



New South Wales

# Crimes Amendment (Organised Car and Boat Theft) Bill 2006

## Explanatory note

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

## Overview of Bill

The object of this Bill is to amend the *Crimes Act 1900* as follows:

- (a) to create several new offences relating to theft of motor vehicles and vessels, including an offence of facilitating an organised car or boat rebirthing activity,
- (b) to repeal and re-enact the offence of car stealing, so that it extends to vessels,
- (c) to extend other existing offences relating to stolen motor vehicles or vehicle parts to stolen vessels or vessel parts,
- (d) to make other consequential and ancillary amendments.

This Bill also amends other Acts consequentially.

## 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 that gives effect to the amendments to the *Crimes Act 1900* set out in Schedule 1.

**Clause 4** is a formal provision that gives effect to the amendments to the Acts specified in Schedule 2.

**Clause 5** provides for the repeal of the proposed Act after all the amendments made by the proposed Act have commenced. Once the amendments have commenced the proposed Act will be spent and section 30 of the *Interpretation Act 1987* provides that the repeal of an amending Act does not affect the amendments made by that Act.

## Schedule 1      Amendment of Crimes Act 1900

### New offences relating to car and boat rebirthing activities

**Schedule 1 [4]** repeals the offence of car stealing under section 154AA of the *Crimes Act 1900*. The offence is re-enacted in a new Subdivision that contains a series of new offences relating to the theft of cars, and extends to vessels. **Schedule 1 [9] and [12]** are consequential amendments.

**Schedule 1 [7]** provides for the new Subdivision (proposed sections 154E–154J).

Proposed section 154E sets out the definitions that apply to the new offences, including definitions of *motor vehicle*, *vessel* and *unique identifier*.

*Motor vehicle* is defined in a manner that is consistent with the current definition under section 154AA of the Act (the provisions of which have been transferred to the new Subdivision). *Vessel* has the same meaning as it has in the *Marine Safety Act 1998*.

A *unique identifier* means any numbers, letters, symbols or other identification information:

- (a) marked on or attached to a motor vehicle or vessel, or a part of a motor vehicle or vessel, or
- (b) marked on a thing that is designed to be attached to a motor vehicle or vessel, or a part of the motor vehicle or vessel, or
- (c) stored in electronic form in a part of a motor vehicle or vessel, for the primary purpose of:
- (d) enabling a particular motor vehicle, vessel or part to be distinguished from all other motor vehicles, vessels or parts (including by enabling a part to be identified as a part of a particular motor vehicle or vessel), or
- (e) identifying different motor vehicle or vessel production batches (including by enabling a part to be identified as a part of a motor vehicle or vessel of a particular production batch).

Proposed section 154F replaces the existing offence for stealing a motor vehicle under section 154AA of the *Crimes Act 1900* with a comprehensive offence that applies to both motor vehicles and vessels.

Proposed section 154G provides for the new offence of knowingly facilitating a car or boat rebirthing activity that is carried out on an organised basis. The offence carries a maximum penalty of imprisonment for 14 years. A **car or boat rebirthing activity** is an activity that involves one or more of the following:

- (a) the stealing of a motor vehicle or vessel or the receiving of a stolen motor vehicle or stolen vessel,
- (b) the interference with a motor vehicle or vessel, or a part of a motor vehicle or vessel, or a unique identifier, for the purpose of disguising or concealing the fact that a motor vehicle or vessel, or any part of a motor vehicle or vessel, is stolen,
- (c) the affixing of stolen parts to a motor vehicle or vessel,
- (d) the interference with a unique identifier, being a unique identifier that wholly or partly identifies a motor vehicle or vessel for registration under a law of any jurisdiction, for the purpose of disguising or misrepresenting the identity of a motor vehicle or vessel,
- (e) the registration of a stolen motor vehicle or stolen vessel, or of a motor vehicle or vessel that has had stolen parts affixed to it,
- (f) the supply of, or offering to supply, a stolen motor vehicle or stolen vessel.

What it means to **facilitate** a car or boat rebirthing activity is defined broadly. It includes taking any step that is a part of the activity, providing finance or providing premises used in connection with the activity.

