

[Act 2002 No 11]



New South Wales

# Road Transport (General) Amendment (Operator Onus Offences) Bill 2002

## Explanatory note

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

### Overview of Bill

The object of this Bill is to amend the *Road Transport (General) Act 1999*:

- (a) to increase from 6 months to 1 year the period during which proceedings for a parking offence, camera-detected traffic light offence or camera-recorded speeding offence may be taken, and
- (b) to clarify and streamline the procedures under which a responsible person for a vehicle is required to nominate the person in charge of the vehicle in respect of a parking offence, camera-detected traffic light offence or camera-recorded speeding offence, and

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\* Amended in committee—see table at end of volume.

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- (c) to increase the penalty for a corporation that is the responsible person for a vehicle and that fails to nominate, or fails to exercise reasonable diligence to ascertain, the person in charge of the vehicle in respect of a parking offence, camera-detected traffic light offence or camera-recorded speeding offence.

## Outline of provisions

**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** is a formal provision giving effect to the amendments to the *Road Transport (General) Act 1999* set out in Schedule 1.

## Schedule 1 Amendments

**Schedule 1 [1]** inserts proposed section 43 (4A) and (4B) into the Principal Act. Proposed section 43 (4A) clarifies when a penalty notice sent to a person under section 43 (3) or (4) by post is taken to have been served. The proposed subsection provides that a penalty notice sent to a person by post is presumed to be served 7 days after it is posted. However, the person to whom the notice is sent may override that presumption by establishing it was not served during that 7-day period. **Schedule 1 [5]** is a consequential amendment that allows a certificate signed on behalf of the Commissioner of Police specifying the date on which a penalty notice was posted to a person to be admissible in proceedings and to be evidence of the matters stated in it.

Proposed section 43 (4B) specifies the matters that must be included in a statutory declaration provided under section 43 (3) or (4). A statutory declaration is provided under section 43 (3) or (4) by the responsible person for a vehicle for the purposes of ascertaining who was in charge of the vehicle at the time of the occurrence of a parking offence, camera-detected traffic light offence or camera-recorded speeding offence. Proposed section 43 (4B) provides that the statutory declaration must include the matters prescribed by the regulations. The requirement does not apply to a person served with a penalty notice or summons for a parking offence for which demerit points would not be incurred under the *Road Transport (Driver Licensing) Act 1998*. **Schedule 1 [3]** inserts proposed section 43 (7A). The proposed subsection allows an authorised officer or court to have regard to a statutory declaration in deciding whether the responsible person has exercised

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reasonable diligence to ascertain the name and address of the person in charge of the vehicle at the time of the offence. **Schedule 1 [4]** inserts a definition of a term used in section 43.

**Schedule 1 [2]** amends section 43 (5) to increase the penalty for a corporation that is the responsible person for a vehicle and that fails to nominate, or fails to exercise reasonable diligence to ascertain, the name and address of the person in charge of the vehicle committing a parking offence, camera-detected traffic light offence or camera-recorded speeding offence.

**Schedule 1 [6]** inserts proposed section 47 (2) and (3). Proposed section 47 (2) extends the period during which proceedings for an operator onus offence may be commenced from the present 6 months after the date of the commission of the offence to 1 year from that date. Proposed section 47 (3) defines an operator onus offence to mean a parking offence, camera-detected traffic light offence or camera-recorded speeding offence.

**Schedule 1 [7]** amends clause 1 of Schedule 2 to enable regulations of a savings or transitional nature to be made as a consequence of the enactment of the proposed Act.

**Schedule 1 [8]** inserts a new Part into Schedule 2. The proposed Part inserts a specific transitional provision consequent on the enactment of the proposed Act.