



New South Wales

Fines Amendment Act 2016 No 13

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New South Wales

Fines Amendment Act 2016 No 13

Act No 13, 2016

An Act to amend the *Fines Act 1996* and other legislation with respect to liability for fines imposed for certain parking and other vehicle or vessel offences and other matters related to the enforcement of fines. [Assented to 11 May 2016]

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Fines Amendment Act 2016*.

2 Commencement

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

3 Explanatory notes

The matter appearing under the heading “Explanatory note” in Schedule 1 or 2 does not form part of this Act.

Schedule 1 Amendment of Fines Act 1996 No 99

[1] Sections 23AA and 23AB

Insert after section 23:

23AA Payment of fine before vehicle or vessel offence nomination made—payment by or for nominated person

- (1) This section applies if:
 - (a) a penalty notice is issued for a vehicle or vessel offence (the *original notice*), and
 - (b) the amount payable under the penalty notice for the offence was paid when or before a nomination notice was given in respect of the offence, and
 - (c) an appropriate officer for the penalty notice is satisfied that the amount was paid by, or on behalf of and with the consent of, the nominated person.
- (2) An appropriate officer for the penalty notice:
 - (a) may issue a penalty notice to the nominated person, and
 - (b) must advise the nominated person that, as the amount has been paid, there is no further liability for further proceedings for the offence to which the notice relates, and
 - (c) must not take any further proceedings for the offence to which the notice relates.
- (3) This Act, and any other law, applies as if the amount paid was paid in respect of the offence specified in the penalty notice issued to the nominated person under this section and not the offence specified in the original notice.
- (4) Any action taken to record demerit points against a person to whom the original notice was issued in the NSW demerit points register kept under the *Road Transport Act 2013* because of the payment of the amount is to be reversed, and any driver licence affected as a consequence of the recording of the demerit points is to be restored (subject to any other matters affecting the licence), by Roads and Maritime Services.
- (5) To avoid doubt, the nominated person may make an election under section 23A in respect of a penalty notice issued under this section.
- (6) This section applies despite section 23 (2) and any other provision of this Act or any other Act under which a vehicle or vessel offence is enacted that provides that if an amount is paid under a penalty notice no person is liable to any further proceedings for the alleged offence.
- (7) In this section:

nominated person means a person nominated by a nomination notice.

nomination notice means:

 - (a) an approved nomination notice within the meaning of section 38 (whether given under this Act or another Act), or
 - (b) a relevant nomination document within the meaning of Division 2 of Part 7.3 of the *Road Transport Act 2013* (whether given under that Act or another Act).

23AB Payment of fine before vehicle or vessel offence nomination made—other cases

- (1) This section applies if:
 - (a) a penalty notice is issued for a vehicle or vessel offence, and
 - (b) the amount payable under the penalty notice for the offence was paid before a nomination notice was given in respect of the offence, and
 - (c) section 23AA does not apply.
- (2) An appropriate officer for the penalty notice may withdraw the notice.
- (3) If the penalty notice is withdrawn:
 - (a) the amount that was payable under the notice ceases to be payable, and
 - (b) any amount that has been paid under the notice is repayable to the person by whom it was paid, and
 - (c) further proceedings in respect of the vehicle or vessel offence may be taken against any person (including the person on whom the notice was served).
- (4) Any action taken to record demerit points against a person to whom the penalty notice was issued in the NSW demerit points register kept under the *Road Transport Act 2013* because of the payment of the amount is to be reversed, and any driver licence affected as a consequence of the recording of the demerit points is to be restored (subject to any other matters affecting the licence), by Roads and Maritime Services.
- (5) This section applies despite any other provision of this Act or any other Act under which a vehicle or vessel offence is enacted that provides that if an amount is paid under a penalty notice no person is liable to any further proceedings for the alleged offence.
- (6) Nothing in this section requires an appropriate officer to withdraw a penalty notice.
- (7) In this section:

nomination notice means:

 - (a) an approved nomination notice within the meaning of section 38 (whether given under this Act or another Act), or
 - (b) a relevant nomination document within the meaning of Division 2 of Part 7.3 of the *Road Transport Act 2013* (whether given under that Act or another Act).

Explanatory note

Item [1] inserts proposed sections 23AA and 23AB to provide for the effect of a nomination of the person in charge of a vehicle for the purposes of removing liability from the owner for certain vehicle, vessel and parking offences, if the nomination is made after a fine is paid as required by a penalty notice issued to the owner for the offence.

If the appropriate officer for the penalty notice is satisfied the fine was paid by or on behalf of the nominated person when or before the nomination was made, a penalty notice may be issued to the nominated person and that person will be treated as if the offence was committed by that person (for example, for demerit points purposes). No further action will be taken for proceedings for the offence. Any action taken to record demerit points or other action against the driver licence of the owner for the offence will be reversed.

In any other case, the appropriate officer for the penalty notice may withdraw the penalty notice and the amount payable under the penalty notice is not required to be paid and is repayable to the person who paid it. Further proceedings may be taken against any person for the offence. Any action taken to record demerit points or other action against the driver licence of the owner for the offence will be reversed.

[2] Section 28 Service of penalty reminder notices

Insert at the end of section 28 (2) (c):

, or

- (d) any other address supplied by the person in connection with a fines application made in relation to the fine concerned or another fine.

[3] Section 28 (3)

Insert after section 28 (2):

- (3) In this section, *fines application* means any of the following:
 - (a) an application for a review of a decision to issue a penalty notice under section 24A,
 - (b) an application for a work and development order,
 - (c) an application for a time to pay order,
 - (d) an election under section 23A or 36 to have a matter dealt with by a court.

Explanatory note

Items [2] and [3] enable the service of a penalty reminder notice at any address previously provided by a person for the purposes of an application for a review of a penalty notice, a work and development order or a time to pay order or for an election to have an offence for which a penalty notice was given dealt with by a court.

[4] Section 38 Circumstances in which person issued with penalty reminder notice for vehicle or vessel offence is not liable to pay penalty

Omit paragraph (h) of the definition of *vehicle or vessel offence* in section 38 (4).