For the purposes of the new offence, a car or boat rebirthing activity is considered to be carried out on an **organised basis** if:

- (a) it is planned, organised, structured or otherwise carried out in such a manner as to indicate that the activity is carried out on more than one occasion and involves more than one participant, and
- (b) it is carried out for profit or gain.

Proposed section 154H contains a number of other new offences relating to improperly interfering with, copying, making or using identification information marked on, attached to, or stored in a motor vehicle or vessel for the purpose of distinguishing it from other motor vehicles or vessels. The offence carries a maximum penalty of imprisonment for 7 years. This offence extends to such conduct as dishonestly making a unique identifier, or knowingly inducing another person to accept information attached to a motor vehicle or vessel as a genuine unique identifier for the motor vehicle or vessel when it is not.

Proposed section 154I contains a new offence of dishonestly having possession of a motor vehicle or vessel, or a part of a motor vehicle or vessel, that has a unique identifier that has been interfered with. It carries a maximum penalty of imprisonment for 5 years.

Proposed section 154J contains a new offence of being in possession of a vehicle identification plate that is not attached to the vehicle to which it relates. It carries a maximum penalty of imprisonment for 5 years.

### **Extension of offences relating to taking of vehicles to vessels**

Section 154C of the *Crimes Act 1900* provides for the offence known as “car-jacking”. The offence involves taking a motor vehicle with assault, or taking a motor vehicle when a person is in it or on it, and carries a maximum penalty of imprisonment for 10 years (or 14 years in circumstances of aggravation). **Schedule 1 [5]** extends this offence to similar conduct involving the taking of a vessel (within the meaning of the *Marine Safety Act 1998*). **Schedule 1 [6]** is a consequential amendment.

Sections 188 and 527C of the *Crimes Act 1900* provide for the offences of receiving or disposing of stolen property, or being in possession of property that may be reasonably suspected to have been stolen. These offences apply to receiving, disposing of or being in possession of a stolen part of a motor vehicle (as well as to receiving, disposing of or being in possession of a stolen motor vehicle). At common law, property in a stolen part of a motor vehicle does not pass to the owner of another vehicle by reason of it being affixed to the vehicle. Accordingly, these offences extend to a situation in which a person receives, disposes of or is in possession of a motor vehicle that has stolen parts attached to it.

If the stolen property is a motor vehicle or motor vehicle part, the maximum penalty for the offence of receiving or disposing of stolen property (under section 188) increases from 10 years imprisonment to 12 years imprisonment. **Schedule 1 [8]** extends this higher penalty to cases where the stolen property is a vessel or part of a vessel (within the meaning of the *Marine Safety Act 1998*). **Schedule 1 [10]** is a consequential amendment.

Under section 527C of the *Crimes Act 1900* (the summary offence of being unlawfully in possession of property that may be reasonably suspected to have been stolen), the maximum penalty for the offence is 6 months imprisonment, or fine of up to \$550, or both. However, a higher maximum penalty of imprisonment for 1 year, or fine of \$1,100, or both, applies if the property concerned is a motor vehicle or motor vehicle part. **Schedule 1 [11]** extends this higher penalty to cases where the property involved is a vessel (within the meaning of the *Marine Safety Act 1998*) or part of a vessel. **Schedule 1 [14]** is a consequential amendment.

**Schedule 1 [1]** removes a definition of *vessel* from the *Crimes Act 1900* that is inconsistent with how vessel is defined in the new provisions. **Schedule 1 [2], [3], [13] and [15]** are consequential amendments.

## **Schedule 2 Consequential amendments**

The amendments to the *Bail Act 1978*, the *Motor Dealers Act 1974* and the *Motor Vehicle Repairs Act 1980* set out in **Schedule 2.1, 2.3 and 2.4** are consequential on the repeal and re-enactment of section 154AA of the *Crimes Act 1900* by **Schedule 1 [4] and [7]**.

