

**Legislative Council—No 261**

As received from the House of Assembly and read a first time, 18 October 2017

South Australia

**Statutes Amendment (Vehicle Inspections and  
South Eastern Freeway Offences) Bill 2017**

A BILL FOR

An Act to amend 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

- 5 This Act may be cited as the *Statutes Amendment (Vehicle Inspections and South Eastern Freeway Offences) Act 2017*.

#### 2—Commencement

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

#### 3—Amendment provisions

- 10 In this Act, a provision under a heading referring to the amendment of a specified Act amends the Act so specified.

## **Part 2—Amendment of *Motor Vehicles Act 1959***

### **4—Amendment of section 20—Application for registration**

Section 20(1)—after paragraph (b) insert:

and

- 5 (c) include such other information as the Minister may require.

### **5—Amendment of section 24—Duty to grant registration**

Section 24—after subsection (3) insert:

(4) The Registrar must refuse to register a vehicle if—

- 10 (a) the vehicle is a vehicle of a class prescribed for the purposes of section 139(1)(c); and
- (b) the vehicle has been examined under section 139; and
- 15 (c) the Registrar reasonably believes that because the vehicle does not comply with an Act or law that regulates the design, construction or maintenance of such a vehicle, the vehicle would, if driven on a road, put the safety of persons using the road at risk.

### **6—Amendment of section 58—Transfer of registration**

Section 58—after subsection (4) insert:

(5) The Registrar must refuse to transfer the registration of a vehicle if—

- 20 (a) the vehicle is a vehicle of a class prescribed for the purposes of section 139(1)(c); and
- (b) the vehicle has been examined under section 139; and
- 25 (c) the Registrar reasonably believes that because the vehicle does not comply with an Act or law that regulates the design, construction or maintenance of such a vehicle, the vehicle would, if driven on a road, put the safety of persons using the road at risk.

### **7—Insertion of section 81BC**

After section 81BB insert:

30 **81BC—Disqualification for certain offences relating to section 45C of the *Road Traffic Act 1961***

(1) This section applies to the following offences:

- (a) an alleged offence against section 45C of the *Road Traffic Act 1961*;

- 5 (b) an alleged offence against section 79B 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 an offence against section 45C(1) of that Act (a **section 79B offence**).
- 10 (2) Subject to this section, if a person expiates an offence to which this section applies, the Registrar must, on becoming aware of that fact, give the person written notice that—
- 15 (a) the person is disqualified from holding or obtaining a licence or learner's permit for the relevant period; and
- (b) if the person holds a licence or learner's permit when the notice takes effect—the licence or permit is suspended for the relevant period.
- 20 (3) Subsection (2) does not apply—
- (a) if the offence is a first offence and—
- (i) a section 45D notice has been given to the person in relation to that offence; or
- 25 (ii) in the case of an alleged offence against section 45C—no such notice has been given to the person but the Commissioner of Police has forwarded to the Registrar a request in writing that no notice be given to the person by the Registrar under subsection (2); or
- (b) in such other circumstances as may be prescribed by regulation.
- 30 (4) Subsections (9), (10), (11) and (12) of section 45D of the *Road Traffic Act 1961* apply to the withdrawal of a notice given under subsection (2) and for that purpose a reference in those provisions to a section 45D notice will be taken to be a reference to a notice under subsection (2) and a reference to the Commissioner of Police will be taken to be a reference to the Registrar.
- 35 (5) If a person expiates an offence to which this section applies and a notice is given under subsection (2) but the expiation notice in respect of that offence is subsequently withdrawn, sections 45D(6), (7) and (8) and 45E of the *Road Traffic Act 1961* apply in relation to the notice under subsection (2), and for that purpose a reference in those provisions to a section 45D notice will be taken to be a reference to a notice under subsection (2) and a reference to the Commissioner of Police in section 45E will be taken to include a reference to the Registrar.
- 40 (6) Part 3E does not apply to a decision of the Registrar under this section.

