



New South Wales

Road Transport Legislation Amendment (Unauthorised Vehicle Use) Bill 2010

Explanatory note

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

Overview of Bill

The objects of this Bill are:

- (a) to amend the *Road Transport (Vehicle Registration) Act 1997*:
 - (i) to enable photographs taken by certain approved camera devices to be tendered and used in evidence for certain offences involving unauthorised vehicle use (such as the use of an unregistered or uninsured vehicle), and
 - (ii) to confirm that generally only one person may be recorded as the registered operator of a registrable vehicle in the Register of Registrable Vehicles maintained under that Act (*the Register*), and
 - (iii) to consolidate in one section all of the provisions currently in that Act relating to maintenance of the Register, and
- (b) to make consequential amendments to the *Road Transport (General) Act 2005* and the *Road Transport (Vehicle Registration) Regulation 2007*.

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.

Schedule 1 Amendment of Road Transport (Vehicle Registration) Act 1997 No 119

Use of photographic evidence from approved camera devices for unauthorised vehicle use offences

Schedule 1 [6] inserts proposed section 22C in the *Road Transport (Vehicle Registration) Act 1997* to enable evidence of a photograph taken by an approved camera device that is evidence of an offence for which the device is ordinarily approved for use to also be used in proceedings for an unauthorised vehicle use offence.

An *unauthorised vehicle use offence* is defined to mean any of the following:

- (a) an offence against section 18 (Prohibition on using unregistered registrable vehicles),
- (b) an offence against section 8 (Offence of using uninsured motor vehicle on road) of the *Motor Accidents Compensation Act 1999*,
- (c) an offence against the regulations involving a prohibited use of a registrable vehicle that is prescribed by the regulations for the purposes of the proposed section.

Schedule 2.2 [4] amends the *Road Transport (Vehicle Registration) Regulation 2007* to prescribe offences against clauses 50 (3) and 84 (3) and (5) of the Regulation for the purposes of proposed section 22C.

An *approved camera device* for the purposes of the proposed section is:

- (a) each of the following devices within the meaning of the *Road Transport (Safety and Traffic Management) Act 1999*:
 - (i) an approved average speed detection device,
 - (ii) an approved camera detection device,
 - (iii) an approved camera recording device,
 - (iv) an approved traffic lane camera device, and
- (b) an approved toll camera within the meaning of section 250A of the *Roads Act 1993*.

Currently, photographs taken by these approved camera devices may only be used in proceedings for specified kinds of offences for which the devices are approved for use. For instance, photographs taken by an approved camera detection device may be used in evidence in proceedings for traffic light offences subject to certain evidential safeguards such as the tendering of certificate evidence concerning the reliability of

the device. The proposed section will operate to apply the same evidential safeguards to a photograph used in evidence in proceedings for an unauthorised vehicle use offence as would apply in proceedings for offences for which the approved camera device concerned is ordinarily approved for use.

Maintenance of Register (including recording of registered operators)

Schedule 1 [5] re-enacts section 10 of the Act to consolidate in one section provisions concerning the maintenance of the Register that are currently found in sections 7 (2)–(4), 10, 11 and 23A of the Act.

Section 4 of the Act defines a *registered operator* of a registrable vehicle to mean a person recorded in the Register as a person responsible for the vehicle. The proposed section will also provide that only one person may be recorded in the Register as being responsible for a registrable vehicle unless the vehicle is a transitional registrable vehicle. A *transitional registrable vehicle* is defined to mean a registrable vehicle for which 2 persons were recorded in the Register as being responsible for the vehicle immediately before the commencement of the proposed section. The Roads and Traffic Authority may continue to record 2 registered operators in the Register for a transitional registrable vehicle until it ceases to be such a vehicle. A vehicle ceases to be a transitional registrable vehicle if the registration of the vehicle is transferred, cancelled, surrendered or expires without being renewed at any time after the commencement of the section.

The provisions concerning the recording of registered operators have been relocated to the Act from their current location in clause 7 of the *Road Transport (Vehicle Registration) Regulation 2007*.

