

# Maritime and Other Legislation Amendment Bill 2006

## Amendments agreed to during Consideration

### 1 **Clause 92—**

At page 88, lines 15 to 17—

*omit, insert—*

‘about a standard.’.

### 2 **After clause 143—**

At page 137, after line 28—

*insert—*

#### **‘143A Amendment of s 80 (Provisions with respect to breath tests and laboratory tests)**

(1) Section 80(22A), ‘subsection (22)’—

*omit, insert—*

‘subsection (22AA)’.

(2) Section 80(22C) and (22D), ‘pursuant to subsection (22)’—

*omit, insert—*

‘under subsection (22AA)’.’.

### 3 **After clause 144—**

At page 138, after line 5—

*insert—*

#### **‘144A Insertion of new ss 90A–90D**

After section 90—

*insert—*

#### **‘90A Definitions for ss 90B–90D**

In sections 90B to 90D—

***dangerous driving offence*** means an offence against the Criminal Code, section 328A(1) or (4) if the offence is accompanied by a circumstance of aggravation that, at the time of committing the offence, the person charged with the offence was adversely affected by an intoxicating substance that is alcohol.

***designated offence*** means—

- (a) an offence against—
  - (i) section 79(1) or (2), to the extent it involves a motor vehicle; or
  - (ii) section 79(2A), (2B) or (2J); or
  - (iii) section 80(11); or
- (b) a dangerous driving offence.

***disqualified*** means disqualified from holding or obtaining a Queensland driver licence.

*Note—*

See section 127(4) which provides for the effect of a suspension under this Act of any licence.

***drink driving offence*** means—

- (a) an offence against—
  - (i) section 78(1); or
  - (ii) section 79(1) or (2), to the extent it involves a motor vehicle; or
  - (iii) section 79(2A), (2B) or (2J); or
  - (iv) section 80(11); or
  - (v) section 87(10); or
  - (vi) a provision of a regulation under section 150AB for failing to comply with an order under that regulation; or
- (b) a dangerous driving offence.

***relevant disqualifying provision*** means—

- (a) section 78(3)(i); or
- (b) section 81; or

- (c) section 86; or
- (d) section 87(10A)(b); or
- (e) a provision of a regulation under section 150AB providing for the disqualification of a person for failing to comply with an order made under the regulation; or
- (f) the *Penalties and Sentences Act 1992*, section 187.

**section 89 disqualification** means a disqualification ordered by a court under section 89 as a result of being charged with, but not convicted of, a dangerous driving offence.

**section 90 disqualification** means a disqualification ordered by a court under section 90 as a result of being charged with, but not convicted of, a dangerous driving offence or an offence against section 79.

#### **‘90B Cumulative periods of disqualification for offences committed at different times**

- ‘(1) This section applies if—
- (a) a person is disqualified (the *initiating disqualification*)—
    - (i) under a relevant disqualifying provision for a drink driving offence; or
    - (ii) under a section 89 disqualification; or
    - (iii) under a section 90 disqualification; and
  - (b) before the period of disqualification for the initiating disqualification ends, the person is disqualified again on 1 or more occasions (a *later disqualification*) as mentioned in paragraph (a).
- ‘(2) However, this section does not apply if section 90C applies.
- ‘(3) Each period of disqualification whether for an initiating disqualification or later disqualification takes effect cumulatively with each other period of disqualification.

*Examples—*

- 1 D is charged with a drink driving offence. Before the court hears that charge D is charged again with a drink driving offence. The court convicts D of both offences and disqualifies D for a period of

2 months for 1 offence and a period of 4 months for the other offence. The total period of disqualification is 6 months.

- 2 D commits a drink driving offence on 25 December 2008 and commits another drink driving offence on 1 January 2009. A court convicts D of the 1 January offence on 2 January 2009 and disqualifies D for a period of 2 months. On 1 February, the court convicts D of the 25 December offence and disqualifies D for a period of 4 months. The total period of disqualification is 6 months.

