

Passed by both Houses



New South Wales

Road Transport Amendment (Miscellaneous) Bill 2019

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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,*

, 2019



New South Wales

Road Transport Amendment (Miscellaneous) Bill 2019

Act No _____, 2019

An Act to amend the *Road Transport Act 2013*, and the regulations under that Act, with respect to licence disqualifications, written-off vehicles and testing for alcohol and drug use of persons involved in off-road motor vehicle accidents.

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 *Road Transport Amendment (Miscellaneous) Act 2019*.

2 Commencement

- (1) This Act commences on the date of assent to this Act.
- (2) Despite subsection (1), Schedule 2 commences on 13 December 2019.

Schedule 1 Amendments to Road Transport Act 2013 No 18 relating to disqualified drivers

[1] Section 221A Definitions

Insert in alphabetical order—

never-eligible offence means one of the following offences—

- (a) the offence of murder or manslaughter caused by the use of a motor vehicle,
- (b) an offence against the *Crimes Act 1900* which comprises or includes causing death, grievous bodily harm or wounding by the use of a motor vehicle,
- (c) an offence against section 51A (Predatory driving) or 51B (Police pursuits) of the *Crimes Act 1900*,
- (d) an offence against section 117(1) (Negligent driving) or the former corresponding provision, which causes death or grievous bodily harm,
- (e) an offence against section 118(1) (Intentional menacing driving) or the former corresponding provision,
- (f) an offence against section 52AB (Offence of failing to stop and assist after vehicle impact causing death or grievous bodily harm) of the *Crimes Act 1900* or an offence against section 146 of this Act that relates to an impact causing death or grievous bodily harm arising from the driving of a motor vehicle.

[2] Section 221A, definition of “relevant offence-free period”

Insert “committed” after “following offences” in paragraph (a).

[3] Section 221A(2)

Insert at the end of section 221A—

- (2) For the avoidance of doubt, the date on which a person is convicted of an offence is not a relevant consideration for the purposes of a relevant offence-free period.

[4] Section 221B Local Court may remove licence disqualifications after relevant offence-free period

Insert before section 221B(1)(a)—

- (a1) the disqualified person is eligible, having regard to section 221D, to make the application, and

[5] Section 221B(1)(a)

Omit “any driving offence for conduct”. Insert instead “a driving offence committed”.

[6] Section 221B(1)(a), (2)(b) and (c) and (3)

Insert “for the applicant” after “relevant offence-free period” wherever occurring.

[7] Section 221D Disqualified persons not eligible to apply for removal of licence disqualification

Omit section 221D(1). Insert instead—

- (1) A disqualified person is not eligible to make an application to the Local Court for the removal of licence disqualifications under this Division if the person has, before making the application, been convicted of a never-eligible offence (whether or not a licence disqualification was imposed in connection with the offence).

[8] Section 221E Rehearing of order removing licence disqualifications—undisclosed offences during relevant offence-free period

Insert “for the applicant” after “relevant offence-free period” in section 221E(1)(b).

[9] Section 221F

Insert after section 221E—

221F Rehearing of order removing licence disqualifications—never-eligible offences

- (1) This section applies to a person if—
 - (a) the Local Court makes an order under this Division removing licence disqualifications of the person, and
 - (b) the person had, before the making of the order, been convicted of a never-eligible offence.
- (2) The Authority may, after becoming aware that the Local Court has made an order under this Division removing the licence disqualifications of a person to whom this section applies—
 - (a) notify the relevant registrar of the Local Court that the person had, before the making of the order, been convicted of a never-eligible offence, and
 - (b) if the person makes an application for a driver licence—defer the application until the matter is reheard by the Local Court.
- (3) The Local Court, after being notified as referred to in subsection (2)(a), is to reopen proceedings on the application for an order removing the licence disqualifications and, if the Court is satisfied that the applicant had been convicted of a never-eligible offence before the making of the order, revoke the order.
- (4) If an order removing a licence disqualification is revoked, the licence disqualification that was removed is reinstated.

[10] Schedule 3, clause 12 Power to arrest persons involved in accidents resulting in death for purpose of blood and urine testing

Omit clause 12(1)(b)(i). Insert instead—

- (i) one or more persons have died as a result of the accident, or

Schedule 2 Amendments relating to statutory written-off vehicles

2.1 Road Transport Act 2013 No 18

[1] Section 82 Definitions

Omit the definition of *non-repairable damage*.

