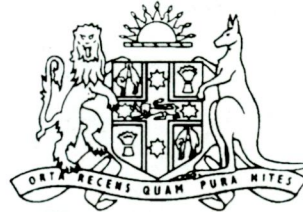


Introduced by Mr P B Gibson, MP

First print



New South Wales

Traffic Amendment (Learner Driver Supervisors) Bill 1996

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 *Traffic Act 1909* so that supervisors accompanying learner drivers:

- (a) will have their blood tested for the presence of alcohol if they attend or are admitted to hospital as a result of an accident on a public street involving a motor vehicle driven under their supervision, and
 - (b) will be subject to the .02 blood alcohol limit if they would be subject to that limit were they driving the vehicle whose driver they are accompanying.
-

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 proclaimed day or days.

Clause 3 is a formal provision giving effect to the amendments to the *Traffic Act 1909* set out in Schedules 1–3.

Schedule 1 Amendments relating to blood tests

Schedule 1 [1] provides that, for the purpose of allowing mandatory blood samples to be taken at a hospital under section 4F from a person who is a supervisor of a learner driver, the qualification that a supervisor needs to be the holder of a driver's licence is met if the person is accompanying the learner in accordance with a requirement of the regulations under the Act.

Schedule 1 [2] inserts the conjunction “or” in section 4F (2) (a)–(c) as a consequential amendment.

Schedule 1 [3] extends to a supervisor accompanying a learner driver the scheme of section 4F requiring the taking of blood samples from persons admitted into a hospital for examination or treatment as a result of an accident on a public street involving a motor or other vehicle or a horse.

Schedule 1 [4] exempts a person from prosecution for the offence of being a supervisor who accompanies a learner driver driving a motor vehicle while the supervisor is under the influence of alcohol (which does not require proof of the presence of a specific concentration of alcohol in the supervisor's blood) if the supervisor has had a sample of blood taken under section 4F in respect of the same occasion of driving.

Schedule 2 Amendments relating to blood alcohol levels

Schedule 2 [1] introduces the term *special category supervisor*. The term includes a person under 25 years of age who accompanies a learner driver of any motor vehicle (unless the person has held a driver's licence for 3 years or more) and a person who accompanies a learner driver of a public passenger vehicle, coach or heavy motor vehicle, or who accompanies a learner driver of certain vehicles carrying dangerous goods or a vehicle carrying radioactive substances.

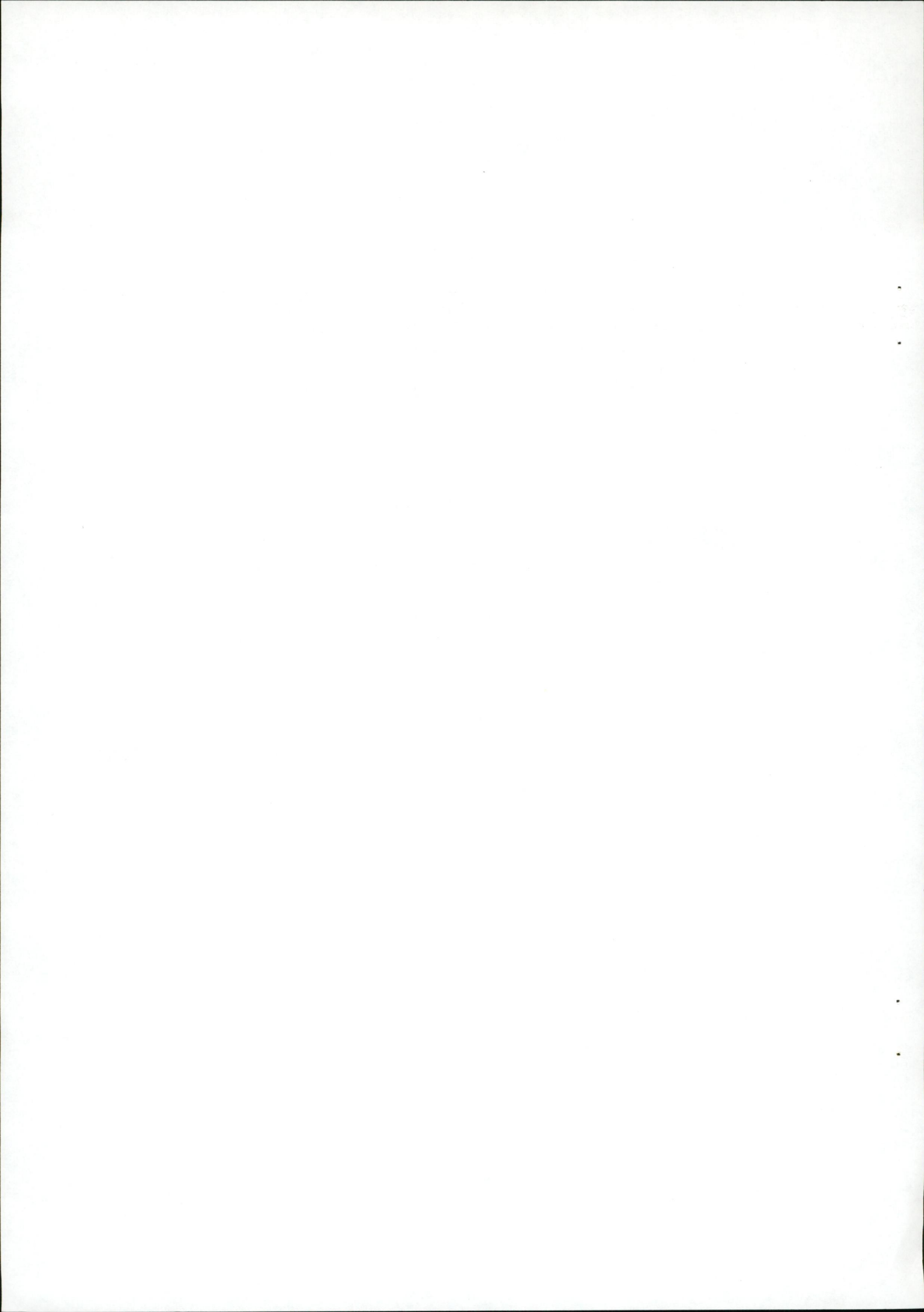
Schedule 2 [2] creates an offence if a special category supervisor who holds a driver's licence occupies the seat in a motor vehicle next to a holder of a learner's licence who is driving the vehicle while there is present in the blood of the supervisor a concentration of alcohol of 0.02 grammes or more, but less than 0.05 grammes, per 100 millilitres of blood.

