

FACT SHEET

POLICE MISCELLANEOUS AMENDMENTS BILL 2009

POLICE OFFENCES (CONFISCATION OF VEHICLES) REGULATIONS 2009

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The Government has introduced legislation into Parliament to amend the *Police Offences Act 1935*, the *Police Powers (Vehicle Interception) Act 2000*, and to create the *Police Offences (Confiscation of Vehicles) Regulations 2009* and the *Police Offences (Confiscation of Vehicles) Amendment Regulations 2009*.

The Bill introduces legislation to accord with the Tasmania *Together* Community Goal, 'to have confident, friendly and safe communities'. This legislation addresses further emerging societal issues and concerns.

The ***Police Miscellaneous Amendments Bill 2009*** amends the *Police Offences Act 1935* to:

- provide that a demand may be made and served on the owner or registered operator of a vehicle to determine the identity of the driver and occupants of that vehicle at the time of an offence under State or Commonwealth legislation and an offence provision for non-compliance;
- provide for the inclusion of a definition of 'owner' to support the demand provisions;
- include the offences of reckless and dangerous driving, and driving to evade police, as prescribed offences under section 37K of the Act, to provide for the confiscation of a vehicle involved in those offences;
- provide for the confiscation of a vehicle for other offences prescribed in regulations;
- extend the number of days during which police may confiscate a vehicle under section 37N from 10 to 14 days, principally to allow for the additional time required for the processing of photographic detection device images and their transmission to police for action;
- provide for minor drafting clarifications for the provisions concerning the confiscation of vehicles;
- amend the *Police Powers (Vehicle Interception) Act 2000* by providing a definition of 'owner' to ensure the enforcement of owner responsibility under the *Police Powers (Vehicle Interception) Act 2005*; and
- provide an offence for evading police, and an authority of arrest without warrant for any person found offending.

Police Offences Act 1935

- Definition of Owner.

The definition of “owner” is required under the *Police Offences Act 1935* and the *Police Powers (Vehicle Interception) Act 2000* to enable enforcement of relevant provisions. This includes enforcement of driver demand provisions that are also included within the Bill.

- Provision to determine the driver and occupants at the time of the commission of an offence.

The Bill provides a police officer with the authority to demand specific details from the owner or registered operator of a vehicle that was involved in the commission of any offence under State or Commonwealth legislation. The details required include the identity and whereabouts of the driver and occupants of the vehicle at the time the offence was committed. An offence provision is also provided should the owner and/or registered operator refuse or fail to provide details.

- Vehicle Confiscation.

In 2004, legislation was introduced to the *Police Offences Act 1935* to enable the confiscation of vehicles from people who committed certain prescribed offences, listed in the Act.

The Bill contains an amendment to allow a police officer to confiscate a vehicle for the offence of reckless or dangerous driving, for the new offence of evading police under the *Police Powers (Vehicle Interception) Act 2000*, and any offence prescribed by regulations.

The Bill also extends the time for confiscation from 10 days to 14 days. Without this provision being amended police may not be able to process the image from a Road Safety Camera, and provide it to police for the offender’s vehicle to be confiscated within the statutory time period.

- Minor Drafting Clarifications.

These amendments insert definitions for “motor vehicle”, “public street” and “trailer” within section 3 (Interpretation) of the Act. The definition of “motor vehicle” has been omitted from sections 25, 37A and 47, with the definition of “public street” omitted from section 25.

In addition, sections 37U and 37ZC are amended by omitting “48 hours” and substituting “7 days”, to clarify the contents of the first confiscation notice and after which period an owner may recover their vehicle.

Police Powers (Vehicle Interception) Act 2000

- Definition of Owner.

The definition of “owner” is required under the *Police Powers (Vehicle Interception) Act 2000* to enable enforcement of relevant provisions.

- Evading Police.

The Bill amends the *Police Powers (Vehicle Interception) Act 2000* to provide an offence of “evading police”. This provision will provide for situations where a driver takes evasive action or drives in such a manner as to attempt to avoid, elude and/or prevent police from speaking to the driver or occupants. This amendment also provides a power of arrest, without warrant, for any person found committing this offence.

Police Offences (Confiscation of Vehicles) Regulations 2009

- Confiscation of vehicles for speeding offences.

These regulations prescribe, for the purpose of Division 2 of Part IVA of the *Police Offences Act 1935*, the offence of exceeding the prescribed speed limit by 45km/h or more, which allows for the confiscation of a vehicle involved in this offence.

Police Offences (Confiscation of Vehicles) Amendment Regulations 2009

- Confiscation of vehicles for offences of Drive whilst Disqualified.

The amendment regulations prescribe, for the purpose of Division 2 of Part IVA of the *Police Offences Act 1935*, the offence of “drive while disqualified” under the *Road Safety (Alcohol and Drugs) Act 1970*, the *Vehicle and Traffic Act 1999*, or the *Traffic Act 1925* where the offender has been charged with a second offence of drive while disqualified. This will allow police to confiscate the vehicle used in the offence of “drive while disqualified” when the offender is apprehended on a second or any subsequent occasion.