

Road Trip
 - an abbreviated guide to Road Transport Legislation in New South Wales
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Abbreviations/meanings

M	Offence is a major offence for the purposes of the Road Transport Act 2013. A major offence is defined in s.4 of the Road Transport Act 2013.
IS	Offence is caught by s.224 of the Road Transport Act 2013 and as such a police officer may issue an immediate licence suspension notice.
RTA	Road Transport Act 2013

Road Transport Act 2013										
Offence and section			First offence				Second or subsequent offence ¹²³⁴			
			Maximum penalty		Disqualification		Maximum penalty		Disqualification	
			Imp.	Fine	Auto.	Min.	Imp.	Fine	Auto.	Min.
53(1)(a)	Drive without being licensed		Nil	\$2,200	Nil	Nil	No provision for 'second or subsequent offence' – penalties and disqualifications for 'first offence' apply			
			s.53(1) RTA		No auto or min period – such period as the court specifies - s.204(1) RTA					
53(3)	Drive without being licensed – never licensed ⁵		Nil	\$2,200	Nil	Nil	18 M	\$3,300	3 Y	3 Y
			s.53(3) RTA		No auto or min period – such period as the court specifies - s.204(1) RTA		s.53(3) RTA		s.53(4) RTA	
54(1)(a)	Drive on road whilst disqualified		18 M	\$3,300	12 M	12 M	2 Y	\$5,500	2 Y	2 Y
			s.54(1) RTA		s.54(9)(a) RTA		s.54(1) RTA		s.54(9)(c) RTA	
54(1)(b)	Make application for driver licence during period of disqualification and omit to mention disqualification etc		18 M	\$3,300	12 M	12 M	2 Y	\$5,500	2 Y	2 Y
			s.54(1) RTA		s.54(9)(a) RTA		s.54(1) RTA		s.54(9)(c) RTA	

¹ For the purposes of determining whether a **major offence** is a second or subsequent offence: an offence will be regarded as a second or subsequent offence if, at the time of the conviction or during the period of 5 years before the conviction, the offender is or has been convicted of one or more other major offences (whether of the same or a different kind): ss.9(5)(d) & 205(3) Road Transport Act 2013.

² For the purposes of determining whether an offence contrary to **s.53(3) Drive without being licensed – never licensed** is a second or subsequent offence: an offence will be regarded as a second or subsequent offence if during the period of 5 years before the conviction the offender has been convicted of an offence against the same provision: s.9(2) Road Transport Act 2013.

³ For the purposes of determining whether an offence contrary to **ss.54(1) Drive on road whilst disqualified etc, 54(3) Drive on road whilst suspended (other than for non-payment of fine) etc and 54(4) Drive on road whilst cancelled (other than for non-payment of fine) etc**: an offence will be regarded as a second or subsequent offence if during the period of 5 years before the conviction the offender has been convicted of: an offence against either ss.54(1), (3) or (4); an offence against s.53(3) Drive without being licensed – never licensed; or a major offence: ss.9(2)&(5)(a)-(c) Road Transport Act 2013.

⁴ For the purposes of determining whether an offence contrary to **s.54(5) Drive on road whilst suspended or cancelled for non-payment of fine** is a second or subsequent offence: an offence will be regarded as a second or subsequent offence if during the period of 5 years before the conviction the offender has been convicted of an offence against the same provision: s.9(2) Road Transport Act 2013.

⁵ A person has never been licensed in connection with an offence if the person has not held a driver licence (or equivalent) of any kind in Australia for the period of at least 5 years immediately before the commission of the offence: s.53(5) Road Transport Act 2013.

Road Transport Act 2013 (cont.)

Offence and section		First offence				Second or subsequent offence			
		Maximum penalty		Disqualification		Maximum penalty		Disqualification	
		Imp.	Fine	Auto.	Min.	Imp.	Fine	Auto.	Min.
54(3)(a)	Drive on road whilst suspended (other than for non-payment of fine)	18 M	\$3,300	12 M	12 M	2 Y	\$5,500	2 Y	2 Y
		s.54(3) RTA		s.54(9)(a) RTA		s.54(3) RTA		s.54(9)(c) RTA	
54(3)(b)	Make application for driver licence during period of suspension and omit to mention suspension etc	18 M	\$3,300	12 M	12 M	2 Y	\$5,500	2 Y	2 Y
		s.54(3) RTA		s.54(9)(a) RTA		s.54(3) RTA		s.54(9)(c) RTA	
54(4)(a)	Drive on road whilst cancelled (other than for non-payment of fine) or after licence refused	18 M	\$3,300	12 M	12 M	2 Y	\$5,500	2 Y	2 Y
		s.54(4) RTA		s.54(9)(a) RTA		s.54(4) RTA		s.54(9)(c) RTA	
54(4)(b)	Make application for driver licence to which the cancelled licence or the refused application related and omit to mention cancellation etc	18 M	\$3,300	Nil	Nil	2 Y	\$5,500	Nil	Nil
		s.54(4) RTA		No auto or min period – such period as the court specifies - s.204(1) RTA		s.54(4) RTA		No auto or min period – such period as the court specifies - s.204(1) RTA	
54(5)(a)(i)	Drive on road whilst suspended for non-payment of fine	18 M⁶	\$3,300	3 M	3 M	2 Y	\$5,500	2 Y	2 Y
		s.54(5) RTA		s.54(9)(b) RTA		s.54(5) RTA		s.54(9)(c) RTA	
54(5)(a)(ii)	Make application for driver licence during period of suspension and omit to mention suspension etc	18 M	\$3,300	3 M	3 M	2 Y	\$5,500	2 Y	2 Y
		s.54(5) RTA		s.54(9)(b) RTA		s.54(5) RTA		s.54(9)(c) RTA	
54(5)(b)(i)	Drive on road whilst cancelled for non-payment of fine	18 M	\$3,300	3 M	3 M	2 Y	\$5,500	2 Y	2 Y
		s.54(5) RTA		s.54(9)(b) RTA		s.54(5) RTA		s.54(9)(c) RTA	
54(5)(b)(ii)	Make application for driver licence to which the cancelled licence related and omit to mention cancellation etc	18 M	\$3,300	3 M	3 M	2 Y	\$5,500	2 Y	2 Y
		s.54(5) RTA		s.54(9)(b) RTA		s.54(5) RTA		s.54(9)(c) RTA	

⁶ Note: In determining any penalty or period of disqualification to be imposed on a person for an offence against subsection (5), a court must take into account the effect the penalty or period of disqualification will have on the person's employment and the person's ability to pay the outstanding fine that caused the person's driver licence to be suspended or cancelled: s.54(7).

Road Transport Act 2013 (cont.)

Offence and section		First offence				Second or subsequent offence				
		Maximum penalty		Disqualification		Maximum penalty		Disqualification		
		Imp.	Fine	Auto.	Min.	Imp.	Fine	Auto.	Min.	
68(1)	Use unregistered vehicle on road		Nil	\$2,200	Nil	Nil	No provision for 'second or subsequent offence' – penalties and disqualifications for 'first offence' apply			
			s.68(1) RTA		No auto or min period – such period as the court specifies – s.204(1) RTA					
110(1)(a)	Novice driver drive with novice range prescribed concentration of alcohol [0.001-0.019]	M	Nil	\$1,100	6 M	3 M	Nil	\$2,200	12 M	6 M
			s.110(1) RTA		s.205(2)(a) RTA		s.110(1) RTA		s.205(3)(a) RTA	
110(2)(a)	Special category driver drive with special range prescribed concentration of alcohol [0.02-0.049]	M	Nil	\$1,100	6 M	3 M	Nil	\$2,200	12 M	6 M
			s.110(2) RTA		s.205(2)(a) RTA		s.110(2) RTA		s.205(3)(a) RTA	
110(3)(a)	Drive with low range prescribed concentration of alcohol [0.05-0.079]	M	Nil	\$1,100	6 M	3 M	Nil	\$2,200	12 M	6 M
			s.110(3) RTA		s.205(2)(a) RTA		s.110(3) RTA		s.205(3)(a) RTA	
110(4)(a)	Drive with middle range prescribed concentration of alcohol [0.08-0.149]	M	9 M	\$2,200	12 M	6 M	12 M	\$3,300	3 Y	12 M
		IS	s.110(4) RTA		s.205(2)(b) RTA		s.110(4) RTA		s.205(3)(b) RTA	
110(5)(a)	Drive with high range prescribed concentration of alcohol [0.15 +]	M	18 M	\$3,300	3 Y	12 M	2 Y	\$5,500	5 Y	2 Y
		IS	s.110(5) RTA		s.205(2)(d) RTA		s.110(5) RTA		s.205(3)(d) RTA	
111(1)(a)	Drive with prescribed illicit drug ⁷ in oral fluid, blood or urine	M	Nil	\$1,100	6 M	3 M	Nil	\$2,200	12 M	6 M
			s.111(1) RTA		s.205(2)(a) RTA		s.111(1) RTA		s.205(3)(a) RTA	

⁷ “Prescribed illicit drug” is defined in s.4 as meaning any of the following: (a) delta-9-tetrahydrocannabinol (also known as THC), (b) methylamphetamine (also known as speed), (c) 3,4-methylenedioxymethylamphetamine (also known as ecstasy).

Road Transport Act 2013 (cont.)

