

TRAFFIC AMENDMENT BILL 1994

EXPLANATORY NOTE

GENERAL OUTLINE

Objective of the Legislation

The objectives of the legislation are to effect critical changes to the *Traffic Act 1949* to address community issues and to streamline enforcement and administrative provisions.

The proposed amendments covered in the Traffic Amendment Bill include:—

With respect to local government functions, within their areas:—

- Introduction of a permit scheme to allow the permit holder to park contrary to an indication on an official traffic sign;
- Clarification of the alternate methods of parking systems;
- Responsibility for overall control of roadside vending;
- Responsibility for the removal and disposal of abandoned vehicles;
- Revision of eligibility criteria for the disabled person parking permit scheme; and
- Clarification of enforcement of official traffic signs installed by local government.

With respect to Queensland Police Service functions:—

- Amendment of evidentiary provision to provide for the adoption of the Australian Standards for the testing and operating of radar units;
- Providing for methods of delivery to a laboratory for analysis of a specimen of blood and urine to be prescribed by regulation;
- Amendments to administrative procedures and evidentiary

provisions relating to redlight camera detected offences; and

- Revised definition of “drug”.

With respect to streamlining administrative functions undertaken by the Department of Transport:—

- Amendment to definitions of “motor car”; “motor omnibus”, “prime mover” and “commercial vehicle”;
- New definition of “open licence” and “learner's permit” to be inserted;
- Period of issue and renewal of drivers' licences to be prescribed by regulation;
- Provide the head of power for the release of driver licence information to interstate driver licensing authorities, under strict conditions; and
- Amendment of administrative arrangements including repeal of the Traffic Engineering Trust Fund.

Reasons for the Bill

The Traffic Amendment Bill is required in order to clarify a number of local government powers and functions; to provide clarification of evidentiary provisions used by the Queensland Police Service and to streamline a number of administrative functions undertaken by the Department of Transport.

Estimated cost for government implementation

There are no additional costs associated with the implementation of the Bill. Conversely it is anticipated that the introduction of the Bill will reduce loss of revenue and delays in court as a result of particular current inadequate evidentiary provisions that are relied upon by the Queensland Police Service.

Consultation

The following departments and organisations have been consulted during

the drafting of the Bill:—

- . Litigation Reform Commission
- . Treasury
- . Office of the Cabinet
- . Premier's Department
- . Department of Justice and Attorney—General
- . Department of Housing, Local Government and Planning
- . Queensland Police Service
- . Department of Health
- . Royal Automobile Club, Queensland
- . Local Government Association, Queensland
- . Brisbane City Council
- . Civil Liberties, Queensland
- . Queensland Road Transport Association
- . Queensland Law Society
- . Bar Association, Queensland
- . Australian Institute of Environmental Health

The proposed amendments are fully supported by those parties consulted. There have been no objections received with respect to the final amendment provisions.

NOTES ON PROVISIONS

Details of specific clauses are as follows.

PART 1—PRELIMINARY

Clause 1 states the short title of the Act.

Clause 2 provides for different commencement dates for particular sections of the amending Act.

Subclause (1) provides that the definition of “drug” shall have retrospective application from the 15 August 1987.

Subclause (2) provides for the evidentiary provisions dealing with drink or drug driving shall commence on assent.

Subclause (3) provides that the remaining sections are to commence on a date to be fixed by proclamation.

PART 2—AMENDMENT OF THE TRAFFIC ACT 1949

Clause 3 cites the principal Act that is amended by this Part and the Schedule.

Clause 4 amends section 5.

Substitutes the existing heading to section 5 to clarify that the section prescribes the individual subject matters about which a local government may or may not make a local law under the *Local Government Act 1993*.

Amends section 5(6) by repealing the obsolete sub-heading.

Amends section 5(6) and 5(6A) by renumbering and repositioning those sections as 5(3) and 5(4) respectively.

Amends section 5(6) by replacing the terms “by-laws” and “ordinances” with the new term “local law”. In addition, the obsolete expressions

“prohibition, regulation and control” has been substituted by “regulation” as the *Acts Interpretation Act 1954* now provides that “regulation” includes all these expressions.

Amends section 5(6)d to simplify the subject matter of roadside vending for which a local government may regulate by a local law.

Amends section 5(6A) by substituting the correct reference to subsection (3)(a) as being the subsection that prescribes the subject matter for which a local government may regulate by a local law.

Inserts a new section 5(5) to highlight the distinction between the *Hawkers Act 1984* and a local law made by a local government under section 5(4) to regulate roadside vending.

Inserts a new section 5(6) to clarify that the subject matter prescribed in section 5(2) for which a local law may be made applies to a road in its area as well as a declared road subject to the written agreement of the chief executive.

