

Passed by both Houses



New South Wales

Transport Legislation Amendment (Automated Vehicle Trials and Innovation) Bill 2017

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I certify that this public bill, which originated in the Legislative Assembly, has finally passed the Legislative Council and the Legislative Assembly of New South Wales.

*Clerk of the Legislative Assembly.
Legislative Assembly,
Sydney,*

, 2017



New South Wales

Transport Legislation Amendment (Automated Vehicle Trials and Innovation) Bill 2017

Act No , 2017

An Act to amend the *Road Transport Act 2013* to provide for automated vehicle trials; and to amend the *Transport Administration Act 1988* with respect to the functions of Transport for NSW.

I have examined this bill and find it to correspond in all respects with the bill as finally passed by both Houses.

Assistant Speaker of the Legislative Assembly.

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Transport Legislation Amendment (Automated Vehicle Trials and Innovation) Act 2017*.

2 Commencement

This Act commences on the date of assent to this Act.

Schedule 1 Amendment of Road Transport Act 2013 No 18

[1] Chapter 5 Safety and traffic management

Insert after Part 5.5:

Part 5.6 Automated vehicle trials

148L Definitions

In this Part:

approved person—see section 148N.

approved trial means a trial of automotive technology for which the approval of the Minister has been given under this Part.

automotive technology means technology related to advances in the design or construction of motor vehicles, including technology related to the use of highly or fully automated vehicles.

trial approval, trial area, trial period and *trial vehicle*—see section 148N.

vehicle supervisor—see section 148Q.

148M Objects of Part

The objects of this Part are:

- (a) to enable the Minister to approve trials of the use of a vehicle on roads in circumstances that would not otherwise be permitted because the vehicle is a highly or fully automated vehicle and therefore may not have a human driving the vehicle some or all of the time, and
- (b) to ensure that adequate insurance is in place to cover any personal injury or property damage that may arise during the course of a trial, and
- (c) to provide for the modification of references in laws to the driver or person in charge of a vehicle that is highly or fully automated.

148N Approval of trials

- (1) A person may apply to the Minister for approval for the use on a road of a vehicle (the *trial vehicle*) in circumstances that would not otherwise be lawful but only if the use of the trial vehicle is for the purposes of a trial of automotive technology. The Minister may approve a trial vehicle by reference to a specific vehicle or by reference to a class of vehicles.
- (2) The Minister may, by order published in the Gazette, approve the use of the trial vehicle by the applicant (the *approved person*) in the manner and circumstances specified in the order.
- (3) The approval of the Minister (the *trial approval*) must identify the roads on which the trial vehicle may be used (the *trial area*). The trial area may be all roads in the State.
- (4) The trial approval must also specify the period of the trial (the *trial period*). The Minister may, by notice in writing to the approved person, extend the trial period at any time.
- (5) The trial approval is subject to any conditions imposed by this Part, the statutory rules or the Minister.
- (6) The Minister may, by notice in writing to the approved person, impose a condition on a trial approval at any time.

- (7) The Minister may take into account approvals of trials for automated vehicles granted by other States or Territories in determining whether to grant a trial approval.
- (8) An approved person must ensure that a trial vehicle is not used except in accordance with a trial approval, including any conditions to which the approval may be subject.
Maximum penalty: 100 penalty units.
- (9) The Minister may, by notice in writing to the approved person, revoke or suspend a trial approval at any time and for any reason including if the Minister is of the opinion that:
 - (a) the approved person has not complied with the approval, or
 - (b) it is not safe to continue the trial, or
 - (c) it is no longer in the public interest to continue the trial.

