

FIRST PRINT

**MOTOR TRAFFIC (PHOTOGRAPHIC EVIDENCE)
AMENDMENT BILL 1986**

NEW SOUTH WALES



EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

The Crimes (Photographic Evidence) Amendment Bill 1986 is cognate with this Bill.

The object of this Bill is to amend the Motor Traffic Act 1909 to facilitate the prosecution of offenders who disobey a red traffic light signal where the offence is detected by a camera detection device.

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides that the proposed Act will, with minor exceptions, commence on a day to be appointed by the Governor-in-Council.

Clause 3 is a formal provision that gives effect to the Schedule of amendments.

Schedule 1 (1) inserts into section 2 of the Principal Act a definition of an "Approved camera detection device". That device is one which is of a type approved by the Commissioner of Police by order published in the Gazette as being designed to photograph any contravention of a red traffic light and to record details of that contravention.

Schedule 1 (2) inserts into the Principal Act proposed section 4DA which deals with photographic evidence of a contravention of a red traffic light. The proposed section provides that, in proceedings relating to such a contravention—

- (a) unless evidence is given to the contrary, a photograph tendered as having been taken by an approved camera detection device shall be deemed to have been so taken;
- (b) a photograph deemed to have been so taken shall be prima facie evidence of the matters shown or recorded on the photograph;
- (c) no evidence shall be required of the condition of the camera device concerned unless evidence is adduced to the contrary; and
- (d) a certificate relating to an inspection of the approved camera detection device within 48 hours before the time of the contravention shall be tendered in evidence.

Schedule 1 (3) amends section 18A of the Principal Act (which currently imposes liability for a parking offence on the owner of the vehicle). The section, as amended, will also impose on the owner of a vehicle liability for a camera-detected traffic light offence. As is currently the case with parking offences, the owner will avoid liability if able to show that he or she was not the offender. But, in the case of a camera-detected traffic light offence, the owner will be obliged to give details of the actual offender, if able to do so.

MOTOR TRAFFIC (PHOTOGRAPHIC EVIDENCE) AMENDMENT BILL 1986

NEW SOUTH WALES



TABLE OF PROVISIONS

1. Short title
2. Commencement
3. Amendment of Act No. 5, 1909

SCHEDULE 1—AMENDMENTS TO THE MOTOR TRAFFIC ACT 1909



**MOTOR TRAFFIC (PHOTOGRAPHIC EVIDENCE)
AMENDMENT BILL 1986**

NEW SOUTH WALES



No. , 1986

A BILL FOR

An Act to amend the Motor Traffic Act 1909 with respect to the offence of disobeying a red traffic light signal where the offence is detected by a camera detection device.

See also Crimes (Photographic Evidence) Amendment Bill 1986.

Motor Traffic (Photographic Evidence) Amendment 1986

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:

5 Short title

1. This Act may be cited as the "Motor Traffic (Photographic Evidence) Amendment Act 1986".

Commencement

2. (1) Sections 1 and 2 shall commence on the date of assent to this
10 Act.

(2) Except as provided by subsection (1), this Act shall commence on such day as may be appointed by the Governor and notified by proclamation published in the Gazette.

Amendment of Act No. 5, 1909

15 3. The Motor Traffic Act 1909 is amended in the manner set forth in Schedule 1.

SCHEDULE 1

(Sec. 3)

AMENDMENTS TO THE MOTOR TRAFFIC ACT 1909

20 (1) Section 2 (Definitions)—

Section 2 (1), definition of "Approved camera detection device"—

After the definition of "Analyst", insert:

25 "Approved camera detection device" means a device of a type approved by the Commissioner of Police by order published in the Gazette as being designed to take a photograph of a motor vehicle which is driven in contravention of a traffic control light signal displaying a red circle or a red arrow and to record on the photograph—

30 (a) the date on which the photograph is taken;

SCHEDULE 1—*continued*AMENDMENTS TO THE MOTOR TRAFFIC ACT 1909—*continued*

- (b) the time and location at which the photograph is taken;
- (c) the direction and lane in which the motor vehicle activating the camera is travelling; and
- 5 (d) the interval during which the red circle or red arrow has been continuously displayed immediately before the photograph is taken.