Crimes Amendment (Organised Car and Boat Theft) Bill 2006

Explanatory note

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The amendment to the *Criminal Procedure Act 1986* set out in **Schedule 2.2 [1]** ensures that the offence of car stealing which is repealed and re-enacted by the Bill (and extended to vessels) continues to be triable summarily unless the prosecutor or the person charged elects otherwise.

The amendment to the *Criminal Procedure Act 1986* set out in **Schedule 2.2 [2]** ensures that the new offences relating to car and vessel rebirthing in **Schedule 1 [7]** (except the offence of facilitating organised car or boat rebirthing activities) are triable summarily unless the prosecutor elects otherwise.



First print



New South Wales

# Crimes Amendment (Organised Car and Boat Theft) Bill 2006

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New South Wales

# Crimes Amendment (Organised Car and Boat Theft) Bill 2006

No. , 2006

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## A Bill for

An Act to amend the *Crimes Act 1900* to make further provision with respect to theft of motor vehicles and vessels, and their parts; to amend other Acts consequentially; and for other 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>Crimes Amendment (Organised Car and Boat Theft) Act 2006</i> .	3 4
<b>2 Commencement</b>	5
This Act commences on a day or days to be appointed by proclamation.	6
<b>3 Amendment of Crimes Act 1900 No 40</b>	7
The <i>Crimes Act 1900</i> is amended as set out in Schedule 1.	8
<b>4 Consequential amendments</b>	9
The Acts specified in Schedule 2 are amended as set out in that Schedule.	10 11
<b>5 Repeal of Act</b>	12
(1) This Act is repealed on the day following the day on which all of the provisions of this Act have commenced.	13 14
(2) The repeal of this Act does not, because of the operation of section 30 of the <i>Interpretation Act 1987</i> , affect any amendment made by this Act.	15 16

<b>Schedule 1</b>	<b>Amendment of Crimes Act 1900</b>	1
	(Section 3)	2
<b>[1]</b>	<b>Section 4 Definitions</b>	3
	Omit the definition of <i>Vessel</i> from section 4 (1).	4
<b>[2]</b>	<b>Section 114 Being armed with intent to commit indictable offence</b>	5
	Omit “, whether decked or undecked” from section 114 (2).	6
<b>[3]</b>	<b>Section 154A Taking a conveyance without consent of owner</b>	7
	Omit “, whether decked or undecked” from section 154A (2).	8
<b>[4]</b>	<b>Section 154AA Car stealing etc</b>	9
	Omit the section.	10
<b>[5]</b>	<b>Section 154C Taking motor vehicle or vessel with assault or with occupant on board</b>	11
	Insert “or vessel” after “motor vehicle” wherever occurring in section 154C (1).	12
		13
		14
<b>[6]</b>	<b>Section 154C (3)</b>	15
	Insert in alphabetical order:	16
	<i>drive</i> includes operate.	17
	<i>vessel</i> means a vessel within the meaning of the <i>Marine Safety Act 1998</i> .	18
		19
<b>[7]</b>	<b>Part 4, Division 1, Subdivision 5A</b>	20
	Insert after Subdivision 5:	21
	<b>Subdivision 5A Offences relating to theft of motor vehicles and vessels</b>	22
		23
<b>154E</b>	<b>Definitions</b>	24
	(1) In this Subdivision:	25
	<i>interfere</i> with a thing includes alter, deface, remove, obliterate, conceal or add anything to the thing.	26
		27
	<i>motor vehicle</i> means:	28
	(a) a motor vehicle within the meaning of the <i>Road Transport (General) Act 2005</i> (whether or not the vehicle contains the motor intended to form part of it), or	29
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(b)	a motor intended to form part of, or capable of forming part of, any such motor vehicle, or	1 2
(c)	any part of any such motor vehicle containing, or consisting of, an identification plate for a vehicle under the <i>Motor Vehicle Standards Act 1989</i> of the Commonwealth.	3 4 5
	<b>unique identifier</b> means any numbers, letters, symbols or other identification information:	6 7
(a)	marked on or attached to a motor vehicle or vessel, or a part of a motor vehicle or vessel, or	8 9
(b)	marked on a thing that is designed to be attached to a motor vehicle or vessel, or a part of the motor vehicle or vessel, or	10 11
(c)	stored in electronic form in a part of a motor vehicle or vessel,	12 13
	for the primary purpose of:	14
(d)	enabling a particular motor vehicle, vessel or part to be distinguished from all other motor vehicles, vessels or parts (including by enabling a part to be identified as a part of a particular motor vehicle or vessel), or	15 16 17 18
(e)	identifying different motor vehicle or vessel production batches (including by enabling a part to be identified as a part of a motor vehicle or vessel of a particular production batch).	19 20 21 22
	<b>vessel</b> means a vessel within the meaning of the <i>Marine Safety Act 1998</i> .	23 24
(2)	For the purposes of this Subdivision, a <b>part</b> of a motor vehicle or vessel includes a thing (such as a key) manufactured in connection with the motor vehicle or vessel that enables the operation of the motor vehicle or vessel or prevents the unauthorised operation of the motor vehicle or vessel.	25 26 27 28 29
<b>154F</b>	<b>Stealing motor vehicle or vessel</b>	30
	A person who steals a motor vehicle or vessel is guilty of an offence.	31 32
	Maximum penalty: imprisonment for 10 years.	33
<b>154G</b>	<b>Facilitating organised car or boat rebirthing activities</b>	34
(1)	A person who facilitates a car or boat rebirthing activity that is carried out on an organised basis knowing that:	35 36
(a)	it is a car or boat rebirthing activity, and	37

