

CLAUSE NOTES

Criminal Code Amendment (Dangerous Driving) Bill 2017

Part 1 - Preliminary

- Clause 1:** **Short title**
Clause 1 cites the Act as the *Criminal Code Amendment (Dangerous Driving) Act 2017*.
- Clause 2:** **Commencement**
Clause 2 provides for the Act to commence on the day on which it receives the Royal Assent.
- However, clause 2 provides for a different commencement date for Part 7 of the Act. Part 7 of the Act commences on the day on which the Act receives the Royal Assent if the *Road Safety (Alcohol and Drugs) Amendment Act 2017* has not commenced on or before that day. