

**2013**

**THE LEGISLATIVE ASSEMBLY  
FOR THE AUSTRALIAN CAPITAL TERRITORY**

**ROAD TRANSPORT LEGISLATION  
AMENDMENT BILL 2013**

**EXPLANATORY STATEMENT**

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## Road Transport Legislation Amendment Bill 2013

### Outline

This Bill amends the scheme in the road transport legislation—in particular, provisions in the *Road Transport (General) Act 1999*—for paying infringement notice penalties for traffic and parking offences. The Bill builds on amendments made in May 2012 that introduced new payment options for people in financial hardship.

In May 2012, the Legislative Assembly passed the *Road Transport (General) (Infringement Notices) Amendment Act 2012* to provide three new options for people who experienced difficulty in paying infringement notice penalties for road transport offences:

1. payment of the penalty by instalments;
2. discharge of the penalty by undertaking community work and social development programs; or
3. waiver of the penalty.

The *Road Transport (General) (Infringement Notices) Amendment Act 2012*, section 2 (2) sets a default commencement date of 24 May 2013 for those amendments. This delayed commencement was included to provide time to develop system changes to support the new options, and to undertake other essential implementation activities associated with the amendments, including liaising with prospective providers of community work and social development programs.

When the 2012 amendments were enacted, it was foreshadowed that further amendments may be required to enable the scheme to operate effectively. The Bill makes a range of technical and operational amendments that will take effect on the commencement of the *Road Transport (General) (Infringement Notices) Amendment Act 2012*.

In particular, the Bill includes new provisions that enable several outstanding infringement notice penalties to be consolidated into a single debt which can be managed through a single infringement notice management plan. The infringement notice management plan covers all the road transport infringement notice penalties outstanding for that that person. The consolidated debt under the plan may be then be discharged either by instalment payment or by completing an approved community work or social development program.

Once a person enters into an infringement notice management plan, any current driver licence or vehicle registration suspension action that has been taken in relation to the non-payment of outstanding infringement notice penalties will be lifted.

The purpose of consolidating penalties into a single plan is to assist people to remain on track with their payments, so that they can avoid the consequences that would otherwise arise for non-payment. This consolidation approach has been used successfully in other jurisdictions, and has been shown to help people to keep track of their commitments more easily. It is also more administratively efficient than managing payments for each infringement penalty separately.

It should be noted that if a person's driver licence has been suspended for a reason other than non-payment of an infringement notice penalty (for example, demerit point suspensions), the lifting of the suspension for non-payment of an infringement penalty will not affect that other

suspension and the person will have to complete that other suspension before returning to driving.

Another effect of entering into an infringement notice management plan is that the person is no longer liable to be prosecuted for any of the offences the penalties for which are covered by the plan. In effect, entering into a plan has an equivalent effect on liability for prosecution as paying the penalty up front. If not already recorded against the person's licence, any demerit points for the relevant offences will be recorded against the person when he or she enters into an infringement notice management plan, in the same way that they are recorded when a person pays an infringement notice up front.

Infringement penalties may be removed from the plan either at the request of the applicant or on the motion of the administering authority in appropriate circumstances. This could happen when an infringement notice is withdrawn under section 36 of the Act, or if a person elects to dispute the relevant offence in court.

The Bill also includes other amendments to:

- explain the consequences of waiving a person's infringement notice penalty;
- clarify the operation of the licence and vehicle sanction provisions where a person's driver licence has already been suspended under another provision of the road transport legislation;
- modify the automatic licence disqualification provisions for people who are convicted or found guilty of the offence of driving while suspended in section 32 (2) of the *Road Transport (Driver Licensing) Act 1999*.

The changes to the automatic licence disqualification provisions for the "drive while suspended" offence are included in this Bill because it is recognised that some people who experience difficulty in paying their infringement penalties or fines and whose licences are suspended as a result may nevertheless continue driving, and then face a significant further period of licence disqualification if convicted of a suspended driving offence. Reforming the penalties for suspended driving offences is consistent with the policy of assisting people in financial hardship to return to "legal" driving in order to avoid further offending. Further traffic offending exposes these people to additional financial and licence penalties, making it ever more difficult for them to manage their liabilities and obtain or keep steady employment.

Related and consequential amendments are made to provisions elsewhere in the *Road Transport (General) Act 1999*, the *Road Transport (Driver Licensing) Act 1999* and to other road transport legislation.

The Government considers that the measures in the Bill are consistent with human rights for section 28 of the *Human Rights Act 2004*. In particular, the provisions in the Bill will assist people who may be experiencing difficulty in paying their infringement penalties, so that they are less likely to find themselves in a position where they are liable for licence or registration sanctions.

