Offences**)—
- (a) Section 5 (1)—
Omit “driver of a motor vehicle”, insert instead “driver or rider of a vehicle or horse”.
- (b) Section 5 (1)—
After “licence”, insert “(in the case of the driver of a motor vehicle)”.
- (c) Section 5 (1A)—
Omit “motor vehicle”, insert instead “vehicle (in the case of a motor vehicle)”.
- (d) Section 5 (1A), (2) (c)—
Omit “learner’s permit” wherever occurring, insert instead “learner’s licence”.

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- (17) Section 5A (**Detention of vehicle in certain cases**)—
Omit “motor vehicle”, insert instead “vehicle”.
- (18) Sections 5C (2), 7B (1) (a), 8C (8) (d), 8C (9), 10 (4), 10AA (1) (b), 11AA, 11AB, 11AC (except paragraph (b)), 11B (1), 11C, 12 (1), 17A (2)—
Omit “Commissioner” wherever occurring, insert instead “Authority”.
- (19) Section 8 (**Requirements in case of accident**)—
- (a) Section 8 (1), (3), (4)—
Omit “presence of a motor vehicle” wherever occurring, insert instead “presence of a vehicle or horse”.
- (b) Section 8 (1), (3)—
Omit “driver of every motor vehicle” wherever occurring, insert instead “driver or rider of every vehicle or horse”.
- (c) Section 8 (3) (a)—
After “licence”, insert “(if the driver of a motor vehicle involved in the accident)”.
- (d) Section 8 (3) (a)—
Omit “motor vehicle” where firstly occurring, insert instead “vehicle (if a motor vehicle)”.
- (e) Section 8 (3) (a)—
Omit “such motor vehicle”, insert instead “such vehicle or horse”.
- (f) Section 8 (4)—
Omit “driver of every vehicle”, insert instead “driver or rider of every vehicle or horse”.
- (20) Section 11AA (**Grant and renewal of drivers’ licences**)—
Section 11AA (4) (d), (6) (a)—
Omit “determined” wherever occurring, insert instead “prescribed”.
- (21) Section 17A (**Indemnification for medical reporting**)—
Section 17A (2) (a)—
Omit “Department of Motor Transport”, insert instead “Authority”.
- (22) Section 18A (**Liability of motor vehicle owner for designated offences**)—
(a) Section 18A (1) (a), (3) (a)—
Omit “or as a minor offence under the regulations made under section 265 of the Transport Act 1930” wherever occurring.

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- (b) Section 18A (1) (a), (3) (a) (i)—
Omit “or under the said regulations, as the case may be,”
wherever occurring.
- (c) Section 18A (3) (a) (i)—
Omit “or under such regulations”.
- (23) Section 18B (**Penalty notices for certain offences**)—
 - (a) Section 18B (1) (c)—
Omit the paragraph.
 - (b) Section 18B (6)—
Omit “, the General Traffic Act 1900”.
- (24) Sections 18C, 21, 22—
Omit “Commissioner” wherever occurring, insert instead
“Authority”.
- (25) Section 18C (**Cancellation of licences or registration in default of
payment of penalty**)—
Section 18C (7)—
Omit “determined”, insert instead “prescribed”.
- (26) Section 20 (**Recovery and evidence**)—
Omit the section.
- (27) Section 22 (3)—
Omit “him”, insert instead “the Authority”.
- (28) Section 23—
After section 22, insert:
Street may be closed temporarily to traffic
 - 23. (1) Any member of the police force may—
 - (a) close any public street to traffic during any temporary
obstruction or danger to traffic or for any temporary
purpose; and
 - (b) prevent the traffic of any vehicles or horses in any public
street closed to traffic under paragraph (a) or under the
authority of any other Act.
 - (2) A person who, without reasonable excuse, does not comply
with any direction of a member of the police force under this
section is guilty of an offence and liable to a penalty not exceeding
\$200.

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SCHEDULE 1—AMENDMENTS—*continued*

(29) Section 24—

At the end of the Act, insert:

Power to seize unregistered vehicles

24. (1) If an unregistered motor vehicle, not being a motor vehicle exempted from registration, is used or driven on a public street, a member of the police force may seize the vehicle.

(2) If any such motor vehicle has been seized, a Local Court may, on application by a member of the police force, make an order declaring the vehicle to be forfeited to the Crown.

(3) If such an application is made, the following provisions have effect:

- (a) notice of the application shall be given to the person who had the custody of the vehicle at the time of the seizure if the person can be found and to such other persons (if any) as the Local Court concerned may direct;
- (b) no order of forfeiture may be made if the owner of the vehicle satisfies the Local Court concerned that there has been no intent to evade registration of the vehicle.

(4) Any person aggrieved by an order of a Local Court under this section may appeal against the order in the manner provided by the Justices Act 1902.

(5) The Authority may waive any such forfeiture on payment within such period as the Authority may allow of a fine equivalent to the sum obtained by adding together—

- (a) the fee for the registration or renewal of the registration of the vehicle for each year in any part of which the vehicle was used or driven on a public street while unregistered; and
- (b) the motor vehicle tax imposed under the Motor Vehicles Taxation Act 1988 which would be due on the application for that registration or renewal,

together with a further fine of 20 per cent of that sum.

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SCHEDULE 1—AMENDMENTS—*continued*

(6) If any such fine is not paid within the period so allowed, the Authority may dispose of the vehicle in the prescribed manner.

(7) If a vehicle is sold under subsection (6), the Authority shall apply the proceeds of the sale as prescribed by the regulations.

[*Minister's second reading speech made in—
Legislative Assembly on 17 November 1988
Legislative Council on 1 December 1988*]