Sections 5(7) and 5(8) have been rewritten to incorporate current drafting styles as well as consequential and statute law amendments.

Inserts a new section 5(9) which clarifies that a local law may be made by a local government about a subject matter specified in clauses 8A, 9(1), 11 and 11A of the Schedule if it is not inconsistent with a regulation made under those clauses. This matter was previously addressed in the individual clauses of the Schedule but as the matter relates to local laws of a local government it has been repositioned for easy of reading.

Clause 5 repeals sections 7A and 7B which provided the power to delegate the powers of both the Commissioner of Main Roads and the Director-General. These offices have been combined under the title “chief executive”. The power to delegate is covered under the *Acts Interpretation Act 1954*.

Clause 6 amends section 9.

Substitutes existing definitions of the terms “coin”, “Commissioner”, “declared road”, “Manual of Uniform Traffic Control Devices”, “officer in charge of a police station”, “official traffic sign”, “railway”, “road”, “superintendent” to incorporate current drafting styles and the guidelines set down under Statutory Review requirements.

Amends the definition of the term “motor car” and “motor omnibus” to

reflect that the maximum number of persons to be carried in the vehicle includes the driver. The term “prime mover” has been amended to impose an additional requirement that the vehicle must have a minimum gross vehicle mass of 4.5t. The purpose of this requirement is to clearly exclude a “prime mover” from the “motor car” definition.

Repeals the obsolete terms “city”, “Director-General”, “district superintendent”, “justices”, “licensed”, “licensee”, “Metropolitan Traffic District”, “police district”, “Police Service” and “tramway”.

Amends the definition of the terms “authorised officer”, “commercial vehicle”, “drug”, “loading zone”, “owner”, “parking”, “provisional licence”, “off-street regulated parking area”, “parking” and “regulated parking” as required by the amendments.

Inserts new definitions required by the amendments for the terms “corresponding document”, “corresponding law”, “disabled person”, “disabled person parking permit”, “indication”, “infringement notice”, “learner’s permit”, “MUTCD”, “open licence”, “roadside vending” and “traffic history”.

Clause 7 replaces sections 10 to 12.

Inserts a new simplified section 10 to provide that the chief executive may appoint an officer of the public service as an authorised officer. It also provides for the Commissioner of Police to appoint a special constable as an authorised officer. The term “special constable” has been defined for the purpose of this section. This amendment relies on the power to appoint an officer under section 24B of the *Acts Interpretation Act 1954*.

The new simplified section 11 provides that the chief executive may appoint an officer of the public service to be a superintendent of traffic. It also provides for the Commissioner of Police to appoint a police officer or an officer of the public service to a superintendent. This amendment relies on the power to appoint an officer under section 24B of the *Acts Interpretation Act 1954*.

Section 12(1) provides that an authorised officer or superintendent may be appointed conditionally for specific administrative purposes.

Section 12(2) provides that the validity of anything done or omitted to be done is not affected by an contravention of a condition of appointment under section 12(1) by an authorised officer or superintendent when exercising a power under this Act.

Section 12(3) provides for disciplinary action to be taken against an authorised officer or superintendent for a contravention of a condition of appointment made under section 12(1).

Clause 8 replaces section 12B and inserts a new 12BA.

Section 12B provides that the chief executive may install or remove an official traffic sign on a road.

Section 12BA(1) prescribes the places where a local government may install an official traffic sign in its area.

Section 12BA(2) provides that a local government may install an official traffic sign on declared roads to define a traffic area and to indicate that parking on the roads is regulated.

Section 12BA(3) provides that a local government may remove an official traffic sign installed by it.

Clause 9 replaces section 12F.

Inserts a new section 12F(1) to provide that a person who contravenes or fails to comply with the indication on an official traffic sign shall commit an offence. The maximum penalty to apply to such offence has also been inserted. This reflects statutory review requirements.

Inserts a new section 12F(2) to provide that a local government may enforce a penalty for contravention or failure to comply with the direction to comply with an official traffic sign committed in its area.

Inserts a new subsection 12F(3) to provide for a penalty recovered through the court process to be returned to the local government. These requirements are in consideration of the application of the Offence Notice Legislation introduced by Department of Justice and Attorney-General.

Inserts a new subsection 12F(4) to provide that enforcement proceedings in relation to an offence under section 12F may be taken by another entity, such as the Police Service, even though the official traffic sign was not installed by the other entity.

Clause 10 amends section 14.

Inserts a new section 14(1) to provide for the issue and renewal of 3 separate types of drivers' licences.

Renumbers the existing section 14(2A) as section 14(3).