(7) For the purposes of this section, the *relevant period* for which a person is disqualified from holding or obtaining a licence or learner's permit, or for which a licence or learner's permit held by the person is suspended, by written notice under subsection (2)—

- 5 (a) commences at the time the notice takes effect in accordance with section 139BD; and
- (b) ends—
- 10 (i) if the person given the notice under subsection (2) is notified in accordance with subsection (4) that the notice has been withdrawn; or
- 15 (ii) if the expiation notice for the offence to which the notice under subsection (2) relates is withdrawn and the person given the notice under subsection (2) is notified in writing by or on behalf of the Commissioner of Police (whether that notification is given personally or by post) that the person—
- 20 (A) is not to be charged with any offence to which this section applies arising out of the course of conduct to which the notice under subsection (2) relates; and
- (B) is not to be given an expiation notice in respect of such an offence; or
- (iii) in any event, at the end of—
- 25 (A) in the case of a first offence—6 months; or
- (B) in the case of a second offence—12 months; or
- (C) in the case of a subsequent offence—3 years,
- 30 from the commencement of the relevant period, less any period of disqualification or suspension that has applied, or is applicable, to the person under section 45D of the *Road Traffic Act 1961* in respect of the offence to which the notice under subsection (2) relates.

35 (8) In determining whether an offence to which this section applies is a first, second or subsequent offence for the purposes of this section—

- 40 (a) in the case of an offence against section 45C, any previous offence against section 45C for which the person has been convicted or that the person has expiated will be taken into account; and
- (b) in the case of a section 79B offence, any previous section 79B offence for which the person has been convicted or that the person has expiated will be taken into account,

but only if the previous offence was committed or, in the case of an offence that has been expiated, was alleged to have been committed, by the person within the period of 5 years immediately preceding the date on which the offence under consideration was committed.

5 (9) In this section—

*section 45D notice* means a notice of licence disqualification or suspension under section 45D of the *Road Traffic Act 1961*.

### 8—Amendment of section 93—Notice to be given to Registrar

Section 93(1)(d)—after "under section" insert:

10 45E or

### 9—Substitution of section 139

Section 139—delete the section and substitute:

#### 139—Inspection of motor vehicles

15 (1) Subject to this section, the Registrar or an authorised vehicle inspector may examine a motor vehicle for any of the following purposes:

(a) verifying any information disclosed in—

20 (i) an application made to the Registrar in respect of the vehicle or any evidence provided by an applicant in response to a requirement of the Registrar under this Act; or

25 (ii) a notice of the making of an alteration or addition to the vehicle given to the Registrar by a person under section 44 or any evidence provided by a person in response to a requirement of the Registrar under that section;

(b) ascertaining any facts on which the amount of any fee or payment to the Registrar in respect of the vehicle depends;

30 (c) ascertaining whether—

(i) the vehicle complies with an Act or law that regulates the design, construction or maintenance of such a vehicle; or

(ii) the vehicle would, if driven on a road, put the safety of persons using the road at risk;

35 (d) ascertaining whether the vehicle or part of the vehicle is or may be stolen.

(2) A motor vehicle may not be examined for the purposes of subsection (1)(c) unless—

40 (a) the vehicle is of a class prescribed for the purposes of that subsection; or

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- (b) an application to register, or transfer the registration of, the vehicle has been made; or
  - (c) notice of the making of an alteration or addition to the vehicle is given, or is required to be given, to the Registrar by a person under section 44; or
  - (d) prescribed circumstances exist.
- (3) The Registrar may determine that motor vehicles of a class prescribed for the purposes of subsection (1)(c) must be examined periodically at intervals prescribed by the regulations.
- 10 (4) For the purposes of subsection (1)—
- (a) the Registrar or an authorised vehicle inspector may take from any part of a motor vehicle a sample of any liquid fuel used or appearing to be used for propelling that vehicle;
  - (b) the Registrar, a police officer or an authorised officer may—
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- (i) enter and remain in any premises at any reasonable time and search those premises for motor vehicles; or
  - (ii) require a person to produce a motor vehicle at a specified authorised inspection station or other specified place at a specified day and time for the purpose of examination.
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- (5) The Registrar, a police officer or an authorised officer may only exercise the powers conferred by subsection (4)(b)(i) in respect of residential premises on the authority of a warrant issued by a
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- magistrate.
- (6) A warrant may not be issued unless the magistrate is satisfied that the warrant is reasonably required in the circumstances.
- (7) An application for the issue of a warrant—
- (a) may be made either personally or by telephone; and
  - (b) must be made in accordance with any procedures prescribed by the regulations.
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- (8) A person of whom a requirement is made by the Registrar, a police officer or an authorised officer under subsection (4)(b)(ii) must not refuse or fail to comply with the requirement.
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- Maximum penalty: \$10 000.
- (9) A person must not—
- (a) without reasonable excuse, hinder or obstruct an authorised vehicle inspector in the exercise of powers under this section; or
  - (b) falsely represent, by words or conduct, that the person is an authorised vehicle inspector; or
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- (c) falsely represent, by words or conduct, that premises are an authorised inspection station.

