

South Australia

Statutes Amendment (Road Safety Reforms) Act 2003

An Act to amend the *Harbors and Navigation Act 1993*, the *Motor Vehicles Act 1959* and the *Road Traffic Act 1961*.

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The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

This Act may be cited as the *Statutes Amendment (Road Safety Reforms) Act 2003*.

2—Commencement

This Act will come into operation on a day to be fixed by proclamation.

3—Interpretation

A reference in this Act to the principal Act is a reference to the Act referred to in the heading to the Part in which the reference occurs.

4—Minister to report on operation of Act

The Minister must, within 12 sitting days after the second and third anniversaries of the commencement of section 1, cause a report on the operation of the amendments contained in this Act to be laid before both Houses of Parliament.

Part 2—Amendment of *Harbors and Navigation Act 1993*

5—Amendment of s. 70—Alcohol and other drugs

Section 70 of the principal Act is amended by striking out subsection (4) and substituting the following subsection:

- (4) In determining whether an offence is a first, second or subsequent offence for the purposes of this section, any previous offence against this Division for which the defendant has been convicted will be taken into account, but only if the previous offence was committed within the period of 5 years immediately preceding the date on which the offence under consideration was committed.

6—Amendment of s. 72B—Blood tests by nurses where breath analysis taken outside Metropolitan Adelaide

Section 72B of the principal Act is amended by striking out the definition of *registered nurse* in subsection (2) and substituting the following definition:

registered nurse means a person who is registered as a nurse under the *Nurses Act 1999*.

7—Amendment of s. 74—Compulsory blood tests of injured persons including water skiers

Section 74 of the principal Act is amended by striking out subsection (19) and substituting the following subsection:

- (19) In determining whether an offence is a first or subsequent offence for the purposes of this section, any previous offence against this Division for which the defendant has been convicted will be taken into account, but only if the previous offence was committed within the period of 5 years immediately preceding the date on which the offence under consideration was committed.

Part 3—Amendment of *Motor Vehicles Act 1959*

8—Amendment of s. 5—Interpretation

Section 5 of the principal Act is amended—

- (a) by inserting after the definition of *agricultural machine* in subsection (1) the following definition:

alcohol interlock scheme conditions means the conditions referred to in section 51(1) of the *Road Traffic Act 1961*;

- (b) by inserting at the end of the definition of *photograph* in subsection (1) ", and *photographic* has a corresponding meaning;"

- (c) by inserting after the definition of *photograph* in subsection (1) the following definition:

photographic detection device has the same meaning as in the *Road Traffic Act 1961*;

9—Substitution of s. 74

Section 74 of the principal Act is repealed and the following section is substituted:

74—Duty to hold licence or learner's permit

- (1) Subject to this Act, a person who—
- (a) drives a motor vehicle of a particular class on a road; and
 - (b) is not authorised to drive a motor vehicle of that class on a road but has previously been so authorised under this Act or the law of another State or a Territory of the Commonwealth,

is guilty of an offence.

Maximum penalty: \$1 250.

- (2) Subject to this Act, a person who—
- (a) drives a motor vehicle of a particular class on a road; and
 - (b) is not and has never been authorised, under this Act or the law of another State or a Territory of the Commonwealth, to drive a motor vehicle of that class on a road,

is guilty of an offence.

Maximum penalty: For a first offence—\$2 500.

For a subsequent offence—\$5 000 or imprisonment for 1 year.

- (3) For the purposes of this section, a person is authorised to drive a motor vehicle of a particular class on a road if—
- (a) the person holds a licence under this Act that authorises the holder to drive a motor vehicle of that class; or
 - (b) the person—
 - (i) holds a licence under this Act; and
 - (ii) has the minimum driving experience required by the regulations for the grant of a licence that would authorise the driving of a motor vehicle of that class; or
 - (c) the person holds a learner's permit.
- (4) When the holder of a licence under this Act drives a motor vehicle on a road as authorised under subsection (3)(b), the obligations imposed by section 75A on the holders of learner's permits and qualified passengers for learner drivers apply to the holder of the licence and any accompanying passenger with such modifications and exclusions as are prescribed by the regulations.
- (5) Where a court convicts a person of an offence against subsection (2) that is a subsequent offence, the following provisions apply:
- (a) the court must order that the person be disqualified from holding or obtaining a driver's licence for such period, being not less than 3 years, as the court thinks fit;
 - (b) the disqualification prescribed by paragraph (a) cannot be reduced or mitigated in any way or be substituted by any other penalty or sentence;
 - (c) if the person is the holder of a driver's licence—the disqualification operates to cancel the licence as from the commencement of the period of disqualification.