Offence and section			First offence				Second or subsequent offence			
			Maximum penalty		Disqualification		Maximum penalty		Disqualification	
			Imp.	Fine	Auto.	Min.	Imp.	Fine	Auto.	Min.
111(3)(a)	Drive with morphine or cocaine in blood or urine	M	Nil	\$1,100	6 M	3 M	Nil	\$2,200	12 M	6 M
			s.111(3) RTA		s.205(2)(a) RTA		s.111(3) RTA		s.205(3)(a) RTA	
112(1)(a)	Drive while under influence of alcohol or other drug	M	9 M	\$2,200	12 M	6 M	12 M	\$3,300	3 Y	12 M
			s.112(1) RTA		s.205(2)(b) RTA		s.112(1) RTA		s.205(3)(b) RTA	
s.115(1)	Organise, promote or take part in race, attempt on speed record etc	IS	Nil	\$3,300	12 M	Nil	9 M	\$3,300	12 M	Nil
			s.115(1) RTA		s.115(4) RTA		s.115(1) RTA		s.115(4) RTA	
116(1)	Conduct associated with road and drag racing and other activities		Nil	\$1,100	Nil	Nil	No provision for 'second or subsequent offence' – penalties and disqualifications for 'first offence' apply			
s.116(2)	Conduct associated with road and drag racing and other activities in circumstances of aggravation	IS	Nil	\$3,300	12 M ⁸	12 M	9 M	\$3,300	12 M ⁹	12 M
			s.116(1) RTA		No auto or min period – such period as the court specifies - s.204(1) RTA		s.116(2) RTA		s.116(7) RTA	
117(1)(a)	Drive negligently occasioning death	M	18 M	\$3,300	3 Y	12 M	2 Y	\$5,500	5 Y	2 Y
			s.117(1)(a) RTA		s.205(2)(d) RTA		s.117(1)(a) RTA		s.205(3)(d) RTA	
117(1)(b)	Drive negligently occasioning grievous bodily harm	M	9 M	\$2,200	3 Y	12 M	12 M	\$3,300	5 Y	2 Y
			s.117(1)(b) RTA		s.205(2)(d) RTA		s.117(1)(b) RTA		s.205(3)(d) RTA	

⁸ Only applies to subsections (a), (b), (c) and (d). Subsections (e), (f) and (g) do not attract an automatic or minimum disqualification period [s.204(1) applies i.e. such period as the court specifies].

⁹ Only applies to subsections (a), (b), (c) and (d). Subsections (e), (f) and (g) do not attract an automatic or minimum disqualification period [s.204(1) applies i.e. such period as the court specifies].

Road Transport Act 2013 (cont.)

Offence and section/clause		First offence				Second or subsequent offence				
		Maximum penalty		Disqualification		Maximum penalty		Disqualification		
		Imp.	Fine	Auto.	Min.	Imp.	Fine	Auto.	Min.	
117(1)(c)	Drive negligently <u>not</u> occasioning death or grievous bodily harm		Nil	\$1,100	Nil	Nil	No provision for 'second or subsequent offence' – penalties and disqualifications for 'first offence' apply			
			s.117(1)(c) RTA		No auto or min period – such period as the court specifies - s.204(1) RTA					
117(2)	Drive furiously, recklessly or at a speed or in a manner dangerous to the public	M	9 M	\$2,200	3 Y	12 M	12 M	\$3,300	5 Y	2 Y
			s.117(2) RTA		s.205(2)(d) RTA		s.117(2) RTA		s.205(3)(d) RTA	
118(1)	Drive in a manner that menaces with intent to menace	M	18 M	\$3,300	3 Y	12 M	2 Y	\$5,500	5 Y	2 Y
			s.118(1) RTA		s.205(2)(d) RTA		s.118(1) RTA		s.205(3)(d) RTA	
118(2)	Drive in a manner that menaces with possibility of menace	M	12 M	\$2,200	3 Y	12 M	18 M	\$3,300	5 Y	2 Y
			s.118(2) RTA		s.205(2)(d) RTA		s.118(2) RTA		s.205(3)(d) RTA	
146(1)	Fail to stop and give assistance after impact occasioning death or injury	M	18 M	\$3,300	3 Y	12 M	2 Y	\$5,500	5 Y	2 Y
			s.146(1) RTA		s.205(2)(d) RTA		s.146(1) RTA		s.205(3)(d) RTA	
Clause 16(1)(a) Sch 3	Refuse or fail to submit to breath test		Nil	\$1,100	Nil	Nil	No provision for 'second or subsequent offence' – penalties and disqualifications for 'first offence' apply			
			cl.16(1) RTA		No auto or min period – such period as the court specifies - s.204(1) RTA					
Clause 16(1)(b) Sch 3	Refuse or fail to submit to breath analysis	M	18 M	\$3,300	3 Y	12 M	2 Y	\$5,500	5 Y	2 Y
		IS	cl.16(1) RTA		s.205(2)(d) RTA		cl.16(1)(b) RTA		s.205(3)(d) RTA	
Clause 16(1)(c) Sch 3	Refuse or fail to submit to oral fluid test		Nil	\$1,100	Nil	Nil	No provision for 'second or subsequent offence' – penalties and disqualifications for 'first offence' apply			
			cl.16(1) RTA		No auto or min period – such period as the court specifies - s.204(1) RTA					
Clause 16(1)(d) Sch 3	Refuse or fail to submit to sobriety assessment		Nil	\$1,100	Nil	Nil	No provision for 'second or subsequent offence' – penalties and disqualifications for 'first offence' apply			
			cl.16(1) RTA		No auto or min period – such period as the court specifies - s.204(1) RTA					

Road Transport Act 2013 (cont.)

