

Passed by both Houses



New South Wales

Road Transport (General) Amendment (Vehicle Sanctions) Bill 2012

Contents

	Page
1 Name of Act	2
2 Commencement	2
Schedule 1 Amendments to Road Transport (General) Act 2005 No 11 relating to clamping of vehicles	3
Schedule 2 Amendments to Road Transport (General) Act 2005 No 11 relating to number plate confiscation and other vehicle sanctions	7
Schedule 3 Amendment of Regulations	22

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 (General) Amendment (Vehicle Sanctions) Bill 2012

Act No , 2012

An Act to amend the *Road Transport (General) Act 2005* with respect to sanctions for offences involving police pursuits, high range speeding and certain other driving offences; and for other purposes.

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Road Transport (General) Amendment (Vehicle Sanctions) Act 2012*.

2 Commencement

- (1) This Act commences on the date of assent, except as provided by subsection (2).
- (2) Schedules 2 and 3 (other than Schedule 3.1 [4], [16], [17] and [19]) commence on a day or days to be appointed by proclamation.

Schedule 1 Amendments to Road Transport (General) Act 2005 No 11 relating to clamping of vehicles

- [1] Part 5.5, Division 2, heading**
Omit “wheel clamping,”.
- [2] Section 217 Definitions**
Omit the definitions of *clamp* and *clamping agent*.
- [3] Section 218 Removal or production of vehicles used for certain offences
for impounding or forfeiture**
Omit “clamping or” from section 218 (1) (b).
- [4] Section 218 (1A) (a)**
Omit the paragraph.
- [5] Section 218 (1C) and (1D)**
Omit the subsections.
- [6] Section 218 (6)**
Omit “clamping or” wherever occurring.
- [7] Section 219 Impounding or forfeiture of vehicles on finding of guilt of
driver who is a registered operator of the vehicle**
Omit section 219 (3).
- [8] Section 219 (5) and (7)**
Omit “clamping or” wherever occurring.
- [9] Section 219 (7)**
Omit “clamped or”.
- [10] Section 219 (8)**
Omit “, clamping” wherever occurring.
- [11] Section 219A Impounding or forfeiture of vehicles on finding of guilt of
driver who is not the registered operator of the vehicle**
Omit “clamped by a clamping agent at an appropriate place or” from
section 219A (3) (b).

Road Transport (General) Amendment (Vehicle Sanctions) Bill 2012

Schedule 1 Amendments to Road Transport (General) Act 2005 No 11 relating to clamping of vehicles

- [12] Section 219A (5) and (6)**
Omit “clamping or” wherever occurring.
- [13] Section 219A (6)**
Omit “clamped or”.
- [14] Section 219C Clamping agents**
Omit the section.
- [15] Section 219D Identification of clamping agents**
Omit the section.
- [16] Section 219E Return of identification cards**
Omit the section.
- [17] Section 219F Fees for clamping of motor vehicles**
Omit the section.
- [18] Section 219G Offence relating to wheel clamping**
Omit the section.
- [19] Section 220 Registered operator and interested persons to be notified**
Omit “clamping or” wherever occurring.
- [20] Section 220 (3)**
Omit “clamped or”.
- [21] Section 221 Retention of motor vehicle impounded under section 218**
Omit section 221 (1A).
- [22] Section 221 (2) and (3)**
Omit “or clamped” wherever occurring.
- [23] Section 223 Release of impounded vehicle**
Omit section 223 (1).
- [24] Section 224 Release of motor vehicle on application to Local Court**
Omit “or for the removal of clamps from a motor vehicle” from section 224 (1).

[25] Section 224 (4)

Omit “clamped or”.

[26] Section 224 (4A)

Omit “, or the removal of clamps from a motor vehicle that was clamped,”.

[27] Section 225 Safe keeping of motor vehicles

Omit section 225 (2).

[28] Section 225A

Omit the section. Insert instead:

225A Protection from liability with respect to impounding and crash testing

No action lies against the Crown, the Minister, the Commissioner, Transport for NSW, the Authority or any police officer for any damage to, or theft of, a motor vehicle caused by, or arising from, impounding or crash testing a motor vehicle in accordance with this Division.

[29] Schedule 1 Savings, transitional and other provisions

Insert at the end of clause 1 (1):

*Road Transport (General) Amendment (Vehicle Sanctions)
Act 2012*

[30] Schedule 1, Part 10

Insert after Part 9:

**Part 10 Provisions consequent on enactment of
Road Transport (General) Amendment
(Vehicle Sanctions) Act 2012**

22 Definition

In this Part:

amending Act means the *Road Transport (General) Amendment (Vehicle Sanctions) Act 2012*.

