



New South Wales

# Road Transport (Safety and Traffic Management) Amendment (Camera Devices) Bill 1999

## Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

## Overview of Bill

The objects of this Bill are:

- (a) to amend the *Road Transport (Safety and Traffic Management) Act 1999*:
  - (i) to provide for the Governor (rather than the Commissioner of Police) to approve the use of digital camera recording devices in connection with speed measuring devices, and
  - (ii) to enable persons authorised by the Road and Traffic Authority (*the Authority*) to certify that a digital camera recording device was operating correctly when it took a photograph that is being tendered in evidence in proceedings for a speeding offence, and

- (iii) to increase from 84 hours to 168 hours the maximum period within which non-digital speed cameras and certain traffic light cameras must be inspected before a police officer may provide certificate evidence concerning the operation of the cameras, and
- (b) to make consequential amendments to the *Crimes Act 1900* and an amendment in the nature of statute law revision.

## Outline of provisions

**Clause 1** sets out the name (also called the short title) of the proposed Act.

**Clause 2** provides for the commencement of the proposed Act on a day or days to be appointed by proclamation.

**Clause 3** is a formal provision giving effect to the amendments to the *Road Transport (Safety and Traffic Management) Act 1999* set out in Schedule 1.

**Clause 4** is a formal provision giving effect to the amendments to the *Crimes Act 1900* set out in Schedule 2.

## **Schedule 1 Amendment of Road Transport (Safety and Traffic Management) Act 1999**

### **Approved digital camera recording devices**

**Schedule 1 [1]** amends section 45 of the Act to provide for the appropriate approval authority to approve a device as an approved camera recording device by order published in the Gazette. At present, only the Commissioner of Police may do so.

**Schedule 1 [2]** inserts 2 additional subsections in section 45. In particular:

Proposed section 45 (2) defines an *approved digital camera recording device* to be an approved camera recording device that is capable of recording images in the form of digitalised, electronic or computer-generated images.

Proposed section 45 (3) defines an *appropriate approval authority*, in relation to the approval of a device as an approved camera recording device, to be the Governor in the case of a digital camera recording device and the Commissioner of Police for any other kind of camera recording device.

**Schedule 1 [3]** amends section 46 of the Act to enable an appropriate officer, for the purposes of proceedings for an offence involving speeding measured by an approved speed measuring device, to certify certain matters concerning the device. At present, only a police officer may certify such matters. **Schedule 1 [4]** inserts a subsection (3) in section 46 that defines *appropriate officer* to mean:

- (a) in the case of an approved speed measuring device that is used in conjunction with, or forms part of, an approved digital camera recording device—a person (or person belonging to a class of persons) authorised by the Authority to install and inspect approved digital camera recording devices or approved speed recording devices (or both), or
- (b) in any other case—a police officer.

**Schedule 1 [6]** amends section 47 (2) to provide that, in any proceedings for a speeding offence recorded by a photograph, evidence that a photograph taken by an approved digital camera recording device bears a security indicator of a kind prescribed by the regulations is evidence (unless evidence is adduced to the contrary) that the photograph has not been altered since it was taken.

**Schedule 1 [9]** amends section 47 of the Act to facilitate the admission of photographs recorded by an approved digital camera recording device into evidence in proceedings for a speeding offence. In particular, it enables certificate evidence to be given in respect of the operation of a particular approved digital camera recording device by a person (or person belonging to a class of persons) authorised by the Authority to install and inspect such devices. At present, such certificate evidence may only be given by a police officer authorised by the Commissioner of Police. **Schedule 1 [5]** and **[7]** make consequential amendments to section 47.

**Schedule 1 [13]** makes an amendment to the definition of *approved camera recording device* in the Dictionary of the Act that is consequential on the amendment made by Schedule 1 [2].

**Schedule 1 [14]** inserts a definition of *approved digital camera recording device* in the Dictionary of the Act.

### **Inspection periods for certain approved camera recording and detection devices**

At present, section 47 (4) of the *Road Transport (Safety and Traffic Management) Act 1999* enables a police officer, for the purposes of proceedings for a speeding offence photographed by a speed camera, to certify that he or she inspected the camera within 84 hours of the time recorded on the photographs. Section 57 makes similar provision in respect of traffic light cameras.

**Schedule 1 [8]** amends section 47 by increasing the inspection period for non-digital speed cameras to 168 hours. **Schedule 1 [10]** amends section 57 in a similar fashion for traffic light cameras.

### **Savings and transitional matters**

**Schedule 1 [11]** and **[12]** makes provision for matters of a saving or transitional nature consequent on the enactment of Schedule 1 to the proposed Act.

## **Schedule 2 Amendment of Crimes Act 1900**

**Schedule 2 [1]** makes an amendment in the nature of statute law revision to replace a reference to the *Traffic Act 1909* that will become outdated with the repeal of that Act by the *Road Transport Legislation Amendment Act 1999*.