Offence and clause		First offence				Second or subsequent offence				
		Maximum penalty		Disqualification		Maximum penalty		Disqualification		
		Imp.	Fine	Auto.	Min.	Imp.	Fine	Auto.	Min.	
Clause 17(1)(a) Sch 3	Refuse or fail to submit to taking of blood sample	M	Nil	\$3,300	3 Y	6 M	18 M	\$5,500	5 Y	12 M
			cl.17(1) RTA		s.205(2)(c) RTA		cl.17(1) RTA		s.205(3)(c) RTA	
Clause 17(1)(b) Sch 3	Refuse or fail to provide oral fluid sample	M	Nil	\$3,300	3 Y	6 M	18 M	\$5,500	5 Y	12 M
			cl.17(1) RTA		s.205(2)(c) RTA		cl.17(1) RTA		s.205(3)(c) RTA	
Clause 17(1)(c) Sch 3	Refuse or fail to provide urine sample	M	18 M	\$3,300	3 Y	6 M	2 Y	\$5,500	5 Y	12 M
			cl.17(1) RTA		s.205(2)(c) RTA		cl.17(1) RTA		s.205(3)(c) RTA	
Clause 17(2) Sch 3	Person other than secondary participant in an accident ¹⁰ prevent sample taker from taking blood sample	M	18 M	\$3,300	3 Y	12 M	2 Y	\$5,500	5 Y	2 Y
		IS	cl.17(2) RTA		s.205(2)(d) RTA		cl.17(2) RTA		s.205(3)(d) RTA	
Clause 17(3) Sch 3	Secondary participant in an accident prevent sample taker from taking blood sample	M	Nil	\$3,300	3 Y	12 M	Nil	\$3,300	5 Y	2 Y
			cl.17(3) RTA		s.205(2)(d) RTA		cl.17(3) RTA		s.205(3)(d) RTA	
Clause 18(1) Sch 3	Person other than secondary participant in an accident wilfully introduce or alter concentration or amount of alcohol or other drugs	M	18 M ¹¹	\$3,300	3 Y	6 M	2 Y	\$5,500	5 Y	12 M
		IS ¹²	cl.18(1) RTA		s.205(2)(c) RTA		cl.18(1) RTA		s.205(3)(c) RTA	
Clause 18(2) Sch 3	Secondary participant in an accident alter concentration of alcohol	M	Nil	\$3,300	3 Y	6 M	Nil	\$3,300	5 Y	12 M
			cl.18(2) RTA		s.205(2)(c) RTA		cl.18(2) RTA		s.205(3)(c) RTA	

¹⁰ Secondary participant in an accident means a person involved in the accident who was: (a) a pedestrian, or (b) driving or riding a vehicle (other than a motor vehicle or a horse): cl.17(5)

¹¹ Only applies to subclauses (a), (b), (e), (f) and (g). The maximum penalty for subclauses (c) and (d) is a fine of \$3,300 (in the case of a first offence) or a fine of \$5,500 (in the case of a second or subsequent offence).

¹² Only applies to subclauses (a), (b) and (e): s.224(1)(b).

Road Rules 2008										
Offence and rule			First offence				Second or subsequent offence			
			Maximum penalty		Disqualification		Maximum penalty		Disqualification	
			Imp.	Fine	Auto.	Min.	Imp.	Fine	Auto.	Min.
10-2(3)	Exceed speed limit by more than 45 km per hour	IS	Nil	\$2,530 ¹³	6 M	6 M	No provision for 'second or subsequent offence' – penalties and disqualifications for 'first offence' apply			
			rule 10-2(3)(a) Road Rules 2008		rule 10-2(3)(b) Road Rules 2008					
10-2(5)	Exceed speed limit by more than 30 km per hour	IS ¹⁴	Nil	\$2,200	3 M	3 M	No provision for 'second or subsequent offence' – penalties and disqualifications for 'first offence' apply			
			rule 10-2(5)(a) Road Rules 2008		rule 10-2(5)(b) Road Rules 2008					
10-2(6)	Exceed speed limit by 30 km per hour or less		Nil	\$2,200	Nil	Nil	No provision for 'second or subsequent offence' – penalties and disqualifications for 'first offence' apply			
			rule 10-2(6) Road Rules 2008		No auto or min period – such period as the court specifies - s.204(1) RTA					

¹³ \$3,740 in the case of a “heavy motor vehicle” or “coach”: rule 10-2(3)(a) – see rule 10-2(1) for definition of “heavy motor vehicle”.

¹⁴ Applies only where the driver is the holder of an applicable learner licence or applicable provisional licence for the class of vehicle being driven: s.224(1)(c)(2) Road Transport Act 2013.