148O Registration of trial vehicles

- (1) The Minister is to determine whether a trial vehicle, for the purposes of the trial:
 - (a) is to be registered, or
 - (b) requires an unregistered vehicle permit, or
 - (c) is to be unregistered.
- (2) The Minister may, if the Minister determines that the trial vehicle is to be registered or requires an unregistered vehicle permit, direct the Authority to register the vehicle or to issue an unregistered vehicle permit for the use of the vehicle.
- (3) The Authority must, despite any other provision of this Act, comply with any such direction.
- (4) Registration or a permit issued under this section in respect of a trial vehicle has effect only during the trial period and only in the trial area.
- (5) More than one direction may be given under this section in respect of the same trial vehicle.
- (6) A trial vehicle may be used on a road in the trial area during the trial period without being registered and without requiring an unregistered vehicle permit if the Minister determines that the trial vehicle may be used in such a way and while it is being used in that way, the trial vehicle is:
 - (a) taken to be a registrable vehicle exempted from registration under this Act, and
 - (b) taken, for the purposes of the *Motor Accident Injuries Act 2017*, to be subject to an unregistered vehicle permit.

148P Insurance

- (1) It is a condition of a trial approval that:
 - (a) a third-party policy (within the meaning of the *Motor Accident Injuries Act 2017*) is in force for the trial vehicle at all times during the trial period, or
 - (b) arrangements have been made to the satisfaction of the Minister for the indemnification of the Nominal Defendant under that Act for any claims arising during the trial period as a result of the trial vehicle not being an insured motor vehicle (*approved arrangements*).

- (2) Section 2.1 of the *Motor Accident Injuries Act 2017* does not apply to the use of a trial vehicle that is subject to approved arrangements and section 2.37 (3) of that Act does not prevent the Nominal Defendant from recovering an amount under approved arrangements.
- (3) Division 2.3 of the *Motor Accident Injuries Act 2017* does not apply to an insurance premium for a third-party policy for a trial vehicle and the premium is instead to be the premium agreed between the licensed insurer (within the meaning of that Act) and the approved person.
- (4) It is a condition of a trial approval that the approved person ensure that a policy of public liability insurance is in force that covers damage caused by, or arising out of, the use of the trial vehicle. The public liability insurance must be for at least \$20 million or such larger amount as the Minister may require in a particular case.
- (5) The Minister may, as a condition of a trial approval, require the approved person to ensure that any other policy of insurance is in force for the purposes of the trial.
- (6) The Minister is to suspend or revoke a trial approval if the requirements of this section are not met at any time during the trial period.

148Q Vehicle supervisor

- (1) It is a condition of a trial approval (unless the Minister determines otherwise) that the approved person must ensure that a person (the *vehicle supervisor*) is in the trial vehicle at all times during which the vehicle is in use.
- (2) The vehicle supervisor must hold a current Australian driver licence (not being a probationary licence, conditional licence, restricted licence, provisional licence, learner licence or driver licence receipt) that is of an appropriate class having regard to the trial vehicle type or must hold such other licence as the Minister may approve.
- (3) The vehicle supervisor must be approved in writing by the Minister in respect of the trial vehicle.
- (4) Division 2 of Part 5.1 and Division 3 of Part 5.5 apply to a vehicle supervisor in a trial vehicle in the same way as those Divisions apply to a person occupying the seat in a motor vehicle next to a learner driver who is driving (or about to drive) the vehicle.
- (5) It is a condition of a trial approval under which a vehicle supervisor is required to be in a trial vehicle that the approved person must ensure that the vehicle supervisor is in a position to take control of the trial vehicle at any time or to stop the trial vehicle in an emergency or if required to do so by an authorised officer.

148R Provision of information

- (1) It is a condition of a trial approval that the approved person must notify the Minister in writing of any of the following occurring during the course of an approved trial:
 - (a) a trial vehicle colliding with a person, another vehicle or any road infrastructure,
 - (b) an accident or incident associated with a trial vehicle that has, or could have, caused significant property damage, serious injury or death,
 - (c) an accident or incident of a kind that is prescribed by the statutory rules for the purposes of this section.

- (2) It is a condition of a trial approval that the approved person must, if requested in writing to do so by the Minister, provide any information in relation to the trial as may be requested by the Minister in the time and in the form specified in the request.
- (3) The Minister may, despite any other Act or law, provide any information obtained by the Minister under this section to any person or body if the Minister considers it reasonable to do so for the purposes of law enforcement or road safety.

