

TASMANIA

**TRAFFIC AMENDMENT (NOTICE OF
DEMAND) BILL 2004**

CONTENTS

PART 1 – PRELIMINARY

1. Short title
2. Commencement

PART 2 – TRAFFIC ACT 1925 AMENDED

3. Principal Act
4. Section 3 amended (Interpretation)
5. Part IVB, Division 1 inserted
Division 1 – Notices of demand
 - 43G. Notice of demand
 - 43GA. Statutory declaration naming driver
 - 43GB. Withdrawal of notice of demand
 - 43GC. Suspension of registration on non-compliance with notice of demand
6. Part IVB, Division 2: Heading inserted
Division 2 – Traffic infringement notices
7. Section 43HB substituted
43HB. Bodies corporate
8. Section 43L amended (Service of notices)
9. Section 43LA repealed

10. Section 43M amended (Application of penalties in respect of traffic infringement notices)
11. Part IVB, Division 3: Heading inserted
Division 3 – Miscellaneous
12. Section 43O inserted
43O. Transitional provision
13. Section 43Q amended (Statutory declarations)

PART 3 – MOTOR ACCIDENTS (LIABILITIES AND COMPENSATION) ACT 1973 AMENDED

14. Principal Act
15. Section 23 amended (Liability to pay scheduled benefits)

TRAFFIC AMENDMENT (NOTICE OF DEMAND) BILL 2004

(Brought in by the Minister for Infrastructure, Energy and Resources, the Honourable Bryan Alexander Green)

A BILL FOR

An Act to amend the *Traffic Act 1925* and the *Motor Accidents (Liabilities and Compensation) Act 1973*

Be it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:

PART 1 - PRELIMINARY

Short title

1. This Act may be cited as the *Traffic Amendment (Notice of Demand) Act 2004*.

Commencement

2. This Act commences on a day to be proclaimed.

PART 2 – TRAFFIC ACT 1925 AMENDED**Principal Act**

3. In this Part, the *Traffic Act 1925** is referred to as the Principal Act.

Section 3 amended (Interpretation)

4. Section 3(1) of the Principal Act is amended by inserting after the definition of “motor vehicle race” the following definition:

“**notice of demand**” means a notice of demand served under section 43G;

Part IVB, Division 1 inserted

5. Before section 43H of the Principal Act, the following Division is inserted in Part IVB:

Division 1 – Notices of demand**Notice of demand**

43G. (1) A police officer may serve a notice of demand on the registered operator of a vehicle if the police officer is satisfied that the driver of that vehicle committed a traffic offence.

(2) A notice of demand is to –

(a) indicate the offence to which it relates;
and

*No. 38 of 1925

- (b) specify the registration number of the vehicle that was involved in the offence; and
- (c) specify that the registered operator is to provide to a police officer, within 14 days after the registered operator is served with the notice, a statutory declaration stating the name, address and, if known, the date of birth and driver licence number of the driver of the vehicle at the time the offence was committed.

(3) A registered operator must comply with the notice of demand.

Penalty: Fine not exceeding 40 penalty units.

Statutory declaration naming driver

43GA. (1) A registered operator providing a statutory declaration naming the driver of a vehicle under section 43G(2)(c) is to –

- (a) state in the statutory declaration his or her full name and address; and
- (b) state the name, address and, if known, the date of birth and driver licence number of the driver of the vehicle at the time the offence took place.

(2) A statutory declaration provided under section 43G(2)(c) and naming the driver is prima facie evidence that the person named in the statutory declaration as the driver of the vehicle at the time of the offence was the driver of the vehicle at that time.

Withdrawal of notice of demand

43GB. (1) A notice of demand that has been served on a registered operator may, whether or not the registered operator has provided a statutory declaration in accordance with the notice, be withdrawn.

(2) For the purposes of subsection (1), a notice of demand served on a registered operator is to be withdrawn by the service on that registered operator of a withdrawal notice in a form approved by the Commissioner of Police and signed by a police officer authorised by the Commissioner of Police.

(3) If a notice of demand is withdrawn section 43G(3) does not apply.