(2) Section 4DA—

After section 4D, insert:

Photographic evidence of traffic light offences

10 4DA. (1) In this section—

“traffic control sign” has the same meaning as it has in section 4D;

15 “traffic light offence” means an offence under the regulations of disobeying or failing to comply with a direction of a traffic control sign in the form of a traffic control light signal erected by authority of the Traffic Authority and displaying a red circle or a red arrow.

(2) In proceedings for a traffic light offence—

20 (a) a photograph tendered in evidence as a photograph taken by means of the operation, on a specified day, of an approved camera detection device installed at a specified location shall be deemed to have been so taken unless evidence is adduced to the contrary;

25 (b) a photograph deemed to have been so taken shall be prima facie evidence of the matters shown or recorded on the photograph; and

*Motor Traffic (Photographic Evidence) Amendment 1986*SCHEDULE 1—*continued*AMENDMENTS TO THE MOTOR TRAFFIC ACT 1909—*continued*

(c) evidence of the condition of the approved camera detection device shall not be required unless evidence that the device was not in proper condition has been adduced.

5 (3) If a photograph referred to in subsection (2) is tendered in evidence in proceedings for a traffic light offence, a certificate purporting to be signed by a member of the police force certifying that—

(a) the member is authorised by the Commissioner of Police to install and inspect approved camera detection devices;

10 (b) on a day and at a time specified in the certificate (being within 48 hours before the time recorded on the photograph as the time at which the photograph was taken), the member carried out the inspection specified in the certificate on the approved camera detection device by means of which the photograph was taken; and

15 (c) upon that inspection, the approved camera detection device was found to be properly operating,

shall be tendered in evidence in those proceedings and shall be prima facie evidence of the particulars certified in and by the certificate.

(3) Section 18A (**Liability of motor vehicle owner for certain offences**)—

(a) Section 18A (1), (2), (4A)—

Omit “parking offence” wherever occurring, insert instead “designated offence”.

25 (b) Section 18A (3)—

Omit “an offence”, insert instead “a parking offence”.

(c) Section 18A (3A)–(3E)—

After section 18A (3), insert:

(3A) A person who—

30 (a) is served with a notice under section 18B, or a summons, in respect of a camera-detected traffic light offence; and

*Motor Traffic (Photographic Evidence) Amendment 1986*SCHEDULE 1—*continued*AMENDMENTS TO THE MOTOR TRAFFIC ACT 1909—*continued*

(b) was not the driver of the vehicle to which the offence relates at the time the offence occurred,

5 shall, within 21 days after service of the notice or summons, supply by statutory declaration to the prescribed officer under section 18B (in the case of a notice) or the informant (in the case of a summons) the name and address of the person who was in charge of the vehicle at the time the offence occurred.

(3B) A person who fails to comply with subsection (3A) is guilty of an offence under this Act unless the person satisfies—

- 10 (a) in the case of a notice—the prescribed officer;
- (b) in the case of a summons—the court dealing with the camera-detected traffic light offence; or
- (c) in either case—the court dealing with the offence of failing to comply with subsection (3A),

15 that he or she did not know and could not with reasonable diligence have ascertained that name and address.

20 (3C) A person who, in a statutory declaration supplied under subsection (3A), falsely nominates another person as the person who was in charge of the vehicle at the time the offence occurred is guilty of an offence under this Act.

(3D) Any person who is guilty of an offence by virtue of subsection (3B) or (3C) shall be liable—

- 25 (a) if the offence relates to a motor vehicle registered otherwise than in the name of a natural person—to a penalty not exceeding \$1,000; or
- (b) in any other case—to a penalty not exceeding \$500.

30 (3E) A person who is served with a notice under section 18B, or a summons, in respect of a camera-detected traffic light offence shall not by virtue of this section be guilty of that offence if the person—

- (a) complies with subsection (3A) in relation to the offence; or

SCHEDULE 1—*continued*AMENDMENTS TO THE MOTOR TRAFFIC ACT 1909—*continued*

(b) satisfies the prescribed officer (in the case of a notice) or the court (in the case of a summons) that he or she did not know and could not with reasonable diligence have ascertained the name and address of the person who was in charge of the vehicle at the time the offence occurred.