Road Transport (Driver Licensing) Regulation 2008

Offence and clause			First offence				Second or subsequent offence			
			Maximum penalty		Disqualification		Maximum penalty		Disqualification	
			Imp.	Fine	Auto.	Min.	Imp.	Fine	Auto.	Min.
15(1)(a)	Learner licence holder drive unaccompanied by supervised driver	IS	Nil	\$2,200	3 M ¹⁵	3 M	No provision for 'second or subsequent offence' – penalties and disqualifications for 'first offence' apply			
			clause 15(1) RT(DL)R		clauses 15(3)&(4) RT(DL)R					
15(1)(b)	Learner licence holder drive whilst failing to display 'L' plates		Nil	\$2,200	Nil	Nil	No provision for 'second or subsequent offence' – penalties and disqualifications for 'first offence' apply			
			clause 15(1) RT(DL)R		No auto or min period – such period as the court specifies - s.204(1) RTA					

Motor Accidents Compensation Act 1999

Offence and section			First offence				Second or subsequent offence			
			Maximum penalty		Disqualification		Maximum penalty		Disqualification	
			Imp.	Fine	Auto.	Min.	Imp.	Fine	Auto.	Min.
8(1)(a)	Use uninsured motor vehicle		Nil	\$5,500	No power to disqualify		No provision for 'second or subsequent offence' – penalties and disqualifications for 'first offence' apply			
			s.8(1) MACA							
8(1)(b)	Permit another to use uninsured motor vehicle		Nil	\$5,500	No power to disqualify		No provision for 'second or subsequent offence' – penalties and disqualifications for 'first offence' apply			
			s.8(1) MACA							

¹⁵ Note: The maximum period of disqualification that can be imposed for this offence is 12 months: cl.15(4)(a) Road Transport (Driver Licensing) Regulation 2008.

Crimes Act 1900¹⁶										
Offence and section			First offence				Second or subsequent offence			
			Maximum penalty		Disqualification		Maximum penalty		Disqualification	
			Imp.	Fine	Auto.	Min.	Imp.	Fine	Auto.	Min.
18(1)(a)/ 19A	Murder	M	Life	\$110K	3 Y	12 M	Life	\$110K	5 Y	2 Y
		IS	s.19A(1) Crimes Act		s.205(2)(d) RTA		s.19A(1) Crimes Act		s.205(3)(d) RTA	
24	Manslaughter	M	25 Y	\$110K	3 Y	12 M	25 Y	\$110K	5 Y	2 Y
		IS	s.24 Crimes Act		s.205(2)(d) RTA		s.24 Crimes Act		s.205(3)(d) RTA	
33(1)	Wound or cause grievous bodily harm with intent to cause grievous bodily harm	M	25 Y	\$110K	3 Y	12 M	25 Y	\$110K	5 Y	2 Y
		IS	s.33(1) Crimes Act		s.205(2)(d) RTA		s.33(1) Crimes Act		s.205(3)(d) RTA	
33(2)	Wound or cause grievous bodily harm with intent to resist or prevent lawful arrest or detention	M	25 Y	\$110K	3 Y	12 M	25 Y	\$110K	5 Y	2 Y
		IS	s.33(2) Crimes Act		s.205(2)(d) RTA		s.33(2) Crimes Act		s.205(3)(d) RTA	
35(1)	Recklessly cause grievous bodily harm in company	M	14Y/2Y	\$11K	3 Y	12 M	14Y/2Y	\$11K	5 Y	2 Y
			s.35(1) Crimes Act		s.205(2)(d) RTA		s.35(1) Crimes Act		s.205(3)(d) RTA	
35(2)	Recklessly cause grievous bodily harm	M	10Y/2Y	\$11K	3 Y	12 M	10Y/2Y	\$11K	5 Y	2 Y
		IS	s.35(2) Crimes Act		s.205(2)(d) RTA		s.35(2) Crimes Act		s.205(3)(d) RTA	
35(3)	Reckless wounding in company	M	10Y/2Y	\$11K	3 Y	12 M	10Y/2Y	\$11K	5 Y	2 Y
			s.35(3) Crimes Act		s.205(2)(d) RTA		s.35(3) Crimes Act		s.205(3)(d) RTA	

¹⁶ An offence under the Crimes Act 1900 will constitute a major offence for the purposes of the Road Transport Act 2013 only where a driver is, in respect of the death of or bodily harm to another person caused by or arising out of the use of a motor vehicle driven by the person at the time of the occurrence out of which the death of or harm to the other person arose, convicted of (i) the crime of murder or manslaughter or (ii) an offence against section 33, 35, 53 or 54 or any other provision of the Crimes Act 1900, and to persons convicted of an offence against section 51A, 51B or 52AB of the Crimes Act 1900: s.4 Road Transport Act 2013.