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| (b) it is carried out on an organised basis,                                     | 1  |
| is guilty of an offence.   | 2  |
| Maximum penalty: imprisonment for 14 years.                                      | 3  |
| (2) For the purposes of this section, a <i>car or boat rebirthing activity</i>   | 4  |
| is an activity involving one or more of the following:                           | 5  |
| (a) the stealing of a motor vehicle or vessel or the receiving of                | 6  |
| a stolen motor vehicle or stolen vessel,   | 7  |
| (b) the interference with a motor vehicle or vessel, or a part of                | 8  |
| a motor vehicle or vessel, or a unique identifier, for the                       | 9  |
| purpose of concealing the fact that a motor vehicle or                           | 10 |
| vessel, or any part of a motor vehicle or vessel, is stolen,                     | 11 |
| (c) the affixing of stolen parts to a motor vehicle or vessel,                   | 12 |
| (d) the interference with a unique identifier, being a unique                    | 13 |
| identifier that wholly or partly identifies a motor vehicle or                   | 14 |
| vessel for registration under a law of any jurisdiction, for                     | 15 |
| the purpose of disguising or misrepresenting the identity of                     | 16 |
| a motor vehicle or vessel,   | 17 |
| (e) the registration, in this or any other jurisdiction, of a stolen             | 18 |
| motor vehicle or stolen vessel, or of a motor vehicle or                         | 19 |
| vessel that has had stolen parts affixed to it,                                  | 20 |
| (f) the supply of, or offering to supply, a stolen motor vehicle                 | 21 |
| or stolen vessel.  | 22 |
| (3) A person <i>facilitates</i> a car or boat rebirthing activity if the person: | 23 |
| (a) takes, or participates in, any step, or causes any step to be                | 24 |
| taken, that is part of the activity, or  | 25 |
| (b) provides or arranges finance for any step that is part of the                | 26 |
| activity, or   | 27 |
| (c) provides the premises in which any step that is part of the                  | 28 |
| activity is taken, or allows any step that is part of the                        | 29 |
| activity to be taken in premises of which the person is the                      | 30 |
| owner, lessee or occupier or of which the person has the                         | 31 |
| care, control or management.   | 32 |
| (4) A car or boat rebirthing activity is carried out on an <i>organised</i>      | 33 |
| <i>basis</i> if:   | 34 |
| (a) it is planned, organised, structured or otherwise carried out                | 35 |
| in such a manner as to indicate that the activity is carried                     | 36 |
| out on more than one occasion and involves more than one                         | 37 |
| participant, and   | 38 |
| (b) it is carried out for profit or gain.  | 39 |
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(5)	In proceedings for an offence against this section, for the purpose of proving that an activity was carried out on an organised basis, or that the accused knew it was carried out on an organised basis, it is not necessary to prove:	1 2 3 4
(a)	that the accused knew any of the participants in the activity or that any of the participants knew each other, or	5 6
(b)	that the activity was planned, organised, structured or otherwise carried out under the direction of any particular person or persons or in any hierarchical manner, or	7 8 9
(c)	that the same participants were involved on each occasion on which the activity was carried out.	10 11
<b>154H</b>	<b>Making, using and interfering with unique identifiers</b>	12
(1)	A person who:	13
(a)	dishonestly interferes with, or copies, a unique identifier, or	14 15
(b)	possesses a motor vehicle or vessel, or a part of a motor vehicle or vessel, with the intention of dishonestly interfering with, or copying, a unique identifier, or	16 17 18
(c)	dishonestly makes a unique identifier, or a purported unique identifier, or	19 20
(d)	knowingly induces another person to accept any information attached to a motor vehicle, vessel or a part of a motor vehicle or vessel as a genuine unique identifier for the motor vehicle, vessel or part, when the information is not in fact a genuine unique identifier for that motor vehicle, vessel or part,	21 22 23 24 25 26
	is guilty of an offence.	27
	Maximum penalty: imprisonment for 7 years.	28
(2)	For the purposes of this section, information is <i>attached</i> to a motor vehicle, vessel or a part of a motor vehicle or vessel if it is:	29 30
(a)	marked on or attached to the motor vehicle, vessel or part, or	31 32
(b)	marked on a thing attached to the motor vehicle, vessel or part, or	33 34
(c)	stored in electronic form in a part of the motor vehicle or vessel.	35 36
(3)	In proceedings for an offence against this section, if it is necessary to allege a person knowingly induced another person to accept information attached to a motor vehicle, vessel or a part of	37 38 39