Repeals the existing section 14(2AB) and inserts a new section 14(4) to provide that the interpretation of code appearing on a driver's licence may be prescribed by regulation.

Renumbers the existing section 14(2B) as section 14(5).

Repeals the existing sections 14(3) to 14(8) and inserts a new section 14(6) to provide for the issue of a driver's licence for a period not greater than 10 years.

Clause 11 repeals the existing section 14A and inserts new sections 14A and 14B.

Section 14A(1) provides that the chief executive may release details of a driver's licence or traffic history to the driver to whom the records relate or another person having the written consent of the driver. The chief executive may also release similar details to other State or Territory driver licensing authorities. This will assist with the national move towards the 1 person—1 driver's licence concept, as well as the effective conduct of driver's licence business and enforcement of traffic and other laws throughout Queensland and Australia. However, it is not intended to provide for the release of traffic history details of the person received from other States as the continuing accuracy of this information may not be able to be guaranteed.

Section 14A(2) provides that the fee payable for the release of the driver's licence or traffic history information to the person or the person's authorised agent may be prescribed by regulation.

Section 14B(1) prescribes that the balance of the now obsolete Traffic Engineering Trust Fund shall be paid into the Consolidated Fund.

Section 14B(2) provides that section 14B shall expire at the end of the day it commences, by which time the balance of the funds in the Traffic Engineering Trust Fund will have been duly transferred.

Clause 12 amends section 16A.

Amends section 16A(1) by substituting the existing definitions of “breath analysing instrument” and “breath test” that have been rewritten to reflect current drafting styles.

Amends section 16A(8) by inserting the word “or” at the end of paragraphs (a) and (b) to clarify the types of person who may be requested by a police officer to provide a specimen of breath or blood for analysis.

Amends section 16A(8B) by inserting the word “or” at the end of paragraphs (a), (b) and (c) to clarify the different places where a person may be taken to comply with a request by a police officer to provide a specimen of breath or blood for analysis.

Amends section 16A(8J) by inserting the word “or” at the end of paragraphs (a) and (b) to clarify which police officer must not operate a breath analysing instrument to analyse a specimen of a person's breath.

Amends section 16A(15D) by inserting the word “and” at the end of paragraphs (a) and (b) to clarify the evidentiary matters that must appear on a certificate offered up by a medical practitioner or an authorised police officer in relation to the operation of a breath analysing instrument.

Amends section 16A(15F) by inserting the word “and” at the end of paragraphs (a) and (b) to clarify the evidentiary matters that must appear on a certificate offered up by an authorised police officer relating to the failure by a person to provide a specimen of breath when requested to do so.

Amends section 16A(16A) to provide that a specimen of blood or urine may be sent to a laboratory for analysis in person or in a way specified by regulation. This provision is in consideration of Federal legislation introduced in May 1993 which has identified blood specimens as dangerous goods. It is now an offence to send such specimens by *certified mail*, and any such deliveries must be sent by *security post* which has replaced the old registered post scheme.

Appropriate methods offering security of delivery of blood or urine specimens to a laboratory will be determined and prescribed by regulation.

Substitutes section 16A(16B)(c) to provide that a certificate signed by a analyst may state the concentration of alcohol as a specified number of milligrams of alcohol in the blood per 100mL of blood, or that a specified drug or a metabolite of a specified drug was indicated by the laboratory test to be present in the person's blood shall be evidence of those matters.

Amends section 16A(16E) by inserting the word “and” at the end of paragraph (a) to clarify the evidentiary matters that must appear on a certificate offered up by an authorised police officer relating to the failure by a person to provide a specimen of blood when requested to do so.

Amends section 16A(16F) to provide that a certificate signed by an analyst stating that a laboratory test indicated the presence of a concentration of alcohol, or of a drug or a metabolite of a drug in a person's blood is

evidence that either substance was present in the person's blood for 2 hours before the sample was taken.

Amends section 16A(18A) by inserting the word “and” at the end of paragraph (a) to clarify that where a certificate is required to be offered up by a medical practitioner or an authorised police officer relating to an offence for drink or drug driving, the certificate shall be accepted as evidence of the matters stated therein unless the contrary is proved.

Substitutes section 16A(19) to provide that where a police officer sends a specimen of blood to the laboratory in a way prescribed by regulation, oral evidence by the police officer and a certificate purporting to be signed by the analyst produced in evidence shall be sufficient evidence as to compliance with section 16A(16A).

Repeals redundant section 16A(21). The *Acts Interpretation Act 1954* now provides that the power to make a decision includes the power to revoke the decision.

Amends section 16A(24) to clarify that the evidence as to the concentration of alcohol or the presence of a drug or the metabolite of a drug in a person's blood obtained in accordance with any provision of section 16A is admissible in court.