23 Motor vehicles clamped before commencement of Schedule 1 to the amending Act

Division 2 of Part 5.5 of this Act, as in force immediately before the commencement of Schedule 1 to the amending Act, continues

to apply to and in respect of a motor vehicle clamped under the provisions of that Division before that commencement.

24 Impounding, forfeiture and other penalties for certain high range speed and police pursuit offences

- (1) Sections 218 and 219 (as inserted by the amending Act) do not apply to or in respect of the use of a motor vehicle in connection with a high range speed offence or an offence under section 51B of the *Crimes Act 1900* that was committed before the insertion of those sections.
- (2) However, if a motor vehicle that was used in connection with an offence under a high range speed offence or section 51B of the *Crimes Act 1900* for which a person was found guilty before the insertion of those sections, that finding may be taken into account in deciding whether the motor vehicle has been used in connection with a second or subsequent such offence for the purposes of determining any penalty that may be imposed by a court or the Authority under section 219 (as inserted by the amending Act).

25 Disposal and crash testing of motor vehicles

Section 227 and the regulations made under that section, as in force immediately before the commencement of Schedule 2 [1] to the amending Act, continue to apply to and in respect of a motor vehicle impounded or forfeited under Division 2 of Part 5.5 before that commencement.

Schedule 2 Amendments to Road Transport (General) Act 2005 No 11 relating to number plate confiscation and other vehicle sanctions

[1] Part 5.5, Division 2

Omit the Division. Insert instead:

Division 2 Detention, impounding and forfeiture of vehicles and confiscation of number plates

Subdivision 1 General

217 Object and effect of Division

- (1) This Division provides for the imposition of certain sanctions in addition to any other penalties that may be imposed by or under the road transport legislation with respect to sanctionable offences.
- (2) Nothing in this Division affects any discretion or power that a court or person has apart from this Division in respect of any sanctionable or other offence.

217A Definitions

- (1) In this Division:
 - camera recorded offence* means a speeding offence that was recorded by an approved camera recording device, or approved average speed detection device, within the meaning of the *Road Transport (Safety and Traffic Management) Act 1999*.
 - Commissioner* means the Commissioner of Police.
 - crash test* means a test to measure the effect of the impact of a motor vehicle that collides with another vehicle or other object, or a pedestrian, that is conducted by a person or body designated by the Authority.
 - designated speed limit*, in relation to a driver on a length of road, means:
 - (a) except as provided by paragraph (b)—the speed limit applicable to the driver on the length of road (including a length of road in a school zone) under the *Road Transport (Safety and Traffic Management) Act 1999*, or
 - (b) if the speed limit applicable to the driver on the length of road (not being a length of road in a school zone) under

that Act is determined by a variable illuminated message device or other speed limit sign indicating a speed limit lower than that normally applicable to the road—the speed limit that would normally be applicable to the driver on the length of road under that Act.

high range speed offence means an offence (not being a camera recorded offence) of driving a vehicle at a speed more than 45 kilometres per hour over the designated speed limit applying to the driver for the length of road at the time the offence is committed.

number plate means a number plate issued by the Authority and includes a special number-plate within the meaning of section 8A of the *Road Transport (Vehicle Registration) Act 1997*.

number plate confiscation notice means a notice in a form approved by the Commissioner containing the information prescribed by the regulations for the purposes of this definition.

number plate confiscation period, in relation to a motor vehicle, means the period during which the vehicle is prohibited from being operated on a road by a number plate confiscation notice.

offending operator means a person who, at the time of an offence or alleged offence in connection with which a motor vehicle was or is being used, was or is both the driver, and a registered operator, of the motor vehicle.

production notice in relation to a motor vehicle or number plates—see section 218A (1).

registered interest, in relation to a motor vehicle, means a security interest in the vehicle with respect to which a financing statement (within the meaning of the *Personal Property Securities Act 2009* of the Commonwealth) has been registered under that Act.

sanctionable offence means any of the following:

- (a) a high range speed offence,
- (b) an offence under section 40 or 41 (2) of the *Road Transport (Safety and Traffic Management) Act 1999*,
- (c) an offence under section 51B (Police pursuits) of the *Crimes Act 1900*,
- (d) any other offence prescribed by the regulations.

school zone has the meaning that it has in the road rules prescribed under the *Road Transport (Safety and Traffic Management) Act 1999*.

