

## Road Trip 3.0

An abbreviated guide to Road Transport Legislation in New South Wales

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Adapted and updated from the original 'Road Trip' by Darren Robinson and the amended 'Road Trip 2.0' by Nicholas Leach

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### Index

<b>2-6</b>	Road Transport Act 2013 [extracts]
<b>7</b>	Road Rules 2014 [extracts]
<b>7</b>	Road Transport (Driver Licensing) Regulation 2017 [extracts]
<b>7</b>	Motor Accidents Compensation Act 1999 [extracts]
<b>8-9</b>	Crimes Act 1900 [extracts]
<b>9</b>	Law Enforcement (Powers and Responsibilities) Act 2002 [extracts]
<b>10</b>	Disqualification: commencement dates
<b>11</b>	Miscellaneous
<b>12</b>	Interlock Orders & Interlock Exemption Orders

### Abbreviations/meanings

<b>M</b>	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.
<b>IS</b>	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.
<b>RTA</b>	Road Transport Act 2013
<b>RT(DL)R</b>	Road Transport (Driver Licensing) Regulation 2017
<b>MACA</b>	Motor Accidents Compensation Act 1999
<b>LEPRA</b>	Law Enforcement (Powers and Responsibilities) Act 2002

### Version history

Version	Release Date	Comments
1.0	March 2020	Road Trip 3.0 released

Road Transport Act 2013									
Offence and section		First offence				Second or subsequent offence <sup>1234</sup>			
		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			
		s53(1) RTA		No auto or min period – such period as the court specifies - s204(1) RTA					
53(3)	Drive without being licensed – never been licensed <sup>5</sup>	Nil	\$2,200	Nil	Nil	6 M	\$3,300	12 M	3 M
		s53(3) RTA		No auto or min period – such period as the court specifies - s204(1) RTA		s53(3) RTA		s205A RTA	
54(1)(a)	Drive whilst disqualified	6 M	\$3,300	6 M	3 M	12 M	\$5,500	12 M	6 M
		s54(1) RTA		s205A RTA		s54(1) RTA		s205A RTA	
54(1)(b)	Make application for driver licence during disqualification and omit to mention disqualification etc	6 M	\$3,300	Nil <sup>6</sup>	Nil	12 M	\$5,500	Nil <sup>6</sup>	Nil
		s54(1) RTA		No auto or min period – such period as the court specifies - s204(1) RTA		s54(1) RTA		No auto or min period – such period as the court specifies - s204(1) RTA	
54(3)(a)	Drive on road whilst suspended (other than for non-payment of fine)	6 M	\$3,300	6 M	3 M	12 M	\$5,500	12 M	6 M
		s54(3) RTA		s205A RTA		s54(3) RTA		s205A RTA	
54(3)(b)	Make application for driver licence during period of suspension and omit to mention suspension etc	6 M	\$3,300	Nil <sup>6</sup>	Nil	12 M	\$5,500	Nil <sup>6</sup>	Nil
		s54(3) RTA		No auto or min period – such period as the court specifies - s204(1) RTA		s54(3) RTA		No auto or min period – such period as the court specifies - s204(1) RTA	

<sup>1</sup> 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*

<sup>2</sup> For the purposes of determining whether an offence contrary to **s53(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*.

<sup>3</sup> 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) & 9(5)(a)-(c) *Road Transport Act 2013*.

<sup>4</sup> For the purposes of determining whether an offence contrary to **s54(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: s9(2) *Road Transport Act 2013*

<sup>5</sup> 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: s53(5) *Road Transport Act 2013*.

<sup>6</sup> Section 205A Table items 2 and 4 specify '**Section 54(1), (3) or (4) – first offence (Driving while disqualified, suspended or after licence refusal or cancellation)**' and '**Section 54(5) – first offence (Driving after licence suspended or cancelled for non-payment of fine)**' respectively and so arguably do not apply to offences under ss 54(1)(b), 54(3)(b), 54(4)(b), 54(5)(a)(ii) and 54(5)(b)(ii) that do not involve driving.