It will also give greater sentencing flexibility to the Courts when dealing with people who are convicted or found guilty of a 'drive while suspended' offence by reducing the mandatory disqualification period for people whose licence suspension arose from non-payment of a

penalty. This flexibility is consistent with general sentencing principles and human rights relating to fairness in criminal proceedings.

## Notes on Clauses

### **Clause 1                    Name of Act**

This clause is a formal provision that sets out the name of the proposed legislation.

### **Clause 2                    Commencement**

This clause explains that part 1 (Preliminary) and part 2 (*Road Transport (Driver Licensing) Act 1999*) of the Bill will take effect on the day after notification.

The remaining provisions, including amendments to the *Road Transport (General) Act 1999* (the General Act), *Road Transport (Safety and Traffic Management) Act 1999*, *Road Transport (Vehicle Registration) Regulation 2000* and consequential amendments, will take effect on the commencement of the *Road Transport (General) (Infringement Notices) Act 2012*.

Section 2 (2) of the *Road Transport (General) (Infringement Notices) Act 2012* sets a default commencement date of 24 May 2013.

### **Clause 3                    Legislation amended**

This clause lists the legislation amended by the Bill.

### **Part 2                        Road Transport (Driver Licensing) Act 1999**

#### **Clause 4                    Offences committed by disqualified drivers etc Section 32 (5)**

This clause omits a reference to section 32 (2) from this subsection. Section 32 (2) establishes the offence of driving while licence suspended.

Currently, section 32 (5) sets out the automatic disqualification periods for people who are convicted of offences under sections 32 (1), (2) or (3). The effect of existing section 32 (5) is that the same period of automatic disqualification applies to people who are convicted of driving while disqualified or their licence is suspended, irrespective of the reason for, or circumstances of, the disqualification or licence suspension.

The amendment is made as the automatic disqualification period for people convicted in relation to section 32 (2) is now dealt with in a new provision, section 32 (5A), which is inserted by clause 5 of this Bill.

#### **Clause 5                    New section 32 (5A)**

This clause reduces the minimum period for which a court must disqualify a person from holding a driver licence when that person has been convicted of the offence of driving while suspended by a court in Australia or under the law of any jurisdiction.

The effect of existing section 32 of the *Road Transport (Driver Licensing) Act 1999* (the Driver Licensing Act) is that where a person is convicted of driving while suspended, the

conviction automatically disqualifies the offender from holding a driver licence for 12 months (for first offenders) or 24 months (for repeat offenders).

While the court may impose a longer period of disqualification, it currently does not have the discretion to impose a shorter period than 12 or 24 months. The 12 or 24 month period applies whether the driver’s original suspension arose because he or she had incurred excessive demerit points, had defaulted on fines or was pending a fitness to drive assessment on competence or medical grounds.

By contrast, the automatic disqualification period for other road safety offences is less than 12 months. For culpable driving, the disqualification period is 6 months for a first offender and 24 months for a repeat offender. For burnouts, speed trials, negligent driving occasioning death or harm, reckless or furious driving, and menacing driving, the automatic disqualification period is 3 months for a first offender and 12 months for a repeat offender.

This clause modifies the minimum disqualification periods for various types of suspensions. Even though the minimum periods have been reduced, the court retains the discretion to impose a longer period than the minimum.

The reduction in the automatic disqualification will better align the penalties for this offence with other penalties under the road transport legislation, and will ensure greater parity with the penalties for equivalent offences committed in other jurisdictions.

The table below sets out the new minimum disqualification periods. The minimum periods apply to disqualifications for ACT offences as well as corresponding offences under a law of another jurisdiction.

<b>Reason for suspension</b>	<b>New section</b>	<b>New minimum period</b>
Driving while suspended under the General Act, part 3 (Infringement notices for certain offences) or part 6 (Fine defaulters)	32 (5A) (a)	1 month
Driving while suspended under the Driver Licensing Act, division 2.3 (Demerit points system)	32 (5A) (b)	3 months
Driving while suspended in any other case	32 (5A) (c)	3 months (first offender) 12 months (repeat offender)

**Part 3**                      **Road Transport (General) Act 1999**

**Clause 6**                      **Definitions—pt 3**  
**Section 21A, new definitions**

This clause defines several terms that are used in part 3 of the Act. That part deals with infringement notices for certain road transport offences.

It inserts a definition of *approved community work or social development program*, and inserts a signpost definition of *infringement notice management plan*.