Crimes Act 1900 (cont.)¹⁷										
Offence and section			First offence				Second or subsequent offence			
			Maximum penalty		Disqualification		Maximum penalty		Disqualification	
			Imp.	Fine	Auto.	Min.	Imp.	Fine	Auto.	Min.
35(4)	Reckless wounding	M	7Y/2Y	\$11K	3 Y	12 M	7Y/2Y	\$11K	5 Y	2 Y
			s.35(4) Crimes Act		s.205(2)(d) RTA		s.35(4) Crimes Act		s.205(3)(d) RTA	
51A(1)	Predatory driving	M	5Y/18M	\$11K	3 Y	12 M	5Y/18M	\$11K	5 Y	2 Y
			s.51A(1) Crimes Act		s.205(2)(d) RTA		s.51A(1) Crimes Act		s.205(3)(d) RTA	
51B(1)	Police pursuits	M	3Y/18M	\$11K	3 Y	12 M	5Y/18M	\$11K	5 Y	2 Y
			s.51B(1) Crimes Act		s.205(2)(d) RTA		s.51B(1) Crimes Act		s.205(3)(d) RTA	
52A(1)	Dangerous driving occasioning death	M	10 Y	\$110K	3 Y	12 M	10 Y	\$110K	5 Y	2 Y
		IS	s.52A(1) Crimes Act		s.205(2)(d) RTA		s.52A(1) Crimes Act		s.205(3)(d) RTA	
52A(2)	Aggravated dangerous driving occasioning death	M	14 Y	\$110K	3 Y	12 M	14 Y	\$110K	5 Y	2 Y
		IS	s.52A(2) Crimes Act		s.205(2)(d) RTA		s.52A(2) Crimes Act		s.205(3)(d) RTA	
52A(3)	Dangerous driving occasioning grievous bodily harm	M	7Y/18M	\$11K	3 Y	12 M	7Y/18M	\$11K	5 Y	2 Y
		IS	s.52A(3) Crimes Act		s.205(2)(d) RTA		s.52A(3) Crimes Act		s.205(3)(d) RTA	
52A(4)	Aggravated dangerous driving occasioning grievous bodily harm	M	11Y/18M	\$11K	3 Y	12 M	11Y/18M	\$11K	5 Y	2 Y
		IS	s.52A(4) Crimes Act		s.205(2)(d) RTA		s.52A(4) Crimes Act		s.205(3)(d) RTA	

¹⁷ An offence under the Crimes Act 1900 will constitute a major offence for the purposes of the Road Transport Act 2013 only where a driver is, in respect of the death of or bodily harm to another person caused by or arising out of the use of a motor vehicle driven by the person at the time of the occurrence out of which the death of or harm to the other person arose, convicted of (i) the crime of murder or manslaughter or (ii) an offence against section 33, 35, 53 or 54 or any other provision of the Crimes Act 1900, and to persons convicted of an offence against section 51A, 51B or 52AB of the Crimes Act 1900: s.4 Road Transport Act 2013.

Crimes Act 1900 (cont.)¹⁸										
Offence and section			First offence				Second or subsequent offence			
			Maximum penalty		Disqualification		Maximum penalty		Disqualification	
			Imp.	Fine	Auto.	Min.	Imp.	Fine	Auto.	Min.
52AB(1)	Fail to stop and assist after vehicle impact causing death	M	10Y/18M	\$11K	3 Y	12 M	10Y/18M	\$11K	5 Y	2 Y
			s.52AB(1) Crimes Act		s.205(2)(d) RTA		s.52AB(1) Crimes Act		s.205(3)(d) RTA	
52AB(2)	Fail to stop and assist after vehicle impact causing grievous bodily harm	M	7Y/18M	\$11K	3 Y	12 M	7Y/18M	\$11K	5 Y	2 Y
			s.52AB(2) Crimes Act		s.205(2)(d) RTA		s.52AB(2) Crimes Act		s.205(3)(d) RTA	
53	Cause bodily harm by furious driving	M	2Y/12M	\$11K	3 Y	12 M	2Y/12M	\$11K	5 Y	2 Y
			s.53 Crimes Act		s.205(2)(d) RTA		s.53 Crimes Act		s.205(3)(d) RTA	
54	Cause grievous bodily harm by unlawful or negligent act	M	2Y/12M	\$11K	3 Y	12 M	2Y/12M	\$11K	5 Y	2 Y
		IS	s.54 Crimes Act		s.205(2)(d) RTA		s.54 Crimes Act		s.205(3)(d) RTA	

¹⁸ An offence under the Crimes Act 1900 will constitute a major offence for the purposes of the Road Transport Act 2013 only where a driver is, in respect of the death of or bodily harm to another person caused by or arising out of the use of a motor vehicle driven by the person at the time of the occurrence out of which the death of or harm to the other person arose, convicted of (i) the crime of murder or manslaughter or (ii) an offence against section 33, 35, 53 or 54 or any other provision of the Crimes Act 1900, and to persons convicted of an offence against section 51A, 51B or 52AB of the Crimes Act 1900: s.4 Road Transport Act 2013.