**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(4)(a)	Drive on road whilst cancelled (other than for non-payment of fine) or after licence refused	6 M	\$3,300	6 M	3 M	12 M	\$5,500	12 M	6 M	
		s54(4) RTA		s205A RTA		s54(4) RTA		s205A 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	6 M	\$3,300	Nil <sup>7</sup>	Nil	12 M	\$5,500	Nil <sup>7</sup>	Nil	
		s54(4) RTA		No auto or min period – such period as the court specifies - s204(1) RTA		s54(4) RTA		No auto or min period – such period as the court specifies - s204(1) RTA		
54(5)(a)(i) <sup>8</sup>	Drive on road whilst suspended for non-payment of fine	Nil	\$3,300	3 M	1 M	6 M	\$5,500	12 M	3 M	
		s54(5) RTA		s205A RTA		s54(5) RTA		s205A RTA		
54(5)(a)(ii) <sup>8</sup>	Make application for driver licence during period of suspension and omit to mention suspension etc	Nil	\$3,300	Nil <sup>7</sup>	Nil	6 M	\$5,500	Nil <sup>7</sup>	Nil	
		s54(5) RTA		No auto or min period – such period as the court specifies - s204(1) RTA		s54(5) RTA		No auto or min period – such period as the court specifies - s204(1) RTA		
54(5)(b)(i) <sup>8</sup>	Drive on road whilst cancelled for non-payment of fine	Nil	\$3,300	3 M	1 M	6 M	\$5,500	12 M	3 M	
		s54(5) RTA		s205A RTA		s54(5) RTA		s205A RTA		
54(5)(b)(ii) <sup>8</sup>	Make application for driver licence to which the cancelled licence related and omit to mention cancellation etc	Nil	\$3,300	Nil <sup>7</sup>	Nil	6 M	\$5,500	Nil <sup>7</sup>	Nil	
		s54(5) RTA		No auto or min period – such period as the court specifies - s204(1) RTA		s54(5) RTA		No auto or min period – such period as the court specifies - s204(1) RTA		
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				
		s68(1) RTA		No auto or min period – such period as the court specifies - s204(1) RTA						
110(1)(a)	Novice driver drive with novice range prescribed concentration of alcohol [0.001-0.019]	M	Nil	\$2,200	6 M	3 M	Nil	\$3,300	12 M	6 M
		IS	<u>COURT ELECTION</u>		s205(2)(a) RTA		s110(1) RTA		IF INTERLOCK FOR 12 M: Max 3 M    Min 1 M	
									s205(3)(a) RTA	
110(2)(a)	Special category driver drive with special range prescribed concentration of alcohol [0.02-0.049]	M	Nil	\$2,200	6 M	3 M	Nil	\$3,300	12 M	6 M
		IS	<u>COURT ELECTION</u>		s205(2)(a) RTA		s110(2) RTA		IF INTERLOCK FOR 12 M: Max 3 M    Min 1 M	
									s205(3)(a) RTA	

<sup>7</sup> Section 205A Table items 2 and 4 specify 'Section 54(1), (3) or (4) – first offence (Driving while disqualified, suspended or after licence refusal or cancellation)' and 'Section 54(5) – first offence (Driving after licence suspended or cancelled for non-payment of fine)' respectively and so arguably do not apply to offences under ss 54(1)(b), 54(3)(b), 54(4)(b), 54(5)(a)(ii) and 54(5)(b)(ii) that do not involve driving.

<sup>8</sup> 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 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 effect the penalty or period or cancelled: s 54(6) 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.
110(3)(a)	Drive with low range prescribed concentration of alcohol [0.05-0.079]	M	Nil	\$2,200	6 M	3 M	Nil	\$3,300	12 M	6 M
		IS	s110(3) RTA <b>COURT ELECTION</b>		s205(2)(a) RTA		s110(3) RTA		IF INTERLOCK FOR 12 M: Max 3 M    Min 1 M s205(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	s110(4) RTA		IF INTERLOCK FOR 12 M: Max 6 M    Min 3 M s205(2)(b) RTA		s110(4) RTA		IF INTERLOCK FOR 24 M: Max 9 M    Min 6 M s205(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	s110(5) RTA		IF INTERLOCK FOR 24 M: Max 9 M    Min 6 M s205(2)(d) RTA		s110(5) RTA		IF INTERLOCK FOR 48 M: Max 12 M    Min 9 M s205(3)(d) RTA	
111(1)(a)	Drive with prescribed illicit drug <sup>9</sup> in oral fluid, blood or urine	M	Nil	\$2,200	6 M	3 M	Nil	\$3,300	12 M	6 M
			s111(1) RTA <b>COURT ELECTION</b>		s205(2)(a) RTA		s111(1) RTA		s205(3)(a) RTA	
111(3)(a)	Drive with morphine in blood or urine	M	Nil	\$2,200	6 M	3 M	Nil	\$3,300	12 M	6 M
			s111(3) RTA		s205(2)(a) RTA		s111(3) RTA		s205(3)(a) RTA	
112(1)	Drive while under influence of alcohol or other drug	M	18 M	\$3,300	3 Y	12 M	2 Y	\$5,500	5 Y	2 Y
		IS	s112(1) RTA		s205(2)(d) RTA		s112(1) RTA		IF INTERLOCK FOR 24 M: Max 9 M    Min 6 M s205(3)(d) RTA	
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
			s115(1) RTA		s115(4) RTA		s115(1) RTA		s115(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			
116(2)	Conduct associated with road and drag racing and other activities in circumstances of aggravation	IS	Nil	\$3,300	12 M <sup>10</sup>	Nil	9 M	\$3,300	12 M <sup>10</sup>	Nil
			s116(2) RTA		s116(7) RTA		s116(2) RTA		s116(7) RTA	

