

FACT SHEET

Police Powers and Related Legislation (Evasion) Bill 2017

The Government has introduced legislation into Parliament to make several miscellaneous amendments to the *Police Powers (Vehicle Interception) Act 2000* (the Act), the *Police Offences Act 1935* and the *Youth Justice Act 1997*.

The amendments are a key Government priority, designed to enhance the operation of existing provisions within the *Police Powers (Vehicle Interception) Act 2000*, to deal with the increase in drivers evading police and the inherent dangers posed by motorists driving recklessly or dangerously to avoid the police.

The amendments contained within the *Police Powers and Related Legislation (Evasion) Bill 2017* propose -

Amendments to the *Police Powers (Vehicle Interception) Act 2000*

- Increasing the penalties for the offence of evading police, including set minimum fines, periods of driver licence disqualification and imprisonment. The penalties for a person convicted of evading police are:
 - For a first offence - a fine ranging from 10 penalty units (min) to 100 penalty units (max), or up to two years imprisonment, and driver licence disqualification for a period of 6 months to 3 years;
 - For a second offence - a fine ranging from 20 penalty units (min) to 100 penalty units (max), or up to two years imprisonment, and driver licence disqualification for a period of 12 months to 5 years;
 - For a third or subsequent offence - a fine ranging from 20 penalty units (min) to 100 penalty units (max), or a period of imprisonment ranging between 6 months and 2 years, and driver licence disqualification for a period of 12 months to 5 years.
- The insertion of a new offence of evading police (with aggravated circumstances) where there is an increased risk to public safety or the offence is in conjunction with other certain offending that reflects the serious nature of the particular offending. Where a driver evades police and is:
 - in a stolen motor vehicle;
 - drives recklessly or dangerously;
 - has a suspended, cancelled or disqualified drivers licence;
 - commits a certain offence under the provisions of the State's drink/drug driving legislation;then the provisions of the new offence will apply.
- In addition, if the driver is evading police to avoid apprehension or interception as a result of the driver committing specified crimes under the *Criminal Code Act 1924*, a breach of a Family Violence Order or Police Family Violence Order, or contravention of a bail order, the provisions of the new offence will also apply. Specific penalties for this offending include:

- For a first offence - a fine ranging from 20 penalty units to 100 penalty units, or a period of imprisonment ranging between 3 months and 2 years, and driver licence disqualification for a period of 2 years to 5 years;
 - For a second offence - a fine ranging from 20 penalty units to 100 penalty units, or a period of imprisonment ranging between 6 months and 2 years, and driver licence disqualification for a period of 2 years to 5 years; and
 - For a third or subsequent offence - a fine ranging from 20 penalty units to 100 penalty units, or a period of imprisonment ranging between 6 months and 2 years, and driver licence disqualification for a period of 2 years to 5 years.
- Extending the power of arrest without a warrant, to include where a police officer has reasonable grounds to believe that a person has committed an offence contrary to the evading police provisions.
 - A provision whereby, on imposing a sentence for a conviction for the offence of evading police, the court is not to include a sentence for any other offence as part of a general or mixed sentence. It will be necessary for the court to impose a separate sentence in respect to the evading police offence.

Amendments to the *Police Offences Act 1935*

- A provision reversing the onus on the owner or registered operator of a vehicle who is required to provide the identity and whereabouts of the driver of the vehicle at the time an offence was committed. As a defence to the charge of failing to supply such particulars, the owner or registered operator must establish that he or she has taken all reasonable steps to ascertain the required information.
- Extending the time period for police to locate and clamp or confiscate a vehicle. Currently, where a person is found committing a prescribed offence (including evading police) and the vehicle is not clamped or confiscated at the time, police may clamp or confiscate the vehicle at any time during the 14 day period immediately following the time of the offence. The proposed amendments will extend the time period for police to locate a vehicle for the purpose of clamping or confiscation to 28 days.
- Providing for extended periods of vehicle clamping or confiscation where the offence of evading police is aggravated in nature. For a first offence, the period of clamping or confiscation is 6 months, for a second offence it is 12 months and for a third or subsequent offence, the vehicle is forfeited to the Crown.
- Inserting to allow for the continued clamping or confiscation of a vehicle that has initially evaded police, until the driver is identified. Where there is no driver identified, and a period of 6 months has lapsed, police may make an application to the court for forfeiture of the vehicle. The court may then order forfeiture, or order return of the vehicle to the owner.

Amendments to the Youth Justice Act 1997

- Including the offence of evading police as a 'prescribed offence' for which a youth, aged 14 - 17 years may be dealt with in the Magistrates Court, however, youths aged 14 – 16 years will not be subject to mandatory minimum fines, imprisonment or periods of driver licence disqualification.

The Bill will become law on a date it receives Royal Assent.