The clause replaces the term *special circumstances* with *relevant circumstances* to avoid confusion with the use of the term *special circumstances* in the *Road Transport (Offences) Regulation 2005*, section 14D (though it is not used as a definition in the Regulation). The term *special circumstances* is being replaced with *relevant circumstances* because it is already used in the legislation and it may lead to confusion if the term is given two different meanings (the clause notes for **clause 11** explain this further).

The clause also updates some of the drafting language used in the definition of *relevant circumstances*. The clause replaces the expression ‘mental or intellectual disability, disease or illness’ with ‘mental or intellectual disability or mental disorder’, and replaces ‘a victim of domestic violence’ with ‘subjected to domestic violence’. These amendments ensure the language used in this legislation is consistent with expressions used in other ACT legislation.

The clause defines *responsible director-general* to mean the director-general responsible for the *Crimes (Sentence Administration) Act 2005*, part 6.2 (Good behaviour—community service work).

**Clause 7**                      **Purpose and effect of pt 3**  
**Section 22 (2) (b) (ii)**

This clause amends section 22 of the Act, which explains the purpose and effect of part 3 of the Act. The amendment reflects the inclusion in the Act of the new option of entering into an infringement notice management plan. The amendment inserts into section 22 a statement explaining that a person’s liability to be prosecuted for an offence is not affected if the person does not comply with an infringement notice management plan.

**Clause 8**                      **Infringement notice—payment of penalty etc**  
**Section 26 (2) (aa)**

This clause amends section 26 of the Act, which sets out the actions that a person who is served with an infringement notice may take in response to that notice, and the timeframes within which that action should be taken. The effect of the amendment is to provide a person served with an infringement notice the new options of applying to the administering authority for an infringement notice management plan (which may be for payment by instalments or participation in a work or development program) or the waiver of the infringement notice penalty.



The amendment also explains that if the person already has a plan and is served with a new infringement notice, the person may apply to add the penalty for the new infringement notice offence to that plan.

**Clause 9                      Action on service of reminder notice—payment of penalty etc  
Section 28 (2) (aa)**

This clause amends section 28 of the Act, which sets out the actions that a person who is served with a reminder notice may take in response to that notice, and the timeframes within which that action should be taken. A reminder notice for an infringement notice offence is served on a person if the person has not done certain things (such as paying the penalty, disputing or applying for withdrawal of the infringement notice or seeking extra time to do one of these things) within the required period. The effect of the amendment is to provide a person served with a reminder notice with the option of applying to the administering authority for an infringement notice management plan or a waiver.

If the person already has a plan and is served with a reminder notice for a new offence, the person has the option to apply to add the penalty for the new infringement notice offence to the plan.

Under section 29 of the Act, a person can apply for an extension of time to do something mentioned in sections 26 or 28, and these applications can be made after the timeframe for doing the thing has notionally expired (see also section 14D of the *Road Transport (Offences) Regulation 2005* which deals in more detail with out of time applications). The effect of these provisions, when read with amended sections 26 and 28, is that it will be possible for people to apply for an infringement notice management plan even after the time mentioned in section 26 or 28 has passed.

**Clause 10                      Sections 30A to 30E**

This clause inserts new division 3.2A (Infringement notice management plans) into the General Act. This division replaces sections 30A to 30E, which were inserted by the *Road Transport (General) (Infringement Notices) Amendment Act 2012* but have not yet taken effect. The purpose of these amendments is to retain the underlying objectives of the 2012 amendments, while providing a more efficient mechanism (the infringement notice management plan) for administering instalment payments and work or development programs. Section 30A to 30E are replaced with new sections 31A to 31E inclusive.

The effect of the new provisions is summarised below. New section 31A provides for individuals and corporations who have been served with an infringement notice for an infringement notice offence to apply to enter into an infringement notice management plan. An infringement notice management plan is an arrangement with the administering authority to discharge a penalty for an infringement notice offence.

If the applicant is an individual, a plan may allow the person with outstanding penalties to pay by instalment or to discharge their liability to pay the amount of the penalties by participating in an approved community work or social development program. Corporations may only apply for a plan for instalment payments.

Where the individual or corporation already has a plan, an application may be made to add a new infringement into the existing plan.

An application for a plan must include information about the person's financial circumstances and any relevant circumstances, concession cards (if the person holds any) and anything else prescribed by regulation.

The purpose of infringement notice management plans is to enable applicants to consolidate multiple infringement notice penalties into a single amount, which can then be either paid by instalments (individuals or corporations) or discharged by participation in a work or development program (for individuals).

New section 31B deals with decisions about applications for a plan. It provides that the administering authority may either allow the application or refuse it. The authority may ask for further information from the applicant before deciding the application.