<sup>9</sup> "Prescribed illicit drug" is defined in s4 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), (d) cocaine.

<sup>10</sup> Only applies to subsections (a), (b), (c) and (d). Subsections (e), (f) and (g) do not attract an automatic or minimum disqualification period [s204(1) applies i.e. such period as the court specifies].

**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.	
117(1)(a)	Drive negligently occasioning death	M	18 M \$3,300	s117(1)(a) RTA	3 Y 12 M	s205(2)(d) RTA	2 Y \$5,500	s117(1)(a) RTA	5 Y 2 Y	s205(3)(d) RTA
117(1)(b)	Drive negligently occasioning grievous bodily harm	M	9 M \$2,200	s117(1)(b) RTA	3 Y 12 M	s205(2)(d) RTA	12 M \$3,300	s117(1)(b) RTA	5 Y 2 Y	s205(3)(d) RTA
117(1)(c)	Drive negligently <u>not</u> occasioning death or grievous bodily harm		Nil \$1,100	s117(1)(c) RTA	Nil Nil	No auto or min period – such period as the court specifies - s204(1) RTA	No provision for 'second or subsequent offence' – penalties and disqualifications for 'first offence' apply			
117(2)	Drive furiously, recklessly or at a speed or in a manner dangerous to the public	M	9 M \$2,200	s117(2) RTA	3 Y 12 M	s205(2)(d) RTA	12 M \$3,300	s117(2) RTA	5 Y 2 Y	s205(3)(d) RTA
118(1)	Drive in a manner that menaces with intent to menace	M	18 M \$3,300	s118(1) RTA	3 Y 12 M	s205(2)(d) RTA	2 Y \$5,500	s118(1) RTA	5 Y 2 Y	s205(3)(d) RTA
118(2)	Drive in a manner that menaces with possibility of menace	M	12 M \$2,200	s118(2) RTA	3 Y 12 M	s205(2)(d) RTA	18 M \$3,300	s118(2) RTA	5 Y 2 Y	s205(3)(d) RTA
146(1)	Fail to stop and give assistance after impact occasioning death or injury	M	18 M \$3,300	s146(1) RTA	3 Y 12 M	s205(2)(d) RTA	2 Y \$5,500	s146(1) RTA	5 Y 2 Y	s205(3)(d) RTA
Sch 3 16(1)(a)	Refuse or fail to submit to breath test		Nil \$1,100	cl 16(1) RTA	Nil Nil	No auto or min period – such period as the court specifies - s204(1) RTA	No provision for 'second or subsequent offence' – penalties and disqualifications for 'first offence' apply			
Sch 3 16(1)(b)	Refuse or fail to submit to breath analysis	M	18 M \$3,300	cl 16(1) RTA	3 Y 12 M	s205(2)(d) RTA	2 Y \$5,500	cl 16(1) RTA	5 Y 2 Y	s205(3)(d) RTA
		IS			<b>IF INTERLOCK FOR 24 M: Max 9 M Min 6 M</b>				<b>IF INTERLOCK FOR 48 M: Max 12 M Min 9 M</b>	
Sch 3 16(1)(c)	Refuse or fail to submit to oral fluid test		Nil \$1,100	cl 16(1) RTA	Nil Nil	No auto or min period – such period as the court specifies - s204(1) RTA	No provision for 'second or subsequent offence' – penalties and disqualifications for 'first offence' apply			
Sch 3 16(1)(d)	Refuse or fail to submit to sobriety assessment		Nil \$1,100	cl 16(1) RTA	Nil Nil	No auto or min period – such period as the court specifies - s204(1) RTA	No provision for 'second or subsequent offence' – penalties and disqualifications for 'first offence' apply			