- (2) In this Division:
- working day***, in relation to the impoundment of a motor vehicle, or the delivery or confiscation of number plates, means a day that is not:
- (a) a Saturday or Sunday, or
 - (b) a public holiday or a bank holiday in the place at which the motor vehicle was impounded, or the number plates were confiscated or required to be delivered under this Division.

Subdivision 2 Additional sanctions for certain offences

218 When additional sanctions may be imposed

A police officer may impose any one or more of the sanctions set out in section 218A if the police officer reasonably believes that a motor vehicle:

- (a) is being or has (on that day or during the past 10 days) been operated on a road by an offending operator of the vehicle so as to commit a sanctionable offence, or
- (b) is being or has (on that day or during the past 10 days) been operated on a road by a driver (whether or not an offending operator of the motor vehicle) during a number plate confiscation period, or
- (c) is being or has (on that day or during the past 10 days) been operated on a road by an offending operator of the vehicle who has committed an offence under section 218E (Failure to comply with production notice), or
- (d) is being operated on a road by a person who has been charged with an offence under section 218F (Number plate and other offences), or
- (e) is the subject of forfeiture under section 219.

218A Sanctions that may be imposed

- (1) The police officer may do any one or more of the following:
- (a) seize and take charge of the motor vehicle and cause it to be moved to a place determined by the Commissioner,
 - (b) immediately, or as soon as practicable afterwards, give or send the offending operator a notice (a ***motor vehicle production notice***) requiring the offending operator to move or cause the vehicle to be moved to, or to produce or cause to be produced to a police officer at, a place specified

- in the notice no later than on the date and time specified in the notice (the *motor vehicle production date*),
- (c) remove and confiscate the number plates affixed to the motor vehicle and attach a number plate confiscation notice to the motor vehicle,
 - (d) immediately or as soon as practicable afterwards:
 - (i) give the offending operator a notice (a *number plate production notice*) requiring the offending operator to remove or cause to be removed the number plates affixed to the vehicle and produce them to a police officer at a place specified in the notice no later than on the date and time specified in the notice (the *number plate production date*), and
 - (ii) attach a number plate confiscation notice to the motor vehicle,
 - (e) as soon as practicable afterwards, send to the offending operator at the garage address of the motor vehicle:
 - (i) a notice (a *number plate production notice*) requiring the offending operator to remove or cause to be removed the number plates affixed to the vehicle and produce them to a police officer at a place specified in the notice no later than on the date and time specified in the notice (the *number plate production date*), and
 - (ii) a number plate confiscation notice.
- (2) An offending operator who is sent a number plate confiscation notice under subsection (1) (e) must attach the number plate confiscation notice to the motor vehicle in the manner described on the notice no later than on the number plate production date.
Maximum penalty: 30 penalty units.
- (3) Except as provided by this Division, a motor vehicle to which a number plate confiscation notice is attached under:
- (a) subsection (1) (c) is prohibited from being operated on any road during the period of 3 months commencing on the day the notice is attached to the vehicle, and
 - (b) subsection (1) (d) or (e) is prohibited from being operated on any road during the period of 3 months commencing from the number plate production date.

Note. See section 218F with respect to number plate offences.

218B Production notices

- (1) The date specified in a motor vehicle production notice or number plate production notice for production of a motor vehicle or number plates, respectively, must be a date that is no later than the first working day occurring 5 days after the notice is given.
- (2) A production notice may be given personally or by post and must state the ground on which it is being given.
- (3) The disposal of a motor vehicle within the period of 5 days after a production notice is given in relation to the motor vehicle does not affect the requirement to produce the motor vehicle or number plates in accordance with the notice, except as provided by subsection (4).
- (4) A production notice ceases to have effect in relation to a motor vehicle or number plates if it is withdrawn by the Commissioner by notice in writing given to:
 - (a) the offending operator concerned, or
 - (b) a person who purchased the motor vehicle after the production notice was given who satisfies the Commissioner that the purchase was made in good faith for value and without notice, at the time of the purchase, of the production notice.

Note. It is an offence under section 218F (4) to operate a motor vehicle to which a number plate confiscation notice is attached when the vehicle is not the subject of such a notice.
- (5) On being given notice of the withdrawal of a production notice under subsection (4), the offending operator or purchaser concerned must remove any number plate confiscation notice attached to the motor vehicle before the motor vehicle is operated on any road.