New sections 31B (3) and (4) set out the criteria for allowing applications for infringement notice management plans. If the application is for a plan for payment by instalments (an instalment plan) and the applicant is an individual who holds a concession card prescribed by regulation, the administering authority must allow the application. For people who do not hold a prescribed card, and for corporations, the application must be allowed if the authority is satisfied that it is justified because of the applicant's financial circumstances.

The effect of new section 31A (4) (b) is to allow the regulations to prescribe the various types of concession card that will automatically entitle an applicant for an infringement notice management plan to have that application approved. At present, the cards are specified in the Act. Moving the list of concession cards to the regulations will facilitate the addition of new types of concession cards or changes to the names of existing cards as the regulations can be amended more quickly in response to changes in concession card names and categories.

After allowing an instalment plan application, the authority may decide the amount of the instalments that must be paid. The minimum payment amount will be prescribed by regulation (see proposed new section 14EB of the *Road Transport (Offences) Regulation 2005*, to be inserted by item 1.28 of the Schedule to the Bill).

In relation to an application by an individual for a community work or social development program, the authority must allow the application if the responsible director-general agrees to the individual's participation in an approved community work or social development program. In effect, the application will be approved once the director-general has agreed, having regard to the criteria set out in new section 31C, to the participation by the applicant in the program.

Once an application for a plan has been approved under section 31B (3) or (4), the applicant will be advised of the outcome and the arrangements for entering into the plan. Under new section 31B (7), the regulations may prescribe matters such as the conditions for allowing applications, the conditions that apply under the plan and how payments are to be made, including what is to happen if a payment is dishonoured.

As explained previously, under new section 31B (4) the responsible director-general's agreement is required before the authority allows the applicant's participation in a program.

New section 31C explains how the director general's agreement is obtained, including the criteria for agreeing to participation. The responsible director-general may agree to the applicant's participation if satisfied on reasonable grounds that it is justified given the financial and/or relevant circumstances of the person, and the applicant is suitable to participate in the program.

Under new sections 31C (5) and (6), the director-general may make guidelines (in the form of a notifiable instrument) about exercising his or her functions in relation to approving a person's participation in a program.

New section 31D provides for the responsible director-general to approve a community work or social development program. An approval is a disallowable instrument.

New section 31E explains the effect of a refusal of an application for an infringement notice management plan. Where an application is refused the applicant must, in relation to the infringement for which a plan was refused, take one of the actions set out in section 26 or, if a reminder notice has been issued in relation to the infringement, take one of the actions listed in section 28. These actions include paying the infringement penalty, applying for a waiver of the penalty, and disputing or seeking withdrawal of the penalty.

Under new section 31E (2) the applicant must take one of these actions within 7 days after the applicant is given notice of the refusal, or 28 days of the issue of the infringement notice or reminder notice, whichever is the later. A person who does not take one of these actions may become liable for suspension action under section 44 of the Act.

#### **Clause 11                      Section 30F**

This clause creates new division 3.2B (Waiver of infringement notice penalties). This division will contain provisions dealing with applications for waivers of infringement notice penalties. The existing provision that deals with these applications (section 30F) is replaced by a redrafted provision (new section 31F) that omits a redundant reference to waiving the amount payable for the cost of serving a reminder notice. This reference is not required as the definition of *infringement notice penalty* in the dictionary to the Act already includes the amount payable by a person for the cost of serving a reminder notice.

The redrafted provision also replaces the term *special circumstances* with *relevant circumstances*. The term *special circumstances* in existing section 30D of the Act is used to define the types of circumstances that provide reasonable grounds for allowing an application for a person to undertake a community work or social development program. However the term *special circumstances* is already used in another context (specifically, it is used in relation to out of time applications for extensions of time) and it may be confusing for applicants and the administering authority for the term to be used a second time, with a different meaning, in connection with infringement notice penalties.

#### **Clause 12                      Application for waiver of penalty—decision Section 30G (3) (b)**

This is an amendment to existing section 30G (3) consequential upon replacing the term *special circumstances* with *relevant circumstances*. This amendment is made for the reason explained in the notes for clause 11.

**Clause 13**                      **Section 30G (6)**

This amendment is consequential on the amendments in clauses 11 and 12, and omits a reference to the definition of *special circumstances*. The omission is made because the term *special circumstances* will be replaced by *relevant circumstances* by this Bill.

**Clause 14**                      **Section 30G**

The clause renumbers section 30G, as amended by this Bill, as section 31G.

**Clause 15**                      **Time for beginning prosecution for infringement notice offence**  
**Section 31**

This clause is a technical drafting provision that relocates section 31 (which deals with the time frames for commencing prosecutions) to division 3.2.