- (6) In determining whether an offence is a first or subsequent offence for the purposes of subsection (2), any previous offence against this section or section 91(5) for which the defendant has been convicted will be taken into account, but only if the previous offence was committed within the period of 3 years immediately preceding the date on which the offence under consideration was committed.

10—Amendment of s. 75A—Learner's permit

Section 75A of the principal Act is amended by striking out paragraph (c) of subsection (1) and substituting the following paragraph:

- (c) has passed the theoretical examination prescribed for the purposes of section 79; and.

11—Substitution of s. 79

Section 79 of the principal Act is repealed and the following section is substituted:

79—Examination of applicant for licence or learner's permit

- (1) Subject to this Act, the Registrar may not issue a licence or learner's permit to an applicant who has not held a licence at some time during the period of 5 years immediately preceding the date of the application unless—
- (a) the applicant produces to the Registrar a certificate signed by an examiner certifying that the applicant has passed the prescribed theoretical examination conducted by that examiner in the prescribed manner; or
 - (b) the applicant satisfies the Registrar, by such evidence as the Registrar may require, that at some time during the period of 5 years immediately preceding the date of the application, the applicant held a licence to drive a motor vehicle under the law of another State or a Territory of the Commonwealth.
- (2) Regulations made for the purposes of subsection (1)(a) may provide that, for the purposes of this Act, a person will not be regarded as having passed an examination unless the person has answered correctly not less than a prescribed number of questions asked in the examination (but, despite such a regulation, the Registrar may treat a person as not having passed an examination for the purposes of this Act if an incorrect answer has been given to a question dealing with a matter that, in the Registrar's opinion, is of special importance).
- (3) In this section—
- examiner* means—
- (a) a member of the police force; or
 - (b) a person appointed by the Registrar as an examiner for the purposes of this section.

12—Amendment of s. 79A—Practical driving tests

Section 79A of the principal Act is amended by striking out paragraph (a) and substituting the following paragraph:

- (a) the applicant—
 - (i) has held a learner's permit for a period of at least 6 months or periods totalling at least 6 months; and
 - (ii) produces to the Registrar a certificate signed by an authorised examiner certifying that the applicant has passed a practical driving test conducted by that examiner and appropriate to the class of the licence for which the application is made; or.

13—Amendment of s. 81—Restricted licences and learner's permits

Section 81 of the principal Act is amended by striking out from subsection (2) "an examination" first occurring and substituting "a theoretical examination".

14—Amendment of s. 81A—Provisional licences

Section 81A of the principal Act is amended—

- (a) by striking out from subsection (1)(ba)(ii) "one year" and substituting "2 years";
- (b) by striking out from subsection (2) "Subject to subsections (2a) and (3)," and substituting "Subject to this section,";
- (c) by striking out paragraph (a) of subsection (2) and substituting the following paragraph:
 - (a) in the case of a licence issued to a person under the age of 19 years—
 - (i) if the person incurs one or more demerit points before he or she turns 19—
 - (A) until he or she turns 20; or
 - (B) until 2 years have elapsed,whichever occurs later; or
 - (ii) in any other case—
 - (A) until he or she turns 19; or
 - (B) until 2 years have elapsed,whichever occurs later;;
- (d) by striking out from subsection (2)(b) "one year" and substituting "2 years";
- (e) by inserting after subsection (2) the following subsection:

- (2aa) Subject to subsection (2a), where a licence is issued to an applicant referred to in subsection (1)(c), the conditions imposed under subsection (1) are effective for—
- (a) the period fixed by subsection (2) followed by a period of 6 months; or
 - (b) if the period of disqualification referred to in subsection (1)(c) was imposed by a court and the court ordered that the conditions imposed under subsection (1) on any licence issued to the person after the period of disqualification be effective for a period greater than the period fixed by paragraph (a)—that period.;
- (f) by striking out from subsection (2a) "under Division 5A of Part 3 of the *Road Traffic Act 1961*";
- (g) by striking out from subsection (2a)(a) "that Division" and substituting "this Act or the *Road Traffic Act 1961*".