Suspension of registration on non-compliance with notice of demand

43GC. (1) In this section –

“non-complying registered operator”
means a body corporate that has not complied with a notice of demand and has either –

- (a) accepted a traffic infringement notice for an offence under section 43G(3) in respect of that non-compliance; or
- (b) been found guilty of that offence by a court;

“prescribed notice of demand” means the notice of demand specified in the

definition of “non-complying registered operator”;

“suspension event” means –

- (a) the acceptance by the non-complying registered operator of the traffic infringement notice specified in the definition of “non-complying registered operator”; or
- (b) a finding by a court that the non-complying registered operator is guilty of the offence specified in that definition.

(2) If –

- (a) in the normal course of events the period of registration of the vehicle specified in the prescribed notice of demand would not end, and therefore would not need to be renewed, within the period of 14 days commencing on the occurrence of the suspension event, the registration of the vehicle is suspended for that 14-day period; or
- (b) in the normal course of events the period of registration of that vehicle would end, and therefore would need to be renewed, within that 14-day period –
 - (i) the registration of that vehicle is suspended for that part of that 14-day period during which the registration continues; and
 - (ii) the registration of that vehicle may not be renewed until that 14-day period has ended; or

- (c) on the occurrence of the suspension event that vehicle is not registered, that vehicle may not be registered, or the registration of that vehicle may not be renewed, until that 14-day period has ended; or
- (d) on the occurrence of the suspension event the registration of that vehicle is suspended, the registration of that vehicle is further suspended for a period of 14 days commencing at the end of that existing suspension.

(3) The penalties imposed by subsection (2) in respect of an offence under section 43G(3) are in addition to any other penalty imposed under this Act in respect of that offence.

Part IVB, Division 2: Heading inserted

6. Part IVB of the Principal Act is amended by inserting the following heading before section 43H:

Division 2 - Traffic infringement notices

Section 43HB substituted

7. Section 43HB of the Principal Act is repealed and the following section is substituted:

Bodies corporate

43HB. A traffic infringement notice may be served on a body corporate.

Section 43L amended (Service of notices)

8. Section 43L of the Principal Act is amended as follows:

- (a) by inserting in subsection (1) “or notice of demand” after “notice”;
- (b) by inserting the following subsection after subsection (1AA):

(1AAA) For the purposes of subsection (1AA)(b), if a notice of demand is served within the 21-day period referred to in subsection (1AA)(a), a traffic infringement notice is taken to have been served within that period.

- (c) by inserting in subsection (1AAB) “or a notice of demand served under subsection (1AAA)” after “applies”.

Section 43LA repealed

9. Section 43LA of the Principal Act is repealed.

Section 43M amended (Application of penalties in respect of traffic infringement notices)

10. Section 43M of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “Part” and substituting “Division”;
- (b) by omitting subsection (1A) and substituting the following subsection:

(1A) Any sums paid to a council clerk under this Division by way of prescribed penalty or pursuant to subsection (2) are the property of the council.

Part IVB, Division 3: Heading inserted

11. Part IVB of the Principal Act is amended by inserting the following heading after section 43M:

Division 3 – Miscellaneous

Section 43O inserted

12. After section 43N of the Principal Act, the following section is inserted in Division 3:

Transitional provision

43O. (1) In this section –

“**repeal day**” means the day on which the *Traffic Amendment (Notice of Demand) Act 2004* commences;

“**repealed section**” means section 43HB as in force immediately before the repeal day.

(2) Despite the repeal of the repealed section, that section continues to apply to a traffic infringement notice served before the repeal day on a joint registered operator of a motor vehicle or trailer or on a body corporate if the requirements under that section and the other provisions of this Act arising from the service of that notice have not been met before the repeal day.

Section 43Q amended (Statutory declarations)

13. Section 43Q of the Principal Act is amended by omitting “*Evidence Act 2001*” and substituting “*Oaths Act 2001*”.

**PART 3 – MOTOR ACCIDENTS (LIABILITIES AND
COMPENSATION) ACT 1973 AMENDED**

Principal Act

14. In this Part, the *Motor Accidents (Liabilities and Compensation) Act 1973** is referred to as the Principal Act.

Section 23 amended (Liability to pay scheduled benefits)

15. Section 23(2B)(a) of the Principal Act is amended by omitting “*Vehicle and Traffic Act 1999*” and substituting “*Vehicle and Traffic Act 1999*, whether or not that registration has been suspended under that Act or the *Traffic Act 1925*”.

*No. 71 of 1973