

MOTOR TRAFFIC (STAYSAFE) AMENDMENT BILL 1987

NEW SOUTH WALES



EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

The Transport (Staysafe) Amendment Bill 1987 is cognate with this Bill.

The object of this Bill is to amend the Motor Traffic Act 1909 so as—

- (a) to make provisions enabling the issue of drivers' licences of different classes, each displaying a photograph of the licensee;
- (b) to declare that the Commissioner for Motor Transport may refuse to grant any such licence if the applicant has not produced satisfactory evidence of identity and residential address;
- (c) to transfer to the Principal Act from regulations made under it the powers of the Commissioner to grant, renew, suspend or cancel drivers' licences;
- (d) to provide that, if a person is disqualified by the Principal Act or a court from holding a driver's licence because of a conviction for a traffic offence, each driver's licence held by the person is cancelled;
- (e) to enable an interstate or other visiting driver to appeal against the suspension of an exemption from holding a New South Wales driver's licence; and
- (f) except in limited cases, to require a notice suspending or cancelling, or suspending an exemption from holding, a driver's licence to set out the date on which it becomes effective.

The Bill also contains minor amendments to the Principal Act for the purpose of statute law revision and savings and transitional provisions as a consequence of—

- (a) the amendments described above; and

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(b) the intention to repeal the provisions of the Transport Act 1930 relating to drivers' licences for public vehicles.

The intention is that all motor vehicle drivers' licences will be issued under the Principal Act, as amended by the proposed Act.

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides that the amendments relating to drivers' licences to be made by the proposed Act will commence on a day or days proclaimed by the Governor-in-Council.

Clause 3 defines the Principal Act.

Clause 4 gives effect to the Schedules of amendments.

Clause 5 gives effect to the Schedule of savings and transitional provisions.

SCHEDULE 1—AMENDMENTS RELATING TO THE GRANTING OF DRIVERS' LICENCES

Schedule 1 (1) substitutes the definition of "Licensed" in section 2 (Interpretation) of the Principal Act because drivers' licences are to be granted under that Act instead of under the regulations.

Schedule 1 (2) amends section 3 (Regulations) of the Principal Act so as to make it clear that regulations may be made with respect to the issue of, and other administrative details concerning, licences to be granted under that Act, as amended by the proposed Act.

Schedule 1 (3) substitutes section 3A (Part II and the regulations not to apply in certain cases) of the Principal Act so as to make it clear that that Act, as amended by the proposed Act, does not apply to the registration of public vehicles registered under the Transport Act 1930 (but will apply to the licensing of their drivers).

Schedule 1 (4) makes minor amendments to the Principal Act as a consequence of the intended transfer to that Act of the drivers' licensing scheme presently provided by the regulations made under it.

Schedule 1 (5) makes minor amendments to the Principal Act as a consequence of the intended transfer to that Act of the drivers' licensing scheme presently provided by and under the Transport Act 1930.

Schedule 1 (6) inserts proposed sections 11AA, 11AB and 11AC into the Principal Act. Of the proposed sections:

Section 11AA (Grant and renewal of drivers' licences) empowers the Commissioner to grant and renew drivers' licences of different classes. The Commissioner may refuse to grant or renew a licence if—

- (a) the applicant has not been photographed so as to provide, or provided, a photograph suitable for use on the licence:

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- (b) there is not sufficient evidence of the applicant's identity; or
- (c) any relevant requirement made of the applicant by the regulations has not been satisfied.

Drivers' licences will be subject to general terms and conditions fixed by the regulations and other terms and conditions, if any, which may be imposed on particular licences. Any photograph taken or provided under the proposed section is not to be used for any purpose except reproducing the driver's image on the licence.

Section 11AB (Suspension or cancellation of drivers' licences by the Commissioner) enables the suspension or cancellation of drivers' licences for prescribed reasons. A licence has no legal effect while suspended.

Section 11AC (Renewal of suspended drivers' licences) allows a driver's licence to be renewed even while it is suspended, but without affecting the period of suspension.

SCHEDULE 2—MISCELLANEOUS AMENDMENTS RELATING TO DRIVERS' LICENCES

Schedule 2 (1), (2) and (4) respectively amend sections 4B (Races, attempts on speed records, etc.), 7A (Offences committed by disqualified drivers, etc.) and 10A (Disqualification for certain major offences) of the Principal Act, which presently provide for the automatic suspension of the driving licence of a person who commits any offence under those sections, as a consequence of the intended insertion of proposed section 10AA into that Act. Under the scheme provided by that proposed section, any such licence will be cancelled instead of suspended.

Schedule 2 (3) repeals and re-enacts subsections (1)–(3) of section 10 (Court may impose penalty and disqualify driver on conviction) of the Principal Act. The proposed subsections—

- (a) re-state the general penalty for an offence under the Principal Act for which no specific penalty is provided; and
- (b) provide that, if a court exercises its option under that section to disqualify a person from obtaining a driver's licence, because of the person's committing any offence under that Act, the disqualification will not operate to suspend the licence but result in cancellation of the licence under proposed section 10AA.

Schedule 2 (5) inserts proposed section 10AA (Effect of disqualification) into the Principal Act which will—

- (a) cancel any driver's licence of a person disqualified from holding such a licence; and
- (b) create an offence if a person disqualified from holding a driver's licence fails to surrender it to the Commissioner.

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Schedule 2 (6) repeals and re-enacts section 21 (Commissioner to notify certain decisions) of the Principal Act for the purpose of—

- (a) giving a right of appeal to a Local Court to any person whose exemption from holding a driver's licence (applicable because the person holds an authority to drive granted outside New South Wales) is suspended by the Commissioner; and
- (b) requiring the Commissioner to state, in a notice suspending or cancelling, or suspending an exemption from holding, a driver's licence to set out the date on which it becomes effective (taking into account the time allowed for an appeal), except where medical unfitness or incompetence of a driver is the reason for the suspension or cancellation.

Schedule 2 (7) makes a minor amendment to section 22 (Appeals) of the Principal Act as a consequence of the proposed re-enactment of section 21 of that Act.

SCHEDULE 3—AMENDMENTS FOR THE PURPOSE OF STATUTE LAW
REVISION

The minor amendments proposed to be made to the Principal Act by this Schedule include—

- (a) updating references to the General Traffic Act 1900; and
- (b) altering terminology to conform with that used in the Local Courts Act 1982.

SCHEDULE 4—SAVINGS AND TRANSITIONAL PROVISIONS

Clause 1 of Schedule 4 contains provisions—

- (a) saving regulations, conditions of driving licences, and suspensions and disqualifications imposed under the Principal Act which would otherwise be repealed by amendments to be made by the proposed Act; and
- (b) saving driving licences issued under the regulations made under the Principal Act and references to any such licence in other Acts or instruments.

Clause 2 of Schedule 4 permits regulations to be made under the Principal Act containing further savings and for transitional matters relating to the effect of the proposed Act or the intended Transport (Staysafe) Amendment Act 1987. Such a regulation could deem a driver's licence issued pursuant to the Transport Act 1930 to be of a class to be prescribed under the Principal Act, as amended by the proposed Act.