(d) Section 18A (4)—

Omit the subsection, insert instead:

(4) A statutory declaration under subsection (3) or (3A), if produced in any proceedings against the person named in the declaration and in respect of the designated offence concerned, shall be prima facie evidence—

(a) in the case of a statutory declaration relating to a parking offence—that the person was in charge of the vehicle at all relevant times relating to the parking offence; or

(b) in the case of a statutory declaration relating to a camera-detected traffic light offence—that the person was the driver of the vehicle at the time the offence occurred.

(e) Section 18A (4A)—

After “subsection (3)”, insert “or (3A)” .

(f) Section 18A (5), definitions of “Camera-detected traffic light offence”, “Designated offence”—

Before the definition of “Owner”, insert:

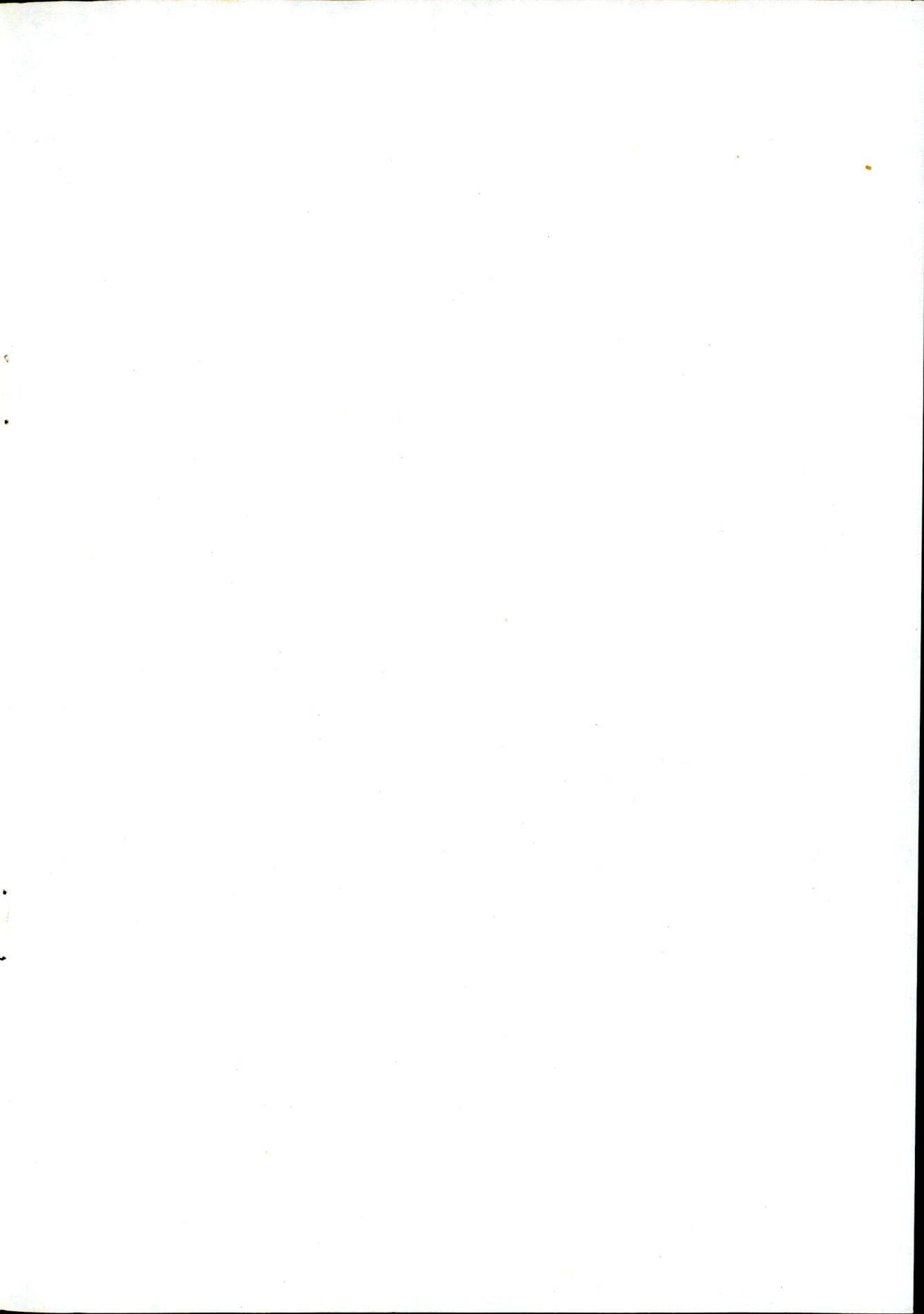
“Camera-detected traffic light offence” means a traffic light offence as defined in section 4DA in respect of which—