Insert in alphabetical order—

statutory write-off assessment criteria, in relation to damage to a light vehicle, means damage of a type, or damage caused in circumstances, prescribed by the statutory rules.

[2] Section 85 Authority must refuse certain applications for authorisations

Omit “non-repairable damage” from section 85(1)(a).

Insert instead “damage of a type specified in the statutory write-off assessment criteria”.

[3] Section 86 Applications for authorisations

Omit “non-repairable damage” from section 86(2)(b).

Insert instead “damage of a type specified in the statutory write-off assessment criteria”.

[4] Section 87 Definitions

Omit the definition of *light vehicle damage assessment*.

Insert in alphabetical order—

total loss assessment means an assessment made by or on behalf of, and in the course of business of, an assessor as to whether or not a notifiable light vehicle (anywhere in Australia) is a total loss.

[5] Section 90 Assessments as to whether a light vehicle is a total loss

Omit “any light vehicle damage assessment” from section 90(1).

Insert instead “each total loss assessment”.

[6] Section 91 Factors relevant to assessments

Omit “any light vehicle damage assessment”. Insert instead “each total loss assessment”.

[7] Section 91(a)

Omit the paragraph. Insert instead—

(a) if the light vehicle is determined to be a total loss—includes an assessment of whether the vehicle has suffered damage of a type specified in the statutory write-off assessment criteria, and

[8] Section 92 Provision of results of assessments

Omit “any light vehicle damage assessment” wherever occurring in section 92(1) and (2).

Insert instead “a total loss assessment”.

[9] Section 92(1)(a) and (2)(a)

Omit “a statement as to whether or not the vehicle has suffered non-repairable damage” wherever occurring.

Insert instead “a statement as to whether or not the notifiable light vehicle is a total loss and, if it is a total loss, a statement as to whether or not the vehicle has suffered damage of a type specified in the statutory write-off assessment criteria”.

[10] Section 93 Information about written-off and demolished light vehicles

Omit “light vehicle damage assessment” from section 93(1).

Insert instead “total loss assessment”.

[11] Section 94 Maintenance of records

Omit “light vehicle damage assessment” from section 94(1).

Insert instead “total loss assessment”.

[12] Section 95 False assessments

Omit “light vehicle damage assessment” wherever occurring.

Insert instead “total loss assessment”.

[13] Section 97 Duty to attach written-off light vehicle warning label

Omit “written-off warning label” from section 97(1).

Insert instead “written-off light vehicle warning label”.

[14] Section 103 Statutory rules concerning written-off light vehicles

Omit “vehicle damage assessments” from section 103(1)(c).

Insert instead “total loss assessments”.

[15] Section 103(1)(f)

Omit “written-off warning labels”. Insert instead “written-off light vehicle warning labels”.

[16] Section 104A Definitions

Omit the definition of *non-repairable damage*. Insert in alphabetical order—

statutory write-off assessment criteria, in relation to damage to a heavy vehicle, means damage of a type, or damage caused in circumstances, prescribed by the statutory rules.

[17] Section 104C Registration of written-off heavy vehicles

Omit “non-repairable damage” from section 104C(1)(b).

Insert instead “damage of a type specified in the statutory write-off assessment criteria”.

[18] Section 104D Definitions

Omit the definition of *heavy vehicle damage assessment*. Insert instead—

total loss assessment means an assessment made by or on behalf of, and in the course of business of, an assessor as to whether or not a notifiable heavy vehicle (anywhere in Australia) is a total loss.

[19] Section 104G Assessments as to whether a heavy vehicle is a total loss

Omit “any heavy vehicle damage assessment” from section 104G(1).

Insert instead “each total loss assessment”.

[20] Section 104H Factors relevant to assessments

Omit “any heavy vehicle damage assessment”. Insert instead “each total loss assessment”.

[21] Section 104H(a)

Omit the paragraph. Insert instead—

- (a) if the heavy vehicle is determined to be a total loss—includes an assessment of whether the vehicle has suffered damage of a type specified in the statutory write-off assessment criteria, and

[22] Section 104I Provision of results of assessments

Omit “any heavy vehicle damage assessment” wherever occurring in section 104I(1) and (2).

Insert instead “a total loss assessment”.

[23] Section 104I(1)(a) and (2)(a)

Omit “a statement as to whether or not the vehicle has suffered non-repairable damage” wherever occurring.