Schedule 1 [1]–[4] and [7] make consequential amendments to the Act.

Savings and transitional provisions

Schedule 1 [8] amends clause 1 of Schedule 3 to the Act to enable the Governor to make regulations of a savings or transitional nature consequent on the enactment of the proposed Act.

Schedule 1 [9] inserts a new Part in Schedule 3 to the Act containing provisions of a savings or transitional nature consequent on the enactment of the proposed Act.

Schedule 2 Consequential amendment of other legislation

Schedule 2.1 makes amendments to the *Road Transport (General) Act 2005* that are consequential on the amendment made to the *Road Transport (Vehicle Registration) Act 1997* by Schedule 1 [6].

Schedule 2.2 [1]–[3] make amendments to the *Road Transport (Vehicle Registration) Regulation 2007* that are consequential on the amendments made to the *Road Transport (Vehicle Registration) Act 1997* with respect to the recording of registered operators in the Register.

First print



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New South Wales

Road Transport Legislation Amendment (Unauthorised Vehicle Use) Bill 2010

No. , 2010

A Bill for

An Act to amend the *Road Transport (Vehicle Registration) Act 1997* concerning registered operators of vehicles and the detection of offences involving unauthorised vehicle use; and to make consequential amendments to certain other legislation.

The Legislature of New South Wales enacts:	1
1 Name of Act	2
This Act is the <i>Road Transport Legislation Amendment (Unauthorised Vehicle Use) Act 2010</i> .	3 4
2 Commencement	5
This Act commences on a day or days to be appointed by proclamation.	6

Schedule 1	Amendment of Road Transport (Vehicle Registration) Act 1997 No 119	1
		2
[1] Section 4 Definitions		3
	Insert at the end of the definition of <i>garage address</i> :	4
	Note. See section 10 concerning the number of registered operators for a registrable vehicle that may be recorded in the Register.	5
		6
[2] Section 4, definition of “Register”		7
	Omit “the regulations”. Insert instead “this Act”.	8
[3] Section 7 Functions of Authority		9
	Omit “the regulations” from section 7 (1) (b). Insert instead “this Act”.	10
[4] Section 7 (2)–(4)		11
	Omit the subsections.	12
[5] Section 10		13
	Omit sections 10 and 11. Insert instead:	14
10 Maintenance of the Register		15
(1) Register to be maintained in accordance with regulations		16
	Subject to this section, the Register is to be maintained in accordance with the regulations.	17
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(2) Register does not provide evidence of title		19
	The Register does not provide evidence of title to any registrable vehicle.	20
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(3) Security of information in Register		22
	The Authority must ensure that the information in the Register that is of a personal nature or that has commercial sensitivity for the person about whom it is kept is not released except as provided by the regulations or under another law.	23
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(4) Recording of names of registered operators		27
	The Authority may:	28
(a)	in the case of a transitional registrable vehicle—continue to record in the Register the names of not more than 2 persons as being responsible for the vehicle, or	29
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Road Transport Legislation Amendment (Unauthorised Vehicle Use) Bill
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Schedule 1 Amendment of Road Transport (Vehicle Registration) Act 1997 No 119