Amends section 16A(24A) by inserting the word “and” at the end of paragraphs (a) and (b) to clarify the manner by which evidence of the concentration of alcohol or the presence of a drug may be offered up in any proceedings.

Clause 13 amends section 44.

Substitutes the existing heading to section 44 to clarify that the section prescribes the procedures for the removal of things, including vehicles, from roads.

Inserts in section 44(6) in accordance with statutory review requirements, a penalty provision to provide for the circumstances where a person attempts to unlawfully take possession of a thing that has been seized by a police officer under this Act.

Repeals the obsolete sub-heading to section 44(7).

Inserts in section 44(15) in accordance with statutory review requirements, a penalty provision to provide for the circumstances where a person attempts to unlawfully take possession of a thing that has been

seized by a local government.

Inserts a new section 44(16) to allow a local government to make a local law dealing with the removal, safe storage or disposal of a vehicle. A person authorised under that local law may determine whether the vehicle has been abandoned and the appropriate course of action for its removal, safe storage or disposal.

Inserts a new section 44(17) which provides that when a local government makes a local law under section 44(16), section 44(7) to (15) will no longer apply in its area.

Inserts a new section 44(18) which provides that if a local government subsequently repeals the local law made under section 44(16), the provisions of section 44(7) to (15) are not revived.

Renumbers the existing section 44(16) as section 44(19).

Clause 14 amends Part 6A.

Inserts a new section 44A(1) to prescribe the places where a local authority may regulate parking in its area under a local law.

Inserts a new section 44A(2) to prescribe the matters for which a local law may be made to regulate paid parking.

Inserts a new section 44B(1) to provide that a local government may install official traffic signs to indicate how parking is regulated in its area.

Inserts a new section 44B(2) to prescribe the places where parking may be regulated by the installation of official traffic signs by a local government.

Inserts a new section 44B(3) to prescribe the circumstances under which a local government may install an official traffic sign to regulate parking.

Inserts a new section 44B(4) to prescribe the matters that may appear on an official traffic sign which has been installed to regulate parking, and that any direction on the official traffic sign applies to the place where the sign has been installed.

Inserts a new section 44B(5) to provide that any official traffic sign may include additional directions that shall apply to the place where the official traffic sign has been installed.

Inserts a new section 44B(6) to provide that it shall be accepted that a

person parking in a traffic area will have noticed the contents of the official traffic sign installed at the boundary of the traffic area. This is an evidentiary provision.

Inserts a new section 44B(7) to provide that, if an official traffic sign has been properly installed near a parking place, a person parking at that place shall be accepted as having noticed the contents of the sign. This is an evidentiary provision.

Inserts a new section 44B(8) to prescribe that a indication on an official traffic sign is evidence that the matter was the subject of a local law made by the local government for its area.

Inserts a new section 44B(9) to provide that this Part does not limit the power of a local government to install an official traffic sign under a different provision of this Act or of any other Act.

Inserts a new section 44BA(1) to prescribe that the common examples given in this section do not limit a local government in its application of the matters contained in section 44A or 44B.

Inserts a new section 44BA(2) to provide examples of the types of parking systems that a local government may specify in a local law to regulate parking in its area.

Inserts a new section 44BA(3) to provide that a local government may, under a local law, introduce parking permit schemes to allow a person to park contrary to the direction of an official traffic sign.

Inserts a new section 44BA(4) to provide that a local government may, under a local law, define the circumstances under which vehicles may park in a loading zone.

Inserts a new section 44BA(5) to provide that a local government may, under a local law, define specified land as an off-street regulated parking area to regulate the use of the area.

Inserts a new section 44BA(6) to prescribe the matters that may be defined or indicated on an official traffic sign installed to regulate parking in its area.

Clause 15 amends section 44C

Inserts a new section 44E(1) to prescribe the circumstances under which the fixed hours for a designated parking space shall start.

Amends section 44C(2) to clarify that the fixed hours for parking is not confined to a traffic area.

Substitutes the term “period” with the term “time” in section 44C(2) and 44C(4) for ease of understanding.

Inserts a new section 44C(5) to allow a local government to install a parking meter or parkatarea for a designated parking space if the device is installed according to specifications set down in the Manual of Uniform Traffic Control Devices, or as approved by the chief executive.

Clause 16 amends section 44D.

Amends section 44D(1) by substituting the term “period” with the term “time” for ease of understanding. In addition, the exclusion provision for a commercial vehicle from the requirement to be parked wholly within a designated parking space has been deleted. This is in line with the amendments to the commercial vehicle identification label scheme.