Maximum penalty: \$10 000.

- (10) The Registrar may—

- (a) authorise a person, or persons of a specified class, to examine motor vehicles for the purposes of this section;
- (b) authorise the use of specified premises as an inspection station for the examination of motor vehicles for the purposes of this section;
- (c) make an authorisation under paragraph (a) or (b) subject to such terms and conditions as the Registrar thinks fit;
- (d) vary or revoke an authorisation under paragraph (a) or (b) at any time.

- (11) The Minister may, for the purposes of this section, establish a code of practice to be observed by persons authorised to examine motor vehicles in accordance with this section.

- (12) A person who contravenes a code of practice established under this section is guilty of an offence.

Maximum penalty: \$10 000.

- (13) A person authorised by the Registrar to examine motor vehicles for the purposes of this section may, with the approval of the Minister, charge fees for the examination of a motor vehicle that exceed the fees prescribed under this Act or the *Road Traffic Act 1961* for that purpose.

- (14) The Minister may, for the purposes of subsection (13), grant or revoke an approval as the Minister thinks fit, or make any approval subject to such conditions as the Minister thinks fit.

- (15) In this section—

*authorised inspection station* means premises used as an inspection station for the examination of motor vehicles pursuant to an authorisation under subsection (10);

*authorised vehicle inspector* means—

- (a) an authorised officer; or
- (b) a police officer; or
- (c) a person, or person of a class, authorised to examine motor vehicles pursuant to an authorisation under subsection (10).

### **10—Amendment of section 139BD—Service and commencement of notices of disqualification**

- (1) Section 139BD(9)—after "a licence or permit" insert:

or the person's licence or permit is already suspended



(2) Section 139BD(9)—after "prior disqualification" insert:

or suspension

(3) Section 139BD(11), definition of *notice of disqualification*—after "81BB(8)," insert:

81BC(2),

## 5 **Part 3—Amendment of *Road Traffic Act 1961***

### **11—Amendment of section 40G—Application of Subdivision**

Section 40G(1)—after paragraph (c) insert:

or

10 (d) in or on any premises that are an authorised inspection station as defined in section 139 of the *Motor Vehicles Act 1959*.

### **12—Insertion of sections 45C, 45D and 45E**

After section 45B insert:

#### **45C—Speed and gear restrictions for trucks and buses on prescribed roads**

15 (1) A person must not drive a truck or bus on a prescribed road at a speed exceeding a relevant speed limit by 10 kilometres an hour or more.

Maximum penalty:

- 20 (a) for a first offence—\$5 000;  
(b) for a subsequent offence—imprisonment for 2 years.

(2) A person driving a truck or bus on a length of prescribed road to which a trucks and buses low gear sign applies must drive the truck or bus in a gear that is low enough to enable the vehicle to be driven safely on that length of road without the use of a primary brake.

25 Maximum penalty:

- (a) for a first offence—\$5000;  
(b) for a subsequent offence—imprisonment for 2 years.

(3) If a court convicts a person of an offence against this section, the following provisions apply:

- 30 (a) the court must order that the person is disqualified from holding or obtaining a driver's licence for the following period:
- (i) for a first offence—such period, being not less than 12 months, as the court thinks fit;
- 35 (ii) for a subsequent offence—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 suspend the licence as from the commencement of the period of disqualification.

(4) In determining whether an offence is a first or subsequent offence for the purposes of this section, any previous offence against this section 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.

(5) Subsection (1) is in addition to, and does not derogate from, any other provision relating to speed limits contained in this or any other Act or in any regulation, rule or by-law made under this or any other Act.

(6) For the purposes of this section, a trucks and buses low gear sign applies to a length of road if it so applies for the purposes of the *Australian Road Rules*.