Schedule 2 [3] updates a cross-reference as a consequential amendment.

Schedule 3 Transitional amendment

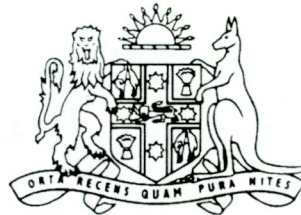
Schedule 3 provides that amendments made by the proposed Act do not apply in respect of accidents that occur, or any supervision of a learner driver that occurs, before the amendments commence.

The Schedule also provides for references in the Act to section 4E (1D) to be read as references to that section as in force before or after its replacement by the proposed Act.



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New South Wales

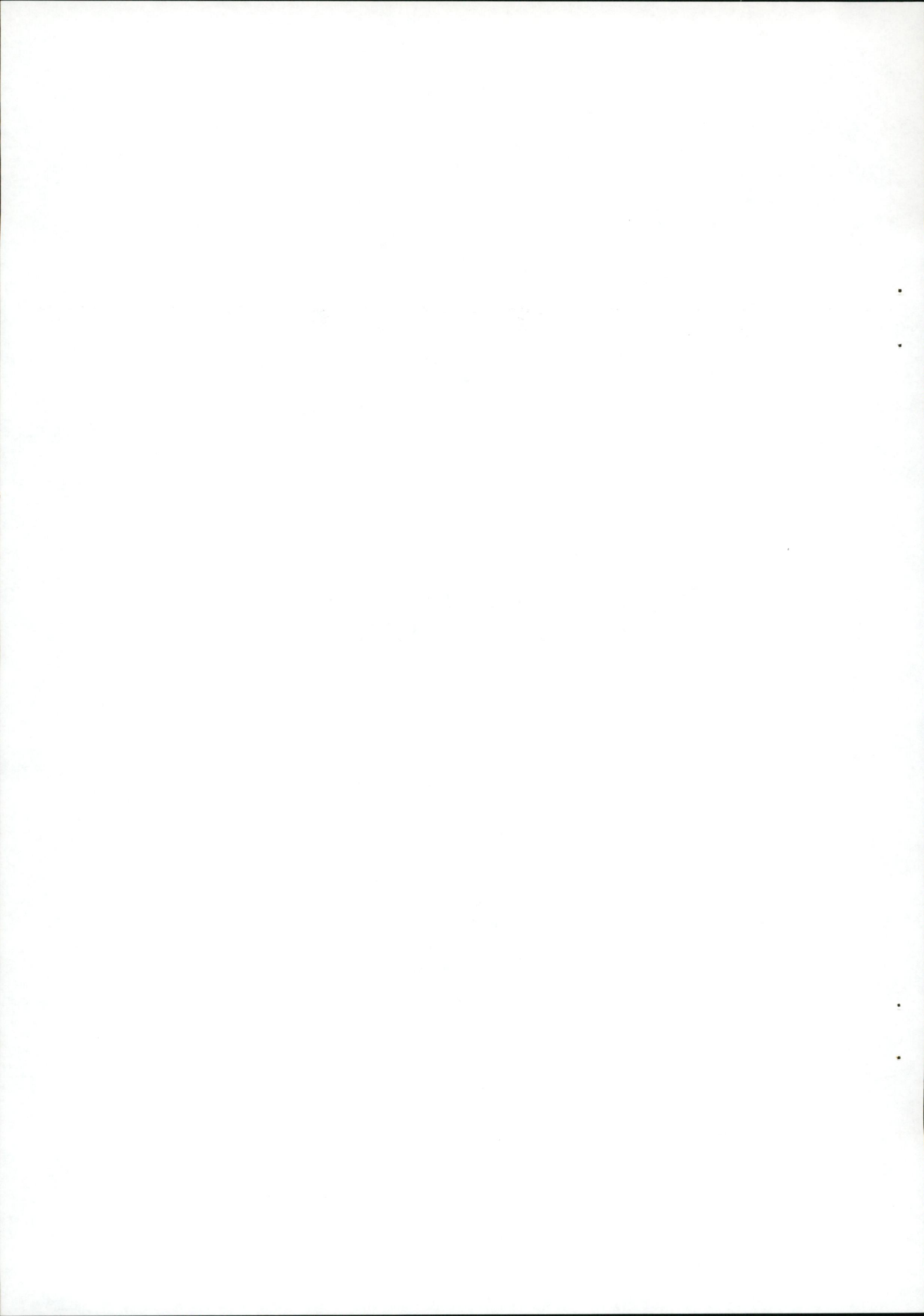
Traffic Amendment (Learner Driver Supervisors) Bill 1996

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New South Wales

Traffic Amendment (Learner Driver Supervisors) Bill 1996

No. , 1996

A Bill for

An Act to amend the *Traffic Act 1909* to extend certain requirements relating to drivers of motor vehicles to supervisors of learner drivers; and to make consequential provisions.

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Traffic Amendment (Learner Driver Supervisors) Act 1996*.

2 Commencement

5

This Act commences on a day or days to be appointed by proclamation.

3 Amendment of Traffic Act 1909 No 5

The *Traffic Act 1909* is amended as set out in Schedules 1–3.

Schedule 1 Amendments relating to blood tests

(Section 3)

[1] Section 2 Definitions

Omit "sections 4E and 5" from section 2 (4).
Insert instead "sections 4E, 4F and 5".

5

[2] Section 4F Blood samples to be taken in certain cases

Insert "or" at the end of section 4F (2) (a), (b) and (c).

[3] Section 4F (2) (f)

At the end of section 4F (2) (e), insert:

, or

10

- (f) the holder of a driver's licence and occupying the seat in the motor vehicle next to a holder of a learner's licence who was driving a motor vehicle involved in the accident.