Inserts a penalty provision in accordance with statutory review requirements, at the end of section 44D(1) to provide for the circumstances where a vehicle parks contrary to the provisions of the section.

Amends section 44D(3) by substituting the term “period” with the term “time” for ease of understanding.

Clause 17 amends section 44E.

Repeals the obsolete heading to section 44E(2).

Amends section 44E(2) by removing the reference to the repealed *Main Roads Act 1920*. The correct Act under which motor vehicles are registered is the *Transport Infrastructure (Roads) Act 1991*.

Omits section 44E(3). This section has been renumbered as section 49(1)(v) and repositioned in Part 7—Proceedings and Evidence for ease of reading.

Clause 18 amends section 44F.

Substitutes section 44F(1A)(f) and (g) to clarify the action to be taken by a person who has been given a notice of alleged offence. The person must now advise whether the person wishes to pay the prescribed penalty or whether the person wishes to have the matter dealt with by a court.

This requirement now aligns the obligation of a person given a notice of

alleged offence with similar obligations provided under the *Justices Act* in relation to the giving of infringement notices.

Clause 19 inserts a new section 44N.

Section 44N(1) provides for the chief executive to issue a permit to a disabled person or to an organisation for a vehicle that is used to transport disabled persons.

Section 44N(2) provides that the permit may be subject to conditions stated on the permit.

Clause 20 amends Part 6B by inserting a new heading titled *Division 1—Radar speed detection devices* before section 44O.

Clause 21 inserts a new section 44O to prescribe that a police officer using a radar speed detection device (“radar unit”) must comply with Australian Standard 2898.2. This Standard addresses such issues as operator training, equipment accuracy testing, site selection and target identification.

Clause 22 amends Part 6B by inserting a new heading titled *Division 2—Photographic detection devices* before section 44P.

Clause 23 amends section 44P by omitting the obsolete word “prescribed” from the definition “camera-detected prescribed offence”.

Repeals the obsolete definitions of “owner” and “prescribed offence” and substitutes the definition “photographic detection device”.

Clause 24 inserts a new section 44PA(1) to provide that photographic detection devices which have been approved by order in council prior to the commencement of this section shall continue to an approved photographic detection device after the commencement of this section.

Inserts a new section 44PA(2) to provide that section 44PA shall expire at the end of the day on which the section commences.

Clause 25 amends section 44Q.

Amends section 44Q(2) by removing the obsolete term “prescribed” in paragraphs (a), (b) and (c).

Amends section 44Q(2)(c) by providing that a person who was not the driver of the vehicle and has been served with a notice or summons under this Part, must give a statutory declaration to the chief executive to that

effect.

Inserts in section 44Q(2) in accordance with statutory review requirements, a penalty provision to apply to a person who fails to provide the name and address of the actual driver of the motor vehicle by statutory declaration within the time specified in this section.

Inserts a new section 44Q(2A) to provide that a person shall commit an offence under section 44Q(2)(b) if at the hearing of the offence the person states the person was not the driver of the vehicle at the time.

Amends section 44Q(4) by omitting the obsolete term “prescribed” and inserting in accordance with statutory review requirements, a penalty provision to apply to a person who falsely nominates another person in a statutory declaration as the driver of the vehicle at the time when the offence happened.

Repeals section 44Q(5) as the penalty provision relating to offences under both section 44Q(2) and (4) have been inserted at the end of the relevant section.

Amends section 44Q(6) by removing the obsolete term “prescribed”.

Clause 26 amends section 44R.

Omits the obsolete term “prescribed” from the heading to the section.

Substitutes section 44R(1) to prescribe that the Commissioner of Police may serve a notice on either the owner of the vehicle or the driver of the vehicle nominated in a statutory declaration that was involved in a camera-detected offence.

Inserts a new section 44R(1A) to prescribe the particular information that must be included on the notice to be given to a person who the Commissioner considers has committed a camera-detected offence.

Substitutes section 44R(3) to provide for the Commissioner to withdraw a notice issued to a person for a camera-detected offence at any time.

Clause 27 amends section 44S.

Section 44S(1) prescribes the information that must be contained in the notice that is to accompany a summons served on a person for a camera-detected offence.

Subsection (2) provides that a statement in a deposition made for the

purposes of the *Justices Act 1886* that the notice was served as required by subsection (1) is evidence of that fact.

Subsection (3) provides that section 56(5) of the *Justices Act 1886* applies to the deposition mentioned in subsection (2).

Clause 28 amends section 44T by substituting the term “Director-General” with “Commissioner” to reflect that the scheme is now being administered by the Commissioner of Police.

Clause 29 replaces section 44U.

Section 44U(1) provides that this section applies to the examination of the photographic evidence on which a camera-detected offence has been based.