Explanatory note

Item [4] makes a statute law revision amendment to remove a redundant offence from the list of offences for which a responsible owner may nominate the person in charge of a vehicle or vessel for the purpose of responsibility for an offence involving the vehicle or vessel.

[5] Section 46 Withdrawal of order

Insert after section 46 (1):

- (1A) The Commissioner may withdraw a penalty notice enforcement order if the penalty notice for the fine to which it applies is withdrawn by the Commissioner under an arrangement under section 114.

Explanatory note

Item [5] makes it clear that the Commissioner of Fines Administration may withdraw a penalty notice enforcement order if the penalty notice for the fine is withdrawn by the Commissioner.

[6] Section 58 Summary of enforcement procedure

Omit “after 6 months” from section 58 (1) (c).

Insert instead “21 days after the Commissioner directs Roads and Maritime Services to take enforcement action”.

Explanatory note

Item [6] is consequential on the amendment made by item [10].

[7] Section 61 Service of notice

Omit section 61 (2). Insert instead:

- (2) The address for service of any such notice of a court enforcement order includes:
 - (a) the address for service of the person in connection with the proceedings in which the fine was imposed, or
 - (b) any other address supplied by the person in connection with a fines application made in relation to the fine concerned or another fine.

[8] Section 61 (3) (e)

Insert at the end of section 61 (3) (d):

, or

- (e) any other address supplied by the person in connection with a fines application made in relation to the fine concerned or another fine.

[9] Section 61 (4)

Insert after section 61 (3):

- (4) In this section, *fines application* means any of the following:
 - (a) an application for a review of a decision to issue a penalty notice under section 24A,
 - (b) an application for a work and development order,
 - (c) an application for a time to pay order,
 - (d) an election under section 23A or 36 to have a matter dealt with by a court.

Explanatory note

Items [7]–[9] enable the service of a fine enforcement order at any address previously provided by a person for the purposes of an application for a review of a penalty notice, a work and development order or a time to pay order or for an election to have an offence for which a penalty notice was given dealt with by a court.

[10] Section 71 When enforcement action taken under this Division

Omit section 71 (1) (b). Insert instead:

- (b) the fine remains unpaid 21 days after the Commissioner directed Roads and Maritime Services to take enforcement action under Division 3.

Explanatory note

Item [10] enables civil enforcement measures, such as property seizure orders or garnishee orders, to be taken against a fine defaulter 21 days after enforcement action is directed to be taken against the driver licence or vehicle registration of the fine defaulter. Currently, civil enforcement measures cannot be taken until all available enforcement action has been taken under the driver licence or vehicle registration measures.

[11] Section 100 Time to pay

Insert after section 100 (4B):

- (4C) Without limiting subsection (4A), the Commissioner may, on the Commissioner's initiative, amend an order allowing further time to pay by extending the arrangements under the order to payment of another fine for which a fine enforcement order has been made against the fine defaulter.
- (4D) The Commissioner must give the fine defaulter written notice of the amendment as soon as practicable after amending the order.

- (4E) On being given notice by the fine defaulter that the fine defaulter does not agree to an amendment made under subsection (4C), the Commissioner must amend the order to remove the extension to the other fine.
- (4F) An amendment made under subsection (4E) does not affect the validity of anything done before that amendment in relation to the other fine.

Explanatory note

Item [11] enables the Commissioner of Fines Administration to determine that additional fines incurred by a fine defaulter are to be covered by an existing order that allows the fine defaulter further time to pay a previous fine. If a fine defaulter is notified of the change and objects, the Commissioner is to remove the extension of the order.

[12] Section 117AB

Omit the section. Insert instead:

117AB Access to and use of information held by credit reporting bodies

- (1) A credit reporting body is authorised to disclose to the Commissioner, on written request, relevant information about a fine defaulter for the purposes of the Commissioner taking action against the person to enforce payment of a fine.
- (2) In this section:
credit reporting body and *identification information* have the same meanings as in the *Privacy Act 1988* of the Commonwealth.
relevant information about a fine defaulter means any of the following information:
- (a) identification information,
 - (b) the name of an authorised deposit-taking institution of which the fine defaulter is a customer and details of any account of the fine defaulter with the institution.

Note. Identification information under the *Privacy Act 1988* of the Commonwealth consists of the following information:

- (a) full name (including any known aliases), sex and date of birth,
- (b) a maximum of 3 addresses consisting of a current or last known address and 2 immediately previous addresses,
- (c) name of current or last known employer,
- (d) driver licence number.

Explanatory note

Item [12] authorises a credit reporting body to disclose to the Commissioner of Fines Administration information about the name of an authorised deposit-taking institution of which a fine defaulter is a customer and details of any account of a fine defaulter with the institution. The item also updates references to provisions of Commonwealth legislation.

[13] Section 126A Penalty notices and penalty reminder notices sent to recently reported address and returned to sender

Omit section 126A (3). Insert instead:

- (3) In this section, *recently reported address*, in relation to a penalty notice or penalty reminder notice sent to a person, means:
- (a) the latest address supplied by the person to the appropriate officer, under a legal obligation, when the offence was alleged to have been committed or in connection with a fines application relating to the fine to which the notice relates or another fine, or
 - (b) if, after an address was supplied as referred to in paragraph (a), the records of Roads and Maritime Services in relation to a current driver

- licence or vehicle registration were altered to show a different address for the person—that address, or
- (c) in any other case—an address shown in the records of Roads and Maritime Services in relation to a current driver licence or vehicle registration as the address of the person.
- (4) In this section, *finer application* means any of the following:
- (a) an application for a review of a decision to issue a penalty notice under section 24A,
 - (b) an application for a work and development order,
 - (c) an application for a time to pay order,
 - (d) an election under section 23A or 36 to have a matter dealt with by a court.