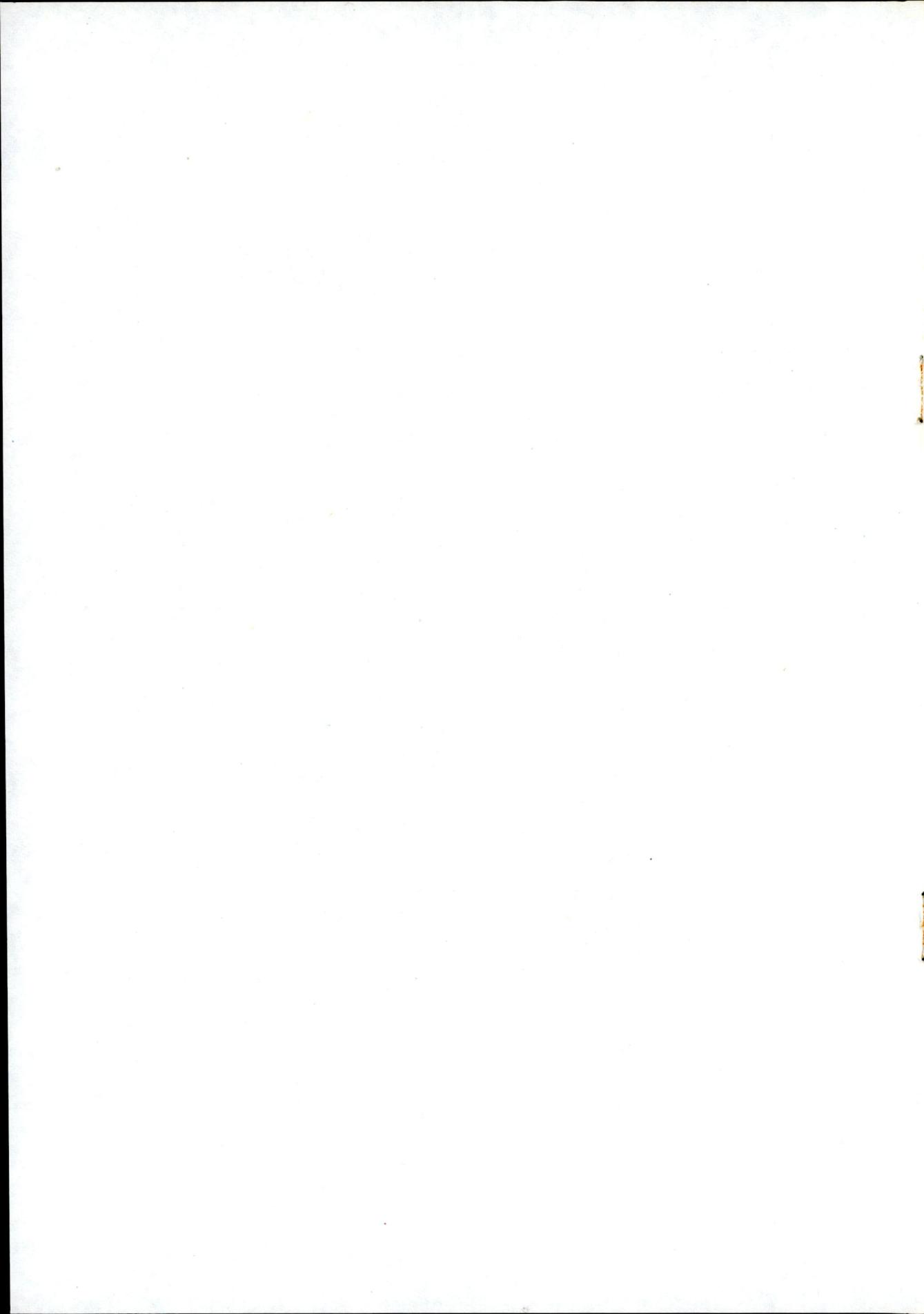
(a) the notice under section 18B; or

(b) the summons,

indicates that the offence was detected by an approved camera detection device.