218C Powers and duties relating to seizure of motor vehicles and removal of number plates

- (1) A motor vehicle may be seized, or number plates confiscated from a motor vehicle, under section 218A on:
 - (a) a road or public place, or
 - (b) any other place, with the consent of the owner or occupier of the place or under the authority of a search warrant issued under section 228.

Road Transport (General) Amendment (Vehicle Sanctions) Bill 2012

Schedule 2 Amendments to Road Transport (General) Act 2005 No 11 relating to number plate confiscation and other vehicle sanctions

- (2) For the purpose of exercising the powers conferred by section 218A (1) (a) or (c), a police officer may:
 - (a) cause any locking device or other feature of the motor vehicle concerned that is impeding the seizure and movement of the motor vehicle to be removed, dismantled or neutralised and may, if the driver or any other person will not surrender the keys to the vehicle, start the vehicle by other means, and
 - (b) use or caused to be used such equipment and force as is necessary to remove number plates and remove or disable any device or thing impeding the removal of the number plates.
- (3) A motor vehicle may be moved under section 218A (1) (a):
 - (a) by being driven, whether or not under power, or by its being towed or pushed, or in any other manner, and
 - (b) by one or more police officers or, at the direction of a police officer by persons engaged by the Commissioner, and may be impounded at premises under the control of the Commissioner or of another authority or person.
- (4) A police officer is to deliver, or cause to be delivered, number plates that are confiscated under section 218A to the Authority as soon as practicable (but no later than 5 working days after they are confiscated).
- (5) A motor vehicle to which a number plate confiscation notice is attached under section 218A (1) (c) may:
 - (a) be moved by its being driven, whether or not under power, or by its being towed or pushed, or in any other manner, to the nearest place at which, in the opinion of the police officer concerned, it may lawfully stand at that time, and
 - (b) be towed (at the expense of the registered operator) to its normal garage address.
- (6) If a motor vehicle is moved in accordance with this section by a tow truck, the person operating or driving the tow truck may take such action as is reasonable or necessary to facilitate the towing of the vehicle in a manner that does the least damage to the vehicle. In taking any such action, the person is not liable for any damage to the vehicle that the person causes.

Note. For example, a tow truck driver may need to break into an unattended motor vehicle that is causing an obstruction in order to release the hand brake and avoid doing serious damage to the vehicle's transmission.

-
- (7) The registered operator of a motor vehicle that has had its number plates removed is responsible for the safe and legal parking of the vehicle, any fees for removal or towing and any other costs and financial loss incurred (including any parking fines and any fees for the issue of any number plate to replace a number plate damaged when removed under this section).

218D Removal, impounding and production of vehicle

- (1) Any motor vehicle moved to, or produced at, a place in accordance with section 218A may, subject to the regulations, be impounded by the Commissioner at that place or may be moved to and impounded at any other place determined by the Commissioner.
- (2) A certificate in writing given by a police officer as to the fact and cost of any such movement is evidence of those matters.

218E Failure to comply with production notice

- (1) A driver who is a registered operator of a motor vehicle is guilty of an offence if:
- (a) the driver is given a motor vehicle production notice in relation to the motor vehicle, and
 - (b) without reasonable excuse, the driver fails to move the motor vehicle to or produce it at, or cause it to be moved to or produced at, the place, on the date and within the time period, specified in the notice.

Maximum penalty: 30 penalty units.

- (2) A driver who is a registered operator of a motor vehicle is guilty of an offence if:
- (a) the driver is given a number plate production notice in relation to number plates affixed to the vehicle, and
 - (b) without reasonable excuse, the driver fails to remove or caused to be removed the number plates and produce or cause them to be produced at the place, on the date and within the time period, specified in the notice.

Maximum penalty: 30 penalty units.

- (3) The Authority may suspend the registration of a registrable vehicle for a period not exceeding 3 months if the registered operator of the vehicle:
- (a) is found guilty of an offence under this section, or
 - (b) pays the whole or part of the amount specified in a penalty notice issued in respect of an offence under this section, or

Road Transport (General) Amendment (Vehicle Sanctions) Bill 2012

Schedule 2 Amendments to Road Transport (General) Act 2005 No 11 relating to number plate confiscation and other vehicle sanctions

in any process subsequent to such a penalty notice, as the amount that is payable in order to dispose of the alleged offence without having it dealt with by a court, or

- (c) has not paid the amount so specified, has not elected to have the matter dealt with by a court and the time for electing to have the matter so dealt with has elapsed.

Note. Under this section, the Authority may suspend the registration of a vehicle even if the court does not proceed to conviction after finding the driver or registered operator guilty and makes an order under section 10 of the *Crimes (Sentencing Procedure) Act 1999*.