[4] Section 4F (10)

15

Omit the subsection. Insert instead:

- (10) A person who has had a sample of blood taken in accordance with this section because of an accident is not to be charged with an offence under section 5 (2) if it is alleged as a component of the offence that the person was under the influence of alcohol and the offence relates to the same accident.

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Schedule 2 Amendments relating to blood alcohol levels

(Section 3)

- [1] **Section 4E Prescribed concentration of alcohol in person's blood** 5
- Insert after section 4E (1B):
- (1C) For the purposes of this section, a person is a *special category supervisor* in respect of a motor vehicle if, were the person driving the motor vehicle, the person would be a special category driver in respect of the motor vehicle. 10
- [2] **Section 4E (1D)**
- Omit the subsection. Insert instead:
- (1D) Any person who, while there is present in the person's blood the special range prescribed concentration of alcohol: 15
- (a) being a special category driver in respect of the motor vehicle, drives a motor vehicle, or
- (b) being a special category driver in respect of the motor vehicle, occupies the driving seat of a motor vehicle and attempts to put the motor vehicle in motion, or 20
- (c) being a special category supervisor in respect of the motor vehicle and the holder of a driver's licence, occupies the seat in a motor vehicle next to a holder of a learner's licence who is driving the vehicle, 25
- is guilty of an offence under this Act and is liable:
- (d) in the case of a first offence—to a penalty not exceeding 5 penalty units, or 30

- (e) in the case of a second or subsequent offence—to a penalty not exceeding 10 penalty units.

