

CLAUSE NOTES

Vehicle and Traffic Amendment (Novice Driver Licensing) Bill 2008

PART 1

Clause 1 Short title and citation.

Clause 2 The Act commences on a day to be proclaimed.

PART 2

Clause 3 In Part 2, the Principal Act is the *Vehicle and Traffic Act 1999*.

Clause 4 Amends the interpretation by inserting the following definitions:

‘novice driver’ refers to a person that has never held a full licence in relation to a car, that is, a learner or provisional. A novice driver is affected by the changes to the novice licensing system.

‘novice licensing stage’ refers to the stages in the novice licensing system that a novice driver and novice rider must complete before being eligible to obtain a full licence. These stages are prescribed in the regulations as being the learner stage, the P1 stage and the P2 stage. From April 2009, the learner stage for a novice driver will be replaced with a 3-month L1 stage and a 9-month L2 stage. The learner stage will not change for novice riders.

‘novice rider’ refers to a person that has never held a full licence in relation to a motorcycle, that is, a learner or provisional. A novice rider is affected by the changes to the novice licensing system.

‘unaccompanied driver offence’ refers to the offence created by regulation 8(7) of the Vehicle and Traffic (Driver Licensing and Vehicle Registration) Regulations 2000. A novice driver who holds a car learner licence commits this offence if he or she drives a car without an appropriate supervising driver.

Clause 5 Inserts a new division relating to the ‘regression’ an ‘restart’ of novice drivers and riders as follows:

New Section 13A

subsection(1) Outlines the circumstances that will lead to novice drivers and riders being regressed to the preceding licensing stage.

The regulations will outline what happens to a novice driver and novice rider on regression. Before being eligible to be re-issued with a licence in the next licensing stage:

- a person regressed from the P2 stage will be required to repeat the 12-month P1 stage;
- a person regressed from the P1 stage will be required to hold a learner licence for at least 28 days . A novice driver must also re-sit the practical driving test and a novice rider must also sit a practical skills test; and
- a person regressed from the learner stage will not be eligible to hold another learner licence for three months A novice driver must also re-sit the driver knowledge test, and a novice rider must also re-do the pre-learner training course and driver knowledge test.

If the person is both a novice driver and a novice rider, he or she will regress to the preceding licensing stage for both licence classes.

From April 2009, L1 and L2 licensing stages will be introduced for novice drivers. Before being eligible to be reissued with a licence in the next licensing stage:

- a novice driver regressed from the P1 stage will be required to hold an L2 licence for at least 28 days and re-sit the second practical driving test;
- a novice driver regressed from the L2 stage will be required to hold an L1 licence for at least 28 days and re-sit the first practical driving test;
- a novice driver regressed from the L1 stage will not be eligible to hold another learner licence for three months and must re-sit the driver knowledge test.

subsection (2)

Outlines when regression is to take effect. The effect of this clause is that for every two periods of

disqualification, licence suspension or ineligibility, a person will regress to the previous licensing stage.

subsection (3) Prescribes what happens to a licence held by the person in his or capacity of a novice driver or rider. A full licence will not be cancelled as a result of regression.

subsection (4) Provides that regression will not apply where a person incurs two periods of disqualification, suspension or ineligibility as a result of the one offence. An example of this is an excessive speed offence, where the person will incur an automatic statutory penalty of three or four months disqualification depending on the amount over the prescribed speed limit, as well as the requisite demerit points for the offence which may result in a suspension for accumulation of demerit points.

subsection (5) Makes it clear that a period of disqualification, suspension or ineligibility will only be counted once for the purpose of determining whether a person is to be regressed.

New section 13B
subsection (1)

Provides that a 'first-year' novice driver or rider who commits certain prescribed offences will, depending on the licensing stage the person is in at the time of conviction for that offence, be required to restart or have extended the relevant provisional licensing stage as prescribed in the regulations.

The regulations will provide that a person still in the P1 stage when convicted must restart that P1 stage, and a person in the P2 stage when convicted will have that P2 stage extended by a period equivalent to the period that should have been repeated in the P1 stage.

The prescribed offences are speeding 10 km/h or more over the speed limit, illegally using a mobile phone while driving, failing to wear a seat belt, and riding a motorcycle that is not a learner approved motorcycle.

subsection (2) Provides that if a person becomes liable to be regressed to the previous licensing stage (under section 13A) at the same time as becoming liable to restart the P1 stage or have the P2 stage extended (under section 13B), the person will not incur the latter penalty, but will be regressed.

Clause 6		Amends section 17(1) so that the provisions relating to the power of a court to order disqualification is subject to the new section 19E which prescribes the minimum disqualification and fine to be imposed by a court for an unaccompanied driver offence.
Clause 7	new subsection(ba)	Amends the provisions relating to who is ineligible to apply for a restricted licence. The effect of this is that a person in the P1 stage who incurs a second period of disqualification and as a result will be regressed to the learner stage at the end of that disqualification, will not be eligible to apply for a restricted licence for the licence class that will be regressed. This ensures that a person will not be allowed to continue to drive as a provisional after becoming liable to be regressed to the learner stage. This will not prevent the person applying for a restricted licence in respect of a licence class for which they hold a P2 licence or a full licence.
Clause 8	New section 19D	Inserts a new section that provides for a learner car driver to incur a minimum penalty for driving without an appropriate supervising driver as follows:
	subsection (1)	Imposes a minimum penalty of three months disqualification and a \$150 fine for a car learner driver that is convicted of an unaccompanied driver offence as a result of being issued with a Traffic Infringement Notice.
	subsection (2)	Specifies that the penalty is in addition to any other penalty the person may be liable to in respect of the unaccompanied driving offence.
	subsection (3)	Prescribes when the disqualification imposed under subsection (1) takes effect.
	New section 19E subsection (1)	Prescribes the minimum period of disqualification and fine (as above) to be imposed by a court upon convicting a car learner driver of an unaccompanied driver offence.
	subsection (2)	Provides that a court may impose a lesser penalty if it is just to do so in the circumstances.
Clause 9		

paragraph (a)

Amends section 25 to provide that a person who has completed the P2 stage will no longer be subject to a four demerit-point threshold but will have a 12 demerit-point threshold. The amendment is required to maintain the status quo as a result of an amendment to the regulations relating to how a person progresses beyond a provisional status (ie upon obtaining a full licence).

paragraph (b)

Amends section 25(5) to provide that a person who has completed the P2 stage is eligible to renew his or her licence prior to a period of ineligibility. This amendment is required to maintain the status quo for the same reason as above.

Clause 10

new subsection(6)

Provides for the issue and use in legal proceedings of an evidentiary certificate in relation to a person who is liable to be regressed.

PART 3

Clause 11

In Part 3, the Principal Act is the Traffic Act 1925.

Clause 12

Amends the provisions relating to the circumstances in which a Traffic Infringement Notice issued to a learner driver is of no effect. Rather than listing every circumstance in the Act, 'prescribed offences' will be referred to and prescribed in the regulations. The regulations will prescribe the existing circumstances (speeding and parking offences) and two new circumstances (unaccompanied driver offence and the offence of failing to display L-plates).