Explanatory note

Item [13] adds any address previously provided by a person for the purposes of an application for a review of a penalty notice, a work and development order or a time to pay order or for an election to have an offence for which a penalty notice was given dealt with by a court to the list of addresses that are taken to be recently reported addresses. If a penalty notice or penalty reminder notice, or both, are returned as being undelivered to the sender and the notice was sent to a recently reported address, a penalty reminder notice (in the case of a penalty notice) or a penalty notice enforcement order (in the case of a penalty reminder notice) may still be issued.

[14] Schedule 3 Savings, transitional and other provisions

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

Part Provisions consequent on enactment of State Revenue Legislation Amendment Act 2016

Definition

In this Part:

amending Act means the *Fines Amendment Act 2016*.

Enforcement action relating to driver nominations

Sections 23AA and 23AB, as inserted by the amending Act, extend to nomination notices and penalty notices issued before the commencement of those sections.

Enforcement action against fine defaulter

Section 71, as amended by the amending Act, extends to fines imposed before the amendment of the section.

Explanatory note

Item [14] extends the new provisions relating to driver nominations and the amendments relating to action against fine defaulters before completion of driver licence or vehicle registration action to matters that occurred before the commencement of the provisions and amendments.

Schedule 2 Amendment of other Acts and regulation

2.1 Centennial Park and Moore Park Trust Act 1983 No 145

[1] Section 23 Liability of vehicle owner for certain offences

Omit section 23 (3) (a) (i). Insert instead:

- (i) within 21 days after service on the person of a notice under that section in respect of the offence, gives a prescribed officer referred to in the notice an approved nomination notice containing the name and address of the person who was in charge of the vehicle at all relevant times relating to the offence, or

[2] Section 23 (3) (b) (i)

Omit the subparagraph. Insert instead:

- (i) within 21 days after service on the person of a court attendance notice in respect of the offence, gives the informant an approved nomination notice containing the name and address of the person who was in charge of the vehicle at all relevant times relating to the offence, or

[3] Section 23 (3A) and (3B)

Insert after section 23 (3):

- (3A) Despite any other provision of this Act, an approved nomination notice may be provided by a person served with a notice under section 24 within 90 days of the notice being served on the person if the approved nomination notice is provided in the circumstances specified in section 23AA or 23AB of the *Fines Act 1996*.
- (3B) If the owner of a vehicle gives an approved nomination notice to a prescribed officer or an informant for the purposes of this section, a prescribed officer or informant may, by written notice served on the owner, require the owner to supply a statutory declaration for use in court proceedings that verifies the nomination contained in the approved nomination notice.

[4] Section 23 (4)

Omit “subsection (3)”. Insert instead “subsection (3B)”.

[5] Section 23 (5)

Omit the subsection. Insert instead:

- (5) An approved nomination notice or a statutory declaration which relates to more than one offence is taken not to be an approved nomination notice or a statutory declaration under, or for the purposes of, subsection (3) or (3B).

[6] Section 23 (6)

Insert in alphabetical order:

approved nomination notice has the same meaning as in section 38 of the *Fines Act 1996*.

Explanatory note

Schedule 2.1 amends the provision that makes the owner of a vehicle liable for an offence under the regulations that relates to a vehicle unless the owner nominates the person who was in charge of the vehicle at the time of the offence.

Items [1] and [2] replace the requirement to supply a statutory declaration containing the name and address of the person in charge of the vehicle with a requirement to supply an approved nomination notice. An approved nomination notice is a notice in a form approved by the Commissioner of Fines Administration.

Item [3] extends the time for supplying an approved nomination notice from 21 days to 90 days if the notice is supplied after any fine specified by a penalty notice for the offence is paid. Proposed sections 23AA and 23AB of the *Fines Act 1996* provide for the effect of any such later nomination. The item also enables the owner to be required to provide a statutory declaration that verifies the nomination in the approved nomination notice for use in court proceedings.

Items [4] and [5] make consequential amendments.

Item [6] inserts a definition of **approved nomination notice**.

2.2 Crown Lands Act 1989 No 6

[1] Section 161 Liability of vehicle owner for certain offences

Omit section 161 (3) (a) (i). Insert instead:

- (i) within 21 days after service on the owner of a notice under that section in respect of the offence, gives an authorised person referred to in the notice an approved nomination notice containing the name and address of the person who was in charge of the vehicle at all relevant times relating to the offence, or

[2] Section 161 (3) (b) (i)

Omit the subparagraph. Insert instead:

- (i) within 21 days after service on the owner of a court attendance notice in respect of the offence, gives the informant an approved nomination notice containing the name and address of the person who was in charge of the vehicle at all relevant times relating to the offence, or

[3] Section 161 (3A) and (3B)

Insert after section 161 (3):

- (3A) Despite any other provision of this Act, an approved nomination notice may be provided by a person served with a notice under section 162 within 90 days of the notice being served on the person if the approved nomination notice is provided in the circumstances specified in section 23AA or 23AB of the *Fines Act 1996*.
- (3B) If the owner of a vehicle gives an approved nomination notice to an authorised person or informant for the purposes of this section, an authorised person or informant may, by written notice served on the owner, require the owner to supply a statutory declaration for use in court proceedings that verifies the nomination contained in the approved nomination notice.

[4] Section 161 (4)

Omit “subsection (3)”. Insert instead “subsection (3B)”.

[5] Section 161 (5)

Omit the subsection. Insert instead:

- (5) An approved nomination notice or a statutory declaration which relates to more than one offence is not an approved nomination notice or a statutory declaration for the purposes of subsection (3) or (3B).

[6] Section 161 (6)

Insert in alphabetical order:

approved nomination notice has the same meaning as in section 38 of the *Fines Act 1996*.

Explanatory note

Schedule 2.2 amends the provision that makes the owner of a vehicle liable for an offence that relates to a vehicle on vacant public land unless the owner nominates the person who was in charge of the vehicle at the time of the offence.

Items [1] and [2] replace the requirement to supply a statutory declaration containing the name and address of the person in charge of the vehicle with a requirement to supply an approved nomination notice. An approved nomination notice is a notice in a form approved by the Commissioner of Fines Administration.