**Clause 16**                      **New section 31H**

This clause inserts new section 31H, which sets out the options for an applicant whose application for a waiver of a penalty has been refused by the administering authority. In summary, the effect is that the applicant may dispute the infringement, may complete an infringement notice declaration to the effect that someone else is liable for the offence or may seek to have the infringement notice withdrawn. The person may also pay the penalty or apply for an infringement notice management plan or seek additional time to pay if such additional time has not previously been granted.

This clause also inserts a note that refers readers to section 13A of the *Road Transport (Driver Licensing Act) 1999*, which explains when the road transport authority must record demerit points against a person in the demerits point register.

**Clause 17**                      **Infringement notice—withdrawal**  
**Section 36 (4) (b)**

This is an amendment to section 36 of the Act, which deals with the effect of the withdrawal of infringement notices, and requires the authority to repay an infringement notice penalty if it has been paid and the relevant infringement notice is later withdrawn. The amendment includes a reference to infringement notice management plans in this subsection, to make it clear that penalties that are covered by an infringement notice management plan are not automatically repaid if the relevant infringement notice is withdrawn. That situation is instead governed by new section 36A, which is inserted by clause 18 of the Bill.

**Clause 18**                      **New section 36A**

This clause inserts new section 36A, which explains what happens when an infringement notice that is covered by an infringement notice management plan is withdrawn. It provides that when the administering authority withdraws an infringement notice for an offence, and the penalty for the offence has been added to an infringement notice management plan, one of three things must happen. If the total amount owing under the plan is less than the amount of the penalty for the withdrawn notice, then the plan must be cancelled and the difference in

value between the plan and the withdrawn penalty must be refunded to the person. If the total amount owing under the plan is the same as the amount of the penalty, then the plan is cancelled. If the total amount owing under the plan exceeds the amount of the withdrawn penalty, then the penalty must be removed from the plan and the amount owing on the plan must be reduced accordingly.

**Clause 19**                      **Infringement notice—effect of refusal to withdraw**  
**Section 37 (1) (a)**

This clause amends section 37, which deals with the consequences of a refusal by the administering authority to withdraw an infringement notice for that offence. This is a consequential amendment that inserts a reference to section 26 (2) (aa) in section 37 (1) (a). The reference makes it clear that after a person has been advised that an application for withdrawal has been refused, he or she has the option of applying for an infringement management plan, in addition to the existing options that may be available to that person following the refusal to withdraw. Section 37 (1) explains that the person must do one of these things after being notified of the refusal, while section 37 (2) explains when the person must do them. If the person fails to act, he or she may be liable for suspension action under section 44 of the Act.

**Clause 20**                      **Section 37 (1) (b)**

This clause also amends section 37 and has a similar effect to the amendment in clause 19. It inserts a reference to section 28 (2) (aa) in section 37. The reference makes it clear that after a person has been advised that an application for withdrawal of an infringement notice has been refused, he or she also has the option of applying for an infringement management plan, in addition to the existing options that are available to that person following the refusal to withdraw the infringement notice. The person must act within the specified time frame in section 37 (2) or face possible suspension action under section 44 of the Act.

**Clause 21**                      **Section 37 (1), note**

This clause amends section 37 to update the note at the end of the provision. The revised note uses more generic language than the existing note, which only refers to the recording of demerit points following payment of a penalty for an offence, in order to cover the wider range of actions that may be taken in response to an infringement notice. This amendment is consequential on the inclusion of new options for paying or discharging penalties.

**Clause 22**                      **Section 39**

This clause remakes existing section 39, which deals with the effect of paying an infringement notice. Replacement section 39 explains what happens when a person pays an infringement notice penalty, enters into an infringement notice management plan in respect of the penalty or obtains a waiver of the infringement notice penalty. In summary, entering into an infringement notice management plan, adding a penalty to a plan or obtaining waiver of a penalty will have the same effect as is if the person had paid the penalty outright. The effect is that the person is no longer liable for the offence, must not be prosecuted for the offence and is not taken to have been convicted of the offence.

**Clause 23                      Suspension for nonpayment of infringement notice penalties**  
**Section 44 (1) (c) and (d)**

This clause amends section 44, which provides for the imposition of driver licence, vehicle registration or right to drive sanctions on people who do not pay infringement notice penalties within the required time frame or take other specified action within the required time frames (such as disputing the infringement notice in court or obtaining additional time to pay). This amendment is consequential on the inclusion of new options for discharging liability for an infringement notice penalty, including the option of entering an infringement notice management plan. The effect of the amendment is that a suspension notice may be given to a person if the person does not have an infringement notice management plan, and the penalty has not been paid within the allowed time or the person has not taken other specified action as mentioned above.

