

## FACT SHEET

### *Police Legislation Miscellaneous Amendment Bill 2019*

The *Police Legislation Miscellaneous Amendment Bill 2019* proposes miscellaneous amendments to several Acts administered by the Department of Police, Fire and Emergency Management to correct issues that have been identified from prior legislative reform or to enhance the operation of existing provisions. The Acts to be amended include the *Community Protection (Offender Reporting) Act 2005*, *Road Safety (Alcohol and Drugs) Act 1970*, *Police Powers (Vehicle Interception) Act 2000*, and *Police Offences Act 1935*.

#### ***Community Protection (Offender Reporting) Act 2005***

The *Community Protection (Offender Reporting) Act 2005* is the Tasmanian legislation which establishes the state's sex offender register. Under the Act, offenders who commit certain serious offences can be declared reportable offenders, requiring them to report to police to reduce the likelihood of reoffending. The Act also recognises reportable offenders from other Australian jurisdictions and New Zealand.

In 2017, capability was added to the Act to place further restrictions on some offenders, in the form of a *Community Protection Order* – found in section 10A. A corresponding offence provision is found at section 33A. However when these provisions were added, no recognition of similar orders made in other jurisdictions was provided for.

To address this, the Bill inserts a definition of 'community protection order' into the Act, which recognises Tasmanian orders, interim orders, and similar orders made in other jurisdictions. This allows breaches of corresponding orders from other jurisdictions in Tasmania to be treated as if they were a breach of a Tasmanian order.

#### ***Police Offences Act 1935***

Division 2 of Part IVA of the *Police Offences Act 1935* contains provisions allowing for the confiscation or clamping of vehicles used in the commission of certain offences. The relevant offences are defined as prescribed offences in section 37K of the Act, and this section includes reference to offences against section 32 of the *Traffic Act 1925*.

In September 2017, the offence of dangerous driving was moved from section 32 of the *Traffic Act 1925* to the *Criminal Code* and made a crime by the *Criminal Code Amendment (Dangerous Driving) Act 2017*. An unintended consequence of this move is that dangerous driving offences are no longer

covered by the confiscation or clamping provisions. The Bill will amend the *Police Offences Act 1935* to include the crimes of dangerous driving, causing death by dangerous driving, and dangerous driving causing grievous bodily harm as confiscation or clamping offences.

The *Police Offences Act 1935* also refers to the *Road Rules 2009* in section 47. These rules are due to expire at the end of 2019 and will be remade as the *Road Rules 2019*. The Bill will amend the Act to refer simply to the *Road Rules* to allow for transition between the *Road Rules 2009* to the *Road Rules 2019* and any subsequent *Road Rules*, without needing to amend the Act – this form of citation being provided for in the short title of the Rules.

### ***Road Safety (Alcohol and Drugs) Act 1970 and Police Powers (Vehicle Interception) Act 2000***

The *Road Safety (Alcohol and Drugs) Act 1970* is the Tasmanian legislation that creates the offences for drink and drug driving and provides police with the authority to test drivers. In 2018, a number of amendments were made to this Act including a process change, allowing police to collect a sample of oral fluid from a driver for laboratory analysis, following a positive road-side screening test for drugs, as opposed to the prior process that required a blood sample. However, in making this change, there were two inadvertent omissions.

The first relates to evidentiary certificates for the taking, and delivery of samples. Section 27 of the *Road Safety (Alcohol and Drugs) Act 1970* allowed for evidence of the taking, handling and delivery of a blood sample to be given by an evidentiary certificate, rather than requiring those involved to give evidence. However no similar provision was inserted to cover the taking and delivery of oral fluid samples. The Bill will rectify this omission.

The second relates to an issue involving the *Police Powers (Vehicle Interception) Act 2000*. This Act contains the offence of evading police, which was expanded in 2017 to provide a further offence of evading police with aggravating circumstances – with one of these aggravating circumstance being that the driver was committing a drink or drug-driving offence at the time of the evasion.

As a result of the overlapping development of the respective amending Acts, the aggravating circumstance in regard to drug driving refers to the presence of an illicit drug in the driver's breath or blood and not to the presence in their oral fluid. Part 5 of the Bill will amend the *Police Powers (Vehicle Interception) Act 2005* to rectify this issue.