Section 44U(2) provides that if a person wishes to examine a copy of the photographic evidence on which the offence is based, the person must give notice to the Commissioner of that wish at least 14 days notice prior to the date of the hearing.

Section 44U(3) provides that the Commissioner must make reasonable arrangements to have a copy of the photographic evidence available for examination by the person at least 7 days before the hearing.

Section 44U(4) provides that if the person intends to challenge the photographic evidence at the person's hearing the person must give written notice to that effect to the Commissioner within 3 days of the hearing date.

Clause 30 inserts a new section 44W to provide evidentiary provisions in relation to proceedings for a camera-detected offence.

Section 44W(1) provides that this section applies to proceedings for a camera-detected offence.

Section 44W(2) provides that a photograph produced by the prosecution and certified by the Commissioner shall be evidence of the following matters:—

- the photograph was taken at the specified location and time
- the accuracy of the photograph
- the matters depicted in the photograph
- the operation and testing of the photographic detection device as prescribed by regulation were complied with at all times.

Section 44W(3) provides that if a photograph is 1 in a series of photographs produced under subsection (2), the photograph may be numbered and the time it was taken may be identified by reference to another photograph in the series.

Section 44W(4) provides that evidence as to the proper condition of the photographic detection device is not required unless evidence has been given to the contrary.

Clause 31 amends section 45A(2) by repealing the reference to “owner” within the meaning of section 44A. The definition of “owner” now has the meaning assigned to it under section 9 (Definitions).

Clause 32 amends section 49.

Subclause (1) substitutes the obsolete terms of “Director-General” and “district superintendent” with “chief executive” and “Commissioner” in section 49(1)(a).

Subclause (2) substitutes the obsolete terms of “Director-General” and “district superintendent” with “chief executive” and “Commissioner” in section 49(1)(b).

Subclause (3) substitutes the obsolete terms of “Director-General” and “district superintendent” with “chief executive” and “Commissioner” in section 49(1)(c).

Subclause (4) substitutes the obsolete terms of “Director-General” and “district superintendent” with “chief executive” and “Commissioner” in section 49(1)(g).

Subclause (5) substitutes the obsolete terms of “Director-General” and “district superintendent” with “chief executive” and “Commissioner” in section 49(1)(k).

Subclause (6) substitutes the obsolete terms of “Director-General” and “district superintendent” with “chief executive” and “Commissioner” in section 49(1)(l).

Subclause (7) substitutes the obsolete terms of “Director-General” and “district superintendent” with “chief executive” and “Commissioner” in section 49(1)(l).

Subclause (8) repeals the obsolete section 49(1)(m). Proceedings for vehicle over-loading offences are now undertaken under the *Transport*

Infrastructure (Roads) Act 1991.

Subclause (9) substitutes a reference to a repealed Act with the current instrument of legislation in section 49(1)(n)(i) and (ii).

Subclause (10) substitutes the obsolete terms of “Director-General” and “district superintendent” with “chief executive” and “Commissioner” in section 49(1)(o).

Subclause (11) substitutes the obsolete terms of “Director-General” and “district superintendent” with “chief executive” and “Commissioner” in section 49(1)(p).

Subclause (12) substitutes section 49(1)(pa) to provide that a certificate signed by the Commissioner stating that a specified radar speed detection device has been tested in accordance with Australian Standard 2898.1 and found to producing accurate results is evidence in any court proceedings that the device continued to give accurate results for 1 year after the time .

Substitutes section 49(1)(pb) to provide that a certificate signed by a police officer stating that the specified radar speed detection device was used by the officer in accordance with Australian Standard 2898.2 is evidence of that matter in any court proceedings.

Substitutes section 49(1)(pc) to provide that a certificate signed by the Commissioner stating that a specified vehicle speedometer accuracy indicator has been tested and found to producing accurate results is evidence in any court proceedings that the device continued to give accurate results for 60 days after the time .

Subclause (13) amends section 49(1)(r)(vi) by deleting the expression “direction or” which has now been defined under the term “indication”.

Subclause (14) inserts a new section 49(1)(v) to provide that evidence as to the proper condition of a parking meter or parkatarea is not required unless evidence has been given to the contrary. This provision was previously under Part 6A (Regulated Parking) but has been repositioned here for ease of reading.

Subclause (15) inserts a new section 49(4) to provide that a defendant who intends to challenge evidence that is to be given under section 49(1)(pa), (pb) or (pc) by the prosecution must give written notice of that challenge.

Inserts a new section 49(5) to provide that a notice given under section

49(4) must be signed by the defendant and given to the prosecution at least 3 days before the hearing day.