Law Enforcement (Powers and Responsibilities) Act 2002¹⁹

Offence and section		First offence				Second or subsequent offence			
		Maximum penalty		Disqualification		Maximum penalty		Disqualification	
		Imp.	Fine	Auto.	Min.	Imp.	Fine	Auto.	Min.
15(1)	Driver of vehicle fail or refuse to comply with request to disclose own identity to police	12 M	\$5,500	No power to disqualify		No provision for 'second or subsequent offence' – penalties and disqualifications for 'first offence' apply			
		s.15(1) LEPRA							
15(2)	Driver of vehicle fail or refuse to comply with request to disclose identity of other driver or passenger to police	12 M	\$5,500	No power to disqualify		No provision for 'second or subsequent offence' – penalties and disqualifications for 'first offence' apply			
		s.15(2) LEPRA							
16(1)	Passenger in vehicle fail or refuse to comply with request to disclose own identity to police	12 M	\$5,500	No power to disqualify		No provision for 'second or subsequent offence' – penalties and disqualifications for 'first offence' apply			
		s.16(1) LEPRA							
16(2)	Passenger in vehicle fail or refuse to comply with request to disclose identity of driver or other passenger to police	12 M	\$5,500	No power to disqualify		No provision for 'second or subsequent offence' – penalties and disqualifications for 'first offence' apply			
		s.16(2) LEPRA							
17(1)	Owner of vehicle fail or refuse to comply with request to disclose identity of driver or passenger to police	12 M	\$5,500	No power to disqualify		No provision for 'second or subsequent offence' – penalties and disqualifications for 'first offence' apply			
		s.17(1) LEPRA							
18	Give false name or address in response to request by police (in accordance with s.14)	12 M	\$5,500	No power to disqualify		No provision for 'second or subsequent offence' – penalties and disqualifications for 'first offence' apply			
		s.18 LEPRA							

¹⁹ Note: Sections.15-18 are predicated on a request being made by a police officer who suspects on reasonable grounds that a vehicle is being, or was, or may have been used in or in connection with an indictable offence; s.14 Law Enforcement (Powers and Responsibilities) Act 2002.

Commencement dates for disqualification periods

Major offences under the Road Transport Act 2013:

A period of disqualification imposed by or under s.205 of the Road Transport Act 2013 must commence on the date of conviction: s.205 Road Transport Act 2013; Roads and Traffic Authority of New South Wales v Tamara O'Sullivan and others [2011] NSWSC 1258.

Where a driver has had their licence suspended pursuant to s.224 of the Road Transport Act 2013, the court must take into account the period of suspension when deciding whether to make an order under s. 205 Road Transport Act 2013. To the extent (if any) that the court so orders, such a suspension may be regarded as satisfying all or part of any mandatory minimum period of disqualification required by that section: s.225(3) Road Transport Act 2013.

Offences by disqualified drivers or drivers whose licences are suspended or cancelled under s.54 of the Road Transport Act 2013:

A period of disqualification imposed by or under s.54 of the Road Transport Act 2013 must commence from the date of expiration of the existing disqualification or suspension or from the date of conviction, whichever is the later: s.54(8) Road Transport Act 2013.

Offences of exceeding the speed limit contrary to rule 10-2 of the Road Rules 2008:

A period of disqualification imposed by or under this rule must commence on the date of conviction: rule 10-2(9); Roads and Traffic Authority of New South Wales v Tamara O'Sullivan and others [2011] NSWSC 1258.

Roads and Traffic Authority of New South Wales v Tamara O'Sullivan and others [2011] NSWSC 1258

Facts:

On 19 February 2011 Tamara O'Sullivan ("TO") was detected driving at a speed of more than 45 kilometres per hour above the speed limit by police and her vehicle was stopped. A breath test was administered which proved positive. TO was charged with two offences: driving a motor vehicle while there was present in her breath or blood a high range prescribed concentration of alcohol ("the PCA offence") and driving a vehicle on a road at a speed of more than 45 kilometres per hour above the speed limit ("the speeding offence"). Police gave TO a notice of suspension and demand for surrender of licence.

On 1 April 2011 TO entered a plea of guilty to both charges and she was convicted of both offences. For the PCA offence the Magistrate fined TO and disqualified her for a period of 12 months to commence on 19 February 2011. For the speeding offence the Magistrate fined TO and disqualified her for a period of 6 months to commence on 19 February 2012, that is for a period cumulative on the period of disqualification for the PCA offence. The Magistrate explained in a brief judgment that separate periods of disqualification were being imposed so as to reflect the separate offences.

Held:

1. **A period of disqualification imposed by or under rule 10-2 of the Road Rules 2008 must commence from the date of conviction.** James J held "It is clear that the automatic period of disqualification provided for by r 10-2(3)(b) results from the conviction and must commence on the date of conviction. If a court thinks fit to order a different period of disqualification, then the court may order a different period of disqualification, subject to the constraints in r 10-2(4), but the court is not given any power to order that the disqualification commence from a date other than the date of conviction. Rule 10-2(9) expressly provides that a period of disqualification imposed by or under the rule, which must include a period of disqualification order under r 10-2(3)(b), commences on the date of the conviction for the offence to which it relates. Accordingly, as submitted by counsel for the RTA, the magistrate's order, insofar as it ordered that the period of disqualification for the speeding offence commence from a date other than the date of the conviction, was made without power and involved jurisdictional error." [15-18];
2. **The entire order disqualifying TO for the speeding offence was made without power and involved jurisdictional error as the period of disqualification ordered by the Magistrate was not a different period from the automatic period of disqualification.** James J held "Under r 10-2(3)(b) the automatic period of disqualification is 6 months. A court is given power to make a disqualification order but only if it thinks fit to order a different period of disqualification from the automatic period of disqualification. However, the period of disqualification ordered by the Magistrate was 6 months, which was not a different period from the automatic period of disqualification." [20];
3. **An automatic disqualification pursuant to s.188 of the Road Transport (General) Act 2005 (now s.205 of the Road Transport Act 2013) as a result of the conviction of a person, must commence from the date of the conviction.** A court is given power to order a shorter or longer period of disqualification but is not given any power to order that a period of disqualification commence from a different date from the date of conviction [27];
4. Section 205(6) of the Road Transport (General) Act 2005 (now s.224 of the Road Transport Act 2013) does not confer any power on a Magistrate to make an order under s.188 (now s.205 Road Transport Act 2013) commence from a date other than the date of the relevant conviction [28];
5. Under para (a) of s.205(6) (now s.225(3) of the Road Transport Act 2013) a court is required to take into account a period of suspension when deciding whether to make an order under s.188 (now s.205 Road Transport Act 2013). Under para (b) of s.205(6) a court may order that a suspension be regarded as satisfying all or part of a mandatory minimum period of disqualification. In the present case the mandatory minimum period of disqualification was 12 months. The Magistrate could have utilised para (b) of s.205(6) so as to impose a period of disqualification which was less than 12 months (but not less by any more than the period of suspension) but was not empowered by para (b) to make the period of disqualification commence from a date different from the date of conviction [29-30].