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	a motor vehicle or vessel as a genuine unique identifier for the motor vehicle, vessel or part, it is not necessary to allege that the accused knowingly induced a particular person to accept the information as a genuine unique identifier.	1 2 3 4
(4)	In this section, a reference to inducing a person to accept information attached to a motor vehicle, vessel or a part of a motor vehicle or vessel as a genuine unique identifier includes a reference to causing a computer to respond to the information attached to the motor vehicle, vessel or part as if it were a genuine unique identifier.	5 6 7 8 9 10
(5)	In this section: <i>information</i> includes numbers, letters or symbols.	11 12
<b>154I</b>	<b>Possession of motor vehicle or vessel where unique identifier has been interfered with</b>	13 14
(1)	A person who dishonestly has possession of a motor vehicle or vessel, or a part of a motor vehicle or vessel, a unique identifier of which has been interfered with, is guilty of an offence. Maximum penalty: imprisonment for 5 years.	15 16 17 18
(2)	For the purposes of this section, a person <i>dishonestly</i> has possession of a thing if:	19 20
	(a) the person obtained or received the thing dishonestly, or	21
	(b) the person intends to register, supply or use the thing dishonestly.	22 23
<b>154J</b>	<b>Possession of vehicle identification plate not attached to motor vehicle</b>	24 25
(1)	A person is guilty of an offence if the person, without reasonable excuse, knowingly has possession of a vehicle identification plate not attached to the motor vehicle to which it relates. Maximum penalty: imprisonment for 5 years.	26 27 28 29
(2)	The onus of proof of reasonable excuse in proceedings for an offence against this section lies on the accused.	30 31
(3)	In this section:	32
	<i>motor vehicle</i> means a motor vehicle within the meaning of the <i>Road Transport (General) Act 2005</i> (whether or not the vehicle contains the motor intended to form part of it).	33 34 35
	<i>vehicle identification number</i> means a vehicle identification number allocated to a vehicle in accordance with the national standards under the <i>Motor Vehicle Standards Act 1989</i> of the Commonwealth.	36 37 38 39