**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.
Sch 3 17(1)(a)	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
		IS	cl 17(1) RTA		s205(2)(c) RTA		cl 17(1) RTA		s205(3)(c) RTA	
Sch 3 17(1)(a1)	Refuse or fail to submit to taking of blood sample following arrest	M	18 M	\$3,300	3 Y	12 M	2 Y	\$5,500	5 Y	2 Y
		IS	cl 17(1) RTA		IF INTERLOCK FOR 24 M: Max 9 M    Min 6 M		cl 17(1) RTA		IF INTERLOCK FOR 48 M: Max 12 M    Min 9 M	
					s205(2)(d) RTA				s205(3)(d) RTA	
Sch 3 17(1)(b)	Refuse or fail to provide oral fluid sample	M	Nil	\$3,300	3 Y	6 M	18 M	\$5,500	5 Y	12 M
		IS	cl 17(1) RTA		s205(2)(c) RTA		cl 17(1) RTA		s205(3)(c) RTA	
Sch 3 17(1)(c)	Refuse or fail to provide urine sample	M	18 M	\$3,300	3 Y	6 M	2 Y	\$5,500	5 Y	12 M
		IS	cl 17(1) RTA		s205(2)(c) RTA		cl 17(1) RTA		s205(3)(c) RTA	
Sch 3 17(2)	Person other than secondary participant in an accident <sup>11</sup> 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		s205(2)(d) RTA		cl 17(2) RTA		s205(3)(d) RTA	
Sch 3 17(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		s205(2)(d) RTA		cl 17(3) RTA		s205(3)(d) RTA	
Sch 3 18(1)	Person other than secondary participant in an accident wilfully introduce or alter concentration or amount of alcohol or other drugs	M	18 M <sup>12</sup>	\$3,300	3 Y	6 M	2 Y	\$5,500	5 Y	12 M
		IS <sup>13</sup>	cl 18(1) RTA		s205(2)(c) RTA		cl 17(2) RTA		s205(3)(c) RTA	
Sch 3 18(2)	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		s205(2)(c) RTA		cl 18(2) RTA		s205(3)(c) RTA	

<sup>11</sup> 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): cl17(5)

<sup>12</sup> 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).

<sup>13</sup> Only applies to subclauses (a), (b) and (e): s224(1)(b) Road Transport Act 2013.

Road Rules 2014										
Offence and section			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	\$3,300 <sup>14</sup>	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 2014		rule 10-2(3)(b) Road Rules 2014					
10-2(5)	Exceed speed limit by more than 30 km per hour	IS <sup>15</sup>	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 2014		rule 10-2(5)(b) Road Rules 2014					
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)(a) Road Rules 2014		No auto or min period – such period as the court specifies - s204(1) RTA					

Road Transport (Driver Licensing) Regulation 2017										
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)(a)	Learner licence holder drive unaccompanied by supervised driver	IS	Nil	\$2,200	3 M <sup>16</sup>	3 M	No provision for 'second or subsequent offence' – penalties and disqualifications for 'first offence' apply			
			s15(1) RT(DL)R		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			
			s15(1) RT(DL)R		No auto or min period – such period as the court specifies - s204(1) RTA					

Motor Accidents Compensation Act										
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			
			s8(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			
			s8(1) MACA							

<sup>14</sup> \$5,500 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".

<sup>15</sup> Applies only where driver is the holder of an applicable learner or provisional licence for the class of vehicle being driven: s224(1)(c)(2) *Road Transport Act 2013*.