Roads and Traffic Authority of New South Wales v Higginson [2011] NSWCA 151

Facts:

On 8 June 2010 Michael Higginson (“MH”) was convicted in the Local Court of an offence of negligent driving causing grievous bodily harm. As a result of that conviction he was subject to automatic disqualification from holding a driver licence for a period of three years: s.188(2)(d)(i) Road Transport (General) Act 2005 (now s.205(2)(d)(i) Road Transport Act 2013). The court could however impose a shorter period of disqualification, but not less than 12 months: s.188(2)(d)(ii) Road Transport (General) Act 2005 (now s.205(2)(d)(ii) Road Transport Act 2013). Such a period of 12 months was imposed by the Local Court. On 16 June 2010 (8 days after the commencement of the period of disqualification imposed by the Local Court) MH appealed his sentence to the District Court, as a result of which an automatic stay came into operation. The stay ended with the order of the District Court made on 26 July 2010, confirming the period of disqualification of 12 months and noting that it was “to date from 8 June 2010 and to expire on 7 June 2011”. The period of disqualification confirmed by the District Court included 40 days during which the disqualification order did not operate as a result of the stay.

Held:

1. **While it was open to the District Court judge to backdate the commencement date of the period of disqualification, ordering an end date that was inconsistent with the minimum 12 months disqualification period was outside the District Court judge’s power in the same way it was outside the Magistrate’s power. In stating the end date, the District Court exceeded its jurisdiction.** (per Giles JA, Young JA agreeing);
2. **By confirming the period of disqualification from the date on which it was already fixed to commence, and by identifying the date on which it was to end, the effect of the District Court order was to reduce the period of disqualification by the 40 days during which it did not operate, by force of the stay under s.63 of the Crimes (Appeal and Review) Act 2001. The period of disqualification resulting from the order of the District Court was, accordingly, not one permitted by law. To impose such a penalty constituted jurisdictional error.** (per Basten J, Young JA agreeing);
3. Section 188(2)(d) of the Road Transport (General) Act 2005 (now s.205(2)(d) Road Transport Act 2013) and s.68(2) of the Crimes (Appeal and Review) Act 2001 can be read consistently considering they were historically part of the same enactment. (per Young JA).

Miscellaneous

Calculation of disqualification periods in cases of multiple major offences arising out of the one incident	Where a person is convicted of two or more major offences arising out of a single incident, the maximum period of automatic disqualification of all of those offences is 3 years with a minimum period of disqualification of 12 months if s.205(2) of the Road Transport Act applies (i.e. the person has no previous major offence) and a maximum period of automatic disqualification of 5 years with a minimum period of disqualification of 2 years if s.205(3) of the Road Transport Act applies (i.e. the person has a previous major offence): s.205(4) Road Transport Act 2013.
Section 10 Crimes (Sentencing Procedure) Act 1999 not available in certain circumstances	Section 10 of the Crimes (Sentencing Procedure) Act 1999 does not apply where a person is charged with an ‘applicable offence’ mentioned in s.203(2) of the Road Transport Act 2013 (includes most major offences) and at the time of or during the period of 5 years immediately before the court’s determination in respect of the charge, that section is or has been applied to or in respect of the person in respect of a charge for another applicable offence (whether of the same or a different kind): s.203 Road Transport Act 2013.
Alternative verdicts in prosecutions for speeding by more than 30 km per hour and 45 km per hour	See rule 10-2(7)&(8) of the Road Rules 2008.
Interlock devices – use of as alternative to disqualification	See Division 2 of Part 7.4 of the Road Transport Act 2013 (ss.208-215).
Habitual traffic offenders – generally	See Division 3 of Part 7.4 of the Road Transport Act 2013 (ss.216-221).
Habitual traffic offender declarations – court having jurisdiction to quash declaration	The court that convicts a person giving rise to a habitual traffic offender declaration is the court empowered to quash the declaration. The Local Court rather than the District Court will have jurisdiction in appeals against sentence: <i>Damaris v Falzon</i> [2009] NSWSC 18.