15—Amendment of s. 81AB—Probationary licences

Section 81AB of the principal Act is amended—

- (a) by striking out from subsection (1) "section 81B" and substituting "section 81B or 81C";
- (b) by striking out from subsection (3a) "under Division 5A of Part 3 of the *Road Traffic Act 1961*";
- (c) by striking out from subsection (3a)(b) "that Division" and substituting "this Act or the *Road Traffic Act 1961*";
- (d) by striking out from subsection (3a)(c)(i) "that Division" and substituting "this Act or the *Road Traffic Act 1961*".

16—Amendment of s. 81B—Consequences of holder of learner's permit, provisional licence or probationary licence contravening conditions, etc.

Section 81B of the principal Act is amended—

- (a) by striking out the definition of *alcohol interlock scheme conditions* in subsection (1);
- (b) by striking out the definition of *relevant drink driving offence* in subsection (1) and substituting the following definition:

relevant drink driving offence means—

 - (a) an offence to which section 81C applies that is a third or subsequent offence within the meaning of that section; or
 - (b) an offence referred to in section 49 of the *Road Traffic Act 1961*.;
- (c) by striking out from subsection (9) "19 years" wherever occurring and substituting, in each case, "20 years".

17—Insertion of s. 81C

The following section is inserted after section 81B of the principal Act:

81C—Disqualification for certain drink driving offences

- (1) This section applies to an alleged category 1 offence against section 47B(1) of the *Road Traffic Act 1961* other than a first offence or an offence where—
 - (a) the vehicle involved is alleged to have been a prescribed vehicle within the meaning of section 47A of that Act; and
 - (b) the concentration of alcohol in the blood of the person is alleged to have been less than .05 grams in 100 millilitres of blood.
- (2) If a person expiates an offence to which this section applies, the Registrar must give the person written notice—
 - (a) that, commencing on a day specified in the notice, the person is disqualified from holding or obtaining a licence or learner's permit for—
 - (i) if the person has been convicted of a second offence—3 months; or
 - (ii) if the person has been convicted of a third offence—6 months; or
 - (iii) if the person has been convicted of a subsequent offence—12 months; and
 - (b) that, if the person holds any licence or learner's permit at the commencement of the period of disqualification, the licence or permit is cancelled; and
 - (c) if the person has been convicted of a third or subsequent offence—that, despite the disqualification imposed under this section, the person will, on application made to the Registrar at any time after the half-way point in the period of that disqualification, be entitled to be issued with a licence or learner's permit subject to the alcohol interlock scheme conditions for the required period (in addition to any conditions otherwise required).
- (3) However, a person will not be entitled to be issued with a licence or learner's permit in accordance with subsection (2)(c) if—
 - (a) the person does not meet the requirements of this Act for the issue of the licence or permit; or
 - (b) a disqualification (other than the disqualification consequent on the expiation of the offence referred to in subsection (2)) has been imposed in relation to the person and is in force at the date of the person's application for the licence or permit or will commence at a later date.

- (4) The disqualification consequent on the expiation of the offence referred to in subsection (2) ends if the person is issued with a licence or learner's permit subject to the alcohol interlock scheme conditions.
- (5) The required period for which the licence or learner's permit is subject to the alcohol interlock scheme conditions is a number of days equal to twice the number of days remaining in the period of the person's disqualification consequent on the expiation of the offence referred to in subsection (2) immediately before the issuing of the licence or permit.
- (6) Section 51 of the *Road Traffic Act 1961* applies in relation to a person entitled to be issued with a licence or learner's permit in accordance with subsection (2)(c) in the same way as it applies in relation to a person entitled to be issued with a licence or learner's permit in accordance with an order of a court under section 50 of that Act.
- (7) In determining whether an offence to which this section applies is a first, second, third or subsequent offence for the purposes of this section, any previous offence against section 47(1), 47B(1), 47E(3) or 47I(14) of the *Road Traffic Act 1961* for which the person has been convicted will be taken into account, but only if the previous offence was committed within the prescribed period immediately preceding the date on which the offence to which this section applies is alleged to have been committed.
- (8) For the purposes of subsection (7), the prescribed period is—
 - (a) in the case of a previous offence that is a category 1 offence—3 years;
 - (b) in any other case—5 years.

