

**STATE ROADS AND TRAFFIC (OFFENCES AND
PENALTIES) AMENDMENT ACT 1991 No. 24**

NEW SOUTH WALES



TABLE OF PROVISIONS

1. Short title
2. Commencement
3. Amendment of State Roads Act 1986 No. 85
4. Amendment of Traffic Act 1909 No. 5, s. 18B (Penalty notices for certain offences)
5. Consequential amendment of other Acts

SCHEDULE 1—AMENDMENT OF STATE ROADS ACT 1986

SCHEDULE 3—AMENDMENT OF TRAFFIC ACT 1909

SCHEDULE 3—CONSEQUENTIAL AMENDMENT OF OTHER ACTS

**STATE ROADS AND TRAFFIC (OFFENCES AND
PENALTIES) AMENDMENT ACT 1991 No. 24**

NEW SOUTH WALES



Act No. 24, 1991

An Act to amend the State Roads Act 1986 with respect to offences and penalties and the application of revenue from penalties; to amend the Traffic Act 1909 with respect to fine default; consequentially to amend certain other Acts; and for other purposes. [Assented to 30 August 1991]

State Roads and Traffic (Offences and Penalties) Amendment 1991

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the State Roads and Traffic (Offences and Penalties) Amendment Act 1991.

Commencement

2. (1) This Act commences on a day or days to be appointed by proclamation, except as provided by subsection (2).

(2) Schedule 1 (8), and section 3 in its application to that provision, commence on the date of assent to this Act.

Amendment of State Roads Act 1986 No. 85

3. The State Roads Act 1986 is amended as set out in Schedule 1.

Amendment of Traffic Act 1909 No. 5, s 18B (Penalty notices for certain offences)

4. The Traffic Act 1909 is amended as set out in Schedule 2.

Consequential amendment of other Acts

5. Each Act specified in Schedule 3 is amended as set out in that Schedule.

SCHEDULE 1—AMENDMENT OF STATE ROADS ACT 1986

(Sec. 3)

- (1) Sections 19, 23, 25, 30, 32, 41, 60–62, 66, 67, 72, 89, 93, 105:
- (a) Omit “\$1,000” wherever occurring, insert instead “10 penalty units”.
 - (b) Omit “\$500” wherever occurring, insert instead “5 penalty units”.
 - (c) Omit “\$1,500” wherever occurring, insert instead “15 penalty units”.
 - (d) Omit “\$3,000” wherever occurring, insert instead “30 penalty units”.

State Roads and Traffic (Offences and Penalties) Amendment 1991

SCHEDULE 1—AMENDMENT OF STATE ROADS ACT 1986—
continued

(2) Section 73 (**Weight checks**):

- (a) From section 73 (1), (8) and (9), omit “\$1,000” wherever occurring, insert instead “15 penalty units”.
- (b) From section 73 (1), (8) and (9), omit “\$2,000” wherever occurring, insert instead “30 penalty units”.

(3) Section 84A:

After section 84, insert:

Penalties etc.

84A. (1) In this section, “**RTA Fund**” means the Roads and Traffic Authority Fund established under the Transport Administration Act 1988.

(2) There is appropriated by this section for payment out of the Consolidated Fund into the RTA Fund all amounts paid into the Consolidated Fund after the commencement of this section in respect of fines and penalties recovered for offences under this Act or the regulations.

(3) Amounts referred to in subsection (2) include amounts paid in respect of penalty notices under this Act or the Traffic Act 1909.

(4) It does not matter whether an amount appropriated under subsection (2) became payable before or after the commencement of this section.

(4) Section 99:

Omit the section, insert instead:

Liability for contravention of Act or regulations

99. (1) If a vehicle is driven or drawn on a main road or a toll work in contravention of this Act or the regulations:

- (a) the person who is the owner of the vehicle; and
- (b) the person who has custody of the vehicle; and
- (c) in the case of a registered vehicle—the person in whose name the vehicle is registered,

are each guilty of an offence against this Act and liable to a penalty not exceeding 15 penalty units for a first offence and 30 penalty units for a second or subsequent offence.

