



New South Wales

Road Transport Amendment (Miscellaneous) Bill 2019

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 Act 2013* and the regulations made under that Act as follows—

- (a) to make further provision with respect to the removal of periods of disqualification from a person who is disqualified from holding a driver licence (a *disqualified driver*), in particular—
 - (i) to provide for the reopening of proceedings in cases where the Local Court has removed a period of disqualification from a disqualified driver who was, because of the nature of their offence, ineligible to have the period of disqualification removed, and
 - (ii) to ensure that convictions for offences under certain repealed road transport legislation are considered when determining whether to remove a period of disqualification from a disqualified driver, and
 - (iii) to make it clear that a reference to the date of an offence is a reference to the date on which the offence was committed,
- (b) to make it clear that the power of a police officer to arrest a person involved in an accident, for the purpose of enabling the person to be tested for alcohol and drug use, extends to accidents occurring off-road that result in the death of one or more persons,
- (c) to require a motor vehicle to be assessed as a total economic loss before classifying the vehicle as a statutory written-off vehicle.

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 the date of assent to the proposed Act, with the exception of Schedule 2, which commences on 13 December 2019.

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

Persons convicted of certain serious offences not eligible to apply for removal of period of disqualification

Schedule 1[1] defines certain serious offences to be *never-eligible offences* for the purposes of Division 3A of Part 7.4 of the *Road Transport Act 2013 (the principal Act)*. **Schedule 1[7]** provides that a disqualified driver is not eligible to make an application for an order removing a period of disqualification if the driver has ever been convicted of a never-eligible offence.

Schedule 1[9] provides for the review of an application for an order removing a period of disqualification from the applicant, but only if the order was made despite the applicant being ineligible to apply for the order because the applicant had previously committed a never-eligible offence.

Offences committed during relevant offence-free periods

Schedule 1[5] makes it clear that 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. The relevant date is the date on which the offence was committed. **Schedule 1[2]–[4], [6] and [8]** make consequential amendments.

Arrest for the purpose of alcohol and drug testing of persons involved in off-road accidents resulting in death

Schedule 1[10] makes it clear that the power of a police officer to arrest a person involved in an accident, for the purpose of enabling the person to be alcohol and drug tested, extends to accidents occurring off-road that result in the death of one or more persons.

Schedule 2 Amendments relating to statutory written-off vehicles

Currently, Part 4.5 of the principal Act provides for the following in relation to the assessment of damage to light vehicles—

- (a) a light vehicle damage assessment is carried out to determine whether the light vehicle is a total loss and whether the vehicle has suffered non-repairable damage,
- (b) a report on the light vehicle damage assessment is required to include a statement as to whether the vehicle is a total loss and whether the damage suffered by the vehicle is non-repairable damage,
- (c) a light vehicle that is assessed as being a total loss is to be registered on the NSW written-off light vehicles register.

A light vehicle that is on the NSW written-off light vehicles register cannot be registered, or have its registration renewed or transferred unless the repair of the light vehicle is authorised under the principal Act.

Part 4.5A of the principal Act provides for a scheme that is substantially the same in relation to heavy vehicles.

Schedule 2.1[1] replaces the term *non-repairable damage* with the term *statutory write-off assessment criteria*, in relation to light vehicles, to reflect the terminology used in the industry.

Schedule 2.1[4] replaces the term *light vehicle damage assessment* with the term *total loss assessment*, in relation to light vehicles, to reflect the terminology used in the industry and other jurisdictions.

Schedule 2.1[7] provides that a total loss assessment, in relation to a light vehicle, is not required to assess whether the vehicle has suffered damage of a type specified in the statutory write-off assessment criteria unless the vehicle is a total loss.

Schedule 2.1[13] and [15] clarify that references to written-off warning labels for vehicles in Part 4.5 of the principal Act are references to warning labels for written-off light vehicles.

Schedule 2.1[16] replaces the term *non-repairable damage* with the term *statutory write-off assessment criteria*, in relation to heavy vehicles, to reflect the terminology used in the industry.