**Schedule 2 [2]–[5]** makes amendments to section 414A of the *Crimes Act 1900* that are consequential on the amendments made by Schedule 1 or savings and transitional in nature.



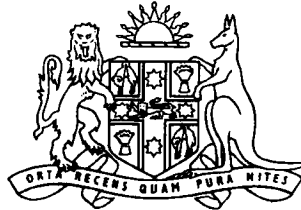
New South Wales

# Road Transport (Safety and Traffic Management) Amendment (Camera Devices) Bill 1999

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New South Wales

# Road Transport (Safety and Traffic Management) Amendment (Camera Devices) Bill 1999

No. , 1999

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## A Bill for

An Act to amend the *Road Transport (Safety and Traffic Management) Act 1999* to make further provision in respect of the use and inspection of certain devices in connection with the recording of speeding and traffic light offences; to make consequential amendments and an amendment in the nature of statute law revision to the *Crimes Act 1900*; and for related purposes.

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<b>The Legislature of New South Wales enacts:</b>	1
<b>1 Name of Act</b>	2
This Act is the <i>Road Transport (Safety and Traffic Management)     Amendment (Camera Devices) Act 1999</i> .	3 4
<b>2 Commencement</b>	5
This Act commences on a day or days to be appointed by proclamation.	6 7
<b>3 Amendment of Road Transport (Safety and Traffic Management) Act 1999 No 20</b>	8 9
The <i>Road Transport (Safety and Traffic Management) Act 1999</i> is amended as set out in Schedule 1.	10 11
<b>4 Amendment of Crimes Act 1900 No 40</b>	12
The <i>Crimes Act 1900</i> is amended as set out in Schedule 2.	13

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<b>Schedule 1</b>	<b>Amendment of Road Transport (Safety and Traffic Management) Act 1999</b>	1
		2
	(Section 3)	3
<b>[1]</b>	<b>Section 45 Approved camera recording devices</b>	4
	Omit “Commissioner of Police”.	5
	Insert instead “appropriate approval authority”.	6
<b>[2]</b>	<b>Section 45 (2) and (3)</b>	7
	Insert at the end of section 45:	8
	(2) In this Act, <i>approved digital camera recording device</i> is an approved camera recording device that is capable of recording images in the form of digitalised, electronic or computer-generated images.	9 10 11 12
	(3) In this section, <i>appropriate approval authority</i> , in relation to the approval of a device as an approved camera recording device, means:	13 14 15
	(a) if the device is only capable of taking photographs that are not in the form of digitalised, electronic or computer-generated images—the Commissioner of Police, or	16 17 18 19
	(b) if the device is capable of taking photographs in the form of digitalised, electronic or computer-generated images—the Governor.	20 21 22
<b>[3]</b>	<b>Section 46 Certificates concerning use of approved speed measuring devices</b>	23 24
	Omit “a police officer” wherever occurring.	25
	Insert instead “an appropriate officer”.	26



Road Transport (Safety and Traffic Management) Amendment (Camera Devices) Bill 1999

Schedule 1      Amendment of Road Transport (Safety and Traffic Management) Act 1999

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<b>[4] Section 46 (3)</b>	1
Insert after section 46 (2):	2
(3) In this section:	3
<i>appropriate officer</i> means:	4
(a) in the case of an approved speed measuring device that is used in conjunction with, or forms part of, an approved digital camera recording device—a person (or person belonging to a class of persons) authorised by the Authority to install and inspect approved digital camera recording devices or approved speed recording devices (or both), or	5 6 7 8 9 10 11
(b) in any other case—a police officer.	12
<b>[5] Section 47 Photographic evidence of speeding offences</b>	13
Omit “subsections (3) and (4)” from section 47 (2) (b).	14
Insert instead “subsections (3)–(5)”.	15
<b>[6] Section 47 (2) (c)</b>	16
Insert after section 47 (2) (b):	17
, and	18
(c) evidence that a photograph taken by an approved digital camera recording device bears a security indicator of a kind prescribed by the regulations is evidence (unless evidence to the contrary is adduced) that the photograph has not been altered since it was taken.	19 20 21 22 23
<b>[7] Section 47 (4)</b>	24
Insert “taken by an approved camera recording device (other than an approved digital camera recording device)” after “photograph” where firstly occurring.	25 26 27
<b>[8] Section 47 (4) (b)</b>	28
Omit “84 hours”. Insert instead “168 hours”.	29

