



New South Wales

Road Transport (Driver Licensing) Amendment Act 1999 No 59

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Road Transport (Driver Licensing) Amendment Act 1999 No 59

Act No 59, 1999

An Act to amend the *Road Transport (Driver Licensing) Act 1998* so as to set out the circumstances in which the Roads and Traffic Authority may retain and use photographs of people who have applied for driver licences, “proof of age” cards or certain other licences; and for other purposes. [Assented to 24 November 1999]

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Road Transport (Driver Licensing) Amendment Act 1999*.

2 Commencement

- (1) Except as provided by subsections (2) and (3), this Act commences on the date of assent.
- (2) Schedule 1 commences on a day or days to be appointed by proclamation.
- (3) Schedule 2.1 [1] commences on the date of commencement of the *Road Transport (Safety and Traffic Management) Act 1999* or the date of assent to this Act, whichever occurs later.

3 Amendment of Road Transport (Driver Licensing) Act 1998 No 99

The *Road Transport (Driver Licensing) Act 1998* is amended as set out in Schedule 1.

4 Further amendments

Each Act specified in Schedule 2 is amended as set out in that Schedule.

Schedule 1 Amendments relating to use of photographs

(Section 3)

[1] Section 12 Security of information in registers

Insert at the end of section 12:

- (2) However, if the register includes any photograph to which Part 5 applies, Part 5 (rather than the regulations) applies to the release of that photograph.

[2] Section 32 Additional matters relating to identity

Omit section 32 (2) and (3).

[3] Part 5

Insert after section 38:

Part 5 Protection of stored photographs

39 Photographs to which this Part applies

This Part applies to:

- (a) photographs taken or provided in relation to applications for the issue or renewal by the Authority of a driver licence, and
- (b) photographs taken or provided for the purpose of applications for the issue or renewal by the Authority of a “proof of age” card, and
- (c) photographs:
 - (i) taken or provided for the purpose of applications for the issue or renewal by the Commissioner of Police of a licence under the *Firearms Act 1996* or the *Security Industry Act 1997*, and
 - (ii) forwarded by the Commissioner of Police to the Authority.

40 Purposes for which photographs may be kept and used

- (1) A photograph to which this Part applies may be kept and used by the Authority only for one or more of the following purposes:
- (a) to reproduce the likeness of a person on a driver licence or a “proof of age” card or on a licence under the *Firearms Act 1996* or the *Security Industry Act 1997*,
 - (b) to assist in determining the identity of any person in the course of determining whether or not to issue, replace or renew a driver licence or a “proof of age” card,
 - (c) to assist in determining the identity of any person in the course of determining whether or not to register, or renew the registration of, a vehicle under the *Road Transport (Vehicle Registration) Act 1997*,
 - (d) in connection with an investigation relating to or leading to criminal proceedings against a person under section 22 (1) (a) (for obtaining or attempting to obtain a driver licence or the renewal of a driver licence by a false statement or any misrepresentation or other dishonest means) or under any other provision of this Act,
 - (e) in connection with an investigation relating to or leading to criminal proceedings against a person under section 19 of the *Road Transport (Vehicle Registration) Act 1997* (for obtaining registration or unregistered vehicle permits by a false statement or any misrepresentation or other dishonest means),
 - (f) for the conduct of criminal proceedings under this Act or section 19 of the *Road Transport (Vehicle Registration) Act 1997*,
 - (g) for any other purpose prescribed by the regulations.
- (2) A photograph may be used for a purpose set out in this section at the time that the photograph is provided or taken or at any later time.

41 Release of photographs prohibited

- (1) The Authority must ensure that a photograph to which this Part applies, and any photographic image or other matter contained in any database of such photographs, is not released except:
- (a) to the Police Service, or
 - (b) to a driver licensing authority of another State or Territory, or
 - (c) for the purpose of the conduct of any criminal proceedings:
 - (i) under this Act or under any provision of any other road transport legislation (within the meaning of section 5 of the *Road Transport (General) Act 1999*), or
 - (ii) in relation to a “proof of age” card, or
 - (iii) in relation to a licence under the *Firearms Act 1996* or the *Security Industry Act 1997*, or
 - (d) to the Sheriff, for the purpose of any fine recovery proceedings, or
 - (e) as provided under any other law, or
 - (f) to the person whose likeness is shown in the photograph or on the database, or
 - (g) in accordance with the regulations.
- (2) Any release authorised by subsection (1) (a)–(d), or authorised by regulations made under subsection (1) (g), must be in accordance with any protocol approved by the Privacy Commissioner.

Schedule 2 Amendments relating to cancellation or suspension of driver licences

(Section 4)

2.1 Road Transport (Driver Licensing) Act 1998 No 99

[1] Section 33 Cancellation or suspension of driver licence by Authority

Omit section 33 (5). Insert instead:

(5) In this section:

speeding offence means an offence that involves exceeding a speed limit fixed by or under the *Road Transport (Safety and Traffic Management) Act 1999* and that is prescribed for the purposes of this section.

[2] Schedule 3 Savings, transitional and other provisions

Insert after clause 9:

Part 4 Provisions consequent on enactment of Road Transport (Driver Licensing) Amendment Act 1999

10 Transitional amendment regarding offences under Traffic Act 1909

(1) This clause applies if the *Road Transport (Driver Licensing) Amendment Act 1999* is assented to before the commencement of the *Road Transport (Safety and Traffic Management) Act 1999*.

- (2) Until section 33 (5) is substituted by Schedule 2.1 [1] to the *Road Transport (Driver Licensing) Amendment Act 1999*, section 33 (5) (b) is taken to refer to an offence under section 4A (1A), (1B), (5B) or (5BA) of the *Traffic Act 1909*.

11 Transitional provision regarding offences under Road Transport (Safety and Traffic Management) Act 1999

Until a regulation is made under section 33 (5), as amended by the *Road Transport (Driver Licensing) Amendment Act 1999*, the offences prescribed for the purposes of section 33 (5) are all those offences that involve exceeding any speed limit fixed by or under the *Road Transport (Safety and Traffic Management) Act 1999*, applicable to the relevant driver or vehicle, by more than 30 kilometres per hour.

12 Validation

- (1) This clause applies to a driver licence that was purportedly cancelled or suspended under section 33 of the *Road Transport (Driver Licensing) Act 1998* on or after the commencement of that section and before the commencement of this clause.
- (2) A driver licence to which this clause applies is taken to have been validly cancelled or suspended if it could have been cancelled or suspended had section 33, as referred to in clause 10 (2), been in force when the driver licence was cancelled or suspended and had offences under section 4A (1A), (1B), (5B) or (5BA) of the *Traffic Act 1909* been prescribed under section 33 at that time.

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Schedule 2 Amendments relating to cancellation or suspension of driver licences

2.2 Road Transport Legislation Amendment Act 1999 No 19

[1] Schedule 2 Consequential amendment of Acts

Omit “drivers licence” from section 25 (4) of the *Road Transport (Driver Licensing) Act 1998* (as proposed to be inserted by Schedule 2.36 [6]).
Insert instead “driver licence”.

[2] Schedule 2.36 [14]

Omit the item.

[Minister's second reading speech made in—
Legislative Assembly on 27 October 1999
Legislative Council on 16 November 1999]

BY AUTHORITY