<sup>16</sup> Note: The maximum period of disqualification that can be imposed for this offence is 12 months: cl15(4)(a) *Road Transport (Driver Licensing) Regulation 2017*

Crimes Act 1900 <sup>17</sup>										
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	s19A(1) Crimes Act		s205(2)(d) RTA		s19A(1) Crimes Act		s205(3)(d) RTA	
24	Manslaughter	M	25 Y	\$110K	3 Y	12 M	25 Y	\$110K	5 Y	2 Y
		IS	s24 Crimes Act		s205(2)(d) RTA		s24 Crimes Act		s205(3)(d) RTA	
33(1)	Wound or cause GBH with intent to cause GBH	M	25 Y	\$110K	3 Y	12 M	25 Y	\$110K	5 Y	2 Y
		IS	s33(1) Crimes Act		s205(2)(d) RTA		s33(1) Crimes Act		s205(3)(d) RTA	
33(2)	Wound or cause GBH 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	s33(2) Crimes Act		s205(2)(d) RTA		s33(2) Crimes Act		s205(3)(d) RTA	
35(1)	Recklessly cause GBH in company	M	14 Y / 2 Y	\$11K	3 Y	12 M	14 Y / 2 Y	\$11K	5 Y	2 Y
			s35(1) Crimes Act		s205(2)(d) RTA		s35(1) Crimes Act		s205(3)(d) RTA	
35(2)	Recklessly cause GBH	M	10 Y / 2 Y	\$11K	3 Y	12 M	10 Y / 2 Y	\$11K	5 Y	2 Y
		IS	s35(2) Crimes Act		s205(2)(d) RTA		s35(2) Crimes Act		s205(3)(d) RTA	
35(3)	Reckless wounding in company	M	10 Y / 2 Y	\$11K	3 Y	12 M	10 Y / 2 Y	\$11K	5 Y	2 Y
			s35(3) Crimes Act		s205(2)(d) RTA		s35(3) Crimes Act		s205(3)(d) RTA	
35(4)	Reckless wounding	M	7 Y / 2 Y	\$11K	3 Y	12 M	7 Y / 2 Y	\$11K	5 Y	2 Y
			s35(4) Crimes Act		s205(2)(d) RTA		s35(4) Crimes Act		s205(3)(d) RTA	
51A(1)	Predatory driving	M	5 Y / 2 Y	\$11K	3 Y	12 M	5 Y / 2 Y	\$11K	5 Y	2 Y
			s51A(1) Crimes Act		s205(2)(d) RTA		s51A(1) Crimes Act		s205(3)(d) RTA	
51B(1)	Police pursuits	M	3 Y / 2 Y	\$11K	3 Y	12 M	5 Y / 2 Y	\$11K	5 Y	2 Y
			s51B(1) Crimes Act		s205(2)(d) RTA		s51B(1) Crimes Act		s205(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	s52A(1) Crimes Act		s205(2)(d) RTA		s52A(1) Crimes Act		s205(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	s52A(2) Crimes Act		s205(2)(d) RTA		s52A(2) Crimes Act		s205(3)(d) RTA	
52A(3)	Dangerous driving occasioning GBH	M	7 Y / 2 Y	\$11K	3 Y	12 M	7 Y / 2 Y	\$11K	5 Y	2 Y
		IS	s52A(3) Crimes Act		s205(2)(d) RTA		s52A(3) Crimes Act		s205(3)(d) RTA	
52A(4)	Aggravated dangerous driving occasioning GBH	M	11 Y / 2 Y	\$11K	3 Y	12 M	11 Y / 2 Y	\$11K	5 Y	2 Y
		IS	s52A(4) Crimes Act		s205(2)(d) RTA		s52A(4) Crimes Act		s205(3)(d) RTA	
52AB(1)	Fail to stop and assist after vehicle impact causing death	M	10 Y / 2 Y	\$11K	3 Y	12 M	10 Y / 2 Y	\$11K	5 Y	2 Y
			s52AB(1) Crimes Act		s205(2)(d) RTA		s52AB(1) Crimes Act		s205(3)(d) RTA	

<sup>17</sup> An offence under the *Crimes Act 1900* will constitute a major offence only where 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 (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*: s4 *Road Transport Act 2013*.



Crimes Act 1900 (cont.) <sup>18</sup>										
Offence and section			First offence				Second or subsequent offence			
			Maximum penalty		Disqualification		Maximum penalty		Disqualification	
			Imp.	Fine	Auto.	Min.	Imp.	Fine	Auto.	Min.
52AB(2)	Fail to stop and assist after vehicle impact causing GBH	M	7 Y / 2 Y	\$11K	3 Y	12 M	7 Y / 2 Y	\$11K	5 Y	2 Y
			s52AB(2) Crimes Act		s205(2)(d) RTA		s52AB(2) Crimes Act		s205(3)(d) RTA	
53	Cause bodily harm by furious driving	M	2 Y / 2 Y	\$11K	3 Y	12 M	2 Y / 2 Y	\$11K	5 Y	2 Y
			s53 Crimes Act		s205(2)(d) RTA		s53 Crimes Act		s205(3)(d) RTA	
54	Cause grievous bodily harm by unlawful or negligent act	M	2 Y / 2 Y	\$11K	3 Y	12 M	2 Y / 2 Y	\$11K	5 Y	2 Y
		IS	s54 Crimes Act		s205(2)(d) RTA		s54 Crimes Act		s205(3)(d) RTA	

