



New South Wales

# Road Transport and Other Legislation Amendment (Digital Driver Licences and Photo Cards) Bill 2018

## Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

## Overview of Bill

The objects of this Bill are as follows:

- (a) to amend the *Road Transport Act 2013* to provide for the issue and use of digital driver licences,
- (b) to amend the *Photo Card Act 2005* to provide for the issue and use of digital Photo Cards,
- (c) to make other amendments of a minor or consequential nature.

## 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 a day or days to be appointed by proclamation (except for proposed section 3, which commences on the date of assent to the proposed Act).

**Clause 3** amends the *Road Transport Act 2013* to ensure that the existing digital driver licence trial continues until the digital driver licence scheme under the proposed Act commences.

## Schedule 1 Amendment of Road Transport Act 2013 No 18

**Schedule 1 [5]** replaces Part 3.7 of the *Road Transport Act 2013*, which currently provides for a digital driver licence trial. The proposed Part (proposed sections 61A–61E) provides for the following:

- (a) the issue of a digital driver licence to a person who holds a driver licence and who applies for a digital driver licence,
- (b) the use of a digital driver licence for certain purposes as if it were a driver licence (including to satisfy legal requirements to hold, produce or carry a driver licence arising from the driving of a motor vehicle),
- (c) that a driver does not commit an offence relating to the use of a mobile phone if the mobile phone is used solely for the purpose of displaying a digital driver licence,
- (d) the treatment of a digital driver licence as if it were a driver licence,
- (e) the surrender of a digital driver licence where the holder of the digital driver licence is required to surrender or return the holder's driver licence,
- (f) the release of information for the purpose of the issue of a digital driver licence.

**Schedule 1 [3]** provides that the authority to seize an Australian driver licence does not extend to the seizure of a mobile phone or other electronic device on which a digital driver licence is displayed.

**Schedule 1 [1], [2], [4], [6] and [7]** make consequential amendments.

## **Schedule 2      Amendment of Photo Card Act 2005 No 20**

**Schedule 2 [2]** inserts proposed Part 2A (proposed sections 13A–13D) into the *Photo Card Act 2005*. The proposed Part provides for the following:

- (a) the use of a digital Photo Card for certain purposes,
- (b) the surrender of a digital Photo Card where the holder of the digital Photo Card is required to surrender or return the holder's Photo Card.
- (c) the release of information for the purpose of the issue of a digital Photo Card.

**Schedule 2 [1]** provides that an applicant for a Photo Card may only be issued a digital Photo Card if the applicant has elected to receive a digital Photo Card.

**Schedule 2 [4]** provides that the authority to seize a Photo Card does not extend to the seizure of a mobile phone or other electronic device on which a digital Photo Card is displayed.

**Schedule 2 [3]** makes a consequential amendment.

## **Schedule 3      Amendment of other legislation**

**Schedule 3** makes consequential amendments to other legislation, including providing that digital driver licences and digital Photo Cards are evidence of age documents for the purposes of the *Liquor Act 2007* and certain other legislation.



New South Wales

# Road Transport and Other Legislation Amendment (Digital Driver Licences and Photo Cards) Bill 2018

## Contents

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	Page
1 Name of Act	2
2 Commencement	2
3 Amendment of Road Transport Act 2013 No 18	2
<b>Schedule 1 Amendment of Road Transport Act 2013 No 18</b>	<b>3</b>
<b>Schedule 2 Amendment of Photo Card Act 2005 No 20</b>	<b>6</b>
<b>Schedule 3 Amendment of other legislation</b>	<b>8</b>



New South Wales

# Road Transport and Other Legislation Amendment (Digital Driver Licences and Photo Cards) Bill 2018

No. , 2018

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## **A Bill for**

An Act to amend the *Road Transport Act 2013*, the *Photo Card Act 2005* and other legislation to provide for the issue and use of digital driver licences and digital Photo Cards; and for other purposes.

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<b>The Legislature of New South Wales enacts:</b>	1
<b>1 Name of Act</b>	2
This Act is the <i>Road Transport and Other Legislation Amendment (Digital Driver Licences and Photo Cards) Act 2018</i> .	3 4
<b>2 Commencement</b>	5
(1) Except as provided by subsection (2), this Act commences on a day or days to be appointed by proclamation.	6 7
(2) Section 3 commences on the date of assent to this Act.	8
<b>3 Amendment of Road Transport Act 2013 No 18</b>	9
<b>Section 61C Duration of digital driver licence trial</b>	10
Omit the section.	11