(7) In this section—

*bus* means a vehicle that is a bus for the purposes of the *Australian Road Rules*;

*length*, of road, means an area of road that is a length, of road, for the purposes of the *Australian Road Rules*;

*prescribed road* means a portion of RN 04500 South Eastern Freeway, or adjacent land, defined by the regulations for the purposes of this section;

*primary brake* means the footbrake, or other brake, fitted to a truck or bus that is normally used to slow or stop the vehicle;

*relevant speed limit*, for a person who drives a truck or bus, means a speed limit that applies to the driver under this Act (other than section 82 or 83 of this Act) or the *Motor Vehicles Act 1959*;

*truck* means a vehicle that is a truck for the purposes of the *Australian Road Rules*;

*trucks and buses low gear sign* means a sign that is a trucks and buses low gear sign for the purposes of the *Australian Road Rules*.

#### **45D—Power of police to impose licence disqualification or suspension for section 45C etc offences**

(1) This section applies to the following offences:

(a) an offence against section 45C;

- 5 (b) an offence against section 79B 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 an offence against section 45C(1) (*a section 79B offence*).
- 10 (2) Subject to this section—
- (a) if a person is given an expiation notice for an offence to which this section applies, a police officer may give the person a notice of licence disqualification or suspension in the prescribed form; or
- (b) if a police officer reasonably believes that a person has committed an offence to which this section applies, the police officer (or another police officer authorised to do so on behalf of that officer) may give the person such a notice.
- 15 (3) The notice must specify the offence to which the notice relates.
- (4) If a person is given a notice of licence disqualification or suspension under this section—
- 20 (a) in the case of a person who does not hold a driver's licence—the person is disqualified from holding or obtaining a driver's licence for the relevant period; or
- (b) in the case of a person who holds a driver's licence—the person's driver's licence is suspended for the relevant period.
- (5) If a person is given a notice of licence disqualification or suspension under this section—
- 25 (a) the Commissioner of Police must ensure that prescribed particulars of the notice are forwarded to the Registrar of Motor Vehicles; and
- 30 (b) the Registrar of Motor Vehicles must, on receiving those particulars, send, by post, a notice to the person of the name and address specified by the Commissioner containing the prescribed particulars of the notice of licence disqualification or suspension (though the operation of the notice is not affected by any failure to comply with this paragraph),
- 35 and if such a notice of licence disqualification or suspension is subsequently withdrawn, the Commissioner must ensure that notice of the withdrawal (specifying the reason for the withdrawal) is forwarded to the Registrar.

5 (6) If a person is given a notice of licence disqualification or suspension under this section but is not given an expiation notice for the offence to which the notice relates or another offence to which this section applies arising out of the same course of conduct (or such an expiation notice is withdrawn or the person elects to be prosecuted in accordance with the *Expiation of Offences Act 1996*), the Commissioner of Police must ensure—

10 (a) that a determination is made, within a reasonable time, as to whether to charge the person with an offence to which this section applies or give the person an expiation notice in respect of such an offence; and

(b) if a determination is made that the person should not be charged with, or given an expiation notice in respect of, any offence to which this section applies, that—

15 (i) the person is given, or sent by post, written notice of that determination (which notice should include any prescribed particulars relating to the effect of the determination on the notice of licence disqualification or suspension); and

20 (ii) written notice of the of the determination is forwarded to the Registrar of Motor Vehicles,

but—

25 (c) the laying of charges against a person, or the giving of an expiation notice, is not prevented by a failure to comply with this subsection in relation to the person or by the making of a determination referred to in this subsection or the notification of such a determination; and

30 (d) subject to the making of an order of the Magistrate's Court under section 45E(2)(b), the operation of the notice of licence disqualification or suspension is not affected by any failure to comply with this subsection.

35 (7) If a person who is given a notice of licence disqualification or suspension under this section is charged with an offence, or given an expiation notice in respect of an offence, that is not the offence specified in the notice but is instead another offence to which this section applies arising out of the same course of conduct, that offence will then be taken to be the offence to which the notice relates.