State Roads and Traffic (Offences and Penalties) Amendment 1991

SCHEDULE 1—AMENDMENT OF STATE ROADS ACT 1986—
continued

(2) A reference in subsection (1) to the owner, registered owner or person having custody of a vehicle includes, where the vehicle consists of a prime mover and a trailer, a reference to the owner, registered owner or person having custody of either the prime mover or the trailer.

(3) It is a defence in any proceedings for an offence under this section if the defendant satisfies the court that the defendant:

- (a) did not know of the Contravention and could not reasonably be expected to have known of it: and
- (b) had taken all reasonable steps to prevent such a contravention.

(4) In order to satisfy the court, for the purposes of a defence under subsection (3), that the defendant did not know and could not reasonably **be** expected to how of a contravention, a defendant corporation must satisfy the court that:

- (a) no director of the corporation: and
- (b) no person having management functions in the corporation in relation to activities in connection with which the contravention occurred,

knew of the contravention or could reasonably be expected to have known of it.

(5) In a case where the contravention resulted from the fact that the weight of the vehicle or part of the vehicle, together with the weight of any load on the vehicle or part, exceeded any limit prescribed by or under this Act, the court should not be satisfied that the defendant took all reasonable steps to avoid the contravention if it is not satisfied that the defendant took all reasonable steps to cause the weight of the load carried on the vehicle to be ascertained at the commencement of the journey during which the contravention occurred.

(6) Subsection (5) does not apply if the defendant satisfies the court that at all material times the defendant did not, either personally or through any agent or employee, have custody or control of the vehicle.

(7) For the purposes of subsection (5), the court should not be satisfied that the defendant took **all** reasonable steps **to**

State Roads and Traffic (Offences and Penalties) Amendment 1991

SCHEDULE 1—AMENDMENT OF STATE ROADS ACT 1986—
continued

cause the weight of a load to be ascertained if it is not satisfied that either:

- (a) the load had been weighed; or
- (b) the defendant, or the driver of the vehicle, was in possession of sufficient and reliable evidence from which that weight was calculated.

(5) Section 100 (**Supply of information**):

- (a) From section 100 (6), omit “\$1,000”, insert instead “ 1 5 penalty units”.
- (b) From section 100 (6), omit “\$2,000”, insert instead “30 penalty units”.

(6) Section 100A (**Owner’s liability for certain offences**):

In section 100A (4) (a), after “section 100B” wherever occurring, insert “or under section 18B of the Traffic Act 1909”.

(7) Section 100B (**Penalty notices for certain offences**):

After section 100B (9), insert:

(10) An offence that is prescribed for the purposes of section 18B of the Traffic Act 1909 cannot be prescribed for the purposes of, or dealt with under, this section.

(8) Schedule 3 (**Savings and Transitional Provisions**):

Before clause 13, insert:

Load weight regulation

12. (1) Ordinance No. 30C made under the Local Government Act 1919 has effect as if it were a regulation under this Act, and is taken to have had that effect on and from the date of assent to this Act.

(2) That Ordinance may at any time be amended or repealed by a regulation under this Act.

SCHEDULE 2—AMENDMENT OF TRAFFIC ACT 1909

(Sec. 4)

- (1) From section 18B (1) (f), omit “or” where secondly occurring.

State Roads and Traffic (Offences and Penalties) Amendment 1991

SCHEDULE 2—AMENDMENT OF TRAFFIC ACT 1909—
continued

(2) At the end of section 18B (1) (g), insert:

; or

(h) has committed, or by virtue of section 100A of the State Roads Act 1986 is guilty of, any prescribed offence under that Act or the regulations under that Act,

SCHEDULE 3—CONSEQUENTIAL AMENDMENT OF OTHER ACTS

(Sec. 5)

Local Government Act 1919 No. 41:

From section 277A (**Ordinances for preventing damage to roads**), omit subsection (5) (b).

Transport Administration Act 1988 No. 109:

From section 78 (**Payments into Roads and Traffic Authority Fund**), omit subsection (1) (e).

*[Minister's second reading speech made in—
Legislative Assembly on 2 July 1991
Legislative Council on 21 August 1991]*