“Designated offence” means a camera-detected traffic light offence or a parking offence.





**MOTOR TRAFFIC (PHOTOGRAPHIC EVIDENCE)
AMENDMENT ACT 1986 No. 161**

NEW SOUTH WALES



TABLE OF PROVISIONS

1. Short title
2. Commencement
3. Amendment of Act No. 5, 1909

SCHEDULE 1—AMENDMENTS TO THE MOTOR TRAFFIC ACT 1909

**MOTOR TRAFFIC (PHOTOGRAPHIC EVIDENCE) AMENDMENT
ACT 1986 No. 161**

NEW SOUTH WALES



Act No. 161, 1986

An Act to amend the Motor Traffic Act 1909 with respect to the offence of disobeying a red traffic light signal where the offence is detected by a camera detection device. [Assented to 17 December 1986]

See also Crimes (Photographic Evidence) Amendment Act 1986.

Motor Traffic (Photographic Evidence) Amendment 1986

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:

Short title

1. This Act may be cited as the "Motor Traffic (Photographic Evidence) Amendment Act 1986".

Commencement

2. (1) Sections 1 and 2 shall commence on the date of assent to this Act.

(2) Except as provided by subsection (1), this Act shall commence on such day as may be appointed by the Governor and notified by proclamation published in the Gazette.

Amendment of Act No. 5, 1909

3. The Motor Traffic Act 1909 is amended in the manner set forth in Schedule 1.

SCHEDULE 1

(Sec. 3)

AMENDMENTS TO THE MOTOR TRAFFIC ACT 1909

(1) Section 2 (**Definitions**)—

Section 2 (1), definition of "Approved camera detection device"—

After the definition of "Analyst", insert:

"Approved camera detection device" means a device of a type approved by the Commissioner of Police by order published in the Gazette as being designed to take a photograph of a motor vehicle which is driven in contravention of a traffic control light signal displaying a red circle or a red arrow and to record on the photograph—

(a) the date on which the photograph is taken;

Motor Traffic (Photographic Evidence) Amendment 1986

SCHEDULE 1—*continued*

AMENDMENTS TO THE MOTOR TRAFFIC ACT 1909—*continued*

- (b) the time and location at which the photograph is taken;
- (c) the direction and lane in which the motor vehicle activating the camera is travelling; and
- (d) the interval during which the red circle or red arrow has been continuously displayed immediately before the photograph is taken.

(2) Section 4DA—

After section 4D, insert:

Photographic evidence of traffic light offences

4DA. (1) In this section—

“traffic control sign” has the same meaning as it has in section 4D;

“traffic light offence” means an offence under the regulations of disobeying or failing to comply with a direction of a traffic control sign in the form of a traffic control light signal erected by authority of the Traffic Authority and displaying a red circle or a red arrow.

(2) In proceedings for a traffic light offence—

- (a) a photograph tendered in evidence as a photograph taken by means of the operation, on a specified day, of an approved camera detection device installed at a specified location shall be deemed to have been so taken unless evidence is adduced to the contrary;
- (b) a photograph deemed to have been so taken shall be prima facie evidence of the matters shown or recorded on the photograph; and

*Motor Traffic (Photographic Evidence) Amendment 1986*SCHEDULE 1—*continued*AMENDMENTS TO THE MOTOR TRAFFIC ACT 1909—*continued*

- (c) evidence of the condition of the approved camera detection device shall not be required unless evidence that the device was not in proper condition has been adduced.