40 (8) If—

(a) a period of licence disqualification or suspension has applied to a person as a result of the person having been given a notice of licence disqualification or suspension under this section; and

(b) a court convicts the person of the offence to which the notice relates or another offence arising out of the same course of conduct; and

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(c) a mandatory minimum period of disqualification would (apart from this subsection) be required to be imposed for the offence,

then—

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(d) the court must order that the person be disqualified from holding or obtaining a driver's licence for a period determined by the court (and if the person is the holder of a driver's licence and the mandatory minimum period of disqualification required to be imposed for the offence for which the person was convicted operates to cancel such a licence, the period of disqualification ordered by the court under this subsection operates to cancel the person's licence from the commencement of that period); and

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(e) despite any other provision of this or any other Act, the court must, in determining the period, take into account the period of licence disqualification or suspension that has applied to the person as a result of the notice and may for that purpose—

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(i) if the relevant period of licence disqualification or suspension under the notice has not ended, order that the period imposed be taken to have commenced on the day on which the relevant period commenced (provided that the period imposed is not less than the mandatory minimum period of disqualification); or

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(ii) if the relevant period of licence disqualification or suspension under the notice has ended, impose a period that is less than the mandatory period of disqualification (provided that the period imposed is not less than the difference between the mandatory minimum period of disqualification and the period that has applied as a result of the notice),

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and if the person is the holder of a driver's licence and the mandatory minimum period of disqualification required to be imposed operates to cancel the licence, the licence will be taken to have been cancelled—

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(iii) where subparagraph (i) applies—from the day on which the order of the court is made; or

(iv) where subparagraph (ii) applies—from the commencement of the period of disqualification ordered by the court.

(9) If the Commissioner of Police is satisfied that a notice of licence disqualification or suspension under this section should not have been given because—

- (a) the notice has been given to a particular person in error; or
- (b) the notice is defective; or
- (c) there is other proper cause for which the notice should not have been given,

the Commissioner may authorise the withdrawal of the notice.

(10) A withdrawal referred to in subsection (9) is effected by giving notice of the withdrawal, in a manner and form determined by the Commissioner, to the person to whom the notice of licence disqualification or suspension was given.

(11) The notice of withdrawal must specify the reason for withdrawal.

(12) If a notice of licence disqualification or suspension under this section is withdrawn, the Commissioner of Police may, if satisfied that there are proper grounds to give a fresh notice of licence disqualification or suspension to any person, authorise the giving of such a notice (provided that the relevant period for the fresh notice must, if it is given to the same person as was given the withdrawn notice, be reduced by the period for which the withdrawn notice was (or purported to be) in operation).

(13) Subject to subsection (14), no compensation is payable by the Crown or a police officer in respect of the exercise, or purported exercise, of powers under this section.

(14) Subsection (13) does not protect a police officer from liability in respect of the exercise, or purported exercise, of powers otherwise than in good faith.

(15) For the purposes of this section—

(a) the *relevant period* commences—

(i) in the case of a notice of licence disqualification or suspension under this section for an offence against section 45C—

(A) at the time at which the person is given the notice of licence disqualification or suspension or, if a police officer referred to in subsection (2) is satisfied that, in the circumstances, it would be appropriate to postpone the commencement of the relevant period and the notice indicates that the commencement is to be postponed, 48 hours after the time at which the person is given the notice; or

- 5 (B) if, at the time applicable under  
subsubparagraph (A), the person is already  
disqualified from holding or obtaining a  
driver's licence or holds a driver's licence  
that is suspended, at the end of that period  
of disqualification or suspension; or
- (ii) in the case of a notice of licence disqualification or  
suspension under this section for a section 79B  
offence—
- 10 (A) 28 days after the notice of licence  
disqualification or suspension is given to  
the person; or
- 15 (B) if, at the time referred to in  
subsubparagraph (A), the person is already  
disqualified from holding or obtaining a  
driver's licence or holds a driver's licence  
that is suspended—at the end of that period  
of disqualification or suspension; and
- (b) the *relevant period* ends—
- 20 (i) if the Magistrates Court, on application under  
section 45E, makes an order that the person given  
the notice is not disqualified, or that the driver's  
licence held by the person is not suspended, by the  
notice; or
- 25 (ii) if the person given the notice is notified in writing  
by or on behalf of the Commissioner of Police  
(whether that notification is given personally or by  
post) that the person—
- 30 (A) is not to be charged with any offence to  
which this section applies arising out of the  
course of conduct to which the notice of  
licence disqualification or suspension  
relates; and
- 35 (B) is not to be given an expiation notice in  
respect of such an offence; or
- (iii) if proceedings for the offence to which the notice  
relates are determined by a court or are withdrawn  
or otherwise discontinued; or
- 40 (iv) if the person given the notice is notified in  
accordance with subsection (10) that the notice has  
been withdrawn; or
- (v) in any event, at the end of 6 months from the  
commencement of the relevant period.