Law Enforcement (Powers and Responsibilities) Act 2002 <sup>19</sup>										
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 fail/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			
			s15(1) LEPR							
15(2)	Driver fail/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			
			s15(2) LEPR							
16(1)	Passenger fail/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			
			s16(1) LEPR							
16(2)	Passenger fail/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			
			s16(2) LEPR							
17(1)	Owner fail/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			
			s17(1) LEPR							
18	Give false name or address in response to request by police (in accordance with s14)		12 M	\$5,500	No power to disqualify		No provision for 'second or subsequent offence' – penalties and disqualifications for 'first offence' apply			
			s18 LEPR							

<sup>18</sup> An offence under the *Crimes Act* 1900 will constitute a major offence only where 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 (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: s4 *Road Transport Act* 2013.

<sup>19</sup> 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: s14 *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 s205 of the *Road Transport Act 2013* must commence on the date of conviction: s205 *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 s224 of the *Road Transport Act 2013*, the court must take into account the period of suspension when deciding whether to make an order under s205 *Road Transport Act 2013*, or whether to make an order for a related offence (one that relates to the same act or omission which gave rise to the major offence). 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: s206B *Road Transport Act 2013*.

Where a driver is disqualified as a result of being convicted for a major offence and sentenced to full-time imprisonment as a result of that conviction, the disqualification period is extended by any period of imprisonment that is served after the commencement of the disqualification: s206A *Road Transport Act 2013*. Where a major disqualification offence is one of a number of offences dealt with by the imposition of an aggregate sentence, the sentence for the purpose of determining the period by which the disqualification is extended is the aggregate sentence: *Gray v R* [2018] NSWCCA 39 at [43].

### Other offences under the Road Transport Act 2013

A period of disqualification begins on the date of conviction, unless the court orders the disqualification to begin on a later day: s207A *Road Transport Act 2013*.

Where a driver has had their licence suspended pursuant to s224 of the *Road Transport Act 2013*, the court must take into account the period of suspension when deciding whether to make an order under s207A *Road Transport Act 2013*, or whether to make an order for a related offence (one that relates to the same act or omission which gave rise to the principal offence). 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: s206B *Road Transport Act 2013*.

Where a driver is disqualified as a result of being convicted for an offence under ss 115 or 116(2) Road Transport Act 2013 and sentenced to full-time imprisonment as a result of that conviction, the disqualification period is extended by any period of imprisonment that is served after the commencement of the disqualification: s206A *Road Transport Act 2013*. Where the offence under ss 115 or 116(2) *Road Transport Act 2013* is one of a number of offences dealt with by the imposition of an aggregate sentence, the sentence for the purpose of determining the period by which the disqualification is extended is the aggregate sentence: *Gray v R* [2018] NSWCCA 39 at [43].

### Offence of exceeding the speed limit contrary to rule 10-2 of the Road Rules 2014

A period of disqualification imposed by or under this rule must commence on the date of conviction: rule 10-2(9) *Road Rules 2014*.

