

## CLAUSE NOTES

### Police Offences Amendment Bill 2025

- Clause 1**      **Short title**  
Specifies the name of the proposed Act.
- Clause 2**      **Commencement**  
The Act commences on the day on which it receives the Royal Assent.
- Clause 3**      **Principal Act**  
Provides that the Principal Act that is being amended is the *Police Offences Act 1935*.
- Clause 4**      **Section 3 amended (Interpretation)**  
Expands the definition of public place to include:
- Any vessel that is being used in the operation of a passenger ferry service, and
  - Any vehicle that is being used in the operation of a passenger transport service, within the meaning of the Passenger Transport Services Act 2011.
- Clause 5**      **Section 14B amended (Unlawful entry on land, &c.)**  
Increases the penalty for trespass offences where the person is in possession of a firearm, from 100 penalty units and 2 years imprisonment to 150 penalty units and 3 years imprisonment.  
  
As penalties are increased for trespass offences where the person is in possession of a firearm only, this clause provides for a separate section for the existing offence of trespass where the person made use of an aircraft, vehicle or vessel, for which the penalties have not changed.
- Clause 6**      **Section 35 amended (Common assault and aggravated assault)**  
Increases the penalties for assault offences:

- For common assault from 20 penalty units and 12 months imprisonment to 50 penalty units and 18 months imprisonment.
- For assault in circumstances of aggravation, from 50 penalty units and 2 years imprisonment to 100 penalty units and 3 years imprisonment.
- For assault of an aggravated nature, from 50 penalty units and 2 years imprisonment to 100 penalty units and 3 years imprisonment.
- For assault with indecent intent, from 50 penalty units and 2 years imprisonment to 100 penalty units and 3 years imprisonment.

**Clause 7                    Section 37 amended (Offences relating to property)**

Increases the penalty for destroy or injure property offences from 10 penalty units and 12 months imprisonment to 50 penalty units and 2 years imprisonment.

This clause also amends terms used, replacing the word ‘penalty’ with ‘fine’.

**Clause 8                    Section 37E amended (Penalty)**

Increases the penalty for the offences of motor vehicle stealing and procuring the hire or use of a motor vehicle by fraud, from a penalty not exceeding 50 penalty units to a fine not exceeding 100 penalty units.

**Clause 9                    Section 37FA inserted (Road rage)**

Inserts a new offence of road rage where a person who, without reasonable excuse, drives or uses a vehicle, or performs a driving related act, on a public street, in a manner that they know or ought to know, is likely to cause alarm, distress, apprehension or fear, in another person, and results in:

- Damage to property,
- Injury to a person,
- A collision with another vehicle,
- A risk of danger to a person, or
- Alarm, distress, apprehension, or fear, in another person.

Inserts a definition for ‘driving related act’.

- Clause 10**      **Section 37GA amended (Notice of Demand)**
- Increases the penalty for the offences where an owner or registered operator fails to comply with a notice of demand (where a vehicle has committed an offence) from a fine not exceeding 50 penalty units to a fine not exceeding 100 penalty units.
- Clause 11**      **Section 37J amended (Excessive noise, smoke, &c., from vehicles)**
- Increases the penalty for the offences of:
- Make or emit unnecessary and unreasonable noise,
  - Unnecessary execution of speed or sustained loss of traction, and
  - Race against another vehicle,
- from a fine not exceeding 20 penalty units or imprisonment for a term not exceeding 3 months, or both, to a fine not exceeding 40 penalty units or imprisonment for a term not exceeding 6 months, or both.
- Clause 12**      **Section 37K amended (Interpretation of the Division)**
- Includes the new offence of road rage as a prescribed offence.
- Replaces section 18B of the *Road Safety (Alcohol and Drugs) Act 1970* with section 19A, as a prescribed offence (breach of road safety disqualification notice).
- Clause 13**      **Section 37N amended (Clamping and confiscation of vehicles)**
- Amends the section that requires a police officer to find a person committing a prescribed offence (for vehicle clamping and confiscation) to circumstances where the police officer has reasonable grounds for believing that a prescribed offence is or has been committed, and necessary amendments to reflect the amended evidentiary burden.
- Clause 14**      **Section 37O amended (Period of clamping or confiscation for first prescribed offence)**
- Consistent with clause 13, 'finds a person offending' is replaced with 'has reasonable grounds for believing that a person is committing or has committed'.

Includes the offences of causing death by dangerous driving, dangerous driving causing grievous bodily harm and dangerous driving under the *Criminal Code* as offences that a vehicle may be clamped or confiscated for 6 months, for a first offence.

Increases the period of clamping and confiscation for any other prescribed offence from 28 days to 3 months.

**Clause 15**      **Section 37P amended (Period of clamping or confiscation for second prescribed offence)**

Consistent with clause 13, 'finds a person offending' is replaced with 'has reasonable grounds for believing that a person is committing or has committed'.

Increases the period of clamping and confiscation (for a second prescribed offence) from 3 months to 6 months.