- 5 (16) The Commissioner of Police must establish procedures to be followed by police officers giving notices of licence disqualification or suspension under this section for the purpose of determining whether the commencement of the relevant period should be postponed under subsection (15)(a)(i)(A).

**45E—Application to Court to have disqualification or suspension under section 45D lifted**

- 10 (1) If a person is given a notice of licence disqualification or suspension under section 45D (or is sent particulars of such a notice by the Registrar of Motor Vehicles) but is not given an expiation notice for an offence to which section 45D applies (or such an expiation notice is withdrawn or the person elects to be prosecuted in accordance with the *Expiation of Offences Act 1996*), the person may apply to the Magistrates Court for an order that the person is not disqualified, or  
15 the person's driver's licence is not suspended, by the notice.
- (2) The Magistrates Court may, on an application under subsection (1), make an order that the person is not disqualified, or the person's driver's licence is not suspended, by the notice if—
- 20 (a) the Court is satisfied, on the basis of oral evidence given on oath by the applicant, that there is a reasonable prospect that the applicant would, in proceedings for the offence to which the notice relates, be acquitted of the offence and the evidence before the Court does not suggest that the applicant may be guilty of another offence to which section 45D applies; or
- 25 (b) the Court is satisfied that the person has not been charged with any offence to which section 45D applies and that the prosecution authorities have had a reasonable time, in the circumstances, within which to make a determination as to the laying of charges against the person.
- (3) The application must be commenced by lodging written application with the Magistrates Court, in the form prescribed by rules of the Court, setting out the grounds on which the application is made and particulars of the evidence that will be relied on by the applicant.
- 35 (4) The Commissioner of Police—
- (a) must be served, by an applicant for an order under this section, with a copy of the application as soon as practicable after the application is made; and
- (b) is a party to the application; and
- 40 (c) may (but is not required to) appear at the hearing represented by legal counsel or a police officer.
- (5) Any legal counsel or police officer representing the Commissioner of Police at the hearing may make submissions in relation to the application but is not entitled to cross-examine the applicant.



- (6) If the Commissioner of Police does not appear at the hearing, the clerk of the Court must notify the Commissioner, in writing, of the date on which the application was determined and the nature and effect of any order made in relation to the application.

**13—Amendment of section 79B—Provisions applying where certain offences are detected by photographic detection devices**

- (1) Section 79B(1), definition of *prescribed offence*, (a)—after "section 45A" insert:  
or 45C(1)

- (2) Section 79B(2), penalty provision—before paragraph (a) insert:

(aa) if the vehicle appears to have been involved in an offence against section 45C(1)—

(i) where the owner is a body corporate—not less than \$25 000 and not more than \$50 000;

(ii) where the owner is a natural person—\$5 000;

- (3) Section 79B(2), penalty provision, (a)—before "if the vehicle" insert:

subject to paragraph (aa),

- (4) Section 79B(2a)—before paragraph (a) insert:

(aa) if the vehicle appears to have been involved in an offence against section 45C(1) and the owner is a body corporate—an amount equal to the sum of the amount of the expiation fee for an alleged offence against section 45C(1) and \$25 000;

- (5) Section 79B(2a)(a)—before "if the vehicle" insert:

subject to paragraph (aa),

- (6) Section 79B—after subsection (2b) insert:

(2c) If a court convicts a natural person of an offence against this section 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 an offence against section 45C(1), the following provisions apply:

(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—for such period, being not less than 12 months, as the court thinks fit; or

(ii) in the case of a subsequent offence—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;

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- (c) if the person is the holder of a driver's licence—the disqualification operates to suspend the licence as from the commencement of the period of disqualification;
- (d) in determining whether an offence is a first or subsequent offence for the purposes of this subsection, any previous offence against this section 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 an offence against section 45C(1) for which the person has been convicted or that the person has expiated will be taken into account, but only if the previous offence was committed or alleged to have been committed within the period of 5 years immediately preceding the date on which the offence under consideration was allegedly committed.
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(7) Section 79B—after subsection (4) insert:

- (4a) If, in the case of an offence against this section 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 an offence against section 45C(1), there is a registered operator of the vehicle, an expiation notice for the offence may only be given to, and a prosecution for the offence may only be brought against, the registered operator.
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**14—Amendment of section 110AAAA—Certain provisions not to apply to drivers of emergency vehicles**

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Section 110AAAA(1)—after "45A," insert:

45C,