<b>Schedule 1</b>	<b>Amendment of Road Transport Act 2013 No 18</b>	1
<b>[1] Section 4 Definitions</b>		2
	Insert in alphabetical order in section 4 (1):	3
	<i>digital driver licence</i> has the meaning given by section 61A.	4
<b>[2] Section 4 (1), definition of “driver licence”</b>		5
	Omit “receipt.” from paragraph (b). Insert instead:	6
	receipt,	7
	but does not include a digital driver licence.	8
<b>[3] Section 52 Seizure of driver licences</b>		9
	Insert after section 52 (5):	10
	(6) The authority conferred by this section to seize an Australian driver licence or any article resembling an Australian driver licence does not extend to a mobile phone or other electronic device on which a digital driver licence is displayed. This subsection does not limit any authority to seize a mobile phone or other electronic device conferred by any other law.	11 12 13 14 15
<b>[4] Section 57 Release of photographs prohibited</b>		16
	Omit “, and any photographic image or other matter contained in any database of such photographs,” wherever occurring in section 57 (1) and (3).	17 18
<b>[5] Part 3.7</b>		19
	Omit the Part. Insert instead:	20
	<b>Part 3.7 Digital driver licences</b>	21
<b>61A Definitions</b>		22
	In this Part:	23
	<i>digital driver licence</i> means evidence of the issue of a driver licence using information (including a photograph) from the NSW driver licence register relating to the holder of a driver licence that:	24 25 26
	(a) is displayed on a mobile phone or other electronic device by way of software approved for that purpose by both the Secretary and the Authority, and	27 28 29
	(b) includes the information required by this Act or the statutory rules to be shown on a driver licence.	30 31
	<i>relevant purpose</i> , in relation to the use of a digital driver licence, means any of the following:	32 33
	(a) complying with a requirement to hold, produce or carry a driver licence in connection with the driving of a motor vehicle,	34 35
	(b) complying with a request to produce an evidence of age document within the meaning of the <i>Liquor Act 2007</i> ,	36 37
	(c) providing evidence of a person’s name or address for any purpose under the <i>Registered Clubs Act 1976</i> ,	38 39
	(d) any other purpose prescribed by the regulations.	40
	<i>Secretary</i> means the Secretary of the Department of Finance, Services and Innovation.	41 42

<b>61B</b>	<b>Application for digital driver licence</b>	1
(1)	The holder of a driver licence may apply to the Authority for the issue of a digital driver licence.	2 3
(2)	An application for a digital driver licence must be made in the manner approved by the Authority.	4 5
<b>61C</b>	<b>Use of digital driver licence</b>	6
(1)	The holder of a digital driver licence may use the digital driver licence for a relevant purpose by displaying the digital driver licence on a mobile phone or other electronic device.	7 8 9
(2)	The holder of a digital driver licence who holds, produces or carries a mobile phone or other electronic device on which the digital driver licence is displayed for a relevant purpose is taken to have held, produced or carried (as the case requires) a driver licence for that purpose.	10 11 12 13
(3)	If the holder of a digital driver licence uses the digital driver licence for a relevant purpose, the digital driver licence is to be treated as if it were a driver licence for that purpose.	14 15 16
(4)	Despite any other provision of this section, a person who displays or purports to display a digital driver licence is not required to give or hand over, to the person who is requiring the driver licence to be produced or handed over, the mobile phone or other electronic device on which the digital driver licence is displayed or purported to be displayed.	17 18 19 20 21
(5)	A digital driver licence is not displayed for the purposes of this section if:	22
(a)	the screen of the mobile phone or other electronic device on which it is purportedly displayed is unable to be read by the person to whom it is displayed due to cracking, dimming, dirt or any other fault, damage or obstruction, or	23 24 25 26
(b)	the holder of the digital driver licence fails or refuses to comply with a reasonable request by the person to whom it is purported to be displayed to facilitate the reading, copying or scanning of the whole or any part of the digital driver licence, or	27 28 29 30
(c)	the holder of the digital driver licence refuses to comply with a reasonable direction to refresh the display of the digital driver licence.	31 32
(6)	The holder of a digital driver licence does not commit an offence under this or any other Act or law arising from the holder's use of a mobile phone or other electronic device for the purpose of displaying the holder's digital driver licence in response to a request to do so by a police officer or other person authorised to require the production of a driver licence.	33 34 35 36 37
	<b>Note 1.</b> Rules 299, 300 and 300-1 of the <i>Road Rules 2014</i> make provision with respect to the use of mobile phones and other electronic devices by the driver of a motor vehicle.	38 39 40
	<b>Note 2.</b> The <i>Road Transport (Driver Licensing) Regulation 2017</i> makes provision with respect to the use of mobile phones by certain licence holders when driving a motor vehicle.	41 42 43
<b>61D</b>	<b>Surrender of digital driver licence</b>	44
(1)	The holder of a digital driver licence must remove the digital driver licence from each mobile phone or other electronic device on which the digital driver licence is capable of being displayed as soon as practicable after the holder is required to surrender or return the holder's driver licence.	45 46 47 48