Item [3] extends the time for supplying an approved nomination notice from 21 days to 90 days if the notice is supplied after any fine specified by a penalty notice for the offence is paid. Proposed sections 23AA and 23AB of the *Fines Act 1996* provide for the effect of any such later nomination. The item also enables the owner to be required to provide a statutory declaration that verifies the nomination in the approved nomination notice for use in court proceedings.

Items [4] and [5] make consequential amendments.

Item [6] inserts a definition of *approved nomination notice*.

2.3 Forestry Act 2012 No 96

[1] Section 87 Liability of vehicle owner for parking offences

Omit section 87 (3) (a) (i). Insert instead:

- (i) within 21 days after service on the person of a notice under that section in respect of the offence, gives an authorised person referred to in the notice an approved nomination notice containing the name and address of the person who was in charge of the vehicle at all relevant times relating to the offence, or

[2] Section 87 (3) (b) (i)

Omit the subparagraph. Insert instead:

- (i) within 21 days after service on the person of a court attendance notice in respect of the offence, gives the informant an approved nomination notice containing the name and address of the person who was in charge of the vehicle at all relevant times relating to the offence, or

[3] Section 87 (3A) and (3B)

Insert after section 87 (3):

- (3A) Despite any other provision of this Act, an approved nomination notice may be provided by a person served with a notice under section 85 within 90 days of the notice being served on the person if the approved nomination notice is provided in the circumstances specified in section 23AA or 23AB of the *Fines Act 1996*.
- (3B) If the owner of a vehicle supplies an approved nomination notice to an authorised person or an informant for the purposes of this section, an authorised person or informant may, by written notice served on the owner, require the owner to supply a statutory declaration for use in court proceedings that verifies the nomination contained in the approved nomination notice.

[4] Section 87 (4)

Omit “subsection (3)”. Insert instead “subsection (3B)”.

[5] Section 87 (5)

Omit the subsection. Insert instead:

- (5) An approved nomination notice or a statutory declaration that relates to more than one parking offence is not an approved nomination notice or a statutory declaration for the purposes of subsection (3) or (3B).

[6] Section 87 (6)

Insert in alphabetical order:

approved nomination notice has the same meaning as in section 38 of the *Fines Act 1996*.

Explanatory note

Schedule 2.3 amends the provision that makes the owner of a vehicle liable for a parking offence unless the owner nominates the person who was in charge of the vehicle at the time of the offence.

Items [1] and [2] replace the requirement to supply a statutory declaration containing the name and address of the person in charge of the vehicle with a requirement to supply an approved nomination notice. An approved nomination notice is a notice in a form approved by the Commissioner of Fines Administration.

Item [3] extends the time for supplying an approved nomination notice from 21 days to 90 days if the notice is supplied after any fine specified by a penalty notice for the offence is paid. Proposed sections 23AA and 23AB of the *Fines Act 1996* provide for the effect of any such later nomination. The item also enables the owner to be required to provide a statutory declaration that verifies the nomination in the approved nomination notice for use in court proceedings.

Items [4] and [5] make consequential amendments.

Item [6] inserts a definition of *approved nomination notice*.

2.4 Impounding Act 1993 No 31

[1] Section 32A Owner liable for offences concerning motor vehicles

Omit section 32A (3) (a). Insert instead:

- (a) within 21 days after service on the owner of the penalty notice for the offence, the owner gives a person specified in the notice an approved nomination notice containing the name and address of the person who was at all relevant times in charge of the vehicle, or

[2] Section 32A (4) (a)

Omit section 32A (4) (a). Insert instead:

- (a) within 21 days after the service on the owner of a court attendance notice for the offence, the owner gives the informant an approved nomination notice containing the name and address of the person who was at all relevant times in charge of the vehicle, or

[3] Section 32A (4A) and (4B)

Insert after section 32A (4):

- (4A) Despite any other provision of this Act, an approved nomination notice may be provided by an owner of a vehicle served with a penalty notice within 90 days of the notice being served on the owner if the approved nomination notice is provided in the circumstances specified in section 23AA or 23AB of the *Fines Act 1996*.
- (4B) If the owner of a vehicle gives an approved nomination notice to a person or an informant for the purposes of this section, the person or informant may, by written notice served on the owner, require the owner to supply a statutory

declaration for use in court proceedings that verifies the nomination contained in the approved nomination notice.

[4] Section 32A (6)

Omit “A”. Insert instead “An approved nomination notice or a”.

[5] Section 32A (6)

Insert “an approved nomination notice or” before “a statutory”.

[6] Section 32A (8)

Insert after section 32A (7):

(8) In this section:

approved nomination notice has the same meaning as in section 38 of the *Fines Act 1996*.

Explanatory note

Schedule 2.4 amends the provision that makes the owner of a vehicle liable for an offence relating to the abandonment of a vehicle in a public place unless the owner nominates the person who was in charge of the vehicle at the time of the offence.

Items [1] and [2] replace the requirement to supply a statutory declaration containing the name and address of the person in charge of the vehicle with a requirement to supply an approved nomination notice. An approved nomination notice is a notice in a form approved by the Commissioner of Fines Administration.

Item [3] extends the time for supplying an approved nomination notice from 21 days to 90 days if the notice is supplied after any fine specified by a penalty notice for the offence is paid. Proposed sections 23AA and 23AB of the *Fines Act 1996* provide for the effect of any such later nomination. The item also enables the owner to be required to provide a statutory declaration that verifies the nomination in the approved nomination notice for use in court proceedings.

Items [4] and [5] make consequential amendments.

Item [6] inserts a definition of *approved nomination notice*.