(3) If a photograph referred to in subsection (2) is tendered in evidence in proceedings for a traffic light offence, a certificate purporting to be signed by a member of the police force certifying that—

- (a) the member is authorised by the Commissioner of Police to install and inspect approved camera detection devices;
- (b) on a day and at a time specified in the certificate (being within 48 hours before the time recorded on the photograph as the time at which the photograph was taken), the member carried out the inspection specified in the certificate on the approved camera detection device by means of which the photograph was taken; and
- (c) upon that inspection, the approved camera detection device was found to be properly operating,

shall be tendered in evidence in those proceedings and shall be prima facie evidence of the particulars certified in and by the certificate.

(3) Section 18A (**Liability of motor vehicle owner for certain offences**)—

- (a) Section 18A (1), (2), (4A)—

Omit “parking offence” wherever occurring, insert instead “designated offence”.

- (b) Section 18A (3)—

Omit “an offence”, insert instead “a parking offence”.

- (c) Section 18A (3A)–(3E)—

After section 18A (3), insert:

- (3A) A person who—

- (a) is served with a notice under section 18B, or a summons, in respect of a camera-detected traffic light offence; and

Motor Traffic (Photographic Evidence) Amendment 1986

SCHEDULE 1—*continued*

AMENDMENTS TO THE MOTOR TRAFFIC ACT 1909—*continued*

- (b) was not the driver of the vehicle to which the offence relates at the time the offence occurred,

shall, within 21 days after service of the notice or summons, supply by statutory declaration to the prescribed officer under section 18B (in the case of a notice) or the informant (in the case of a summons) the name and address of the person who was in charge of the vehicle at the time the offence occurred.

(3B) A person who fails to comply with subsection (3A) is guilty of an offence under this Act unless the person satisfies—

- (a) in the case of a notice—the prescribed officer;
- (b) in the case of a summons—the court dealing with the camera-detected traffic light offence; or
- (c) in either case—the court dealing with the offence of failing to comply with subsection (3A),

that he or she did not know and could not with reasonable diligence have ascertained that name and address.

(3C) A person who, in a statutory declaration supplied under subsection (3A), falsely nominates another person as the person who was in charge of the vehicle at the time the offence occurred is guilty of an offence under this Act.

(3D) Any person who is guilty of an offence by virtue of subsection (3B) or (3C) shall be liable—

- (a) if the offence relates to a motor vehicle registered otherwise than in the name of a natural person—to a penalty not exceeding \$1,000; or
- (b) in any other case—to a penalty not exceeding \$500.

(3E) A person who is served with a notice under section 18B, or a summons, in respect of a camera-detected traffic light offence shall not by virtue of this section be guilty of that offence if the person—

- (a) complies with subsection (3A) in relation to the offence; or

Motor Traffic (Photographic Evidence) Amendment 1986

SCHEDULE 1—*continued*

AMENDMENTS TO THE MOTOR TRAFFIC ACT 1909—*continued*

- (b) satisfies the prescribed officer (in the case of a notice) or the court (in the case of a summons) that he or she did not know and could not with reasonable diligence have ascertained the name and address of the person who was in charge of the vehicle at the time the offence occurred.
- (d) Section 18A (4)—
Omit the subsection, insert instead:
- (4) A statutory declaration under subsection (3) or (3A), if produced in any proceedings against the person named in the declaration and in respect of the designated offence concerned, shall be prima facie evidence—
- (a) in the case of a statutory declaration relating to a parking offence—that the person was in charge of the vehicle at all relevant times relating to the parking offence; or
- (b) in the case of a statutory declaration relating to a camera-detected traffic light offence—that the person was the driver of the vehicle at the time the offence occurred.
- (e) Section 18A (4A)—
After “subsection (3)”, insert “or (3A)”.
- (f) Section 18A (5), definitions of “Camera-detected traffic light offence”, “Designated offence”—
Before the definition of “Owner”, insert:
- “Camera-detected traffic light offence” means a traffic light offence as defined in section 4DA in respect of which—
- (a) the notice under section 18B; or
- (b) the summons,
- indicates that the offence was detected by an approved camera detection device.

Motor Traffic (Photographic Evidence) Amendment 1986

SCHEDULE 1—*continued*

AMENDMENTS TO THE MOTOR TRAFFIC ACT 1909—*continued*

“Designated offence” means a camera-detected traffic light offence or a parking offence.