18—Amendment of s. 98A—Instructors' licences

Section 98A of the principal Act is amended—

- (a) by striking out paragraph (a) of subsection (2) and substituting the following paragraph:
 - (a) holds an unconditional licence and has held an unconditional licence in South Australia or elsewhere for a continuous period of not less than 12 months immediately preceding the date of the application;
- (b) by inserting after subsection (10) the following subsection:
 - (11) In this section—

unconditional licence means a licence not subject to prescribed conditions (as defined in section 81B) or conditions substantially the same as prescribed conditions.

19—Amendment of s. 98B—Demerit points for offences in this State

Section 98B of the principal Act is amended—

- (a) by striking out from subsection (3) "Where" and substituting "Subject to this section, if";
- (b) by inserting after subsection (3) the following subsections:
 - (3a) If a person is convicted of or expiates two or more offences arising from the same incident and one of the offences is a red light offence and another is a speeding offence, demerit points are incurred in respect of both the red light offence and the speeding offence.
 - (3b) If a person is convicted of or expiates an offence against section 79B(2) of the *Road Traffic Act 1961* constituted of being the owner of a vehicle that appears from evidence obtained through the operation of a photographic detection device to have been involved in the commission of two or more prescribed offences arising out of the same incident and one of the prescribed offences is a red light offence and another is a speeding offence, the number of demerit points incurred for the offence against section 79B(2) is the sum of the number of demerit points prescribed by the regulations in relation to the red light offence and the number of demerit points prescribed by the regulations in relation to the speeding offence.
 - (3c) In subsections (3a) and (3b)—

prescribed offence means an offence that is a prescribed offence within the meaning of section 79B of the *Road Traffic Act 1961*;

red light offence means an offence that is a red light offence within the meaning of section 79B of the *Road Traffic Act 1961*;

speeding offence means an offence that is a speeding offence within the meaning of section 79B of the *Road Traffic Act 1961*.

20—Amendment of s. 145—Regulations

Section 145 of the principal Act is amended by inserting after paragraph (gd) of subsection (1) the following paragraph:

- (ge) preventing a person who fails a practical driving test, or a practical driving test of a prescribed kind, from taking a subsequent such test within the prescribed period;.

Part 4—Amendment of *Road Traffic Act 1961*

21—Amendment of s. 5—Interpretation

Section 5 of the principal Act is amended—

- (a) by inserting before the definition of *air cushioned vehicle* in subsection (1) the following definition:

accident includes—

- (a) a collision between 2 or more vehicles; or
- (b) any other accident or incident involving a vehicle in which a person is killed or injured, property is damaged, or an animal in someone's charge is killed or injured;;
- (b) by inserting after the definition of *pedestrian* in subsection (1) the following definitions:

photograph includes an image produced from an electronic record made by a digital or other electronic camera, and *photographic* has a corresponding meaning;

photographic detection device means an apparatus of a kind approved by the Governor as a photographic detection device;.

22—Amendment of s. 43—Duty to stop and give assistance where person killed or injured

Section 43 of the principal Act is amended by striking out from subsections (1) and (3) "or incident".

23—Amendment of s. 47—Driving under influence

Section 47 of the principal Act is amended by striking out subsection (4) and substituting the following subsection:

- (4) In determining whether an offence is a first or subsequent offence for the purposes of this section, any previous offence against subsection (1) or section 47B(1), 47E(3) or 47I(14) for which the defendant has been convicted will be taken into account, but only if the previous offence was committed within the prescribed period immediately preceding the date on which the offence under consideration was committed.

24—Amendment of s. 47A—Interpretation

Section 47A of the principal Act is amended—

- (a) by striking out from the definitions of *category 1 offence*, *category 2 offence* and *category 3 offence* ", where the concentration of alcohol in the blood of the convicted person was" and substituting, in each case, "involving a concentration of alcohol of";
- (b) by inserting after its present contents as amended (now to be designated as subsection (1)) the following subsections:

- (2) For the purposes of this Act, a person acts as a qualified passenger for a learner driver if—
 - (a) when the holder of a learner's permit drives a motor vehicle, or attempts to put a motor vehicle in motion, on a road, the person occupies a seat in the vehicle next to the holder of the permit, or, if the vehicle is a motor bike, is a passenger on the bike or in a sidecar attached to the bike; and
 - (b) the person is the holder of a driver's licence (not being a probationary licence or provisional licence within the meaning of the *Motor Vehicles Act 1959*) authorising the person to drive the vehicle.
- (3) For the purposes of sections 47(4), 47B(4), 47E(7) and 47I(14b), the prescribed period is—
 - (a) in the case of a previous offence that is a category 1 offence—3 years;
 - (b) in any other case—5 years.