2.5 Local Government Act 1993 No 30

[1] Section 651 Liability of vehicle owner for certain offences

Omit section 651 (4) (a). Insert instead:

- (a) within 21 days after service on the owner of the penalty notice in respect of the offence, the owner gives the prescribed officer a relevant nomination document containing the name and address of the person who was at all relevant times in charge of the vehicle, or

[2] Section 651 (5) (a)

Omit section 651 (5) (a). Insert instead:

- (a) within 21 days after service on the owner of a court attendance notice in respect of the offence, the owner gives the informant a relevant nomination document containing the name and address of the person who was at all relevant times in charge of the vehicle, or

[3] Section 651 (5A) and (5B)

Insert after section 651 (5):

- (5A) Despite any other provision of this Act, a relevant nomination document may be provided by an owner of a vehicle served with a penalty notice within 90 days of the notice being served on the owner if the relevant nomination document is provided in the circumstances specified in section 23AA or 23AB of the *Fines Act 1996*.

- (5B) If the owner of a vehicle gives a relevant nomination document to a prescribed officer or an informant for the purposes of this section, a prescribed officer or an informant may, by written notice served on the owner, require the owner to supply a statutory declaration for use in court proceedings that verifies the nomination contained in the relevant nomination document.

[4] Section 651 (7)

Insert “relevant nomination document or” before “statutory declaration” wherever occurring.

[5] Section 651 (9) (d)

Insert at the end of section 651 (9) (c):

, and

- (d) a reference to a relevant nomination document is a reference to a relevant nomination document within the meaning of Part 7.3 of the *Road Transport Act 2013*.

Explanatory note

Schedule 2.5 amends the provision that makes the owner of a vehicle liable for a parking offence unless the owner nominates the person who was in charge of the vehicle at the time of the offence.

Items [1] and [2] replace the requirement to supply a statutory declaration containing the name and address of the person in charge of the vehicle with a requirement to supply a relevant nomination document. A relevant nomination document is a notice in a form approved by Roads and Maritime Services.

Item [3] extends the time for supplying a relevant nomination document from 21 days to 90 days if the document is supplied after any fine specified by a penalty notice for the offence is paid. Proposed sections 23AA and 23AB of the *Fines Act 1996* provide for the effect of any such later nomination. The item also enables the owner to be required to provide a statutory declaration that verifies the nomination in the relevant nomination document for use in court proceedings.

Item [4] makes a consequential amendment.

Item [5] defines references to **relevant nomination documents**.

2.6 National Parks and Wildlife Act 1974 No 80

[1] Section 159 Liability of vehicle owner for parking offences

Omit “section 160” wherever occurring. Insert instead “section 192”.

[2] Section 159 (4) (a) (i)

Omit the subparagraph. Insert instead:

- (i) within 21 days after service on the owner of a notice under that section in respect of the offence, gives a prescribed person referred to in that section an approved nomination notice containing the name and address of the person who was in charge of the vehicle at all relevant times relating to the parking offence concerned, or

[3] Section 159 (4) (b) (i)

Omit the subparagraph. Insert instead:

- (i) within 21 days after service on the owner of a court attendance notice for the offence, gives the informant an approved nomination notice containing the name and address of the person who was in charge of the vehicle at all relevant times relating to the offence, or

[4] Section 159 (4A) and (4B)

Insert after section 159 (4):

- (4A) Despite any other provision of this Act, an approved nomination notice may be provided by a person served with a notice under section 192 within 90 days of the notice being served on the person if the approved nomination notice is provided in the circumstances specified in section 23AA or 23AB of the *Fines Act 1996*.
- (4B) If the owner of a vehicle supplies an approved nomination notice to a prescribed person or an informant for the purposes of this section, a prescribed person or informant may, by written notice served on the owner, require the owner to supply a statutory declaration for use in court proceedings that verifies the nomination contained in the approved nomination document.

[5] Section 159 (5)

Omit the subsection. Insert instead:

- (5) An approved nomination notice or a statutory declaration that relates to more than one parking offence is taken not to be an approved nomination notice or a statutory declaration supplying a name and address for the purposes of subsection (4) or (4B).

[6] Section 159 (6)

Omit “subsection (4)”. Insert instead “subsection (4B)”.

[7] Section 159 (8)

Insert after section 159 (7):

- (8) In this section:
approved nomination notice has the same meaning as in section 38 of the *Fines Act 1996*.

Explanatory note

Schedule 2.6 amends the provision that makes the owner of a vehicle liable for a parking offence unless the owner nominates the person who was in charge of the vehicle at the time of the offence.

Items [2] and [3] replace the requirement to supply a statutory declaration containing the name and address of the person in charge of the vehicle with a requirement to supply an approved nomination notice. An approved nomination notice is a notice in a form approved by the Commissioner of Fines Administration.

Item [4] extends the time for supplying an approved nomination notice from 21 days to 90 days if the notice is supplied after any fine specified by a penalty notice for the offence is paid. Proposed sections 23AA and 23AB of the *Fines Act 1996* provide for the effect of any such later nomination. The item also enables the owner to be required to provide a statutory declaration that verifies the nomination in the approved nomination notice for use in court proceedings.

Items [5] and [6] make consequential amendments.

Item [7] inserts a definition of *approved nomination notice*.

Item [1] updates references.

2.7 Parramatta Park Trust Act 2001 No 17

[1] Section 29 Liability of vehicle owner for parking offences

Omit section 29 (3) (a) (i). Insert instead:

- (i) within 21 days after service on the person of a notice under that section in respect of the offence, gives an authorised officer described in the notice an approved nomination notice containing

the name and address of the person who was in charge of the vehicle at all relevant times relating to the offence, or

[2] Section 29 (3) (b) (i)

Omit the subparagraph. Insert instead:

- (i) within 21 days after service on the person of a court attendance notice in respect of the offence, gives the informant an approved nomination notice containing the name and address of the person who was in charge of the vehicle at all relevant times relating to the offence, or

[3] Section 29 (3A) and (3B)

Insert after section 29 (3):

- (3A) Despite any other provision of this Act, an approved nomination notice may be provided by a person served with a notice under section 30 within 90 days of the notice being served on the person if the approved nomination notice is provided in the circumstances specified in section 23AA or 23AB of the *Fines Act 1996*.
- (3B) If the owner of a vehicle supplies an approved nomination notice to an authorised officer or an informant for the purposes of this section, an authorised officer or informant may, by written notice served on the owner, require the owner to supply a statutory declaration for use in court proceedings that verifies the nomination contained in the approved nomination notice.