- (4) Any suspension under subsection (3) is in addition to any penalty imposed by a court or prescribed by the regulations under section 183 for the offence.

- (5) A motor vehicle used by an offending operator who has committed a second or subsequent offence under this section is, by the finding of guilt by the court, forfeited to the Crown unless already forfeited under section 219 or the court otherwise directs under section 219A (Commutation of forfeiture).

Note. A forfeited motor vehicle may be crash tested—see section 225 (6).

- (6) For the purposes of subsection (5), an offence under this section includes an offence in respect of which the charge is found proven, or a person is found guilty, (but without proceeding to a conviction) under section 10 of the *Crimes (Sentencing Procedure) Act 1999*.

218F Number plate and other offences

- (1) A person must not, without lawful excuse, operate a motor vehicle on a road during a number plate confiscation period applying to the motor vehicle.

Maximum penalty: 30 penalty units.

- (2) A person must not, without lawful excuse, remove, tamper with or modify a number plate confiscation notice attached to a motor vehicle during a number plate confiscation period applying to the motor vehicle.

Maximum penalty: 30 penalty units.

- (3) A person must not, without lawful excuse, operate a motor vehicle on a road during a number plate confiscation period

applying to the motor vehicle while any of the following is affixed to the vehicle:

- (a) a number plate issued (whether or not in respect of the registration of that particular vehicle) under a law in force in New South Wales or any other State or Territory,
- (b) an altered number plate issued under such a law,
- (c) a number plate likely to be mistaken for, or resembling, such a number plate.

Maximum penalty: 30 penalty units.

- (4) A person must not operate a motor vehicle on a road with a number plate confiscation notice, or thing resembling such a notice, attached to the vehicle when the vehicle is not the subject of such a notice.

Maximum penalty: 20 penalty units.

- (5) A registered operator of a registrable vehicle (other than the driver of the vehicle) used in contravention of this section is also guilty of an offence if it is proved that the operator caused, permitted, allowed or failed to take reasonable precautions to prevent, the contravention.

Maximum penalty: 30 penalty units.

- (6) A person must not by a false statement or representation attempt to obtain the release of:

- (a) a vehicle impounded under this Division, or
- (b) number plates confiscated under this Division.

Maximum penalty: 30 penalty units.

- (7) The driver of a motor vehicle is not guilty of an offence under this section if he or she did not know, and could not reasonably have known, that:

- (a) the motor vehicle was subject to a number plate confiscation notice, or
- (b) the number plates were affixed to the motor vehicle in contravention of subsection (3).

- (8) The registered operator of a motor vehicle is not guilty of an offence under this section if he or she did not know, and could not reasonably have known, that:

- (a) the motor vehicle was being operated in contravention of a number plate confiscation notice, or
- (b) the number plates were affixed to the motor vehicle in contravention of subsection (3).

219 Forfeiture of vehicles on finding of guilt of offending operator

- (1) A motor vehicle used in connection with a sanctionable offence that is a second or subsequent offence by the offending operator under the provision concerned within a 5 year period is, by the finding of guilt by the court, forfeited to the Crown unless already forfeited under section 218E or the court otherwise directs under section 219A.

Note. A forfeited motor vehicle may be crash tested—see section 225 (6).

- (2) A motor vehicle used in connection with an offence under section 218F (a *number plate offence*) is, by the finding of guilt by the court, forfeited to the Crown unless already forfeited under section 218E or the court otherwise directs under section 219A.

Note. A forfeited motor vehicle may be crash tested—see section 225 (6).

- (3) Any forfeiture under this section is in addition to any other penalty that may be imposed for the offence concerned, but for the purposes of any rights of appeal against a penalty so imposed by the court finding the offence to be proven, the forfeiture is taken to be, or to be part of, that penalty.
- (4) For the purposes of this section, payment of the amount specified in a penalty notice issued in respect of a sanctionable offence or a number plate offence, or in any process issued subsequent to such a penalty notice, as the amount that is payable in order to dispose of the alleged offence without having it dealt with by a court has the same effect as a finding by a court that the offence was proven.

219A Commutation of forfeiture

- (1) The court that finds a person guilty of an offence referred to in section 218E (5) or 219 (2) may, at the time of making that finding, by order direct that the forfeiture that would otherwise be imposed under the provision concerned by that finding be commuted to a period of impounding, or confiscation of number plates, specified in the order, if the court is satisfied that the forfeiture of the motor vehicle will cause extreme hardship to the offending operator or any other person.
- (2) For the purposes of subsection (1), financial loss or difficulty in carrying out employment (whether paid or unpaid) or in travelling to a place of employment or business or to any place for the purposes of education, training or study does not constitute extreme hardship.

