

Police Powers and Responsibilities and Other Legislation Amendment Bill 2013

Explanatory Notes

FOR

Amendments To Be Moved During Consideration In Detail By The Honourable Jack Dempsey MP

Title of the Bill

Police Powers and Responsibilities and Other Legislation Amendment Bill 2013

Objectives of the Amendments

The objectives of the amendments are to:

- remove the commencement clause in the Bill, allowing for the specified provisions to commence on assent, thus providing immediate access to the laws designed to enhance the efficiency of front line policing and minimise the impact of out-of-control events on the Queensland community.
- ensure for the effectiveness and clarity of legislation in regard to the TruCAM photographic detection (speed camera) device.
- remove the clause relating to the amendment of section 754 (Offence for driver of motor vehicle to fail to stop motor vehicle), the objectives of which were attained by inclusion in the *Criminal Law (Criminal Organisations Disruption) Amendment Act 2013*, which commenced on 17 October 2013.

Achievement of the Objectives

The objectives are achieved by way of amendments to the Bill as described below.

Alternative Ways of Achieving the Policy Objectives

Legislative amendment is the only way to achieve these policy objectives.

Estimated Cost for Government Implementation

The proposed amendments will not impose any additional cost on Government.

Consistency with Fundamental Legislative Principles

The amendments are consistent with fundamental legislative principles.

Consultation

Consultation was not undertaken with external providers on the proposed amendments.

NOTES ON PROVISIONS

Amendment 1 omits clause 2, enabling all provisions of the Bill to commence on assent. Clauses 4, 6 and 42(2) to (4), (6) and (7) in the Bill were originally to commence on proclamation. Clause 4 inserts the new chapter 2, part 7 in relation to the out-of-control event scheme. Clause 6 inserts a provision relating to the sale of an impounded motor vehicle if the driver fails to appear and how notice of the proposed sale or disposal must be published on the police service website. Clauses 42(2) to (4), (6) and (7) insert definitions related to the out-of-control event scheme.

Clause 6 was to commence on proclamation to allow for appropriate timing with related vehicle impoundment legislation. That legislation, the *Police Powers and Responsibilities (Motor Vehicle Impoundment) and Other Legislation Amendment Act 2013* has since commenced and there is no bar to the provision commencing on assent. Clauses concerning the out-of-control event scheme can now also commence on assent. The recent increase in occurrences of out-of-control events in the Queensland community has been considered in the timely commencement of the legislation.

Amendment 2 omits clause 39 of the Bill as amendments of like intent to section 754 of the *Police Powers and Responsibilities Act 2000* (PPRA), colloquially referred to as 'evade police' were passed through the House on 17 October 2013 through the *Criminal Law (Criminal Organisations Disruption) Amendment Act 2013*. Specifically, clause 64 of that Act amended section 754 of the PPRA to clarify that the only alternative penalty that a court can impose, instead of the 50 penalty units fine, is 50 days imprisonment to be served wholly in a corrective services facility. A circumstance of aggravation was inserted where the driver is a participant in a criminal organisation. Clause 51 of that Act also amended the *Penalties and Sentences Act 1992* to ensure that a provision providing that a minimum term of imprisonment be served, such as the provision in section 754 of the PPRA, be enforced and not negated by a person's earlier release on parole.

Amendments 3 and 4 remove the 'senior police officer' definition in regard to accessing account information in the new chapter 7, part 7. It was proposed that a further definition of senior police officer was required for the out of control event scheme, with the definition under clause 42(7) to replace the limited definition of clause 42(1) upon commencement of that scheme. Due to all clauses of the Bill now commencing upon assent, the requirement for the 'senior police officer' definition in clause 42(1) of the Bill is no longer required.

Amendment 5 amends provisions within the *Transport Operations (Road Use Management) Act 1995* (TORUM) by inserting clauses 46 to 48 into the Bill.

Clause 46 specifies that Part 4 of the Bill amends TORUM.

Clause 47 amends section 112 of TORUM to clarify the section does not apply to photographic detection devices. The amendment to this section is to clear up any ambiguity surrounding the use of a TruCAM speed camera, which is classed as a photographic detection device.

Clause 48 amends section 120 of the *Transport Operations (Road Use Management) Act 1995*. Section 120, 'Evidentiary provisions' is fundamental to the prosecution of motor vehicle offences detected by photographic detection devices. The section allows the commissioner to certify and aver certain matters as evidence. If a defendant wishes to challenge an averment that person must give written notice to the prosecution. The amendment provides that if an image produced under subsection 2 has a marking or writing on it then the marking or writing is taken to have been properly made by the photographic detection device and the image is also evidence of each thing in relation to the image that the marking or writing is prescribed to mean under a regulation.

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Amendment 6 amends the long title of the Bill to include the '*Transport Operations (Road Use Management) Act 1995*'.