[4] Section 29 (4)

Omit “subsection (3)”. Insert instead “subsection (3B)”.

[5] Section 29 (5)

Omit the subsection. Insert instead:

- (5) An approved nomination notice or a statutory declaration that relates to more than one offence is taken not to be an approved nomination notice or a statutory declaration under, or for the purposes of subsection (3) or (3B).

[6] Section 29 (6)

Insert in alphabetical order:

approved nomination notice has the same meaning as in section 38 of the *Fines Act 1996*.

Explanatory note

Schedule 2.7 amends the provision that makes the owner of a vehicle liable for a parking offence unless the person nominates the person who was in charge of the vehicle at the time of the offence. Items [1] and [2] replace the requirement to supply a statutory declaration containing the name and address of the person in charge of the vehicle with a requirement to supply an approved nomination notice. An approved nomination notice is a notice in a form approved by the Commissioner of Fines Administration.

Item [3] extends the time for supplying an approved nomination notice from 21 days to 90 days if the notice is supplied after any fine specified by a penalty notice for the offence is paid. Proposed sections 23AA and 23AB of the *Fines Act 1996* provide for the effect of any such later nomination. The item also enables the owner to be required to provide a statutory declaration that verifies the nomination in the approved nomination notice for use in court proceedings.

Items [4] and [5] make consequential amendments.

Item [6] inserts a definition of *approved nomination notice*.

2.8 Protection of the Environment Operations Act 1997 No 156

[1] Section 146 Owners and drivers of motor vehicles and trailers involved in littering

Omit “verified by statutory declaration” from section 146 (7).

Insert instead “in the form of an approved nomination notice”.

[2] Section 146 (7) (a) and (b)

Omit “28 days” wherever occurring. Insert instead “21 days”.

[3] Section 146 (7A) and (7B)

Insert after section 146 (7):

(7A) Despite any other provision of this Act, an approved nomination notice may be provided by a person served with a penalty notice within 90 days of the notice being served on the person if the approved nomination notice is provided in the circumstances specified in section 23AA or 23AB of the *Fines Act 1996*.

(7B) If the owner or driver of a vehicle supplies an approved nomination notice to an officer or a prosecutor for the purposes of this section, an officer or prosecutor may, by written notice served on the owner or driver, require the owner to supply a statutory declaration for use in court proceedings that verifies the nomination contained in the approved nomination notice.

[4] Section 146 (9)

Insert after section 146 (8):

(9) Definition

In this section:

approved nomination notice has the same meaning as in section 38 of the *Fines Act 1996*.

Explanatory note

Schedule 2.8 amends the provision that makes the owner of a vehicle liable for an offence relating to the depositing of litter from a vehicle or trailer unless the person nominates the person who was the driver at the time of the offence. The driver may instead nominate a passenger who deposited the litter.

Item [1] replaces the requirement to supply a statutory declaration containing the name and address of the person in charge of the vehicle, or who was a passenger in a vehicle who deposited the litter, with a requirement to supply an approved nomination notice. An approved nomination notice is a notice in a form approved by the Commissioner of Fines Administration.

Item [2] reduces the general period for supplying an approved nomination notice from 28 days to 21 days.

Item [3] extends the time for supplying an approved nomination notice from 21 days to 90 days if the notice is supplied after any fine specified by a penalty notice for the offence is paid. Proposed sections 23AA and 23AB of the *Fines Act 1996* provide for the effect of any such later nomination. The item also enables the owner or driver to be required to provide a statutory declaration that verifies the nomination in the approved nomination notice for use in court proceedings.

Item [4] inserts a definition of ***approved nomination notice***.

2.9 Protection of the Environment Operations (Noise Control) Regulation 2008

[1] Clause 20 Owners and drivers of motor vehicles and trailers involved in excess noise offences

Omit “verified by statutory declaration” from clause 20 (4).

Insert instead “in the form of an approved nomination notice”.

[2] Clause 20 (4) (a) and (b)

Omit “28 days” wherever occurring. Insert instead “21 days”.

[3] Clause 20 (5)–(7)

Insert after clause 20 (4):

(5) Despite any other provision of this Regulation, an approved nomination notice may be provided by the owner of a motor vehicle served with a penalty notice within 90 days of the notice being served on the owner if the approved nomination notice is provided in the circumstances specified in section 23AA or 23AB of the *Fines Act 1996*.

(6) If the owner of a vehicle supplies an approved nomination notice to an officer or a prosecutor for the purposes of this clause, an officer or prosecutor may, by written notice served on the owner, require the owner to supply a statutory declaration for use in court proceedings that verifies the nomination contained in the approved nomination notice.

(7) Definition

In this clause:

approved nomination notice has the same meaning as in section 38 of the *Fines Act 1996*.

Explanatory note

Schedule 2.9 amends the provision that makes the owner of a vehicle liable for an offence relating to a vehicle and involving excess noise unless the person nominates the person who was in charge of the vehicle at the time of the offence.

Item [1] replaces the requirement to supply a statutory declaration containing the name and address of the person in charge of the vehicle with a requirement to supply an approved nomination notice. An approved nomination notice is a notice in a form approved by the Commissioner of Fines Administration.

Item [2] reduces the general period for supplying an approved nomination notice from 28 days to 21 days.

Item [3] extends the time for supplying an approved nomination notice from 21 days to 90 days if the notice is supplied after any fine specified by a penalty notice for the offence is paid. Proposed sections 23AA and 23AB of the *Fines Act 1996* provide for the effect of any such later nomination. The item also enables the owner to be required to provide a statutory declaration that verifies the nomination in the approved nomination notice for use in court proceedings and inserts a definition of ***approved nomination notice***.

2.10 Road Transport Act 2013 No 18

[1] Section 185 When responsible person not liable for parking offence

Omit “subsection (1)” from section 185 (2). Insert instead “this section”.

