

Road Transport Legislation Amendment Act 2008 No 61

[2008-61]



New South Wales

Status Information

Currency of version

Historical version for 10 December 2008 to 6 January 2011 (accessed 16 February 2025 at 23:21)

Legislation on this site is usually updated within 3 working days after a change to the legislation.

Provisions in force

Some, but not all, of the provisions displayed in this version of the legislation have commenced.

Notes—

- **Does not include amendments by**
[Statute Law \(Miscellaneous Provisions\) Act \(No 2\) 2010 No 119](#) (not commenced — to commence on 7.1.2011)
- **Proposed repeal**
The Act is to be repealed by sec 4 (1) of this Act on the day following the day on which all of the provisions of this Act have commenced.

Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

File last modified 29 November 2010

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New South Wales

An Act to amend the *Road Transport (Driver Licensing) Act 1998*, the *Road Transport (Driver Licensing) Regulation 1999* and the *Road Transport (General) Act 2005* with respect to further sanctions in relation to certain driving offences, and with respect to fatigue management and speeding compliance, and to amend the *Roads Act 1993* with respect to approved toll cameras and toll offences.

1 Name of Act

This Act is the *Road Transport Legislation Amendment Act 2008*.

2 Commencement

This Act commences on a day or days to be appointed by proclamation.

3 Amendment of Acts and Regulation

The Acts and Regulation specified in Schedules 1-5 are amended as set out in those Schedules.

4 Repeal of Act

- (1) This Act is repealed on the day following the day on which all of the provisions of this Act have commenced.
- (2) The repeal of this Act does not, because of the operation of section 30 of the *Interpretation Act 1987*, affect any amendment made by this Act.

Schedule 1 (Repealed)

Schedule 2 Amendment of *Road Transport (Driver Licensing) Regulation 1999*

(Section 3)

[1] Clause 12 Learner driver requirements

Insert after clause 12 (6):

- (7) The offence under subclause (1) (a) is, for the purposes of section 19A of the Act and sections 205 and 206 of the *Road Transport (General) Act 2005*, the offence of being the holder of a learner licence driving unaccompanied by a supervising driver.
- (8) If a person is convicted of an offence under subclause (1) (a), the person is disqualified by the conviction (and without any specific order) from holding a driver licence:
- (a) for a period of 3 months, or
 - (b) if the court on the conviction thinks fit to order a different period of disqualification determined in accordance with subclause (9), for the period specified in the order.

Note—

Section 189 of the *Road Transport (General) Act 2005* provides for the effect of a disqualification (whether or not by order of a court).

- (9) In determining a different period of disqualification under subclause (8), the court may specify a period that is:
- (a) more than 3 months but no more than 12 months, or
 - (b) less than 3 months, but only if:
 - (i) the person's driver licence or authority to drive in New South Wales has been suspended for a period (***the suspension period***) under section 205 or 206 of the *Road Transport (General) Act 2005* for that offence, and
 - (ii) the specified disqualification period when added to the suspension period results in a total period of not less than 3 months.
- (10) The disqualification referred to in subclause (8) is in addition to any other penalty imposed for the offence.
- (11) A period of disqualification imposed under subclause (8) commences on the date of conviction for the offence to which it relates.
- (12) In subclauses (1), (2) and (3), a reference to a learner licence includes a reference to a foreign driver licence that has the same or similar effect as a learner licence.

[2] Schedule 2 Additional demerit point offences

Omit the matter relating to clause 12 (1) (a) of the *Road Transport (Driver Licensing) Regulation 1999*.

[3] Schedule 4 Savings and transitional provisions

Insert after clause 5:

6 Application of amendments

The amendments made by Schedule 2 [1] and [2] to the *Road Transport Legislation Amendment Act 2008* do not apply in relation to an offence referred to in clause 12 (1) (a) that occurred before the commencement of those amendments.

Schedules 3, 4 (Repealed)

Schedule 5 Amendment of *Roads Act 1993 No 33*

(Section 3)

[1] Section 242 Proceedings for offences

Insert at the end of the section:

- (2) Proceedings for a toll offence (within the meaning of section 250A) may be commenced within 12 months after the time when the offence is alleged to have been committed.