- (3) The period for which a motor vehicle was impounded under section 218D is to be reckoned as counting towards a period of impounding imposed under this section.
- (4) A motor vehicle impounded by an order of a court under this section is to be retained by the Commissioner for the time required by the order, unless it is sooner released under this Division.
- (5) Number plates confiscated by an order of a court under this section are to be retained by the Authority for the time required by the order, unless they are sooner released under this Division.

220 Interested persons to be notified

The offending operator is to give the holder of any registered interest in a motor vehicle notice of the imposition of any sanction in relation to the motor vehicle operated in connection with the offence concerned under section 218A.

221 Retention of motor vehicle impounded or number plates confiscated under this Division

- (1) The Commissioner is to retain a motor vehicle impounded under section 218D for the period of 3 months after its impoundment, unless it is sooner released under this Division or in accordance with the regulations.
- (2) The Authority is to retain number plates confiscated under section 218A for the period of 3 months after they are confiscated, unless they are sooner released under this Division or in accordance with the regulations.
- (3) This section does not apply in the case of a motor vehicle impounded in the circumstances referred to in section 218 (e), except as prescribed by the regulations.

222 Early release of motor vehicle and number plates on application to Local Court

- (1) A person may apply to the Local Court for an order for the release into the person's custody of:
 - (a) a motor vehicle impounded under this Division before the end of the period of impounding imposed on the motor vehicle, or
 - (b) number plates confiscated under this Division before the end of the number plate confiscation period applying to the number plates.

Road Transport (General) Amendment (Vehicle Sanctions) Bill 2012

Schedule 2 Amendments to Road Transport (General) Act 2005 No 11 relating to number plate confiscation and other vehicle sanctions

- (2) An order cannot provide for release on a day that is less than 5 working days after the vehicle was impounded or the number plates were confiscated.
- (3) In determining whether to make an order under this section, the Local Court is entitled to have regard to the following:
 - (a) the safety of the public and the public interest in preventing the use of a motor vehicle that the Court considers is reasonably likely in all the circumstances to be used for further sanctionable offences,
 - (b) any alleged extreme hardship to a person other than the registered operator of the motor vehicle arising from the impoundment of the vehicle or confiscation of the number plates.
- (4) The motor vehicle or number plates are to be released by order of the Local Court only after the applicant has paid in full any applicable movement, towing and storage fees under section 223.
- (5) An applicant into whose custody a motor vehicle is released by an order under this section must acknowledge in writing receipt of the motor vehicle from the custody of the Commissioner.
- (6) An applicant into whose custody number plates are released by an order under this section must acknowledge in writing receipt of the number plates from the custody of the Authority.
- (7) An applicant into whose custody number plates are released by an order under this section must remove any number plate confiscation notice attached to the motor vehicle before the motor vehicle is operated on any road.

223 Release of impounded vehicle and number plates

- (1) The regulations may prescribe the fees (if any) payable in respect of the movement, towage and storage of an impounded vehicle or release of number plates and the persons responsible for payment of those fees.
- (2) It is the duty of the Commissioner to endeavour to cause any impounded motor vehicle to be available for collection by a person entitled to its possession as soon as the person is entitled to it.
- (3) However, the Commissioner is not required to release any motor vehicle under this section or to release any vehicle in accordance with an order of the Local Court unless all movement, towing and storage fees payable under this section in respect of the impounded vehicle have been paid in full.

-
- (4) An applicant to whom a motor vehicle is released under this section must in writing acknowledge receipt of the vehicle from the custody of the Commissioner.
 - (5) The Commissioner may waive the whole or any part of the prescribed fees for movement, towage and storage of a motor vehicle.
 - (6) It is the duty of the Authority to endeavour to cause any number plates to be available for collection by a person entitled to possession of the number plates as soon as the person is entitled to them or, if the number plates were damaged when removed under this Division, to issue replacement number plates.

224 Safe keeping of motor vehicles

The Commissioner has (in the Commissioner's official capacity) a duty to take all reasonable steps to secure an impounded motor vehicle against theft or damage (otherwise than by crash testing under this Division) while impounded.

