

[Act 1997 No 119]



New South Wales

# Road Transport (Vehicle Registration) Bill 1997

## Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

### Overview of Bill

The objects of this Bill are:

- (a) to provide for a system for the registration of heavy vehicles in New South Wales that is substantially consistent with the national system of registration for heavy vehicles agreed between the States, the Territories and the Commonwealth, and
  - (b) to provide for certain components of that system also to apply to light vehicles, and
  - (c) to make consequential amendments to the *Traffic Act 1909* and other Acts.
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## Outline of provisions

### Part 1 Preliminary

**Clause 1** sets out the name (also called the short title) of the proposed Act.

**Clause 2** provides for the commencement of the proposed Act on a day or days to be appointed by proclamation.

**Clause 3** sets out the objects of the proposed Act.

**Clause 4** defines certain words and expressions used in the proposed Act. In particular, *registrable vehicle* is defined to mean any heavy vehicle or other motor vehicle, a trailer or any other vehicle prescribed by the regulations.

**Clause 5** applies the provisions of the *Acts Interpretation Act 1901* of the Commonwealth (with minor exceptions) to the interpretation of the proposed Act. However, the provision does not prevent the *Interpretation Act 1987* from applying to the interpretation of the proposed Act in circumstances where there is no conflict with that Commonwealth Act.

**Clause 6** provides that notes in the text of the proposed Act do not form part of the proposed Act.

### Part 2 Registration system

#### Division 1 Powers and functions of the Authority

**Clause 7** provides for the functions of the Roads and Traffic Authority (*the Authority*) in relation to the administration of the registration scheme to be established under the proposed Act.

**Clause 8** confers certain powers on the Authority to be exercised in accordance with regulations made under the proposed Act. For instance, the Authority is empowered to do the following:

- to register, or refuse to register, registrable vehicles,
- to transfer, or refuse to transfer, the registration of a registrable vehicle,
- to permit, or refuse to permit, the use of an unregistered registrable vehicle,
- to impose conditions on the registration of registrable vehicles and the use of unregistered registrable vehicles,
- to suspend or cancel registration,
- to fix administrative fees for services provided in connection with various registration processes.

**Clause 9** provides that the Authority cannot register a registrable vehicle unless it is satisfied that its garage address is in New South Wales.

**Clause 10** makes it clear that the proposed Act is not intended to provide any evidence of title to any registrable vehicle. However, this does not prevent the Authority from recording details of ownership in the Register maintained under proposed section 7 of the proposed Act.

**Clause 11** requires the Authority to ensure that information in the Register of a personal or commercially sensitive nature can only be released in accordance with the criteria to be specified by the regulations or in accordance with any other relevant law.

**Clause 12** provides that the Authority may delegate any or all of its powers under the proposed Act or regulations to any person prescribed by the regulations for that purpose.

**Clause 13** provides that devices, plates or documents issued by the Authority in the course of registering a registrable vehicle remain the property of the Authority.

## **Division 2      Regulations**

**Clause 14** enables the Governor to make regulations for the purposes of the proposed Act. It provides for various other general matters for which the regulations may make provision such as the adoption of provisions contained in other publications and the creation of offences by the regulations with a maximum penalty of 20 penalty units (currently \$2,200).

**Clause 15** sets out the matters for which regulations made under the proposed Act may make provision to establish the registration scheme contemplated by the proposed Act.

**Clause 16** provides that the regulations may exempt particular registrable vehicles from the provisions of the proposed Act and may do so subject to conditions. It also provides that the regulations may provide that specified provisions of the *Road Transport (Heavy Vehicles Registration Charges) Act 1995*, the *Roads Act 1993* and the *Traffic Act 1909* (or regulations made under those Acts) do not apply to registrable vehicles.

**Clause 17** provides for persons aggrieved by prescribed decisions under the proposed Act or the regulations to apply to the Administrative Decisions Tribunal for a review of such decisions.