[3] Section 4E (1K) (a1)

Omit “subsection (1D) (a) or (b)”.

Insert instead “subsection (1D) (a), (b) or (c)”.

5

Schedule 3 Transitional amendment

(Section 3)

Schedule 1, Part 3

Insert after Part 2:

Part 3 Provisions consequent on the enactment of the Traffic Amendment (Learner Driver Supervisors) Act 1996 5

8 Transitional provisions

- (1) In this clause, *the amending Act* means the *Traffic Amendment (Learner Driver Supervisors) Act 1996*. 10
- (2) An amendment made by Schedule 1 to the amending Act does not apply in respect of an accident involving a motor vehicle that occurs before the amendment commences.
- (3) An amendment made by Schedule 2 to the amending Act does not apply in respect of a person accompanying the driver of a motor vehicle before the amendment commences. 15
- (4) References in this Act to section 4E (1D) are taken to be references to that subsection as in force before or after its repeal and re-enactment by the amending Act. 20



New South Wales

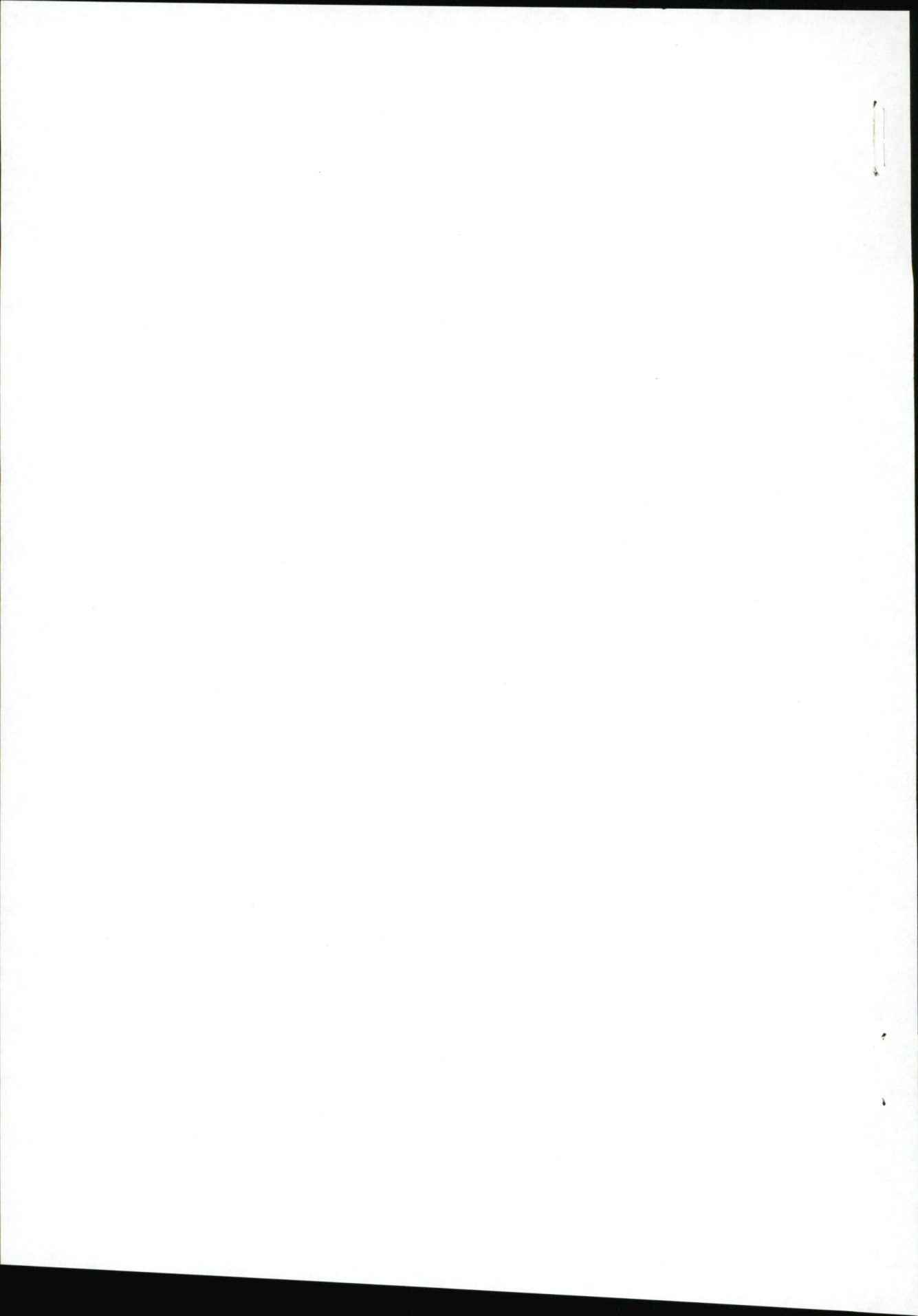
Traffic Amendment (Learner Driver Supervisors) Act 1996 No 75