148S Meaning of driver or person in charge of automated vehicle

- (1) The Minister may, by order published on the NSW legislation website, specify how references (in this or any other Act or law) to the driver, or to the person in charge, of a vehicle are to be construed in the case of the use of a highly or fully automated trial vehicle as part of an approved trial.
- (2) The Minister may specify that any such reference is taken to be a reference to any one or more of the following:
 - (a) no person,
 - (b) the vehicle supervisor,
 - (c) the approved person,
 - (d) the owner of the trial vehicle,
 - (e) a person prescribed by the statutory rules.
- (3) In making an order under this section, the Minister is to take into consideration the level of automation of the trial vehicle.
- (4) An order under this section may specify different persons in different circumstances.
- (5) Unless the Minister makes an order that provides otherwise, any reference in any Act or law to the driver of a vehicle or the person in charge of a vehicle is, in the case of a trial vehicle in which there is a vehicle supervisor, taken to be a reference to the vehicle supervisor.
- (6) The Minister is to enter into arrangements with the Minister administering the *Motor Accident Injuries Act 2017* to ensure that consultation takes place about orders made under this section with respect to:
 - (a) Chapter 4 (Vehicle registration) of this Act, or any statutory rules made for the purposes of that Chapter, or
 - (b) any Act or instrument administered by the Minister administering the *Motor Accident Injuries Act 2017*,and the Minister must, before making any such order, be satisfied that consultation has taken place in accordance with those arrangements.
- (7) A person who is taken to be the driver of a vehicle is, when the vehicle is in operation, also taken to be driving the vehicle.

148T Offence of interfering with a trial or a trial vehicle

A person must not, without reasonable excuse, hinder or obstruct the movement of a trial vehicle in an approved trial or interfere (whether physically or in any other way, such as by blocking an electronic signal) with a trial vehicle or any other equipment being used for the purposes of an approved trial.

Maximum penalty: 100 penalty units.

148U Delegation

The Minister may delegate the exercise of any function of the Minister under this Part (other than this power of delegation) to Transport for NSW or the Authority.

148V Statutory rules may make provision for approved trials

The statutory rules may make provision for or with respect to approved trials including, but not limited to, the following:

- (a) the identification of trial vehicles,
- (b) notification, by signage or otherwise, to members of the public and other road users about approved trials,
- (c) the skills or qualifications required to be a vehicle supervisor,
- (d) any requirements for vehicle supervisors to carry and produce identification,
- (e) the records to be kept and the provision of those records to the Minister and to other persons,
- (f) the confidentiality of information,
- (g) the privacy of any personal information collected,
- (h) the waiver of fines and demerit points incurred by persons.

[2] Schedule 4 Savings, transitional and other provisions

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

Part Provisions consequent on enactment of Transport Legislation Amendment (Automated Vehicle Trials and Innovation) Act 2017

Insurance for automated vehicle trials

- (1) The references to a third-party policy and the Nominal Defendant in section 148P (1) extend to include references to a third-party policy and the Nominal Defendant within the meaning of the *Motor Accidents Compensation Act 1999* (the **MAC Act**).
- (2) Section 8 of the MAC Act does not apply to the use of a trial vehicle that is subject to approved arrangements within the meaning of section 148P of this Act and section 39 (3) of the MAC Act does not prevent the Nominal Defendant from recovering an amount under any such approved arrangements.
- (3) Part 2.3 of the MAC Act does not apply to an insurance premium for a third-party policy for a trial vehicle (within the meaning of Part 5.6 of this Act) and the premium is instead to be the premium agreed between the licensed insurer (within the meaning of the MAC Act) and the approved person (within the meaning of Part 5.6 of this Act).

References to Minister administering Motor Accident Injuries Act 2017

A reference in section 148S to the Minister administering the *Motor Accident Injuries Act 2017* is, if the administration of that Act has not been allocated to a Minister, taken to be a reference to the Minister administering the *Motor Accidents Compensation Act 1999*.

Schedule 2 Amendment of Transport Administration Act 1988 No 109

Schedule 1 Functions of Transport for NSW

Insert after clause 1 (l):

(m) **Transport innovation**

Developing policy and facilitating research and testing for the purposes of promoting innovative transport solutions, including the testing of automated vehicles and digital technologies on the State's roads and road related areas.