Clause 33 repeals the redundant section 54. The *Penalties and Sentences Act 1992* now addresses the power of the courts to make determinations in relation to the disqualification of convicted persons.

Clause 34 replaces sections 67 and 68.

Section 67(1) defines for the purposes of this section, the terms “local government official” and “official”.

Section 67(2) provides that an official or a local government official will not be civilly liable for an act or omission done honestly and without negligence under this Act.

Section 67(3) provides that if section 67(2) prevents civil liability attaching to an official then the liability attaches to the State instead.

Section 67(4) provides that if section 67(2) prevents civil liability attaching to a local government official then the liability attaches to the local government rather than the State.

Section 68 provides that the provisions of the Act dealing with offences other than for drink or drug driving offences do not apply to a police officer while exercising a power or performing a function under this or any other Act. This section was previously section 67(2), and has been rewritten to incorporate current drafting styles.

Clause 35 amends the Schedule.

Subclause (1) repeals clause 3(1)(c) and (d) and inserts a new clause 3(1)(c) to clarify the subject matter for regulations includes the issue of licences to roadside vendors. Roadside vending, as defined under section 9, now embraces the commercial supply of goods and services on a road whether from a place, stall, vehicle or other thing.

Subclause (2) substitutes the obsolete term “Director-General” with “chief executive” in clause 3(2).

Subclause (3) substitutes an reference to a repealed Act with the current instrument of legislation in clause 3(2).

Subclause (4) repeals an reference to a repealed Act in clause 3(2).

Subclause (5) repeals obsolete headings to clauses 6(4), 6(5) and 6(6).

Subclause (6) repeals obsolete headings to clauses 8(1)(a), 8(1)(b) and clauses 8(1)(c) to 8(1)(l) both inclusive.

Subclause (7) substitutes an reference to a repealed Act with the current instrument of legislation in clause 8(1)(ba).

Subclause (8) repeals a reference to a repealed Act in clause 8(1)(c).

Subclause (9) substitutes an reference to a repealed Act with the current instrument of legislation in clause 8(1)(d).

Subclause (10) repeals clauses 8A(2) and clause 9(3). The subject matter of these clauses have been included in section 5(9) of the Act.

Subclause (11) inserts a new clause 9(1) to clarify the authority to regulate and licence the activity of roadside vending.

Inserts a new clause 9(1A) to clarify the authority to regulate the placement of goods of any description on a road. This amendment corrects a previous drafting style error.

Subclause (12) repeals clause 11A(2). The subject matter of this clause has been included in section 5(9) of the Act.

Subclause (13) substitutes an reference in clause 13(5)(d) to a repealed Act with the current instrument of legislation.

Subclause (14) repeals the obsolete heading to clause 13(5).

Subclause (15) substitutes clause 14(6) which has been rewritten to remove a reference to a repealed Act.

Subclause (16) substitutes clause 16 which has been rewritten to reflect current drafting styles.

Subclause (17) repeals clause 17(2) which referenced an obsolete subject matter.

Subclause (18) substitutes an reference in clause 19(a) to a repealed Act with the current instrument of legislation.

Subclause (19) substitutes clause 21 which has been rewritten to reflect current drafting styles and to substitute a reference to a current instrument of legislation.

Subclause (20) repeals clause 23 which referenced an obsolete subject matter.

Subclause (21) substitutes clause 24(1) which has been rewritten to reflect current drafting styles and to substitute obsolete terms.

Subclause (22) substitutes clause 25 which has been rewritten to reflect current drafting styles and to substitute obsolete terms.

Subclause (23) substitutes clause 26 which has been rewritten to reflect current drafting styles and to substitute obsolete terms.

Subclause (24) amends clause 28(3) by deleting the expression “directions” which has now been defined under the term “indication”.

Subclause (25) substitutes in clause 31 an expression and a reference to a Act which is no longer necessary.

Subclause (26) substitutes in clause 32 the obsolete term “Director-General” with “chief executive”.

Subclause (27) repeals clause 33 which referenced an obsolete subject matter.

Subclause (28) substitutes clause 36 which has been rewritten to reflect current drafting styles.

PART 3—SETONS AMENDMENT TO TRAFFIC ACT 1949

Clause 36 cites the principal Act that is amended by this Part.

Clause 37 amends section 9.

Amends the definition of “owner” by repealing the reference to the application of this definition to Part 6A and 6B of the Act. This reference will be covered under the *Justices Act 1886* when the offence notice provisions dealing with the parking of vehicles and red light camera-detected offences are adopted into the SETONS process.

Repeals the definition of “regulated parking”. The provisions of Part 6A to which this definition apply are to be repealed when the offence notice provisions dealing with the parking of vehicles are adopted into the SETONS process.