- (b) in the case of any other registrable vehicle—record in the Register the name of only one person as being responsible for the vehicle. 1
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- Note.** Section 4 defines a **registered operator** of a registrable vehicle to mean a person recorded in the Register as a person responsible for the vehicle. 4
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- (5) A registrable vehicle is a **transitional registrable vehicle** if: 7
- (a) 2 persons were recorded in the Register as being responsible for the vehicle immediately before the commencement of this section, and 8
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- (b) the vehicle has not ceased to be a transitional registrable vehicle since that time. 11
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- (6) A registrable vehicle **ceases to be a transitional registrable vehicle** on the occurrence of any of the following: 13
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- (a) the transfer of the registration of the vehicle, 15
- (b) the cancellation or surrender of the registration of the vehicle, 16
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- (c) if the registration of the vehicle has expired and the period within which the registration may be renewed has also expired. 18
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- (7) If more than one person is recorded as a registered operator of a transitional registrable vehicle, a reference in any relevant legislation to the registered operator of a registrable vehicle within the meaning of this Act is taken (subject to any regulations made for the purposes of subsection (3)) to include a reference to each registered operator of the transitional registrable vehicle. 21
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- (8) The regulations may provide for the determination of the respective rights, liabilities and obligations of each registered operator of a transitional registrable vehicle under any relevant legislation. 27
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- (9) **Other information that may be included in Register** 31
- The Register may include information notified to the Authority under this Act and such other information as the Authority considers appropriate. 32
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- (10) **Register may be kept as computer database or other form** 35
- The Register may be kept in the form of, or as part of, a computer database or in such other form as the Authority considers appropriate. 36
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(11)	Correction of Register	1
	Without limiting section 7 or any other provision of this section, the Authority may correct any mistake, error or omission in the Register subject to the requirements (if any) of the regulations.	2 3 4
(12)	Definition	5
	In this section:	6
	relevant legislation means:	7
	(a) a provision of this Act (or a provision of a regulation made under this Act), or	8 9
	(b) a provision of any other Act (or a provision of a statutory rule made under any other Act) concerned with the registered operator of a registrable vehicle within the meaning of this Act.	10 11 12 13
[6]	Section 22C	14
	Insert after section 22B:	15
22C	Photographic evidence of unauthorised vehicle use	16
(1)	This section applies to proceedings for any of the following offences (an unauthorised vehicle use offence):	17 18
	(a) an offence against section 18 (Prohibition on using unregistered registrable vehicles),	19 20
	(b) an offence against section 8 (Offence of using uninsured motor vehicle on road) of the <i>Motor Accidents Compensation Act 1999</i> ,	21 22 23
	(c) an offence against the regulations involving a prohibited use of a registrable vehicle that is prescribed by the regulations for the purposes of this section.	24 25 26
(2)	A photograph of a vehicle taken by an approved camera device that is evidence under the evidence use provisions for the device of an offence to which those provisions ordinarily apply may also be tendered in evidence under this section in proceedings for an unauthorised vehicle use offence involving the vehicle.	27 28 29 30 31
	Note. For example, a photograph taken by an approved camera detection device that is evidence of a traffic light offence under section 57 of the <i>Road Transport (Safety and Traffic Management) Act 1999</i> may also be tendered in evidence in proceedings for an unauthorised vehicle use offence involving the same vehicle.	32 33 34 35 36