### **‘90C Cumulative periods of disqualification for acts done and offences committed at same time**

- ‘(1) This section applies if—
- (a) a person does an act that results in the person being charged with a designated offence and, when the person does the act, the person commits an offence against section 78(1); and
  - (b) as a result of being charged with the designated offence, the person is disqualified (the *drink driving disqualification*)—
    - (i) under section 81 or 86 or the *Penalties and Sentences Act 1992*, section 187; or
    - (ii) under a section 89 disqualification; or
    - (iii) under a section 90 disqualification; and
  - (c) as a result of committing the offence against section 78(1), the person is disqualified (the *unlicensed driving disqualification*) under section 78(3)(a) to (h) or the *Penalties and Sentences Act 1992*, section 187.
- ‘(2) Subsection (3) applies if, when the person does the act that results in the person being charged with the designated offence, the person does not hold a driver licence authorising the person to drive the motor vehicle on the road but is not disqualified—
- (a) under a relevant disqualifying provision for a drink driving offence; or
  - (b) under a section 89 disqualification; or
  - (c) under a section 90 disqualification.

- ‘(3) The periods of disqualification for the drink driving disqualification and the unlicensed driving disqualification take effect cumulatively with each other.
- ‘(4) Subsection (5) applies if, when the person does the act that results in the person being charged with the designated offence, the person does not hold a licence because the person is disqualified (the *existing disqualification*)—
  - (a) under a relevant disqualifying provision for a drink driving offence; or
  - (b) under a section 89 disqualification; or
  - (c) under a section 90 disqualification.
- ‘(5) Each period of disqualification, whether for a drink driving disqualification, an unlicensed driving disqualification or an existing disqualification, takes effect cumulatively with each other period of disqualification.

**‘90D Other matters about cumulative periods of disqualification**

- ‘(1) For sections 90B and 90C, the following is immaterial to the cumulative effect of disqualifications—
  - (a) whether the periods of disqualification are imposed or ordered at the same hearing;
  - (b) whether an offence or charge that resulted in a period of disqualification (or the conviction or sentence for the offence or charge) happened before or after another offence or charge (or the conviction or sentence for the other offence or charge) that resulted in a period of disqualification;
  - (c) the order in which the periods of disqualification are imposed or ordered.
- ‘(2) Also, for sections 90B and 90C, periods of disqualification mentioned in the sections take effect cumulatively with other periods of disqualification mentioned in the sections in the order in which they are imposed or ordered.’.

**4 Clause 146—**

At page 139, line 4, ‘provision’—

*insert—*

‘provisions’.

**5 Clause 146—**

At page 139, line 15, ‘charge.’—

*omit, insert—*

‘charge.

**‘205 Transitional provision for ss 90A–90D**

‘Sections 90A to 90D apply only in relation to an act happening after the commencement of this section that results in a person being charged with an offence.

*Examples—*

- 1 Before the commencement of this section, D is disqualified for an offence under section 79(1). After the commencement and while still disqualified, D drives a motor vehicle while under the influence of liquor, is charged with an offence against section 79(1) and is convicted and again disqualified. Section 90B(3) does not apply to D in relation to the disqualifications.
- 2 D commits an offence against section 79(2A) before the commencement of this section. After the commencement, a court convicts D of the offence and disqualifies him from holding or obtaining a driver licence for 4 months. While disqualified D commits a further offence against section 79(2A) and is again disqualified. Section 90B(3) does not apply to D in relation to the disqualifications.
- 3 Before the commencement of this section, D does an act that results in D being disqualified. After the commencement and while still disqualified, D does an act that results in D committing offences against sections 78(1) and 79(1). A period of disqualification is imposed for each offence. The periods of disqualification are cumulative with each other but take effect concurrently with the period of disqualification that took effect before the commencement of this section.’.