(2)	A person who fails or refuses to remove the digital driver licence from each mobile phone or other electronic device on which the digital driver licence is capable of being displayed is taken to have failed to comply with the requirement to surrender or return the holder's driver licence.	1 2 3 4
(3)	A person removes a digital driver licence from a mobile phone or other electronic device if the person updates the digital driver licence in accordance with the directions of the Authority.	5 6 7
(4)	Any requirement under this or any other Act or law to surrender or return a driver licence does not extend to any mobile phone or other electronic device on which a digital driver licence is displayed.	8 9 10
<b>61E</b>	<b>Release of information for digital driver licences</b>	11
	Despite section 30 and Part 3.5, the Authority may use and release information (including photographs) in the NSW driver licence register to the Secretary or the Chief Executive Officer of Service NSW if the release of information is for the purpose of the issue of a digital driver licence.	12 13 14 15
<b>[6]</b>	<b>Section 175 Requirement for driver or rider to produce Australian driver licence and state name and address</b>	16 17
	Insert at the end of section 175 (1):	18
	<b>Note.</b> See section 61C which enables a digital driver licence to be used to comply with a request to produce a driver licence.	19 20
<b>[7]</b>	<b>Section 176 Requirement for passenger to produce Australian driver licence and state name and address</b>	21 22
	Insert at the end of section 176 (1):	23
	<b>Note.</b> See section 61C which enables a digital driver licence to be used to comply with a request to produce a driver licence.	24 25

<b>Schedule 2</b>	<b>Amendment of Photo Card Act 2005 No 20</b>	1
<b>[1]</b>	<b>Section 5 Photo Card to be issued by Authority</b>	2
	Insert after section 5 (2):	3
	(2A) The Authority may issue a digital Photo Card within the meaning of Part 2A to an applicant for a Photo Card only if the applicant has elected, whether at the time of the application or subsequently, to receive a digital Photo Card.	4 5 6
<b>[2]</b>	<b>Part 2A</b>	7
	Insert after Part 2:	8
	<b>Part 2A Digital Photo Cards</b>	9
<b>13A</b>	<b>Definitions</b>	10
	In this Part:	11
	<b>digital Photo Card</b> means a Photo Card issued electronically using information (including a photograph) from the Register that:	12 13
	(a) is displayed on a mobile phone or other electronic device by way of software approved for that purpose by both the Secretary and the Authority, and	14 15 16
	(b) includes any information required under this Act or the regulations to be included in a Photo Card.	17 18
	<b>relevant purpose</b> , in relation to the use of a digital Photo Card, means any of the following:	19 20
	(a) complying with a request to produce an evidence of age document within the meaning of the <i>Liquor Act 2007</i> ,	21 22
	(b) providing evidence of a person's name or address for any purpose under the <i>Registered Clubs Act 1976</i> ,	23 24
	(c) any other purpose prescribed by the regulations.	25
	<b>Secretary</b> means the Secretary of the Department of Finance, Services and Innovation.	26 27
<b>13B</b>	<b>Use of digital Photo Card</b>	28
	(1) The holder of a digital Photo Card may use the digital Photo Card for a relevant purpose by displaying the digital Photo Card on a mobile phone or other electronic device.	29 30 31
	(2) Despite any other provision of this section, a person who displays or purports to display a digital Photo Card is not required to give or hand over, to the person who is requiring the Photo Card to be produced or handed over, the mobile phone or other electronic device on which the digital Photo Card is displayed or purported to be displayed.	32 33 34 35 36
	(3) If the holder of a digital Photo Card uses the digital Photo Card for a relevant purpose, the digital Photo Card is to be treated as if it were a Photo Card for that purpose.	37 38 39
	(4) A digital Photo Card is not displayed for the purposes of this section if:	40
	(a) the screen of the mobile phone or other electronic device on which it is purportedly displayed is unable to be read by the person to whom it is displayed due to cracking, dimming, dirt or any other fault, damage or obstruction, or	41 42 43 44