25—Amendment of s. 47B—Driving while having prescribed concentration of alcohol in blood

Section 47B of the principal Act is amended—

- (a) by inserting "third or" before "subsequent" in the penalty provision at the foot of subsection (1);
- (b) by striking out from subsection (3) "a category 2 offence or category 3 offence" and substituting "an offence against subsection (1) (other than a category 1 offence that is a first offence)";
- (c) by striking out paragraph (a) of subsection (3) and substituting the following paragraph:
 - (a) the court must order that the person be disqualified from holding or obtaining a driver's licence—
 - (i) in the case of a first offence—
 - (A) being a category 2 offence—for such period, being not less than 6 months, as the court thinks fit;
 - (B) being a category 3 offence—for such period, being not less than 12 months, as the court thinks fit;
 - (ii) in the case of a second offence—
 - (A) being a category 1 offence—for such period, being not less than 3 months, as the court thinks fit;

- (B) being a category 2 offence—for such period, being not less than 12 months, as the court thinks fit;
 - (C) being a category 3 offence—for such period, being not less than 3 years, as the court thinks fit;
 - (iii) in the case of a third offence—
 - (A) being a category 1 offence—for such period, being not less than 6 months, as the court thinks fit;
 - (B) being a category 2 offence—for such period, being not less than 2 years, as the court thinks fit;
 - (C) being a category 3 offence—for such period, being not less than 3 years, as the court thinks fit;
 - (iv) in the case of a subsequent offence—
 - (A) being a category 1 offence—for such period, being not less than 12 months, as the court thinks fit;
 - (B) being a category 2 offence—for such period, being not less than 2 years, as the court thinks fit;
 - (C) being a category 3 offence—for such period, being not less than 3 years, as the court thinks fit;;
- (d) by striking out subsections (4) and (5) and substituting the following subsections:
- (4) In determining whether an offence is a first, second, third or subsequent offence for the purposes of this section (other than subsection (5)), any previous offence against subsection (1) or section 47(1), 47E(3) or 47I(14) for which the defendant has been convicted will be taken into account, but only if the previous offence was committed within the prescribed period immediately preceding the date on which the offence under consideration was committed.
 - (5) If a person aged 16 years or more is alleged to have committed a category 1 offence that is a first offence, the person cannot be prosecuted for that offence unless he or she has been given an expiation notice under the *Expiation of Offences Act 1996* in respect of the offence and allowed the opportunity to expiate the offence in accordance with that Act.

- (6) In determining whether a category 1 offence is a first offence for the purposes of subsection (5), any previous offence against subsection (1) or section 47(1), 47E(3) or 47I(14) for which the defendant has been convicted or that the defendant has expiated will be taken into account, but only if the previous offence was committed or alleged to have been committed within the prescribed period immediately preceding the date on which the offence under consideration was allegedly committed.
- (7) For the purposes of subsection (6), the prescribed period is—
 - (a) in the case of a previous offence that is a category 1 offence—3 years;
 - (b) in any other case—5 years.

26—Amendment of s. 47E—Police may require alcotest or breath analysis

Section 47E of the principal Act is amended—

- (a) by striking out subsection (2a) and substituting the following subsections:

- (2a) A member of the police force may require—

- (a) the driver of a motor vehicle that approaches a breath testing station established under section 47DA; or
 - (b) the driver of a motor vehicle during a prescribed period,

- to submit to an alcotest.

- (2ab) A member of the police force may direct the driver of a motor vehicle to stop the vehicle and may give other reasonable directions for the purpose of making a requirement under this section that the driver submit to an alcotest or a breath analysis.