- (3) For this purpose, the evidence use provisions for the approved camera device are taken to apply in relation to the tendering, admission and use in evidence of such a photograph as if the provisions extended to proceedings for an unauthorised vehicle use offence as well as to proceedings for an offence to which the provisions ordinarily apply. 1
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Note. Evidence use provisions for approved camera devices usually make provision for the admission of photographs taken by such devices in specified kinds of proceedings and for the use of evidence derived from such photographs. These provisions also usually require the provision of certificate evidence concerning the inspection or testing of the devices. 7
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- (4) Nothing in this section prevents a photograph taken by an approved camera device being tendered and used in evidence both in proceedings for an unauthorised vehicle use offence and proceedings for an offence to which the evidence use provisions for the device ordinarily apply. 13
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- (5) In this section: 18
approved average speed detection device, approved camera detection device, approved camera recording device and *approved traffic lane camera device* have the same meanings as in the *Road Transport (Safety and Traffic Management) Act 1999*. 19
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approved camera device means any of the following: 24
(a) an approved average speed detection device, 25
(b) an approved camera detection device, 26
(c) an approved camera recording device, 27
(d) an approved traffic lane camera device, 28
(e) an approved toll camera. 29
approved toll camera has the same meaning as in section 250A of the *Roads Act 1993*. 30
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evidence use provisions for an approved camera device means: 32
(a) if the device is an approved average speed detection device—the provisions of section 47B of the *Road Transport (Safety and Traffic Management) Act 1999* (and section 73A of that Act in its application to evidence or presumptions under those provisions), or 33
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(b) if the device is an approved camera detection device—the provisions of section 57 of the *Road Transport (Safety and Traffic Management) Act 1999* (and section 73A of that Act in its application to evidence or presumptions under those provisions), or 38
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(c)	if the device is an approved camera recording device—the provisions of section 47 of the <i>Road Transport (Safety and Traffic Management) Act 1999</i> (and section 73A of that Act in its application to evidence or presumptions under those provisions), or	1 2 3 4 5
(d)	if the device is an approved traffic lane camera device—the provisions of section 57B of the <i>Road Transport (Safety and Traffic Management) Act 1999</i> (and section 73A of that Act in its application to evidence or presumptions under those provisions), or	6 7 8 9 10
(e)	if the device is an approved toll camera—the provisions of section 250A of the <i>Roads Act 1993</i> .	11 12
[7]	Section 23A Registered operators	13
	Omit the section.	14
[8]	Schedule 3 Savings and transitional provisions	15
	Insert at the end of clause 1 (1):	16
	<i>Road Transport Legislation Amendment (Unauthorised Vehicle Use) Act 2010</i>	17 18
[9]	Schedule 3	19
	Insert at the end of the Schedule (with appropriate Part and clause numbers):	20
Part	Provisions consequent on enactment of Road Transport Legislation Amendment (Unauthorised Vehicle Use) Act 2010	21 22 23
	Definition	24
	In this Part:	25
	<i>amending Act</i> means the <i>Road Transport Legislation Amendment (Unauthorised Vehicle Use) Act 2010</i> .	26 27
	Application of section 22C	28
	Section 22C, as inserted by the amending Act, applies in relation to unauthorised vehicle use offences (within the meaning of that section) committed, or alleged to have been committed, after the commencement of that section.	29 30 31 32

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Schedule 1 Amendment of Road Transport (Vehicle Registration) Act 1997 No 119

Existing Register continues to have effect

The Register of Registrable Vehicles maintained by the Authority under this Act immediately before the commencement of Schedule 1 [5] to the amending Act continues to be the Register of Registrable Vehicles for the purposes of this Act (as amended by the amending Act).

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Schedule 2	Consequential amendment of other legislation	1
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2.1	Road Transport (General) Act 2005 No 11	3
[1]	Section 179 Liability of responsible person for vehicle for designated offences	4
	Insert at the end of paragraph (e) of the definition of <i>camera recorded offence</i> in section 179 (12):	5
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	, or	8
	(f) an unauthorised vehicle use offence in respect of which the penalty notice or the court attendance notice indicates that the offence was detected by an approved camera device (within the meaning of section 22C of the <i>Road Transport (Vehicle Registration) Act 1997</i>).	9
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[2]	Section 179 (12)	14
	Insert in alphabetical order:	15
	<i>unauthorised vehicle use offence</i> means an unauthorised vehicle use offence (within the meaning of section 22C of the <i>Road Transport (Vehicle Registration) Act 1997</i>), but does not include an offence where it is alleged that the offender merely caused, permitted or otherwise allowed a vehicle to be driven or used.	16
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2.2	Road Transport (Vehicle Registration) Regulation 2007	21
[1]	Clause 7 Who may apply for registration?	22
	Omit clause 7 (2)–(4).	23
[2]	Clause 14 Maintenance of the Registers	24
	Omit “transitional vehicle (within the meaning of clause 7 (3))” from clause 14 (1) (a).	25
		26
	Insert instead “transitional registrable vehicle (within the meaning of section 10 of the Act)”.	27
		28
[3]	Clause 14 (1) (a1)	29
	Omit “clause 7 (3)”. Insert instead “section 10 of the Act”.	30

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Schedule 2 Consequential amendment of other legislation

[4] Clause 91A	1
Insert after clause 91:	2
91A Photographic evidence of unauthorised vehicle use: section 22C of Act	3
	4
The following offences against this Regulation are prescribed for the purposes of section 22C of the Act:	5
	6
(a) an offence against clause 50 (3),	7
(b) an offence against clause 84 (3),	8
(c) an offence against clause 84 (5).	9