Miscellaneous									
<b>Calculation of disqualification periods in cases of multiple major offences arising out of the one incident</b>	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 s205(2) of the <i>Road Transport Act</i> 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 s205(3) of the <i>Road Transport Act</i> applies (i.e. the person has a previous major offence): s205(4) <i>Road Transport Act</i> 2013.								
<b>Section 10 Crimes (Sentencing Procedure) Act 1999 not available in certain circumstances</b>	Section 10 of the <i>Crimes (Sentencing Procedure) Act</i> 1999 does not apply where a person is charged with an 'applicable offence' mentioned in s203(2) of the <i>Road Transport Act</i> 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): s203 <i>Road Transport Act</i> 2013.								
<b>Alternative verdicts in prosecutions for speeding by more than 30 km per hour and 45 km per hour</b>	See rule 10-2(7) & (8) of the <i>Road Rules</i> 2014.								
<b>Habitual traffic offenders – generally</b>	The Habitual Offenders scheme (previously contained in Division 3 of Part 7.4 of the <i>Road Transport Act</i> 2013) has been abolished. Savings, transitional and other provisions relating to the scheme are contained in Schedule 4. <b>Dixon v Attorney General of NSW [2018] NSWSC 1618</b> 1. The Local Court continues to hold a power to quash HTODs under s220 RTA (as repealed)(pursuant to Cl65(2) Schedule 4 RTA (savings and transitional provisions): [20]-[21]. 2. There is no temporal limitation to the exercise of the power – it is not limited to applications brought before the repeal of the substantive division on 28 October 2017: [21]-[25] 3. The lack of discrete application provision did not deny an applicant access to the power: see s44 LCA [26]-[30]								
<b>Removal of licence disqualifications</b>	An eligible person subject to a licence disqualification may apply to the Local Court to have their disqualification removed, provided they have been offence free for the specified period under s221A <i>Road Transport Act</i> 2013. The Local Court must take into account a number of factors: s 221B(2) An application for the removal of licence disqualifications cannot be made within 12 months after the Local Court has rejected an earlier application for the removal of any of those licence disqualifications: s 221C(4) The relevant offence free period commences on the date of offence not the date of conviction: s 221A(4)								
	<table border="1"> <thead> <tr> <th style="background-color: #ffcc00;"><b>Convicted of</b></th> <th style="background-color: #ffcc00;"><b>Relevant offence-free period</b></th> </tr> </thead> <tbody> <tr> <td>Major offence Exceed speed &gt; 30km/h Road racing ss 115(1) or 116(2) Negligent, furious or reckless driving s117(2), or Any other offence prescribed by the statutory rules</td> <td>4 years</td> </tr> <tr> <td>All other cases (unless never eligible offences)</td> <td>2 years</td> </tr> <tr> <td>Never eligible offences</td> <td>See s 221A</td> </tr> </tbody> </table>	<b>Convicted of</b>	<b>Relevant offence-free period</b>	Major offence Exceed speed > 30km/h Road racing ss 115(1) or 116(2) Negligent, furious or reckless driving s117(2), or Any other offence prescribed by the statutory rules	4 years	All other cases (unless never eligible offences)	2 years	Never eligible offences	See s 221A
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Never eligible offences	See s 221A								

**Interlock Orders & Interlock Exemption Orders – Crystal Triggs & Tia Caldwell (ALS NSW/ACT)**

**Interlock Orders**

Interlocks are electronic breath testing devices linked to the ignition system of cars, motorcycles and heavy vehicles. Interlock offences are summarised in the table above p.2-9. Road users will need to hold an interlock licence or they will be disqualified for 5 years (other than a learner or interlock licence). Sections 210 and 211 of the RTA states that a court who convicts a person of mandatory interlock offence must make orders of either:

- 1) Mandatory Interlock order (licence disqualification, interlock period)
- 2) Interlock Exemption order

Section 211 states that people who receive mandatory interlock orders and do not enter or complete interlock period will remain disqualified for 5 years from date of conviction. If the offenders sanction exceeds a disqualification of 5 years, they cannot enter the NSW licensing system unless they have completed the interlock program or period equal to the sanction has past.

**Conviction of Offence of Mandatory Interlock Order**

Mandatory Interlock Order	Interlock Exemption Order
<ol style="list-style-type: none"> <li>1. Sentenced to interlock order</li> <li>2. Licence disqualification</li> <li>3. Apply for licence</li> <li>4. Complete interlock period</li> <li>5. Return to unrestricted licence</li> </ol> <p>After order is given RMS cannot exempt from the order. It is the offender's obligation to prove grounds for the exemption through the court.</p>	<p>Must prove that they have no access to a vehicle that can install device or have medical condition that they cannot use device. Offenders who are exempt can choose to enter interlock order if they experience a change of circumstance through calling the RMS (not court).</p> <ol style="list-style-type: none"> <li>1. Period of disqualification</li> <li>2. Drink driving program before applying for licence                             <ul style="list-style-type: none"> <li>• Receive interlock exemption</li> <li>• Licence disqualification</li> <li>• Complete sober/drink driving course</li> <li>• Finish disqualification period</li> <li>• Apply for unrestricted licence</li> <li>• Return to unrestricted licence</li> </ul> </li> </ol>