- (2ac) A person must forthwith comply with a direction under subsection (2ab).;

- (b) by inserting after subsection (2e) the following subsection:

- (2f) A member of the police force may not, while driving or riding in or on a vehicle not marked as a police vehicle, direct the driver of a motor vehicle to stop the vehicle for the purpose of making a requirement under this section that the driver submit to an alcotest or a breath analysis.;

- (c) by striking out subsection (7) and substituting the following subsections:

- (7) In determining whether an offence is a first or subsequent offence for the purposes of this section, any previous offence against subsection (3) or section 47(1), 47B(1) or 47I(14) for which the defendant has been convicted will be taken into account, but only if the previous offence was committed within the prescribed period immediately preceding the date on which the offence under consideration was committed.
- (8) The Commissioner of Police must, not less than 2 days before the commencement of each prescribed period, cause a notice to be published in a newspaper circulating generally in the State and at a web site determined by the Commissioner stating the time at which the prescribed period commences and the time at which it finishes and containing advice about the powers members of the police force have under this section in relation to a prescribed period.
- (9) In this section—
- long weekend*** means a period of consecutive days comprised of a Saturday and Sunday and one or more public holidays;
- Minister*** means the Minister responsible for the administration of the *Police Act 1998*;
- prescribed period*** means—
- (a) a period commencing at 5 p.m. on the day immediately preceding the start of a long weekend and finishing at the end of the long weekend; or
 - (b) a period commencing at 5 p.m. on the last day of a school term and finishing at the end of the day immediately preceding the first day of the following school term; or
 - (c) a period commencing at a time determined by the Minister and finishing 48 hours later (provided that there can be no more than four such periods in any calendar year);
- school term*** means a school term determined for a government school under the *Education Act 1972*.
- (10) A certificate purporting to be signed by the Minister and to certify that a specified period was a prescribed period for the purposes of this section is admissible in proceedings before a court and is, in the absence of proof to the contrary, proof of the matters so certified.

27—Amendment of s. 47FB—Blood tests by nurses where breath analysis taken outside Metropolitan Adelaide

Section 47FB of the principal Act is amended by striking out the definition of *registered nurse* in subsection (2) and substituting the following definition:

registered nurse means a person who is registered as a nurse under the *Nurses Act 1999*.

28—Amendment of s. 47I—Compulsory blood tests

Section 47I of the principal Act is amended—

(a) by striking out subsection (14b) and substituting the following subsection:

(14b) In determining whether an offence is a first or subsequent offence for the purposes of this section, any previous offence against subsection (14) or section 47(1), 47B(1) or 47E(3) for which the defendant has been convicted will be taken into account, but only if the previous offence was committed within the prescribed period immediately preceding the date on which the offence under consideration was committed.;

(b) by striking out the definition of *accident* in subsection (19).

29—Amendment of s. 47IA—Certain offenders to attend lectures

Section 47IA of the principal Act is amended by striking out from the definition of *prescribed first or second offence* in subsection (3) ", but does not include an offence against section 47B(1) that is a category 1 offence".

30—Amendment of s. 49—Cases where Division applies

Section 49 of the principal Act is amended by striking out paragraphs (b) and (c) of subsection (2) and substituting the following paragraph:

(b) an offence against section 47B(1), 47E(3) or 47I(14).

31—Amendment of s. 79B—Provisions applying where certain offences are detected by photographic detection devices

Section 79B of the principal Act is amended—

(a) by striking out the definition of *photographic detection device* in subsection (1);

(b) by inserting after the definition of *red light offence* in subsection (1) the following definition:

speeding offence means a prescribed offence defined by the regulations as a speeding offence.;

(c) by striking out the penalty provision at the foot of subsection (2) and substituting the following penalty provision:

Penalty: If the vehicle appears to have been involved in a red light offence and a speeding offence arising out of the same incident—

(a) where the owner is a body corporate—\$4 000;

(b) where the owner is a natural person—\$2 500.