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<b>[9] Section 47 (5) and (6)</b>	1
Insert after section 47 (4):	2
(5) When the photograph tendered in evidence is taken by an approved digital camera recording device, a certificate purporting to be signed by an authorised person and certifying the following particulars is also to be tendered in evidence and is evidence (unless evidence to the contrary is adduced) of those particulars:	3
(a) that the person is an authorised person,	4
(b) that within 30 days (or such other period as may be prescribed by the regulations) before the time and day recorded on the photograph as the time at which and the day on which the photograph was taken, the person carried out the inspection specified in the certificate on the approved digital camera recording device that took the photograph,	5
(c) that on that inspection the approved digital camera recording device was found to be operating correctly.	6
(6) In this section:	7
<i>authorised person</i> means a person (or person belonging to a class of persons) authorised by the Authority to install and inspect approved digital camera recording devices.	8
<b>[10] Section 57 Photographic evidence of traffic light offences</b>	9
Omit “84 hours” from section 57 (3) (b). Insert instead “168 hours”.	10
<b>[11] Schedule 2 Savings, transitional and other provisions</b>	11
Insert at the end of clause 1 (1):	12
<i>Road Transport (Safety and Traffic Management) Amendment (Camera Devices) Act 1999</i>	13
	14

<b>[12] Schedule 2</b>	1
Insert after Part 2:	2
<b>Part 3 Provisions consequent on enactment of Road Transport (Safety and Traffic Management) Amendment (Camera Devices) Act 1999</b>	3 4 5
<b>3 Definitions</b>	6
In this Part:	7
<i>amending Act</i> means the <i>Road Transport (Safety and Traffic Management) Amendment (Camera Devices) Act 1999</i> .	8 9
<b>4 Amendments not to apply to offences occurring before commencement of amendments</b>	10 11
(1) Proceedings for offences committed, or alleged to have been committed, before the commencement of Schedule 1 to the amending Act are to be determined as if the amending Act had not been enacted.	12 13 14 15
(2) Accordingly, the law (including any relevant provision of this Act) that would have been applicable to the proceedings had the amending Act not been enacted continues to apply to the proceedings as if the amending Act had not been enacted.	16 17 18 19
<b>[13] Dictionary</b>	20
Omit “section 45” from the definition of <i>approved camera recording device</i> .	21 22
Insert instead “section 45 (1)”.	23
<b>[14] Dictionary</b>	24
Insert in appropriate alphabetical order:	25
<i>approved digital camera recording device</i> —see section 45 (2).	26

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## Schedule 2 Amendment of Crimes Act 1900

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(Section 4)

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### [1] Section 414A Certificates to be evidence

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Omit “*Traffic Act 1909*” from section 414A (1E) (a).

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Insert instead “*Road Transport (Safety and Traffic Management) Act 1999*”.

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### [2] Section 414A (1E) (b)

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Omit “on the day recorded on the photograph as the day on which the photograph was taken”.

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Insert instead “on a day and at a time specified in the certificate (being within 168 hours before the time recorded on the photograph as the time at which the photograph was taken)”.

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### [3] Section 414A (1F)

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Insert after section 414A (1E):

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(1F) If a photograph taken by an approved digital camera recording device (within the meaning of the *Road Transport (Safety and Traffic Management) Act 1999*) is tendered in evidence in proceedings referred to in subsection (1D), a certificate purporting to be signed by an authorised person (within the meaning of section 47 of that Act) and certifying that:

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(a) the person is an authorised person, and

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(b) on a day and at a time specified in the certificate (being within 30 days or such other period as may be prescribed by the regulations referred to in section 47 (5) (b) of the *Road Transport (Safety and Traffic Management) Act 1999* before the time recorded on the photograph as the time at which the photograph was taken), the person carried out the inspection specified in the certificate on the approved camera recording device that took the photograph, and

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(c)	on that inspection the approved camera recording device was found to be operating correctly,	1 2
	is to be tendered in evidence in those proceedings and is prima facie evidence of the particulars certified in and by the certificate.	3 4 5
<b>[4]</b>	<b>Section 414A (6) (b)</b>	6
	Omit “84 hours”. Insert instead “168 hours”.	7
<b>[5]</b>	<b>Eleventh Schedule Savings and transitional provisions</b>	8
	Insert in the Schedule (with appropriate Part and clause numbers):	9
<b>Part</b>	<b>Road Transport (Safety and Traffic Management) Amendment (Camera Devices) Act 1999</b>	10 11 12
	<b>Application of amendments</b>	13
(1)	Proceedings for offences committed, or alleged to have been committed, before the commencement of Schedule 2 to the <i>Road Transport (Safety and Traffic Management) Amendment (Camera Devices) Act 1999</i> are to be determined as if that Act had not been enacted.	14 15 16 17 18
(2)	Accordingly, the law (including any relevant provision of this Act) that would have been applicable to the proceedings had Schedule 2 to the <i>Road Transport (Safety and Traffic Management) Amendment (Camera Devices) Act 1999</i> not been enacted continues to apply to the proceedings as if that Act had not been enacted.	19 20 21 22 23 24