

Passed by both Houses



New South Wales

# Road Transport Legislation Amendment (Offender Nomination) Bill 2012

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*I certify that this PUBLIC BILL, which originated in the LEGISLATIVE COUNCIL, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.*

*Legislative Council*  
2012

*Clerk of the Parliaments*



New South Wales

# **Road Transport Legislation Amendment (Offender Nomination) Bill 2012**

Act No     , 2012

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An Act to amend the *Road Transport (General) Act 2005* to make further provision with respect to the nomination of offenders for certain camera recorded and parking offences; and to make consequential and other minor amendments to the *Fines Act 1996* and the road transport legislation.

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**The Legislature of New South Wales enacts:**

**1 Name of Act**

This Act is the *Road Transport Legislation Amendment (Offender Nomination) Act 2012*.

**2 Commencement**

- (1) This Act commences on the date of assent to this Act, except as provided by subsection (2).
- (2) Schedules 1 [3], 2.1 and 2.2 commence on a day or days to be appointed by proclamation.

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## **Schedule 1      Amendment of Road Transport (General) Act 2005 No 11**

### **[1] Section 179 Liability of responsible person for vehicle for designated offences**

Insert after section 179 (1):

**(1A) Maximum penalty payable by corporation that is taken to be guilty of certain camera recorded offences**

If a corporation is taken to be guilty of a camera recorded offence (other than an unauthorised vehicle use offence) by the operation of subsection (1), the maximum monetary penalty that a court may impose on the corporation for the offence is taken to be 5 times the maximum monetary penalty for the offence for which the actual offender (as a natural person) would be liable.

### **[2] Section 179 (5)**

Omit “21 days” and “21-day period”.

Insert instead “7 days” and “7-day period”, respectively.

### **[3] Section 179 (10)**

Insert “unless each of the offences is a camera recorded offence detected by the same camera device at approximately the same time” after “subsection (3), (4) or (8C)”.

### **[4] Section 179 (10B)–(10D)**

Insert after section 179 (10A):

**(10B) Provision of further identity information**

An authorised officer or prosecutor to whom a relevant nomination document is supplied for the purpose of subsection (3) or (4) may, by written notice served on the nomination information provider, require the provider to do one or both of the following:

- (a) provide such relevant identity information that is in the provider’s power to provide (including, if so required, by means of a written statement signed by the provider), as may be specified in the notice, within the period specified in the notice,

- (b) appear before the authorised officer or prosecutor at a specified time and place and provide (either orally or in writing) such relevant identity information that is in the provider's power to provide as may be specified in the notice.
- (10C) The period or time specified in a notice under subsection (10B) for information to be provided, or an appearance to be made, must be no earlier than 7 days after the date of service of the notice.
- (10D) A person served with a notice under subsection (10B) must not, without lawful or reasonable excuse, refuse or fail to comply with the notice.  
Maximum penalty: 20 penalty units.

**[5] Section 179 (12)**

Insert in alphabetical order:

*nomination information provider*, in relation to a relevant nomination document, means:

- (a) in the case of a document supplied by a responsible person for the vehicle concerned who is a natural person—the person who supplies the document, or
- (b) in the case of a document supplied by a responsible person for the vehicle concerned that is a corporation—a person who prepares or supplies the document on behalf of the corporation.

*prosecutor* has the same meaning as it has in the *Criminal Procedure Act 1986*.

*relevant identity information* means any information that may assist in confirming or establishing the identity of the person driving or in charge of a vehicle when a designated offence to which a relevant nomination document relates was committed.

**[6] Section 218 Removal or production of vehicles used for certain offences for clamping, impounding or forfeiture**

Omit “41” from section 218 (1) (a). Insert instead “41 (2)”.

**[7] Schedule 1 Savings, transitional and other provisions**

Insert at the end of clause 1 (1):

*Road Transport Legislation Amendment (Offender Nomination) Act 2012*

**[8] Schedule 1**

Insert at the end of the Schedule:

**Part 11 Provisions consequent on enactment of  
Road Transport Legislation Amendment  
(Offender Nomination) Act 2012**

**26 Definitions**

In this Part:

*amending Act* means the *Road Transport Legislation Amendment (Offender Nomination) Act 2012*.

*assent day* means the day that is the date of assent to the amending Act.

**27 Application of certain amendments to section 179**

- (1) Section 179 (1A) (as inserted by the amending Act) applies in relation to camera recorded offences committed on or after the assent day.
- (2) Section 179 (5) (as amended by the amending Act) applies in relation to penalty notices issued on or after the assent day.
- (3) Section 179 (10) (as amended by the amending Act) applies in relation to designated offences committed (or alleged to have been committed) on or after the day on which the amendment to that subsection commences.
- (4) Section 179 (10B)–(10D) (as inserted by the amending Act) extend to a designated offence committed (or alleged to have been committed) before the assent day, but only if a relevant nomination document for the offence had not been supplied before that day.

## **Schedule 2 Amendment of other legislation**

### **2.1 Fines Act 1996 No 99**

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

Insert “unless each of the offences is a camera recorded offence (within the meaning of section 179 of the *Road Transport (General) Act 2005*) detected by the same camera device at approximately the same time” after “subsection (1A) or (1D)” in section 38 (3).

**[2] Schedule 3 Savings, transitional and other provisions**

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

**Part Provision consequent on enactment of Road Transport Legislation Amendment (Offender Nomination) Act 2012**

**Application of amendment to section 38**

Section 38 (3) (as amended by the *Road Transport Legislation Amendment (Offender Nomination) Act 2012*) applies in relation to vehicle or vessel offences committed (or alleged to have been committed) on or after the day on which the amendment to that subsection commences.

### **2.2 Road Transport (General) Regulation 2005**

**[1] Clause 169 Penalty notice offences**

Insert “subject to subclause (1A),” before “the prescribed penalty” in clause 169 (1) (c).

**[2] Clause 169 (1A)**

Insert after clause 169 (1):

- (1A) The amount of the prescribed penalty for a camera recorded offence of a kind referred to in section 179 (1A) of the Act of which a corporation is taken to be guilty under section 179 (1) of the Act is 5 times the amount specified in Schedule 3 as the penalty amount for the offence unless a lesser amount is specified in that Schedule for the offence when it is committed by a corporation.



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## **2.3 Road Transport (Safety and Traffic Management) Act 1999 No 20**

### **[1] Section 8 General definitions**

Omit section 8 (3) (b). Insert instead:

- (b) if the person is not authorised to drive that motor vehicle in New South Wales because:
  - (i) the person (in New South Wales or elsewhere) has had his or her application for a relevant driver licence or authority refused, or
  - (ii) the person (in New South Wales or elsewhere) has ceased to hold a relevant driver licence or authority as a result of the cancellation or suspension of the licence or authority, or
  - (iii) the person (in New South Wales or elsewhere) has ceased to hold a relevant driver licence or authority as a result of the expiry of the licence or authority (being a licence or authority that has been expired for a period of more than 6 months), or
  - (iv) the person (in New South Wales or elsewhere) has been disqualified from driving, or
  - (v) the person has never obtained a relevant driver licence or authority, or

### **[2] Section 14 Arrest following failed breath test**

Omit “the holder of a learner licence or a provisional licence” from section 14 (1) (a1).

Insert instead “a novice driver”.