Schedule 2.1[18] replaces the term *heavy vehicle damage assessment* with the term *total loss assessment*, in relation to heavy vehicles, to reflect the terminology used in the industry and other jurisdictions.

Schedule 2.1[21] provides that a total loss assessment, in relation to a heavy vehicle, is not required to assess whether the vehicle has suffered damage of a type specified in the statutory write-off assessment criteria unless the vehicle is a total loss.

Schedule 2.1[27] and [29] clarify that references to written-off warning labels for vehicles in Part 4.5A of the principal Act are references to warning labels for written-off heavy vehicles.

Schedule 2.2[1], [17], [19], [22] and [36] omit clauses of the *Road Transport (Vehicle Registration) Regulation 2017* that require vehicles to be categorised as written-off vehicles despite the vehicles not being determined to be a total loss.

The remaining provisions of **Schedule 2.1 and 2.2** and **Schedule 2.3** and make consequential amendments.



New South Wales

Road Transport Amendment (Miscellaneous) Bill 2019

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New South Wales

Road Transport Amendment (Miscellaneous) Bill 2019

No. , 2019

A Bill for

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.

The Legislature of New South Wales enacts—

1

1 Name of Act

2

This Act is the *Road Transport Amendment (Miscellaneous) Act 2019*.

3

2 Commencement

4

(1) This Act commences on the date of assent to this Act.

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(2) Despite subsection (1), Schedule 2 commences on 13 December 2019.

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Schedule 1	Amendments to Road Transport Act 2013 No 18 relating to disqualified drivers	1
		2
[1] Section 221A Definitions		3
Insert in alphabetical order—		4
<i>never-eligible offence</i> means one of the following offences—		5
(a) the offence of murder or manslaughter caused by the use of a motor vehicle,		6
		7
(b) an offence against the <i>Crimes Act 1900</i> which comprises or includes causing death, grievous bodily harm or wounding by the use of a motor vehicle,		8
		9
		10
(c) an offence against section 51A (Predatory driving) or 51B (Police pursuits) of the <i>Crimes Act 1900</i> ,		11
		12
(d) an offence against section 117(1) (Negligent driving) or the former corresponding provision, which causes death or grievous bodily harm,		13
		14
(e) an offence against section 118(1) (Intentional menacing driving) or the former corresponding provision,		15
		16
(f) an offence against section 52AB (Offence of failing to stop and assist after vehicle impact causing death or grievous bodily harm) of the <i>Crimes Act 1900</i> 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.		17
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		21
[2] Section 221A, definition of “relevant offence-free period”		22
Insert “committed” after “following offences” in paragraph (a).		23
[3] Section 221A(2)		24
Insert at the end of section 221A—		25
(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.		26
		27
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[4] Section 221B Local Court may remove licence disqualifications after relevant offence-free period		29
		30
Insert before section 221B(1)(a)—		31
(a1) the disqualified person is eligible, having regard to section 221D, to make the application, and		32
		33
[5] Section 221B(1)(a)		34
Omit “any driving offence for conduct”. Insert instead “a driving offence committed”.		35
[6] Section 221B(1)(a), (2)(b) and (c) and (3)		36
Insert “for the applicant” after “relevant offence-free period” wherever occurring.		37

[7] Section 221D Disqualified persons not eligible to apply for removal of licence disqualification	1
	2
Omit section 221D(1). Insert instead—	3
(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).	4
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[8] Section 221E Rehearing of order removing licence disqualifications—undisclosed offences during relevant offence-free period	9
	10
Insert “for the applicant” after “relevant offence-free period” in section 221E(1)(b).	11
[9] Section 221F	12
Insert after section 221E—	13
221F Rehearing of order removing licence disqualifications—never-eligible offences	14
	15
(1) This section applies to a person if—	16
(a) the Local Court makes an order under this Division removing licence disqualifications of the person, and	17
	18
(b) the person had, before the making of the order, been convicted of a never-eligible offence.	19
	20
(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—	21
	22
(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	24
	25
	26
(b) if the person makes an application for a driver licence—defer the application until the matter is reheard by the Local Court.	27
	28
(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.	29
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(4) If an order removing a licence disqualification is revoked, the licence disqualification that was removed is reinstated.	34
	35
[10] Schedule 3, clause 12 Power to arrest persons involved in accidents resulting in death for purpose of blood and urine testing	36
	37
Omit clause 12(1)(b)(i). Insert instead—	38
(i) one or more persons have died as a result of the accident, or	39