Insert instead “a statement as to whether or not the notifiable heavy vehicle is a total loss and, if it is a total loss, a statement as to whether or not the vehicle has suffered damage of a type specified in the statutory write-off assessment criteria”.

[24] Section 104J Information about written-off and demolished heavy vehicles

Omit “heavy vehicle damage assessment” from section 104J(1).

Insert instead “total loss assessment”.

[25] Section 104K Maintenance of records

Omit “heavy vehicle damage assessment” from section 104K(1).

Insert instead “total loss assessment”.

[26] Section 104L False assessments

Omit “heavy vehicle damage assessment” wherever occurring.

Insert instead “total loss assessment”.

[27] Section 104N Duty to attach written-off heavy vehicle warning label

Omit “written-off warning label” from section 104N(1).

Insert instead “written-off heavy vehicle warning label”.

[28] Section 104T Statutory rules concerning written-off heavy vehicles

Omit “heavy vehicle damage assessments” from section 104T(1)(b).

Insert instead “total loss assessments”.

[29] Section 104T(1)(f)

Omit “written-off warning labels”.

Insert instead “written-off heavy vehicle warning labels”.

2.2 Road Transport (Vehicle Registration) Regulation 2017

[1] Clause 98 Meaning of “written off light vehicle”

Omit the clause.

[2] Part 7, Division 2, heading

Omit the heading. Insert instead—

Division 2 Statutory write-off assessment criteria

[3] Clause 99 Statutory write-off assessment criteria—vehicles other than motor bikes or light trailers

Omit “*non-repairable damage*” from clause 99(1).

Insert instead “*statutory write-off assessment criteria*”.

[4] Clause 100 Statutory write-off assessment criteria—motor bikes

Omit “*non-repairable damage*”.

Insert instead “*statutory write-off assessment criteria*”.

[5] Clause 101 Statutory write-off assessment criteria—light trailers

Omit “*non-repairable damage*” from clause 101(1).

Insert instead “*statutory write-off assessment criteria*”.

[6] Clause 102 Light vehicles that are not eligible for the issue of authorisation to repair

Omit “light vehicle damage assessment” from clause 102(c).

Insert instead “total loss assessment”.

[7] Clause 103 Eligibility to apply for an authorisation to repair

Omit “light vehicle damage assessment” wherever occurring in clause 103(a) and (b).

Insert instead “total loss assessment”.

[8] Clause 105 Prescribed qualifications to carry out total loss assessments—light vehicles

Omit “non-repairable damage” from clause 105(1)(b).

Insert instead “damage of a type specified in the statutory write-off assessment criteria”.

[9] Clause 105(2), definition of “approved course”

Omit “non-repairable damage” from paragraph (b)(iv).

Insert instead “damage specified in the statutory write-off assessment criteria”.

[10] Clause 107 Records about total loss assessments—light vehicles

Omit “light vehicle damage assessment” from clause 107(1).

Insert instead “total loss assessment”.

[11] Clause 107(1)(b) and (b1)

Omit clause 107(1)(b). Insert instead—

(b) the light vehicle damage details relevant to the vehicle,

- (b1) if the vehicle is determined to be a total loss—details of the determination as to whether or not the vehicle has suffered damage of a type specified in the statutory write-off assessment criteria, including the date on which the determination was made,

- [12] **Clause 107(1)(h)**
Omit “if the vehicle is not repaired by the assessor—”.
- [13] **Clause 108 Notification of information about light vehicles assessed as a total loss**
Omit “light vehicle damage assessment”. Insert instead “total loss assessment”.
- [14] **Clause 109 Notification of information about light vehicles not assessed as a total loss**
Omit “light vehicle damage assessment” wherever occurring in clause 109(1).
Insert instead “total loss assessment”.
- [15] **Clause 109(1)(a)**
Omit “non-repairable damage”.
Insert instead “damage of a type specified in the statutory write-off assessment criteria”.
- [16] **Clause 112 Records required to be kept by insurers of information about certain light vehicles assessed as not being total losses**
Omit “light vehicle damage assessment” wherever occurring in paragraphs (a) and (d) of the definition of *prescribed returned light vehicle* in clause 112(3).
Insert instead “total loss assessment”.
- [17] **Clause 113 Obligation to attach written-off light vehicle warning labels**
Omit the clause.
- [18] **Clause 116 Offence to alter, damage, destroy, remove or interfere with written-off light vehicle warning label**
Omit “or clause 113”.
- [19] **Clause 122 Light vehicles returned to registered operator by insurer**
Omit the clause.
- [20] **Clause 123 Hail-damaged light vehicles**
Omit “light vehicle damage assessment” wherever occurring in clause 123(1)(b) and (3).
Insert instead “total loss assessment”.
- [21] **Clause 123B Statutory write-off assessment criteria—heavy vehicles**
Omit “*non-repairable damage*”. Insert instead “*statutory write-off assessment criteria*”.
- [22] **Clause 123F Written-off heavy vehicle**
Omit the clause.
- [23] **Clause 123G Statutory written-off heavy vehicles**
Omit “heavy vehicle damage assessment, as being a total loss or not a total loss, and as having non-repairable damage” from clause 123G(a).