[2] Section 248 Evidentiary certificates

Insert after section 248 (1) (d):

- (d1) a specified toll was or was not a relevant toll in relation to a specified toll point on a specified date for the purposes of this Act and the regulations or for the purposes of a specified provision of this Act or the regulations, or
- (d2) a specified person was or was not a toll operator in relation to a specified tollway, bridge, tunnel or road-ferry, or
- (d3) a specified point was or was not a toll point in relation to a specified tollway, bridge, tunnel or road-ferry, or
- (d4) a specified person was or was not the registered operator of a specified vehicle, or

[3] Section 248 (5)

Insert after section 248 (4):

- (5) Without limiting subsection (1), a statement in a certificate that is issued on behalf of a roads authority by a person prescribed by the regulations, or by a person

belonging to a class of persons so prescribed, as to any matter that appears in or can be calculated from records:

- (a) that relate to motor vehicles using tollways or payment of tolls (or both), and
- (b) that are kept or accessed by the roads authority or the person,

is admissible in any legal proceedings and is evidence of the fact or facts so stated.

[4] Section 250A Approved camera recording devices—toll offences

Omit the definition of **approved toll camera** from section 250A (1).

Insert instead:

approved toll camera means a digital camera of a type approved by the Governor by order published in the Gazette as being designed:

- (a) to take a photograph of a vehicle as it is driven past a toll point, and
- (b) to record on the photograph:
 - (i) the date on which the photograph is taken, and
 - (ii) the time and location at which the photograph is taken, and
 - (iii) the direction in which the vehicle activating the camera is travelling, and
 - (iv) such ancillary information in connection with the toll and the photographing of the vehicle at that time and location as may be prescribed by the regulations.

[5] Section 250A (1A)

Insert after section 250A (1):

- (1A) The fact that a camera takes a photograph of a vehicle only if it is driven in contravention of a requirement to pay a toll, or records the information referred to in paragraph (b) of the definition of **approved toll camera** only on such a photograph, does not prevent the camera from being an approved toll camera.

[6] Section 250A (5A)

Insert after section 250A (5):

- (5A) Subsection (5) applies only in respect of information acquired in relation to a vehicle driven in contravention of a requirement to pay the relevant toll.

[7] Schedule 2 Savings, transitional and other provisions

Insert at the end of clause 1 (1):

Road Transport Legislation Amendment Act 2008

[8] Schedule 2, Part 6

Insert at the end of the Schedule:

Part 6 Provisions consequent on enactment of Road Transport Legislation Amendment Act 2008

77 Definitions

In this Part:

Amending Act means the *Road Transport Legislation Amendment Act 2008*.

toll offence has the same meaning as it has in section 250A.

78 Application of amendments

- (1) Section 242, as amended by Schedule 5 [1] to the Amending Act, does not apply in respect of any alleged toll offence that occurred before that section was so amended.
- (2) The amendments made by Schedule 5 [2] and [3] to the Amending Act apply only in relation to legal proceedings commenced on or after the commencement of the amendments but extend to matters and events occurring before that commencement.
- (3) The amendments made by Schedule 5 [4] and [5] to the Amending Act have effect in relation to proceedings for a toll offence whether the proceedings were commenced before, on or after the commencement of the amendments but not proceedings determined before that commencement.

79 Existing approved toll cameras

An approval of a camera given by the Governor pursuant to the definition of **approved toll camera** in section 250A (1) and in force immediately before the commencement of the amendments made by Schedule 5 [4] and [5] to the Amending Act is taken to be an approval given by the Governor pursuant to that definition as amended and qualified by those items.

[9] Dictionary

Insert in alphabetical order:

toll operator means:

- (a) the RTA, or
- (b) any other person who is declared by the Minister by order published in the Gazette to be a toll operator in respect of a tollway for the purposes of this definition.

toll point means the point designated by a toll operator (by signs or otherwise) as the point at which the liability to pay a toll is incurred for driving a motor vehicle on a tollway or a particular lane of the tollway.