Substitutes the existing requirement for an extended period of clamping or confiscation to apply where both the first and second offence were evading police in aggravated circumstances, to now only require the second offence to be evading police in aggravated circumstances.

**Clause 16**      **Section 37Q amended (Period of clamping or confiscation for third or subsequent prescribed offence)**

Consistent with clause 13, 'finds a person offending' is replaced with 'has reasonable grounds for believing that a person is committing or has committed'.

Currently, a vehicle remains clamped or confiscated for a third or subsequent offence until:

- The resolution of all existing charges against the person for that prescribed offence, and
- The determination of an application to the Court (for forfeiture).

Removes the requirement for an application to be made to a Court for forfeiture of the clamped or confiscated vehicle, which has been clamped or confiscated for a third or subsequent offence.

**Clause 17**      **Section 37QA amended (Period of clamping or confiscation for evasion vehicle)**

Amends the period of clamping or confiscation for a vehicle used in an evade police offence by removing the requirement where:

- The driver of the clamped or confiscated vehicle is unknown, and an application for forfeiture has been made to the Court (after 6 months), or
- A period of 9 months has elapsed, the driver is unknown, and an application for forfeiture has not been made to the Court.

**Clause 18                    Section 37QB substituted (Evasion vehicle forfeited)**

This clause removes and replaces section 37QB which required an application to the Court for the forfeiture of clamped or confiscated vehicles, in certain circumstances. The substituted section remains relevant to evade police offences, and provides for:

- Automatic forfeiture of a clamped or confiscated vehicle where the driver of the vehicle is unknown, and a period of 6 months has lapsed, and
- Automatic forfeiture being subject to the owner or registered operator making an application to the Court that the vehicle should not be forfeited, where they have provided information in relation to the whereabouts of the driver responsible for the offence.

**Clause 19                    Section 37S amended (Unlawful interference with, or removal of, confiscated vehicle)**

Increases the penalty for unlawfully interfering with, or taking a confiscated vehicle being transported to a holding yard from 20 penalty units to 40 penalty units.

Increases the penalty for unlawfully removing a vehicle from a holding yard from 40 penalty units to 80 penalty units.

**Clause 20                    Section 37VA amended (Content of notice for evasion offence)**

Replaces the word 'car' with 'vehicle'.

**Clause 21                    Section 37Y amended (Forfeiture of vehicles)**

Consistent with clause 13, 'finds a person offending' is replaced with 'has reasonable grounds for believing that a person is committing or has committed'.

Removes the requirement for a forfeiture application to be made where a vehicle has been clamped or confiscated for a third or subsequent offence. On the third or subsequent conviction for a prescribed offence, the Court must make a forfeiture order, to take effect 14 days after the making of such order.

Before the forfeiture order takes effect, the offending driver, the owner, or the registered operator may seek an order from the Court that the vehicle not be forfeited in cases of severe hardship.

**Clause 22                    Section 37Z amended (Defence to show no knowledge and consent)**

Amends the application of the defence to apply to circumstances where a court must make a forfeiture order for a third or subsequent prescribed offence.

**Clause 23                    Section 37ZB amended (Third party protection from forfeiture order)**

Replaces the phrase 'the hearing of an application for forfeiture' with 'proceedings in relation to which a forfeiture order was made'.

Amends the time frame to make an application to 14 days.

**Clause 24                    Section 37ZH amended (Disposal of confiscated vehicle)**

Provides for the sale or disposal of non-recovered confiscated vehicles after one month.

**Clause 25                    Section 43AA inserted (Interpretation)**

Defines 'computer' as 'including a mobile telephone', for the purposes of computer related offences.

**Clause 26                    Section 48 amended (No motor-vehicle race to be held without a permit)**

Increases the penalty for holding, being concerned in, competing, or taking part in a motor-vehicle race without a permit, from 5 penalty units to 10 penalty units.

**Clause 27                    Section 55 amended (Arrest)**

Removes a reference to a repealed section.

Includes the new offence of road rage offence as an offence that a police officer may arrest a person without a warrant where there

are reasonable grounds for believing a person has committed an offence.

**Clause 28**

**Section 67A substituted (Evidentiary provisions)**

This clause expands on existing evidentiary provisions for certain offences to include:

For proceedings for an offence of consorting of convicted offenders, an allegation in a complaint that an official warning was authorised, served and in force, is evidence of those matters, in the absence of evidence to the contrary.

For offences relating to property, an allegation in a complaint that a specified person was the owner of the property to which the offence relates, and that the person did not consent to the destruction or injury of that property, is evidence of those matters, in the absence of evidence to the contrary.

For motor vehicle stealing, an allegation in a complaint that a specified person was the owner, registered operator, or person lawfully in charge of a motor vehicle, and that person did not give consent to the driving or use of the motor vehicle, is evidence of those matters in the absence of evidence to the contrary.

**Clause 29**

**Repeal of the Act**

The Act is repealed on the first anniversary of the day on which it commenced.