Schedule 2	Amendments relating to statutory written-off vehicles	1
		2
2.1	Road Transport Act 2013 No 18	3
[1]	Section 82 Definitions	4
	Omit the definition of <i>non-repairable damage</i> .	5
	Insert in alphabetical order—	6
	<i>statutory write-off assessment criteria</i> , in relation to damage to a light vehicle, means damage of a type, or damage caused in circumstances, prescribed by the statutory rules.	7
		8
		9
[2]	Section 85 Authority must refuse certain applications for authorisations	10
	Omit “non-repairable damage” from section 85(1)(a).	11
	Insert instead “damage of a type specified in the statutory write-off assessment criteria”.	12
[3]	Section 86 Applications for authorisations	13
	Omit “non-repairable damage” from section 86(2)(b).	14
	Insert instead “damage of a type specified in the statutory write-off assessment criteria”.	15
[4]	Section 87 Definitions	16
	Omit the definition of <i>light vehicle damage assessment</i> .	17
	Insert in alphabetical order—	18
	<i>total loss assessment</i> 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.	19
		20
		21
[5]	Section 90 Assessments as to whether a light vehicle is a total loss	22
	Omit “any light vehicle damage assessment” from section 90(1).	23
	Insert instead “each total loss assessment”.	24
[6]	Section 91 Factors relevant to assessments	25
	Omit “any light vehicle damage assessment”. Insert instead “each total loss assessment”.	26
[7]	Section 91(a)	27
	Omit the paragraph. Insert instead—	28
	(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	29
		30
		31
[8]	Section 92 Provision of results of assessments	32
	Omit “any light vehicle damage assessment” wherever occurring in section 92(1) and (2).	33
	Insert instead “a total loss assessment”.	34
[9]	Section 92(1)(a) and (2)(a)	35
	Omit “a statement as to whether or not the vehicle has suffered non-repairable damage” wherever occurring.	36
		37

	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”.	1 2 3
[10]	Section 93 Information about written-off and demolished light vehicles	4
	Omit “light vehicle damage assessment” from section 93(1).	5
	Insert instead “total loss assessment”.	6
[11]	Section 94 Maintenance of records	7
	Omit “light vehicle damage assessment” from section 94(1).	8
	Insert instead “total loss assessment”.	9
[12]	Section 95 False assessments	10
	Omit “light vehicle damage assessment” wherever occurring.	11
	Insert instead “total loss assessment”.	12
[13]	Section 97 Duty to attach written-off light vehicle warning label	13
	Omit “written-off warning label” from section 97(1).	14
	Insert instead “written-off light vehicle warning label”.	15
[14]	Section 103 Statutory rules concerning written-off light vehicles	16
	Omit “vehicle damage assessments” from section 103(1)(c).	17
	Insert instead “total loss assessments”.	18
[15]	Section 103(1)(f)	19
	Omit “written-off warning labels”. Insert instead “written-off light vehicle warning labels”.	20
[16]	Section 104A Definitions	21
	Omit the definition of <i>non-repairable damage</i> . Insert in alphabetical order—	22
	<i>statutory write-off assessment criteria</i> , in relation to damage to a heavy	23
	vehicle, means damage of a type, or damage caused in circumstances,	24
	prescribed by the statutory rules.	25
[17]	Section 104C Registration of written-off heavy vehicles	26
	Omit “non-repairable damage” from section 104C(1)(b).	27
	Insert instead “damage of a type specified in the statutory write-off assessment criteria”.	28
[18]	Section 104D Definitions	29
	Omit the definition of <i>heavy vehicle damage assessment</i> . Insert instead—	30
	<i>total loss assessment</i> means an assessment made by or on behalf of, and in the	31
	course of business of, an assessor as to whether or not a notifiable heavy	32
	vehicle (anywhere in Australia) is a total loss.	33
[19]	Section 104G Assessments as to whether a heavy vehicle is a total loss	34
	Omit “any heavy vehicle damage assessment” from section 104G(1).	35
	Insert instead “each total loss assessment”.	36