**Clause 24                      Section 44 (6)**

This clause makes a technical drafting amendment to subsection (6) to clarify that the sanction of vehicle registration suspension may be applied to a person who either does not currently hold a driver licence or to a person whose licence is already suspended under another provision of the road transport legislation. The clarification ensures the provision accurately reflects existing policy and practice, which is that registration sanctions are applied in cases where a person either does not hold a licence or is already subject to licence sanctions for other reasons.

**Clause 25                      New section 44A**

This clause sets out what will happen if a person fails to comply with his or her infringement notice management plan. The infringement notice management plan will specify the way in which a person must fulfil his or her obligations under the agreement, and what will amount to non-compliance. In summary, the agreements will ordinarily provide some flexibility for people who have genuine reasons for not being able to make a payment or attend a program. It is expected that non-compliance will be found to have occurred when the failure is sustained and/or the person has failed to advise the administering authority when payments will be made or when participation in the program will be resumed.

For the section to apply, the person must have a plan and the administering authority must be satisfied on reasonable grounds that the person has failed to comply with the plan. In addition, the person must not have disputed liability for the infringement notice offence(s) to which the plan relates.

Where the section applies, the administering authority must tell the road transport authority about the non-compliance. In turn, the road transport authority must send the non-compliant person a suspension notice. If the person does not resume complying with the plan by the date stated in the suspension notice, the road transport authority must take suspension action against the person.

Suspension action for the purpose of section 44A is suspension of the person's driver licence or right to drive in the ACT. Section 44A does not provide for suspension of a vehicle's registration as it is recognised that this sanction could cause particular hardship to others, for example if the person's family is also dependent on the vehicle for transport.

**Clause 26**                      **Section 47 heading**

This clause is a consequential amendment that updates the heading of this section to better reflect its application to the new payment options.

**Clause 27**                      **Section 47 (1) (b) (ii)**

This is an amendment to section 47, which deals with the revocation of suspension action. It reflects that a person may discharge the person's liability in relation to an infringement notice penalty by doing the things the person is required to do under an infringement notice management plan.

**Clause 28**                      **Section 47A**

This clause remakes section 47A. Replacement section 47A addresses how the road transport authority must revoke the suspension of a person who enters into an infringement notice management plan. For a person who already has a plan, the administering authority must be satisfied on reasonable grounds that the person is complying with his or her infringement notice management plan before advising the road transport authority. Where the road transport authority is advised of compliance with the plan the road transport authority must revoke the person's suspension, and advise the person in writing of the revocation.

The revised section does not include subsections from the previous provision that related to the issuing of suspension reinstatement notices, as the content of those subsections is dealt with in section 44A (inserted by clause 25 of this Bill). New section 44A requires the road transport authority to send a suspension notice to a person who has failed to comply with an infringement notice management plan.

New section 47A includes new regulation making powers to provide for the way that an administering authority can become satisfied that a person has resumed complying with an infringement notice management plan, and for obtaining relevant information about compliance.

**Clause 29**                      **Review of suspension**  
**Section 48 (3) and (4)**

This clause makes consequential amendments to section 48 to reflect that a person may be suspended for non-payment of infringement notice penalties or for non-compliance with an infringement notice management plan. Section 48 sets out the grounds on which the Magistrates Court may review a suspension. The amendments do not alter the existing grounds of review in that section.

**Clause 30**                      **Procedure if liability disputed**  
**Section 53 (4)**

This clause makes a consequential amendment to section 53 (4), which deals with the procedure that applies where a person disputes liability for an infringement notice offence. This section is amended to reflect the concept of infringement notice management plans.

**Clause 31**                      **Evidentiary certificates**  
**New section 56 (3) (ca) to (cf)**

This clause contains a series of consequential amendments to section 56, which deals with evidentiary certificates in relation to infringement notice offences, to take account of the new range of options for discharging liability under an infringement notice management plan, including payment by instalments or completing an approved community work or social development program.

The amendment ensures this section makes provision for new types of evidentiary certificates that the administering authority may give as evidence of a matter in a proceeding for an infringement notice offence.

The new certificates cover the following matters:

- entry into an infringement notice management plan;
- the steps agreed to be taken under a plan;
- steps taken or not taken to comply with a plan;
- notices the administering authority gave to a person about failure to comply with a plan; and
- other steps the administering authority took or did not take to get a person to comply with the person's plan.

**Clause 32**                      **Effect of disqualification**  
**Section 66, note 2, 1<sup>st</sup> dotpoint**

This clause makes a consequential amendment to section 66, which deals with the effects of licence disqualifications. The amendment reflects the new options for discharging a person's liability to pay an infringement notice penalty.