In any other case—

(a) where the owner is a body corporate—\$2 000;

(b) where the owner is a natural person—\$1 250.;

(d) by striking out subsection (2a) and substituting the following subsection:

(2a) The expiation fee for an alleged offence against this section is as follows:

(a) if the vehicle appears to have been involved in a red light offence and a speeding offence arising out of the same incident—

(i) where the owner is a body corporate—an amount equal to the sum of the amount of the expiation fees for such alleged offences where the owner is a natural person and \$600;

(ii) where the owner is a natural person—an amount equal to the sum of the amount of the expiation fees fixed by the regulations for such alleged offences;

(b) in any other case—

(i) where the owner is a body corporate—an amount equal to the sum of the amount of the expiation fee for the alleged offence in which the vehicle appears to have been involved where the owner is a natural person and \$300;

(ii) where the owner is a natural person—the amount of the expiation fee fixed by the regulations for the alleged offence in which the vehicle appears to have been involved.;

(e) by striking out subsections (4) and (4a) and substituting the following subsection:

(4) A prosecution must not be commenced against an owner (other than a body corporate) for an offence against this section unless the owner has first been given an expiation notice under the *Expiation of Offences Act 1996* in respect of the offence and allowed the opportunity to expiate the offence in accordance with that Act.;

(f) by striking out subsections (7) and (8) and substituting the following subsections:

(7) Where a person is found guilty of, or expiates, a prescribed offence, neither that person nor any other person is liable to be found guilty of, or to expiate, an offence against this section in relation to the same incident.

- (8) Where a person is found guilty of, or expiates, an offence against this section, neither that person nor any other person is liable to be found guilty of, or to expiate, a prescribed offence in relation to the same incident.;
- (g) by inserting after subsection (9) the following subsection:
 - (9a) A photographic detection device may not be operated for the purpose of obtaining evidence of the commission of a red light offence and a speeding offence arising out of the same incident except at locations approved by the Minister from time to time and notified in the Gazette.;
- (h) by striking out subparagraph (i) of subsection (10)(a) and substituting the following subparagraph:
 - (i) the photograph or each of the photographs was produced from an exposure taken, or electronic record made, by a photographic detection device; and;
- (i) by inserting in subsection (10)(a) "or the electronic record made by the photographic detection device" after "exposure was taken".

32—Substitution of s. 79C

Section 79C of the principal Act is repealed and the following section is substituted:

79C—Interference with photographic detection devices

A person who, without proper authority or reasonable excuse, interferes with a photographic detection device or its proper functioning is guilty of an offence.

Maximum penalty: \$5 000 or imprisonment for 1 year.

33—Insertion of s. 110AAA

The following section is inserted after section 110 of the principal Act:

110AAA—Annual report by Minister on speed management

- (1) The Minister must, on or before 30 September in each year, prepare a report on—
 - (a) the adequacy of laws governing speed-limits and the need for any changes to those laws; and
 - (b) the criteria for determining the appropriateness of speed-limits applying on arterial and non-arterial roads; and
 - (c) the effectiveness of court and expiation processes in minimising the use of court resources for the enforcement of speed-limits; and
 - (d) priorities and strategies for the enforcement of speed-limits; and
 - (e) technologies for the detection of speeding offences; and
 - (f) the use of road infrastructure to manage speed.

- (2) The Minister must, within 6 sitting days after completing the report, cause copies to be laid before both Houses of Parliament.
- (3) This section expires on the third anniversary of its commencement unless, before that anniversary, both Houses of Parliament pass a resolution declaring that this section will continue in operation after that anniversary.

34—Amendment of s. 175—Evidence

Section 175 of the principal Act is amended—

- (a) by striking out paragraph (ba) of subsection (3) and substituting the following paragraph:
 - (ba) a document produced by the prosecution and purporting to be signed by the Commissioner of Police, or by any other member of the police force of or above the rank of inspector, and purporting to certify that a specified traffic speed analyser had been tested on a specified day and was shown by the test to be accurate to the extent indicated in the document constitutes, in the absence of proof to the contrary, proof of the facts certified and that the traffic speed analyser was accurate to that extent on the day on which it was so tested and, for the purpose of measuring the speed of any motor vehicle—
 - (i) in the case of a traffic speed analyser that was, at the time of measurement, mounted in a fixed housing—during the period of 6 days immediately following that day; or
 - (ii) in any other case—on the day following that day, whether or not the speed measured differed from the speed in relation to which the analyser was tested or the circumstances of the measurement differed in any other respect from the circumstances of the test;;
- (b) by inserting after subsection (3) the following subsection:
 - (4) For the purposes of subsection (3)(ba), a traffic speed analyser will be taken to have been mounted in a fixed housing at the time of measuring the speed of a motor vehicle if it was, at that time, mounted in a structure that was affixed to the ground at the particular location with the prior approval of the Minister.