225 Disposal and crash testing of vehicles

- (1) The Commissioner may cause an impounded or forfeited motor vehicle to be offered for sale in the circumstances prescribed by the regulations. The sale is to be by public auction or public tender.
- (2) The motor vehicle may be disposed of otherwise than by sale if the Commissioner believes on reasonable grounds that the vehicle has no monetary value or that the proceeds of the sale would be unlikely to exceed the costs of sale.
- (3) If the motor vehicle offered for sale is not sold, the Commissioner may dispose of the motor vehicle otherwise than by sale.
- (4) The regulations may make provision for or with respect to the disposal of the proceeds of any such sale, including provisions for or with respect to entitling persons to seek to be paid any such proceeds.
- (5) At the request of the Authority, the Commissioner may dispose of a motor vehicle that is the subject of forfeiture under section 219 by releasing it to the Authority to be used for the purposes of crash testing and any educational program for drivers of motor vehicles established by the Authority.

- (6) The Authority may cause any motor vehicle released to it to be used for the purposes of crash testing and any educational program for drivers of motor vehicles established by the Authority.

226 Protection from liability with respect to impounding, removal of number plates and crash testing and other matters

No action lies against the Crown, the Minister, the Commissioner, the Authority, Transport for NSW or any police officer for:

- (a) any damage to, or theft of, a motor vehicle caused by, or arising from, impounding or crash testing a motor vehicle or removing number plates from a motor vehicle in accordance with this Division, or
- (b) failure by an offending operator to give the holder of a registered interest notice as required by section 220.

227 Failure to prosecute

- (1) No action lies against the Crown, the Minister, the Commissioner or any police officer in respect of the seizure or impounding of a motor vehicle, or the confiscation of number plates, under this Division for an alleged offence for which no proceedings or process are taken or issued.
- (2) This section does not protect a police officer from liability in respect of the seizure or confiscation, otherwise than in good faith, of a motor vehicle or number plates.

228 Search warrants

- (1) A police officer may apply to an authorised officer for a search warrant if the police officer has reasonable grounds for believing that there is or, within 72 hours, will be on any premises a motor vehicle that has been operated as referred to in section 218 or in relation to which number plates have been, or are being, used in contravention of section 218F.
- (2) An authorised officer to whom such an application is made may, if satisfied that there are reasonable grounds for doing so, issue a search warrant authorising a police officer named in the warrant:
 - (a) to enter the premises, and
 - (b) to search the premises for such a motor vehicle or number plates, and
 - (c) to seize such a motor vehicle or number plates, and otherwise deal with it, in accordance with this Division.

(3) Division 4 of Part 5 of the *Law Enforcement (Powers and Responsibilities) Act 2002* applies to a search warrant issued under this section.

(4) In this section, *authorised officer* and *premises* have the same meanings as they have in the *Law Enforcement (Powers and Responsibilities) Act 2002*.

[2] Section 242 Alternate appeal rights to Local Court

Omit “section 224 for the release of an impounded vehicle” from section 242 (1) (c).

Insert instead “section 222 for the release of an impounded vehicle or confiscated number plates”.

[3] Section 244 Unpaid charges and fees

Omit “section 218 (6)”. Insert instead “section 223”.

Schedule 3 Amendment of Regulations

3.1 Road Transport (General) Regulation 2005

[1] Clause 16 Determination of appeals against certain registration decisions

Omit “section 219A” from clause 16 (4). Insert instead “section 219”.

[2] Clause 27 Release of impounded vehicle on application to Local Court

Omit the clause.

[3] Part 4

Insert after clause 29B:

Part 4 Number plate confiscation

29C Number plate confiscation notices

- (1) The following information is prescribed for the purposes of the definition of *number plate confiscation notice* in section 217A of the Act:
 - (a) a brief description of the effect of the notice and a statement of the action that may be taken against the registered operator and penalties that may apply if it is not complied with,
 - (b) in the case of a number plate confiscation notice issued in respect of a sanctionable offence, the provisions of the Act, regulations or rules imposing the sanctionable offence,
 - (c) the registration number of the motor vehicle to which it relates,
 - (d) the vehicle’s VIN or, if there is no VIN, the chassis number and engine number of the vehicle,
 - (e) the date of issue of the notice and the date on which the number plate confiscation period imposed by the notice will end,
 - (f) the name of the Local Area Command of the police officer who issued the notice,
 - (g) the address of the motor registry or other place from which the number plates can be collected on or after the end of the number plate confiscation period,
 - (h) information about the right to apply to the Local Court to seek release of the number plates.