[20] Section 104H Factors relevant to assessments	1
Omit “any heavy vehicle damage assessment”. Insert instead “each total loss assessment”.	2
[21] Section 104H(a)	3
Omit the paragraph. Insert instead—	4
(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	5 6 7
[22] Section 104I Provision of results of assessments	8
Omit “any heavy vehicle damage assessment” wherever occurring in section 104I(1) and (2).	9 10
Insert instead “a total loss assessment”.	11
[23] Section 104I(1)(a) and (2)(a)	12
Omit “a statement as to whether or not the vehicle has suffered non-repairable damage” wherever occurring.	13 14
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”.	15 16 17
[24] Section 104J Information about written-off and demolished heavy vehicles	18
Omit “heavy vehicle damage assessment” from section 104J(1).	19
Insert instead “total loss assessment”.	20
[25] Section 104K Maintenance of records	21
Omit “heavy vehicle damage assessment” from section 104K(1).	22
Insert instead “total loss assessment”.	23
[26] Section 104L False assessments	24
Omit “heavy vehicle damage assessment” wherever occurring.	25
Insert instead “total loss assessment”.	26
[27] Section 104N Duty to attach written-off heavy vehicle warning label	27
Omit “written-off warning label” from section 104N(1).	28
Insert instead “written-off heavy vehicle warning label”.	29
[28] Section 104T Statutory rules concerning written-off heavy vehicles	30
Omit “heavy vehicle damage assessments” from section 104T(1)(b).	31
Insert instead “total loss assessments”.	32
[29] Section 104T(1)(f)	33
Omit “written-off warning labels”.	34
Insert instead “written-off heavy vehicle warning labels”.	35

2.2 Road Transport (Vehicle Registration) Regulation 2017	1
[1] Clause 98 Meaning of “written off light vehicle”	2
Omit the clause.	3
[2] Part 7, Division 2, heading	4
Omit the heading. Insert instead—	5
Division 2 Statutory write-off assessment criteria	6
[3] Clause 99 Statutory write-off assessment criteria—vehicles other than motor bikes or light trailers	7
Omit “ <i>non-repairable damage</i> ” from clause 99(1).	8
Insert instead “ <i>statutory write-off assessment criteria</i> ”.	9
[4] Clause 100 Statutory write-off assessment criteria—motor bikes	10
Omit “ <i>non-repairable damage</i> ”.	11
Insert instead “ <i>statutory write-off assessment criteria</i> ”.	12
[5] Clause 101 Statutory write-off assessment criteria—light trailers	13
Omit “ <i>non-repairable damage</i> ” from clause 101(1).	14
Insert instead “ <i>statutory write-off assessment criteria</i> ”.	15
[6] Clause 102 Light vehicles that are not eligible for the issue of authorisation to repair	16
Omit “light vehicle damage assessment” from clause 102(c).	17
Insert instead “total loss assessment”.	18
[7] Clause 103 Eligibility to apply for an authorisation to repair	19
Omit “light vehicle damage assessment” wherever occurring in clause 103(a) and (b).	20
Insert instead “total loss assessment”.	21
[8] Clause 105 Prescribed qualifications to carry out total loss assessments—light vehicles	22
Omit “non-repairable damage” from clause 105(1)(b).	23
Insert instead “damage of a type specified in the statutory write-off assessment criteria”.	24
[9] Clause 105(2), definition of “approved course”	25
Omit “non-repairable damage” from paragraph (b)(iv).	26
Insert instead “damage specified in the statutory write-off assessment criteria”.	27
[10] Clause 107 Records about total loss assessments—light vehicles	28
Omit “light vehicle damage assessment” from clause 107(1).	29
Insert instead “total loss assessment”.	30
[11] Clause 107(1)(b) and (b1)	31
Omit clause 107(1)(b). Insert instead—	32
(b) the light vehicle damage details relevant to the vehicle,	33
	34
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	(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,	1 2 3 4
[12]	Clause 107(1)(h) Omit “if the vehicle is not repaired by the assessor—”.	5 6
[13]	Clause 108 Notification of information about light vehicles assessed as a total loss Omit “light vehicle damage assessment”. Insert instead “total loss assessment”.	7 8
[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”.	9 10 11 12
[15]	Clause 109(1)(a) Omit “non-repairable damage”. Insert instead “damage of a type specified in the statutory write-off assessment criteria”.	13 14 15
[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 <i>prescribed returned light vehicle</i> in clause 112(3). Insert instead “total loss assessment”.	16 17 18 19 20
[17]	Clause 113 Obligation to attach written-off light vehicle warning labels Omit the clause.	21 22
[18]	Clause 116 Offence to alter, damage, destroy, remove or interfere with written-off light vehicle warning label Omit “or clause 113”.	23 24 25
[19]	Clause 122 Light vehicles returned to registered operator by insurer Omit the clause.	26 27
[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”.	28 29 30
[21]	Clause 123B Statutory write-off assessment criteria—heavy vehicles Omit “ <i>non-repairable damage</i> ”. Insert instead “ <i>statutory write-off assessment criteria</i> ”.	31 32
[22]	Clause 123F Written-off heavy vehicle Omit the clause.	33 34
[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).	35 36 37

