



New South Wales

Road Transport (General) Amendment (Operator Onus Offences) Act 2002 No 11

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New South Wales

Road Transport (General) Amendment (Operator Onus Offences) Act 2002 No 11

Act No 11, 2002

An Act to amend the *Road Transport (General) Act 1999* to reduce the opportunity for avoidance of infringement notices for operator onus offences; and for other purposes. [Assented to 22 April 2002]

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Road Transport (General) Amendment (Operator Onus Offences) Act 2002*.

2 Commencement

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

3 Amendment of Road Transport (General) Act 1999 No 18

The *Road Transport (General) Act 1999* is amended as set out in Schedule 1.

Schedule 1 Amendments

(Section 3)

[1] Section 43 Liability of responsible person for vehicle for designated offences

Insert after section 43 (4):

(4A) For the purposes of subsections (3) and (4), it is presumed that a penalty notice served on a person by post is served on the person 21 days after it is posted, unless the person establishes that it was not received by the person, or was not received by the person within the 21-day period.

(4B) A statutory declaration under subsection (3) or (4) must include the matters prescribed by the regulations, unless the notice or summons was in respect of a minor parking offence.

[2] Section 43 (5)

Omit “10 penalty units”. Insert instead “20 penalty units”.

[3] Section 43 (7A)

Insert after section 43 (7):

(7A) In deciding whether the responsible person for a vehicle has exercised reasonable diligence to ascertain the name and address of the person who was in charge of the vehicle, an authorised officer or court may have regard to the matters set out in a statutory declaration provided by the responsible person under this section.

[4] Section 43 (11)

Insert in alphabetical order:

minor parking offence means a parking offence for which a person does not incur demerit points under the *Road Transport (Driver Licensing) Act 1998*.

[5] Section 46 Certificate evidence and other evidentiary provisions

Insert after section 46 (7):

- (7A) A document that appears to be signed on behalf of the Commissioner of Police certifying that a penalty notice was posted to a person on a specified date is admissible in any proceedings and is evidence of the matters stated in it unless there is evidence to the contrary.

[6] Section 47 Proceedings for offences

Insert at the end of the section:

- (2) Despite any other Act, proceedings for an operator onus offence may be commenced within 1 year after the date of the alleged commission of the offence.
- (3) In this section:
- operator onus offence* means any of the following offences (as defined in section 43 (11)):
- (a) a camera-detected traffic light offence,
 - (b) a camera-recorded speeding offence,
 - (c) a parking offence.

[7] Schedule 2 Savings, transitional and other provisions

Insert at the end of clause 1 (1):

Road Transport (General) Amendment (Operator Onus Offences) Act 2002

[8] Schedule 2

Insert at the end of the Schedule, with appropriate Part and clause numbers:

Part Provisions consequent on enactment of Road Transport (General) Amendment (Operator Onus Offences) Act 2002

Offences under amended provisions

- (1) A provision of this Act as in force immediately before the commencement of the *Road Transport (General) Amendment (Operator Onus Offences) Act 2002* continues to apply in relation to an operator onus offence committed, or alleged to have been committed, before that commencement as if that Act had not been enacted.
- (2) In this clause:
operator onus offence means any of the following offences (as defined in section 43 (11)):
 - (a) a camera-detected traffic light offence,
 - (b) a camera-recorded speeding offence,
 - (c) a parking offence.

[Second reading speech made in—
Legislative Assembly on 13 March 2002
Legislative Council on 9 April 2002]