**Clause 33**                      **Dictionary, definition of *approved community work or social development program***

This clause amends the dictionary to the Act to insert a signpost definition of *approved community work or social development program*, linking it to the section that defines this term in detail.

**Clause 34**                      **Dictionary, definition of *infringement notice management plan***

This clause amends the dictionary to the Act to insert a signpost definition of *infringement notice management plan*, linking it to the section that defines this term in detail.

**Clause 35**                      **Dictionary, new definitions**

This clause amends the dictionary to the Act to insert new references to the definitions of *relevant circumstances* and *responsible director-general*.



**Part 4**                      **Road Transport (Safety and Traffic Management) Act 1999**

**Clause 36**                      **Inspection and purchase of images taken by traffic offence  
detection devices**  
**Section 27 (1) (b)**

This is consequential amendment to reflect the changes to sections 38 to 40 of the *Road Transport (General) Act 1999* that were made in 2012. The need for this consequential amendment was not identified at that time. This amendment updates references to the types of statutory declarations that may be made to nominate another person as the driver of a vehicle involved in a camera detected offence, to reflect the terminology that is now used in the *Road Transport (General) Act 1999*.

**Part 5**                      **Road Transport (Vehicle Registration) Regulation 2000**

**Clause 37**                      **Dictionary, definition of *infringement notice*, paragraph (a)**

This is a consequential amendment to reflect changes to section 24 of the *Road Transport (General) Act 1999* that were made in 2012, which substantially altered the scheme for issuing and serving infringement notices. The need for this consequential amendment was not identified at that time. The amendment revises the definition of *infringement notice* to take account of the 2012 amendments.

**Schedule 1**                      **Consequential amendments**

This schedule contains amendments to other legislation that are consequential on the changes made in the main part of this Bill.

**Part 1.1**                      **Road Transport (Driver Licensing) Act 1999**

**Amendment 1.1**                      **Section 12 (3) (c) and (d) and note**

This is an amendment to section 12 of the *Road Transport (Driver Licensing) Act 1999*, which deals with the demerit point system. It amends these provisions to reflect the new range of options for discharging liability to pay an infringement notice penalty in the provisions for determining when the road transport authority is required to give information to another jurisdiction for the mutual recognition of demerit points. The expression “do a relevant thing” is used to cover the range of actions that may be taken in response to an infringement notice. A related amendment in this Bill (amendment 1.2, below) contains a definition of *relevant thing* that covers applying for an infringement notice management plan or applying for a waiver.

**Amendment 1.2**                      **New section 12 (5)**

This amendment inserts a new definition of *relevant thing* for section 12. This amendment is linked to amendment 1.1 (see above) and ensures the concept of *relevant thing* covers infringement notice management plans and waivers.

**Amendment 1.3      Section 13A (1) (c)**

This amendment to section 13A, which deals with the recording of demerit points in the demerit points register, reflects the new range of options for discharging liability to pay an infringement notice penalty.

**Amendment 1.4      Section 13A (1) (ca)**

This amendment to section 13A is a technical amendment to reflect current drafting practice.

**Part 1.2              Road Transport (Driver Licensing) Regulation 2000**

**Amendment 1.5      Division 6.2, note**

This consequential amendment replaces the existing note with an updated note that includes references to the new options for paying or discharging liability for an infringement notice penalty. It also mentions the consequences of non-compliance with an infringement notice management plan.

**Amendment 1.6      Section 101, note 2**

Like amendment 1.5, this amendment replaces the existing note with an updated note that includes references to the new options for paying or discharging liability for an infringement notice penalty. It also mentions the consequences of non-compliance with an infringement notice management plan.

**Part 1.3              Road Transport (General) Regulation 2005**

**Amendment 1.7      Schedule 1, part 1.5, items 1A to 1C**

This amendment to the schedule of internally reviewable decisions has the effect that a decision of the administering authority to refuse an application for an infringement notice management plan, to refuse to add an infringement notice penalty to a plan or refuse a waiver will be an internally reviewable decision.

The refusal of the responsible director-general to agree to a person's participation in an approved community work or social development program will also be an internally reviewable decision. It should be noted that the agreement of the director-general is an essential pre-condition for allowing an application for an infringement notice management plan for a work or development program, so there is a degree of overlap between the review rights in item 1A and 1B of the table.

## **Part 1.4                      Road Transport (Offences) Regulation 2005**

### **Amendment 1.8            New section 4E**

This amendment inserts new section 4E, which defines the term *discharge action* to mean the entry of a person into an infringement notice management plan, the addition of an infringement notice penalty to the person’s plan or the waiver of a penalty. The concept of *discharge action* is used in several provisions in the Regulation as a “short hand” way of referring to this range of options.