	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”.	1 2
[24]	Clause 123H Repairable written-off heavy vehicles Omit “heavy vehicle damage assessment”. Insert instead “total loss assessment”.	3 4
[25]	Clause 123H Omit “non-repairable damage”. Insert instead “damage of a type specified in the statutory write-off assessment criteria”.	5 6 7
[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”.	8 9 10 11
[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”.	12 13 14
[28]	Clause 123L Records about total loss assessments—heavy vehicles Omit “heavy vehicle damage assessment” from clause 123L(1). Insert instead “total loss assessment”.	15 16 17
[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,	18 19 20 21 22 23
[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”.	24 25 26
[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,	27 28 29 30 31 32
[32]	Clause 123N Provision of information to the Authority by an assessor Omit “heavy vehicle damage assessment”. Insert instead “total loss assessment”.	33 34
[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”.	35 36 37 38

[34] Clause 123Q(1)	1
Omit “non-repairable damage”.	2
Insert instead “damage of a type specified in the statutory write-off assessment criteria”.	3
[35] Clause 123R Records required to be kept by insurers of information about certain heavy vehicles assessed as not being total losses	4
Omit “heavy vehicle damage assessment” wherever occurring in paragraphs (a) and (d) of the definition of <i>prescribed returned heavy vehicle</i> in clause 123R(3).	5
Insert instead “total loss assessment”.	6
[36] Clause 123S Obligation to attach written-off heavy vehicle warning label	7
Omit the clause.	8
[37] Clause 123T Content and form of written-off heavy vehicle warning label	9
Omit “written-off warning label”. Insert instead “written-off heavy vehicle warning label”.	10
[38] Clause 123U Positioning of written-off heavy vehicle warning label	11
Omit “written-off warning label”. Insert instead “written-off heavy vehicle warning label”.	12
[39] Clause 123V Offence to alter, damage, destroy, remove or interfere with written-off heavy vehicle warning label	13
Omit “written-off warning label”. Insert instead “written-off heavy vehicle warning label”.	14
[40] Clause 123V	15
Omit “or clause 123S”.	16
[41] Schedule 5, heading	17
Omit the heading. Insert instead—	18
Schedule 5 Statutory write-off assessment criteria— heavy vehicles	19
	20
[42] Schedule 5, clause 4(e)	21
Omit “heavy vehicle damage assessment”. Insert instead “total loss assessment”.	22
2.3 Road Transport (General) Regulation 2013	23
Schedule 5 Penalty notice offences	24
Omit “Clause 113;” and “Clause 123S;” from Column 1 of the matter under the heading “ <i>Road Transport (Vehicle Registration) Regulation 2017</i> ”.	25
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