Insert instead “total loss assessment, as being a total loss, and as having damage of a type specified in the statutory write-off assessment criteria”.

[24] Clause 123H Repairable written-off heavy vehicles

Omit “heavy vehicle damage assessment”. Insert instead “total loss assessment”.

[25] Clause 123H

Omit “non-repairable damage”.

Insert instead “damage of a type specified in the statutory write-off assessment criteria”.

[26] Clause 123J Prescribed qualifications to carry out total loss assessments—heavy vehicles

Omit “non-repairable damage” from clause 123J(1)(b).

Insert instead “damage of a type specified in the statutory write-off assessment criteria”.

[27] Clause 123J(2), definition of “approved course”

Omit “non-repairable damage” from paragraph (b)(iv).

Insert instead “damage specified in the statutory write-off assessment criteria”.

[28] Clause 123L Records about total loss assessments—heavy vehicles

Omit “heavy vehicle damage assessment” from clause 123L(1).

Insert instead “total loss assessment”.

[29] Clause 123L(1)(c)

Omit the paragraph. Insert instead—

- (c) if the vehicle is determined to be a total loss—details of the determination as to whether or not the vehicle has suffered damage of a type specified in the statutory write-off assessment criteria, including the date on which the determination was made,

[30] Clause 123M Provision of results of total loss assessments—heavy vehicles

Omit “heavy vehicle damage assessment” wherever occurring in clause 123M(1) and (2).

Insert instead “total loss assessment”.

[31] Clause 123M(1)(c)

Omit the paragraph. Insert instead—

- (c) if the vehicle is determined to be a total loss—details of the determination as to whether or not the vehicle has suffered damage of a type specified in the statutory write-off assessment criteria, including the date on which the determination was made,

[32] Clause 123N Provision of information to the Authority by an assessor

Omit “heavy vehicle damage assessment”. Insert instead “total loss assessment”.

[33] Clause 123Q Provision of information to the Authority by assessor about vehicles not assessed as a total loss

Omit “heavy vehicle damage assessment” from clause 123Q(1).

Insert instead “total loss assessment”.

[34] Clause 123Q(1)

Omit “non-repairable damage”.

Insert instead “damage of a type specified in the statutory write-off assessment criteria”.

[35] Clause 123R Records required to be kept by insurers of information about certain heavy vehicles assessed as not being total losses

Omit “heavy vehicle damage assessment” wherever occurring in paragraphs (a) and (d) of the definition of *prescribed returned heavy vehicle* in clause 123R(3).

Insert instead “total loss assessment”.

[36] Clause 123S Obligation to attach written-off heavy vehicle warning label

Omit the clause.

[37] Clause 123T Content and form of written-off heavy vehicle warning label

Omit “written-off warning label”. Insert instead “written-off heavy vehicle warning label”.

[38] Clause 123U Positioning of written-off heavy vehicle warning label

Omit “written-off warning label”. Insert instead “written-off heavy vehicle warning label”.

[39] Clause 123V Offence to alter, damage, destroy, remove or interfere with written-off heavy vehicle warning label

Omit “written-off warning label”. Insert instead “written-off heavy vehicle warning label”.

[40] Clause 123V

Omit “or clause 123S”.

[41] Schedule 5, heading

Omit the heading. Insert instead—

**Schedule 5 Statutory write-off assessment criteria—
heavy vehicles**

[42] Schedule 5, clause 4(e)

Omit “heavy vehicle damage assessment”. Insert instead “total loss assessment”.

2.3 Road Transport (General) Regulation 2013

Schedule 5 Penalty notice offences

Omit “Clause 113;” and “Clause 123S;” from Column 1 of the matter under the heading “*Road Transport (Vehicle Registration) Regulation 2017*”.