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	<i>vehicle identification plate</i> means a plate, label or other thing that has a vehicle identification number on it, is designed to be attached to a motor vehicle and which:	1
		2
		3
	(a) enables the motor vehicle to be identified for the purposes of registration under a law of any jurisdiction, or	4
		5
	(b) includes information relating to the manufacture of the motor vehicle or compliance with the national standards under the <i>Motor Vehicle Standards Act 1989</i> of the Commonwealth.	6
		7
		8
		9
<b>[8]</b>	<b>Section 188 Receiving stolen property where stealing a serious indictable offence</b>	10
		11
	Insert “or a vessel or a vessel part,” after “motor vehicle part,” in section 188 (1) (a).	12
		13
<b>[9]</b>	<b>Section 188 (2)</b>	14
	Omit “section 154AA” from the definition of <i>motor vehicle</i> .	15
	Insert instead “Subdivision 5A”.	16
<b>[10]</b>	<b>Section 188 (2)</b>	17
	Insert in alphabetical order:	18
	<i>vessel</i> means a vessel within the meaning of the <i>Marine Safety Act 1998</i> .	19
		20
<b>[11]</b>	<b>Section 527C Persons unlawfully in possession of property</b>	21
	Insert “or a vessel or a vessel part,” after “motor vehicle part,” in section 527C (1).	22
		23
<b>[12]</b>	<b>Section 527C (3)</b>	24
	Omit “section 154AA” from the definition of <i>motor vehicle</i> .	25
	Insert instead “Subdivision 5A of Division 1 of Part 4”.	26
<b>[13]</b>	<b>Section 527C (3)</b>	27
	Omit “, whether decked or undecked,” from the definition of <i>premises</i> .	28
<b>[14]</b>	<b>Section 527C (3)</b>	29
	Insert in alphabetical order:	30
	<i>vessel</i> means a vessel within the meaning of the <i>Marine Safety Act 1998</i> .	31
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<b>[15] Section 546B Convicted persons found with intent to commit offence</b>	1
Omit “, whether decked or undecked,” from section 546B (2).	2

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<b>Schedule 2</b>	<b>Consequential amendments</b>	1
	(Section 4)	2
<b>2.1</b>	<b>Bail Act 1978 No 161</b>	3
	<b>Section 8C Presumption against bail for certain repeat property offenders</b>	4
	Omit “or 154C” from paragraph (a) of the definition of <i>serious property offence</i> in section 8C (4).	5
	Insert instead “, 154C or 154F”.	6
<b>2.2</b>	<b>Criminal Procedure Act 1986 No 209</b>	7
<b>[1]</b>	<b>Schedule 1 Indictable offences triable summarily</b>	8
	Insert “, 154F” after “154D” in clause 9 in Table 1.	9
<b>[2]</b>	<b>Schedule 1, Table 2, clause 4 Other property offences</b>	10
	Insert “, 154H, 154I or 154J” after “154A”.	11
<b>2.3</b>	<b>Motor Dealers Act 1974 No 52</b>	12
<b>[1]</b>	<b>Section 12 Grounds on which application to be granted or refused</b>	13
	Omit “section 154AA” wherever occurring in section 12 (2) (i) and (4) (k).	14
	Insert instead “Subdivision 5A of Division 1 of Part 4”.	15
<b>[2]</b>	<b>Section 20D Notices to show cause</b>	16
	Omit “section 154AA” wherever occurring in section 20D (1) (d1).	17
	Insert instead “Subdivision 5A of Division 1 of Part 4”.	18
<b>2.4</b>	<b>Motor Vehicle Repairs Act 1980 No 71</b>	19
<b>[1]</b>	<b>Section 18 Refusal of application for licence</b>	20
	Omit “section 154AA” wherever occurring in section 18 (1) (j) and (3) (k).	21
	Insert instead “Subdivision 5A of Division 1 of Part 4”.	22

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<b>[2] Section 42 Grounds on which a licence holder may be dealt with under this Part</b>	1
	2
Omit “section 154AA” wherever occurring in section 42 (1) (f).	3
Insert instead “Subdivision 5A of Division 1 of Part 4”.	4