Clause 38 amends section 16B.

Substitutes the heading to section 16B to clarify that the section relates to the issue of infringement notices under Part 4A of the *Justices Act 1886*.

Substitutes section 16B(1) to (4). The terms “enforcement order notice”, “infringement notice”, “notified amount” and “reminder notice” have been defined for the purposes of this section.

Inserts a new section 16B(2) to provide the circumstances under which an infringement notice may be issued to a person by a police officer.

Inserts a new section 16B(3) to provide that an offence under this section is an offence for which an infringement notice under Part 4A of the *Justices Act 1886* may be issued.

Inserts a new section 16B(4) to prescribe the additional information that must be included on an infringement notice and the reminder notice served on a person under section 16B(1).

Inserts a new section 16B(4A) to prescribe the period of disqualification applicable to the person when the penalty has been paid within the period specified on the notice, and to prescribe that the day of conviction for the offence shall be taken to be the day when payment of the penalty was made.

Inserts a new section 16B(4B) to provide that where more than 1 infringement notice has been served on an offender for the same offence, the period of disqualification to be adopted is the period nominated in the last notice served.

Inserts a new section 16B(4C) to prescribe the additional information that must be included on an enforcement order notice served on a person under section 16B(1).

Inserts a new section 16B(4D) to prescribe the time when the person is disqualified if the person is served with an enforcement order notice, and that for the purposes of a subsequent offence the day of conviction for the offence shall be taken to be the day when the payment of the penalty was made.

Repeals sections 16B(12) to 16B(18). These provisions have become obsolete as the *Justices Act 1886* will now control all matters dealing with the withdrawal of infringement notices under all Acts.

Clause 39 amends section 44D(3)(b) by clarifying that the notice to be

attached to a vehicle for a parking offence must be an infringement notice under Part 4A of the *Justices Act 1886*.

Clause 40 repeals sections 44E, 44F, 44G and 44H which addressed the mechanism for the service of a notice of alleged offence on a vehicle or person. These provisions will become obsolete when the *Justices Act 1886* controls all matters dealing with the issue of infringement notices under all Acts.

Clause 41 repeals sections 44I. The *Justices Act 1886* will provide the necessary offence provisions dealing with the wilful removal, defacement or interference with an infringement notice affixed to a vehicle.

Clause 42 amends section 44P by substituting the definition “camera-detected offence” to remove the reference to being an offence for which a notice may be issued under the Act. The *Justices Act 1886* will provide the necessary mechanism for the service of an infringement notice for this offence.

Clause 43 repeals sections 44Q, 44R, 44S and 44T which addressed the mechanism for the service of a notice or summons on a person for an alleged offence for a redlight camera-detected offence. These provisions will become obsolete when the *Justices Act 1886* controls all matters dealing with the issue of infringement notices under all Acts.

Clause 44 inserts a new section 44V.

Section 44V(1) prescribes the procedures that a person must follow if the person wishes to examine or challenge the photographic evidence on which a redlight camera-detected offence. These procedures must be contained in a notice to accompany a summons served on the person for the offence.

Section 44V(2) provides that a statement in a deposition made for the purposes of the *Justices Act 1886* that the notice was served as required by subsection (1) is evidence of that fact.

Section 44V(3) provides that section 56(5) of the *Justices Act 1886* applies to the deposition mentioned in subsection (2).

Clause 45 repeals section 45A which provided the necessary regulation making power for which a notice under the Act could be issued. These provisions will become obsolete when the *Justices Act 1886* controls all matters dealing with the issue of infringement notices under all Acts.

PART 4—REPEAL OF TRAFFIC ACT AMENDMENT ACT 1974

Clause 46 repeals the unproclaimed sections of the *Traffic Act Amendment Act 1974*. These sections were to amend the *Traffic Act 1949* to provide for the compulsory blood testing of all persons over the age of 14 years who suffered injury in a motor vehicle accident and attended a hospital for treatment to those injuries; and the constitution of a Medical Board of Review for the purposes of the Act. These provisions are no longer appropriate.

PART 5—AMENDMENT OF TRANSPORT INFRASTRUCTURE (ROADS) ACT 1991

Clause 47 cites *Transport Infrastructure (Roads) Act 1991* as the principal Act that is amended by this Part.

Clause 48 inserts a new section 9.2.1A to provide the requirement for a person registering a motor vehicle to pay the prescribed traffic improvement fee. This fee is presently prescribed by regulation under the *Traffic Act 1949*.

SCHEDULE

STATUTE REVISION AMENDMENTS

The Schedule provides amendments to the Act to incorporate consequential and statute law amendments and to reflect current drafting styles.