[2] Section 185 (3)

Insert after section 185 (2):

- (3) Despite any other provision of this Act, a relevant nomination document may be provided by a person served with a penalty notice for a parking offence within 90 days of the notice being served on the person if the relevant nomination document is provided in the circumstances specified in section 23AA or 23AB of the *Fines Act 1996*.

[3] Section 186 Duty to inform if person not driver of vehicle committing camera recorded offence

Omit “subsection (1)” from section 186 (2). Insert instead “this section”.

[4] Section 186 (3)

Insert after section 186 (2):

- (3) Despite any other provision of this Act, a relevant nomination document may be provided by a person served with a penalty notice for a camera recorded offence within 90 days of the notice being served on the person if the relevant nomination document is provided in the circumstances specified in section 23AA of the *Fines Act 1996*.

Explanatory note

Items [2] and [4] extend the time for supplying a relevant nomination document from 21 days to 90 days for parking offences and camera recorded offences if the document is supplied after any fine specified by a penalty notice for the offence is paid. Proposed sections 23AA and 23AB of the *Fines Act 1996* provide for the effect of any such later nomination.

Item [1] makes an amendment consequential on the amendment made by item [2].

Item [3] makes an amendment consequential on the amendment made by item [4].

2.11 Roads Act 1993 No 33

[1] Section 244 Liability of vehicle owner for certain driving offences

Omit section 244 (4) (a). Insert instead:

- (a) within 21 days after service on the owner of the penalty notice for the offence, the owner gives the authorised officer a relevant nomination document containing the name and address of the person who was at all relevant times in charge of the vehicle, or

[2] Section 244 (5) (a)

Omit the paragraph. Insert instead:

- (a) within 21 days after service on the owner of a court attendance notice for the offence, the owner gives the informant a relevant nomination document containing the name and address of the person who was at all relevant times in charge of the vehicle, or

[3] Section 244 (5A) and (5B)

Insert after section 244 (5):

- (5A) Despite any other provision of this Act, a relevant nomination document may be provided by the owner of a vehicle served with a penalty notice within 90 days of the notice being served on the owner if the relevant nomination document is provided in the circumstances specified in section 23AA or 23AB of the *Fines Act 1996*.

- (5B) If the owner of a vehicle supplies a relevant nomination document to an authorised officer or informant for the purposes of this section, an authorised officer or informant may, by written notice served on the owner, require the owner to supply a statutory declaration for use in court proceedings that verifies the nomination contained in the relevant nomination document.

[4] Section 244 (7)

Insert “relevant nomination document or” before “statutory declaration” wherever occurring.

[5] Section 244 (7)

Omit “subsection (6)”. Insert instead “this section”.

[6] Section 244 (10)

Insert after section 244 (9):

- (10) In this section, a reference to a *relevant nomination document* is a reference to a relevant nomination document within the meaning of Division 2 of Part 7.3 of the *Road Transport Act 2013*.

Explanatory note

Schedule 2.11 amends the provision that makes the owner of a vehicle liable for certain vehicle offences, including offences relating to the payment of tolls or charges, unless the owner nominates the person who was in charge of the vehicle at the time of the offence.

Items [1] and [2] replace the requirement to supply a statutory declaration containing the name and address of the person in charge of the vehicle with a requirement to supply a relevant nomination document. A relevant nomination document is a notice in a form approved by Roads and Maritime Services.

Item [3] extends the time for supplying a relevant nomination document from 21 days to 90 days if the document is supplied after any fine specified by a penalty notice for the offence is paid. Proposed sections 23AA and 23AB of the *Fines Act 1996* provide for the effect of any such later nomination. The item also enables the owner to be required to provide a statutory declaration that verifies the nomination in the relevant nomination document for use in court proceedings.

Items [4] and [5] make consequential amendments.

Item [6] inserts a definition of *relevant nomination document*.

2.12 Royal Botanic Gardens and Domain Trust Act 1980 No 19

[1] Section 22A Liability of vehicle owner for parking offences

Omit section 22A (2) (a). Insert instead:

- (a) within 21 days after service on the person of a notice under that section for the offence, gives a prescribed officer referred to in the notice an approved nomination notice containing the name and address of the person who was at all relevant times in charge of the vehicle, or

[2] Section 22A (3) (a)

Omit the paragraph. Insert instead:

- (a) within 21 days after service on the owner of a court attendance notice for the offence, gives the informant an approved nomination notice containing the name and address of the person who was at all relevant times in charge of the vehicle, or

[3] Section 22A (3A) and (3B)

Insert after section 22A (3):

- (3A) Despite any other provision of this Act, an approved nomination notice may be provided by the owner of a vehicle served with a notice under section 22B within 90 days of the notice being served on the owner if the approved nomination notice is provided in the circumstances specified in section 23AA or 23AB of the *Fines Act 1996*.
- (3B) If the owner of a vehicle gives an approved nomination notice to a prescribed officer or informant for the purposes of this section, a prescribed officer or informant may, by written notice served on the owner, require the owner to supply a statutory declaration for use in court proceedings that verifies the nomination contained in the approved nomination notice.

[4] Section 22A (4)

Omit “subsection (2) or (3)”. Insert instead “subsection (3B)”.

[5] Section 22A (5)

Omit the subsection. Insert instead:

- (5) An approved nomination notice or a statutory declaration that relates to more than one offence is not an approved nomination notice or a statutory declaration under, or for the purposes of, this section.

[6] Section 22A (7)

Insert in alphabetical order:

approved nomination notice has the same meaning as in section 38 of the *Fines Act 1996*.

Explanatory note

Schedule 2.12 amends the provision that makes the owner of a vehicle liable for a parking offence unless the owner nominates the person who was in charge of the vehicle at the time of the offence.

Items [1] and [2] replace the requirement to supply a statutory declaration containing the name and address of the person in charge of the vehicle with a requirement to supply an approved nomination notice. An approved nomination notice is a notice in a form approved by the Commissioner of Fines Administration.