### **Amendment 1.9            Section 14A (2) (a)**

This is a technical amendment that updates the language used in the provision by inserting the word “things” after “following”. It does not alter the substantive effect of the provision.

### **Amendment 1.10        Section 14A (2) (a) (ia)**

This amendment to section 14A, which deals with the contents of infringement notices, has the effect that an infringement notice must contain a statement telling a person that they may apply to the administering authority for an infringement notice management plan, an addition to a plan or a waiver, within 28 days after the service of the infringement notice. This statement is in addition to the range of other matters that must already be included in the notice.

The purpose of the notice requirements in section 14A, which are substantially replicated in relation to reminder notices by section 14B, is to ensure that people who are served with infringement notices and reminder notices are made aware of the options available to them for responding to that notice, the consequences of not responding and the time frames for responding.

### **Amendment 1.11        Section 14A (2) (a) (iv)**

This is a technical amendment that updates the language of this provision, which does not alter the substantive effect of the provision.

### **Amendment 1.12        Section 14A (2) (d)**

As with amendment 1.11, this is a technical amendment that updates the language of this provision without altering its substantive effect.

### **Amendment 1.13        Section 14A (2) (e)**

This is a technical amendment that updates the language used in the provision and also includes a reference to the new concept of *discharge action*.

### **Amendment 1.14        Section 14A (2) (h)**

As with amendment 1.13, this is a technical amendment to update the language used in the provision and to include a reference to the new concept of *discharge action*.

**Amendment 1.15 Section 14A (2) (ia)**

This is an amendment that includes a reference to applying for an infringement notice management plan or to add an infringement to an existing plan, in the options for responding to an infringement notice that must be included in the statement on the infringement notice.

**Amendment 1.16 Section 14A (2) (j)**

This amendment ensures that the information included on infringement notices includes information about how to apply for an infringement notice management plan or waiver, in addition to the other types of application that can be made.

**Amendment 1.17 Section 14A (2) (k) (i)**

This is a technical amendment to update the language used in this provision and reflect the new concept of *discharge action*.

**Amendment 1.18 Section 14B (1) (m)**

This is a technical amendment to update the language used in the provision. It does not affect the operation of the provision.

**Amendment 1.19 Section 14B (1) (m) (ia)**

This is a consequential amendment that includes a reference to the option of applying for an infringement notice management plan, or adding an infringement notice to an existing plan, in the statement in a reminder notice that deals with the options for responding to a reminder notice.

**Amendment 1.20 Section 14 (1) (m) (iv)**

This is a technical amendment to update the language used in this provision. It does not alter the substantive effect of the provision.

**Amendment 1.21 Section 14B (1) (n)**

This is a technical drafting amendment to update the language used in this provision. It does not alter the substantive effect of the provision.

**Amendment 1.22 Section 14B (1) (o)**

This is an amendment to insert a reference to the new range of options for discharging a person's liability to pay an infringement notice penalty in that part of the statement in the infringement notice that explains the consequences of paying a penalty or taking other discharge action

**Amendment 1.23 Section 14B (1) (r)**

This is a technical amendment to include a reference to the new concept of *discharge action* in this provision.

**Amendment 1.24     Section 14B (1) (r) (ii)**

This is a technical amendment to update the language used in this provision. It does not substantively affect the operation of this provision.

**Amendment 1.25     Section 14B (2) (aa)**

This is a technical amendment that has the effect of requiring the reminder notice to include information about how the person can apply for an infringement notice management plan or waiver.

**Amendment 1.26     Section 14B (2) (b)**

This amendment has the effect of requiring the reminder notice to include information about how the person may apply for additional time to apply for an infringement notice management plan or waiver.

**Amendment 1.27     Section 14B (2) (c) (i)**

This is a technical amendment to include a reference to the new concept of *discharge action* in this provision.

**Amendment 1.28     New sections 14EA and 14EB**

This amendment inserts new sections 14EA and 14EB.

New section 14EA lists the concession cards that are relevant to establishing eligibility to payment by instalments. This list has been relocated from the principal Act, and includes the same cards as were listed in the *Road Transport (General) (Infringement Notices) Amendment Act 2012*.

New section 14EB prescribes the minimum payment amount for instalment payments, which is \$10 per fortnight. This amount has been selected because \$10 is the lowest amount that Centrelink will accept for its Centrepay automatic payment scheduling scheme.

**Amendment 1.29     Dictionary, new definition of *discharge action***

This is a technical amendment to insert a signpost definition of the term *discharge action* in the dictionary.

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