(2) In this clause:

motor registry means a place at which registration of a vehicle can be effected by or on behalf of the Authority.

VIN has the same meaning as it has in the *Road Transport (Vehicle Registration) Regulation 2007*.

[4] Part 5, heading

Omit “and clamped”.

[5] Clause 36 Impounding fee

Omit “section 223 (2)”. Insert instead “section 223 (1)”.

[6] Clause 37 Towing fee for impounded vehicles

Omit “section 218” from clause 37 (1). Insert instead “section 218A or 218D”.

[7] Clause 37 (3) (a)

Omit “relevant offence under section 40 or 41 of the *Road Transport (Safety and Traffic Management) Act 1999*”.

Insert instead “sanctionable offence within the meaning of Division 2 of Part 5.5 of the Act”.

[8] Clause 37 (7) (a)

Omit “offence under section 40 or 41 of the *Road Transport (Safety and Traffic Management) Act 1999*”.

Insert instead “sanctionable offence within the meaning of Division 2 of Part 5.5 of the Act”.

[9] Clause 37 (7) (b)

Omit “section 224”. Insert instead “section 222”.

[10] Clause 38 Disposal of impounded vehicles and forfeiture to the Crown

Omit “section 218, 219 or 219A” from clause 38 (1).

Insert instead “section 218A, 218D or 219”.

[11] Clause 38 (1)

Omit “section 217”. Insert instead “section 217A”.

[12] Clause 38 (2)

Omit “section 227”. Insert instead “section 225”.

- [13] Clause 38 (2)**
Omit “section 219 or 219A”. Insert instead “section 218E or 219”.
- [14] Clause 38 (3)**
Omit “section 224”. Insert instead “section 222”.
- [15] Clause 38 (4)**
Insert “movement, towing and” after “deduction of any”.
- [16] Clause 38 (6)**
Omit the subclause.
- [17] Clause 38A Fees with respect to clamping of vehicles**
Omit the clause.
- [18] Schedule 1 Fees**
Omit “section 223 (2)” from item 2. Insert instead “section 223 (1)”.
- [19] Schedule 1**
Omit items 4–7.
- [20] Schedule 3 Penalty notice offences**
Omit “Section 218 (7)” and “Level 13” from the matter relating to the *Road Transport (General) Act 2005*.
Insert instead “Section 218E (1) and (2)” and “Level 15”, respectively.
- [21] Schedule 3**
Insert in appropriate order in Columns 1, 2 and 3 of the matter relating to the *Road Transport (General) Act 2005*:
- | | | |
|------------------------------------|---------|----------|
| Sections 218A (2) and 218F (1)–(3) | Class 1 | Level 14 |
| Section 218F (4) | Class 1 | Level 9 |
- [22] Schedule 3**
Insert in appropriate order in Columns 1, 2 and 3 of the matter relating to the *Road Transport (Vehicle Registration) Regulation 2007*:
- | | | |
|------------------------|---------|----------|
| Clause 28C (1) and (2) | Class 1 | Level 15 |
|------------------------|---------|----------|

[23] Schedule 3

Insert “Clause 85 (1A);” after “Clause 84 (1);” in Column 1 of the matter relating to the *Road Transport (Vehicle Registration) Regulation 2007*.

3.2 Road Transport (Vehicle Registration) Regulation 2007

[1] Clause 14 Maintenance of the Registers

Omit clause 14 (2A). Insert instead:

- (2A) The Authority must record details of any finding of guilt under section 218E of the *Road Transport (General) Act 2005* in the Register or another register kept by the Authority.

[2] Clause 28C

Insert after clause 28B:

28C Possession of number-plates

- (1) A person is guilty of an offence if the person is in possession, without lawful excuse, of number-plates issued by or under the law of New South Wales or any other State or Territory.
Maximum penalty: 30 penalty units.
- (2) A person is guilty of an offence if the person is in possession, without lawful excuse, of number-plates that were not issued by or under the law of New South Wales or any other State or Territory but that could be mistaken for, or resemble, number-plates so issued.
Maximum penalty: 30 penalty units.

[3] Clause 85 Number-plate, registration certificate and label offences

Insert after clause 85 (1):

- (1A) The driver of a registrable vehicle registered by the Authority is guilty of an offence if the vehicle is used on a road or road related area without displaying number-plates issued by the Authority for the purpose of authorising the use of the vehicle.

Maximum penalty: 20 penalty units.

[4] Clause 85 (3)

Omit “subclause (1) or (2)”. Insert instead “subclause (1), (1A) or (2)”.