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New South Wales

Traffic Amendment (Learner Driver Supervisors) Act 1996 No 75

Act No 75, 1996

An Act to amend the *Traffic Act 1909* to extend certain requirements relating to drivers of motor vehicles to supervisors of learner drivers; and to make consequential provisions. [Assented to 22 October 1996]

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Traffic Amendment (Learner Driver Supervisors) Act 1996*.

2 Commencement

This Act commences on a day or days to be appointed by proclamation.

3 Amendment of Traffic Act 1909 No 5

The *Traffic Act 1909* is amended as set out in Schedules 1-3.

Schedule 1 Amendments relating to blood tests

(Section 3)

[1] Section 2 Definitions

Omit "sections 4E and 5" from section 2 (4).
Insert instead "sections 4E, 4F and 5".

[2] Section 4F Blood samples to be taken in certain cases

Insert "or" at the end of section 4F (2) (a), (b) and (c).

[3] Section 4F (2) (f)

At the end of section 4F (2) (e), insert:

, or

- (f) the holder of a driver's licence and occupying the seat in the motor vehicle next to a holder of a learner's licence who was driving a motor vehicle involved in the accident.

[4] Section 4F (10)

Omit the subsection. Insert instead:

- (10) A person who has had a sample of blood taken in accordance with this section because of an accident is not to be charged with an offence under section 5 (2) if it is alleged as a component of the offence that the person was under the influence of alcohol and the offence relates to the same accident.

Schedule 2 Amendments relating to blood alcohol levels

(Section 3)

[1] Section 4E Prescribed concentration of alcohol in person's blood

Insert after section 4E (1B):

- (1C) For the purposes of this section, a person is a *special category supervisor* in respect of a motor vehicle if, were the person driving the motor vehicle, the person would be a special category driver in respect of the motor vehicle.

[2] Section 4E (1D)

Omit the subsection. Insert instead:

- (1D) Any person who, while there is present in the person's blood the special range prescribed concentration of alcohol:

- (a) being a special category driver in respect of the motor vehicle, drives a motor vehicle, or
- (b) being a special category driver in respect of the motor vehicle, occupies the driving seat of a motor vehicle and attempts to put the motor vehicle in motion, or
- (c) being a special category supervisor in respect of the motor vehicle and the holder of a driver's licence, occupies the seat in a motor vehicle next to a holder of a learner's licence who is driving the vehicle,

is guilty of an offence under this Act and is liable:

- (d) in the case of a first offence—to a penalty not exceeding 5 penalty units, or

- (e) in the case of a second or subsequent offence—to a penalty not exceeding 10 penalty units.

[3] Section 4E (1K) (a1)

Omit “subsection (1D) (a) or (b)”.

Insert instead “subsection (1D) (a), (b) or (c)”.

Schedule 3 Transitional amendment

(Section 3)

Schedule 1, Part 3

Insert after Part 2:

Part 3 Provisions consequent on the enactment of the Traffic Amendment (Learner Driver Supervisors) Act 1996

8 Transitional provisions

- (1) In this clause, *the amending Act* means the *Traffic Amendment (Learner Driver Supervisors) Act 1996*.
- (2) An amendment made by Schedule 1 to the amending Act does not apply in respect of an accident involving a motor vehicle that occurs before the amendment commences.
- (3) An amendment made by Schedule 2 to the amending Act does not apply in respect of a person accompanying the driver of a motor vehicle before the amendment commences.
- (4) References in this Act to section 4E (1D) are taken to be references to that subsection as in force before or after its repeal and re-enactment by the amending Act.

[Member's second reading speech made in—
Legislative Assembly on 27 June 1996
Minister's second reading speech made in—
Legislative Council on 16 October 1996]

BY AUTHORITY