

Explanatory note

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

Overview of Bill

The objects of this Bill are as follows:

(a) to amend the Road Transport (Safety and Traffic Management) Act 1999 (the Principal Act):

(i) to enable evidence of the average speed of certain heavy vehicles between detection points to be used to establish that speeding offences involving such vehicles have been committed, and

(ii) to provide for the approval of devices for use in obtaining information to calculate the average speeds of such vehicles between detection points and for the use of such information as evidence in proceedings for speeding offences, and

(iii) to provide for an inspection period for approved digital red light camera devices that is consistent with other kinds of approved digital camera devices used to detect traffic offences, and

(iv) to enable a device to be approved for use in detecting more than one kind of traffic offence,

(b) to make consequential amendments to certain other Acts and statutory rules.

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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.

Schedule 1 Amendment of Road Transport (Safety and Traffic Management) Act 1999 No 20

Use of evidence of average speeds of heavy vehicles

Schedule 1 [1] inserts section 43A in the Principal Act to enable a person who brings proceedings for a speeding offence involving a heavy vehicle to rely on evidence of the average speed of the vehicle between detection points as evidence of the actual speed of the vehicle. The proposed section defines a speeding offence to be an offence against the Principal Act or the regulations of failing to obey a speed limit or a speed limiter offence within the meaning of Division 2A of Part 5 of the Principal Act.

The proposed section will apply only in relation to speeding offences involving motor vehicles or trailers with a GVM (Gross Vehicle Mass) greater than 4.5 tonnes. The proposed section sets out a formula for calculating the average speed of such a heavy vehicle between detection points on a road. In cases where there is more than one speed limit applicable to a driver between detection points, the proposed section provides for the calculation of an average speed limit against which the average speed of a vehicle is to be measured.

If there is more than one driver of a heavy vehicle during the same journey, the proposed section holds each driver accountable for the speeding offence except for any particular driver who can establish any exculpatory ground prescribed by the regulations.

The calculation of the average speed or average speed limit for a heavy vehicle between detection points will be based on the shortest practicable distance between the detection points that could be used by a driver of the vehicle without contravening any road rules. The proposed section enables certificate evidence to be given by registered land surveyors (within the meaning of the Surveying Act 2002) concerning such distances.

Approval and use of devices to detect average speeds of heavy

vehicles

Schedule 1 [2] inserts section 47A in the Principal Act to enable the Roads and Traffic Authority, by order published in the Gazette, to approve a device as being designed to photograph a vehicle at a point during its journey between different points on a road for use in calculating the vehicle's average speed between those points and to record certain information on any photograph that it takes. Any such approved device will be an approved average speed detection device for the purposes

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of the Principal Act. Schedule 1 [12] makes a consequential amendment to the Dictionary of the Principal Act.

Schedule 1 [2] also inserts section 47B in the Principal Act to provide for the admission and use of photographs taken by approved average speed detection devices in proceedings in which evidence of an average speed is being relied on to establish a speeding offence.

Schedule 1 [5]–[9] make consequential amendments to sections 69E, 69F and 73A of the Principal Act.

Inspection periods of digital red light cameras

Schedule 1 [3] amends section 57 of the Principal Act to enable the regulations to prescribe the period during which a red traffic light camera (called an approved camera detection device in the Act) must be inspected before an alleged traffic light offence for the purposes of issuing certificate evidence concerning photographs the device has taken.

Schedule 2.7 [2] inserts clause 156D in the Road Transport (Safety and Traffic Management) Regulation 1999 to provide that the prescribed period is 30 days (in the case of a digital camera device) and 168 hours (in the case of a non-digital camera device). The period of 168 hours, which is currently the period specified by section 57, was originally inserted for the purposes of non-digital cameras and is no longer appropriate with the advent of digital cameras.

Approval of devices for multiple traffic offence detection purposes

Schedule 1 [4] inserts Division 4 in Part 4 of the Principal Act. The new Division (which contains a section 57C) will enable the same device to be approved under the Act for the purposes of several provisions of the Act dealing with the approval of devices to detect traffic offences. For example, it will be possible under the proposed section to approve a digital camera device for use as both a red light camera and a speed recording camera if the device is designed to perform both kinds of functions.

Savings and transitional provisions

Schedule 1 [10] amends clause 1 of Schedule 2 to the Principal Act to enable the Governor to make regulations of a savings or transitional nature.

Schedule 1 [11] amends Schedule 2 to the Principal Act to insert a new Part that contains provisions of a savings or transitional nature consequent on the enactment of the proposed Act.

Schedule 2 Consequential amendment of other Acts

and statutory rules

Schedule 2.1 amends section 283 of the Criminal Procedure Act 1986, which deals with the need for, and admissibility of, certain evidentiary matters relating to law enforcement devices. The proposed amendments are consequential on the

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amendments made to the Principal Act concerning the approval and use of evidence from approved average speed detection devices.

Schedule 2.2 amends section 38 of the Fines Act 1996, which deals with the

circumstances in which a person issued with a penalty reminder notice for a vehicle offence detected by an approved camera device is not liable to pay the penalty. The proposed amendment adds offences detected by the use of approved average speed detection devices to the list of devices approved under the Principal Act to which section 38 applies.

Schedule 2.3 amends rule 20 of the Road Rules 2008 to add a note to the rule indicating that proposed section 43A (to be inserted by Schedule 1 [1] to the proposed Act) will enable the use of average speeds and average speed limits to be used in proceedings for offences against the rule that involve heavy vehicles to which the proposed section will apply.

Schedule 2.4 amends the Road Transport (Driver Licensing) Regulation 2008 to provide for additional demerit points to be allocated for certain offences against the Road Rules 2008 committed in an average speed detection zone. An average speed detection zone is defined to mean a length of road to which an average speed detection zone sign applies, being a length of road beginning at an average speed detection zone sign and ending 300 metres along the length of road in the direction driven by a driver on the road who faces the sign before passing it. The object of the amendments is to discourage certain contraventions of the Road Rules 2008 in order to avoid approved average speed detection devices. The amendments are consistent with the allocation of demerit points in connection with the commission of such offences in Safe-T-Cam zones.

Schedule 2.5 amends section 179 of the Road Transport (General) Act 2005 to expand the enforcement provisions in that section so that the provisions will also apply to a speeding offence detected by use of an average speed obtained from information gathered from approved average speed detection devices. Section 179 provides for the responsible person for a vehicle to be held responsible for camera recorded offences unless the person discloses who the actual offender was by means of a statutory declaration.

Schedule 2.6 amends the Road Transport (General) Regulation 2005 to provide for additional amounts for penalty notices issued for certain offences against the Road Rules 2008 committed in an average speed detection zone. The amendments are consistent with the amendments made to the Road Transport (Driver Licensing) Regulation 2008 by Schedule 2.4.

Schedule 2.7:

(a) amends clause 156B of the Road Transport (Safety and Traffic Management) Regulation 1999 to prescribe security indicators for photographs taken by approved average speed detection devices, and

(b) inserts clause 156D in the Regulation for the purpose described above in connection with the amendment made by Schedule 1 [3], and

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(c) inserts clause 160A in the Regulation to provide for a ground of exculpation for a driver for the purposes of proposed section 43A (3) of the Principal Act if another driver has been held responsible for the speeding offence and a statutory declaration made by the driver seeking exculpation concerning the matter is provided to the State Debt Recovery Office.