(b)	the holder of the digital Photo Card fails or refuses to comply with a reasonable request by the person to whom it is purported to be displayed to facilitate the reading, copying or scanning of the whole or any part of the digital Photo Card, or	1 2 3 4
(c)	the holder of the digital Photo Card refuses to comply with a reasonable direction to refresh the display of the Photo Card.	5 6
<b>13C</b>	<b>Surrender of digital Photo Card</b>	7
(1)	The holder of a digital Photo Card must remove the digital Photo Card from each mobile phone or other electronic device on which the digital Photo Card is capable of being displayed as soon as practicable after the holder is required to surrender or return the holder's Photo Card.	8 9 10 11
(2)	A person who fails or refuses to remove the digital Photo Card from each mobile phone or other electronic device on which the digital Photo Card is capable of being displayed is taken to have failed to comply with the requirement to surrender or return the holder's Photo Card.	12 13 14 15
(3)	A person removes a digital Photo Card from a mobile phone or other electronic device if the person updates the digital Photo Card in accordance with the directions of the Authority.	16 17 18
(4)	Any requirement under this or any other Act or law to surrender or return a Photo Card does not extend to any mobile phone or other electronic device on which a digital Photo Card is displayed.	19 20 21
<b>13D</b>	<b>Release of information for digital Photo Card</b>	22
	Despite Part 4, the Authority may use and release information (including photographs) in the Register to the Secretary or the Chief Executive Officer of Service NSW if the release of the information is for the purpose of the issue of a digital Photo Card.	23 24 25 26
<b>[3]</b>	<b>Section 19 Release of photographs prohibited</b>	27
	Omit “, and any photographic image or other matter contained in any database of such photographs,” from section 19 (1).	28 29
<b>[4]</b>	<b>Section 29 Seizure of Photo Card</b>	30
	Insert after section 29 (3):	31
(4)	The authority conferred by this section to seize a Photo Card, or thing resembling a Photo Card, does not extend to a mobile phone or other electronic device on which a digital Photo Card within the meaning of Part 2A is displayed. This subsection does not limit any authority to seize a mobile phone or other electronic device conferred by any other law.	32 33 34 35 36

<b>Schedule 3</b>	<b>Amendment of other legislation</b>	1
<b>3.1</b>	<b>Casino Control Regulation 2009</b>	2
<b>[1]</b>	<b>Clause 53 Evidence of age</b>	3
	Omit “the Roads and Traffic Authority” from clause 53 (a).	4
	Insert instead “Roads and Maritime Services under the <i>Road Transport Act 2013</i> ”.	5
<b>[2]</b>	<b>Clause 53 (a1)</b>	6
	Insert after clause 53 (a):	7
	(a1) a digital driver licence within the meaning of the <i>Road Transport Act 2013</i> ,	8 9
<b>[3]</b>	<b>Clause 53 (b1)</b>	10
	Insert after clause 53 (b):	11
	(b1) a digital Photo Card within the meaning of Part 2A of the <i>Photo Card Act 2005</i> ,	12 13
<b>3.2</b>	<b>Gaming and Liquor Administration Act 2007 No 91</b>	14
	<b>Section 26 Powers to inspect and seize things</b>	15
	Insert after section 26 (3):	16
	(4) The power to seize anything connected with an offence does not include a power to seize a mobile phone or other electronic device in connection with an offence arising from the use of the mobile phone or other electronic device to display any of the following:	17 18 19 20
	(a) a digital driver licence within the meaning of the <i>Road Transport Act 2013</i> ,	21 22
	(b) a digital Photo Card within the meaning of Part 2A of the <i>Photo Card Act 2005</i> ,	23 24
	(c) any other digital evidence of age document prescribed by the regulations.	25 26
	(5) Subsection (4) does not limit any authority to seize a mobile phone or other electronic device conferred by any other law.	27 28
<b>3.3</b>	<b>Liquor Act 2007 No 90</b>	29
<b>[1]</b>	<b>Section 4 Definitions</b>	30
	Insert “under the <i>Road Transport Act 2013</i> ” after “Services” in paragraph (a) of the definition of <i>evidence of age document</i> in section 4 (1).	31 32
<b>[2]</b>	<b>Section 4 (1), definition of “evidence of age document”</b>	33
	Insert after paragraph (a):	34
	(a1) a digital driver licence within the meaning of the <i>Road Transport Act 2013</i> ,	35 36

<b>[3] Section 4 (1), definition of “evidence of age document”</b>	1
Insert after paragraph (b):	2
(b1) a digital Photo Card within the meaning of Part 2A of the <i>Photo Card Act 2005</i> ,	3
	4
<b>3.4 Liquor Regulation 2008</b>	5
<b>Clause 67A</b>	6
Omit the clause. Insert instead:	7
<b>67A Definition of “evidence of age document”</b>	8
For the purposes of paragraph (f) of the definition of <i>evidence of age document</i> in section 4 (1) of the Act, a proof of age card issued by Australia Post (known as a “Keypass identity card”) for the purpose of attesting to a person’s identity and age is prescribed.	9
	10
	11
	12
<b>3.5 Road Rules 2014</b>	13
<b>Rule 300–5 NSW rule: driver to carry licence while driving motor vehicle</b>	14
Insert at the end of the rule:	15
<b>Note 5.</b> Section 61C of the Act provides for the use of a digital driver licence for the purpose of complying with this rule.	16
	17
<b>3.6 Road Transport (Driver Licensing) Regulation 2017</b>	18
<b>Clause 125A Additional purpose of digital driver licence trial</b>	19
Omit the clause.	20