Item [3] extends the time for supplying an approved nomination notice from 21 days to 90 days if the notice is supplied after any fine specified by a penalty notice for the offence is paid. Proposed sections 23AA and 23AB of the *Fines Act 1996* provide for the effect of any such later nomination. The item also enables the owner to be required to provide a statutory declaration that verifies the nomination in the approved nomination notice for use in court proceedings.

Items [4] and [5] make consequential amendments.

Item [6] inserts a definition of *approved nomination notice*.

2.13 Sydney Olympic Park Authority Act 2001 No 57

[1] Section 78 Liability of vehicle owner for certain parking offences

Omit section 78 (4) (a) (i). Insert instead:

- (i) within 21 days after service on the responsible person of a penalty notice for the offence, gives an authorised officer an approved nomination notice containing the name and address of the person who was in charge of the vehicle at all relevant times relating to the offence, or

[2] Section 78 (4) (b) (i)

Omit the subparagraph. Insert instead:

- (i) within 21 days after service on the responsible person of a court attendance notice for the offence, gives the informant an approved nomination notice containing the name and address of the person who was in charge of the vehicle at all relevant times relating to the offence, or

[3] Section 78 (4A) and (4B)

Insert after section 78 (4):

- (4A) Despite any other provision of this Act, an approved nomination notice may be provided by the responsible person for a vehicle served with a penalty notice within 90 days of the notice being served on the person if the approved nomination notice is provided in the circumstances specified in section 23AA or 23AB of the *Fines Act 1996*.
- (4B) If the responsible person for a vehicle supplies an approved nomination notice to an authorised officer or an informant for the purposes of this section, an authorised officer or informant may, by written notice served on the responsible person, require the responsible person to supply a statutory declaration for use in court proceedings that verifies the nomination contained in the approved nomination notice.

[4] Section 78 (5)

Insert “an approved nomination notice or” before “a statutory”.

[5] Section 78 (5)

Omit “subsection (4)”. Insert instead “this section”.

[6] Section 78 (6)

Omit “subsection (4)”. Insert instead “subsection (4B)”.

[7] Section 78 (7)

Omit the section. Insert instead:

- (7) An approved nomination notice or a statutory declaration that relates to more than one parking offence does not constitute an approved nomination notice or a statutory declaration under, or for the purposes of, subsection (4) or (4B).

[8] Section 78 (9)

Insert in alphabetical order:

approved nomination notice has the same meaning as in section 38 of the *Fines Act 1996*.

Explanatory note

Schedule 2.13 amends the provision that makes the owner of a vehicle liable for a parking offence unless the owner nominates the person who was in charge of the vehicle at the time of the offence.

Items [1] and [2] replace the requirement to supply a statutory declaration containing the name and address of the person in charge of the vehicle with a requirement to supply an approved nomination notice. An approved nomination notice is a notice in a form approved by the Commissioner of Fines Administration.

Item [3] extends the time for supplying an approved nomination notice from 21 days to 90 days if the notice is supplied after any fine specified by a penalty notice for the offence is paid. Proposed sections 23AA and 23AB of the *Fines Act 1996* provide for the effect of any such later nomination.

The item also enables the owner to be required to provide a statutory declaration that verifies the nomination in the approved nomination notice for use in court proceedings.

Items [4]–[7] make consequential amendments.

Item [8] inserts a definition of **approved nomination notice**.

2.14 Transport Administration Act 1988 No 109

[1] Section 116 Liability of vehicle owner for parking offences on Authority's land

Omit section 116 (4) (a) (i). Insert instead:

- (i) within 21 days after service on the owner of a penalty notice in respect of the offence, gives an authorised officer referred to in the notice an approved nomination notice containing the name and address of the person who was in charge of the vehicle at all relevant times relating to the offence, or

[2] Section 116 (4) (b) (i)

Omit the subparagraph. Insert instead:

- (i) within 21 days after service on the owner of a court attendance notice for the offence, gives the informant an approved nomination notice containing the name and address of the person who was in charge of the vehicle at all relevant times relating to the offence, or

[3] Section 116 (4A) and (4B)

Insert after section 116 (4):

- (4A) Despite any other provision of this Act, an approved nomination notice may be provided by the owner of a vehicle served with a penalty notice within 90 days of the notice being served on the owner if the approved nomination notice is provided in the circumstances specified in section 23AA or 23AB of the *Fines Act 1996*.
- (4B) If the owner of a vehicle supplies an approved nomination notice to an authorised officer or an informant for the purposes of this section, an authorised officer or informant may, by written notice served on the owner, require the owner to supply a statutory declaration for use in court proceedings that verifies the nomination contained in the approved nomination notice.

[4] Section 116 (6)

Omit the subsection. Insert instead:

- (6) Any such approved nomination notice or statutory declaration which relates to more than one offence is taken not to be an approved nomination notice or a statutory declaration under, or for the purposes of, subsection (4) or (4B).

[5] Section 116 (7)

Insert in alphabetical order:

approved nomination notice has the same meaning as in section 38 of the *Fines Act 1996*.

Explanatory note

Schedule 2.14 amends the provision that makes the owner of a vehicle liable for parking offences unless the owner nominates the person who was in charge of the vehicle at the time of the offence.

Items [1] and [2] replace the requirement to supply a statutory declaration containing the name and address of the person in charge of the vehicle with a requirement to supply an approved nomination

notice. An approved nomination notice is a notice in a form approved by the Commissioner of Fines Administration.

Item [3] extends the time for supplying an approved nomination notice from 21 days to 90 days if the notice is supplied after any fine specified by a penalty notice for the offence is paid. Proposed sections 23AA and 23AB of the *Fines Act 1996* provide for the effect of any such later nomination. The item also enables the owner to be required to provide a statutory declaration that verifies the nomination in the approved nomination notice for use in court proceedings.

Item [4] makes a consequential amendment.

Item [6] inserts a definition of **approved nomination notice**.

[Second reading speech made in—
Legislative Council on 22 March 2016
Legislative Assembly on 4 May 2016]