### **Part 3 Offences and evidence**

**Clause 18** makes it an offence for a person to use an unregistered registrable vehicle on a road or road related area unless the vehicle is exempted from the operation of the proposed Act or its use is otherwise permitted under the proposed Act. Proposed section 4 defines *use* of a vehicle to include the standing of a vehicle. The maximum penalty for any such offence is to be 20 penalty units (currently \$2,200).

**Clause 19** makes it an offence for a person to attempt to register, or obtain an unregistered vehicle permit for, a registrable vehicle (or to possess a device, plate or document obtained) by dishonest means. The maximum penalty for any such offence is to be 20 penalty units (currently \$2,200).

**Clause 20** makes it an offence for a person to use a registrable vehicle contrary to conditions or a prohibition imposed by a police officer or the Authority under proposed section 26. The maximum penalty for any such offence is to be 20 penalty units (currently \$2,200).

**Clause 21** sets out the obligations of the registered operator of a registrable vehicle in respect of the display of plates and labels on the vehicle, documents that must be carried or produced and compliance with directions of the Authority in respect of the vehicle. It also makes it clear that the proposed Act does not affect the obligations of a registered operator to comply with the *Motor Accidents Act 1988* and the *Stamp Duties Act 1920*.

**Clause 22** provides that a court may admit into evidence a document signed on behalf of the Authority certifying certain matters about the registration of a registrable vehicle or its registered operator. The court must accept the documents as proof of the facts stated in them if there is no evidence to the contrary. It also provides that a court may admit into evidence other documents prescribed by the regulations.

### **Part 4 Miscellaneous**

**Clause 23** provides that the proposed Act binds the Crown.

**Clause 24** provides that the Minister may suspend or vary the application of the regulations in accordance with the inter-governmental agreements scheduled to the *National Road Transport Commission Act 1991* of the Commonwealth. It also provides that if the Ministerial Council for Road Transport established under those agreements terminates an emergency order, the Minister must publish a notice of the termination in the Gazette.

**Clause 25** enables the Minister to declare a specified area of the State to be either included or excluded from the application of the proposed Act or the regulations for a specified period.

**Clause 26** provides that a police officer or the Authority may inspect a registrable vehicle in order to determine its identity, condition or registration status and may issue a vehicle defect notice or impose conditions on or prohibit the use of a vehicle (or seize a device, plate or document suspected of being used in committing an offence against the proposed Act) in accordance with the regulations.

**Clause 27** enables a police officer to seize certain unregistered vehicles being used on a road or road related area. This provision is based on the provision presently contained in section 24 of the *Traffic Act 1909*.

**Clause 28** provides that an individual who, honestly and in good faith, carries out duties under the proposed Act or the regulations does not incur civil liability for any act or omission.

**Clause 29** provides that a registrable vehicle in respect of which an unregistered vehicle permit is issued under the proposed Act is taken to be registered under the proposed Act.

**Clause 30** provides that any amount of any unpaid charges or fees owed in respect of a registrable vehicle is a debt owed to the Authority recoverable in a court of competent jurisdiction.

**Clause 31** provides that registration fees are payable by the Crown in relation to its vehicles and by a statutory body representing the Crown in relation to its vehicles.

**Clause 32** gives effect to Schedule 1, which amends the *Traffic Act 1909* consequentially.

**Clause 33** gives effect to Schedule 2, which amends various other Acts consequentially.

**Clause 34** gives effect to Schedule 3, which contains provisions of a savings and transitional nature.

**Clause 35** provides for the Minister to review, and report to Parliament on, the operation of the proposed Act within 12 months of the fifth anniversary of the date on which it receives assent.

## Schedules

**Schedule 1** makes consequential amendments to the *Traffic Act 1909*.

**Schedule 2** makes consequential amendments to other Acts.

**Schedule 3** makes provision for matters of a savings and transitional nature.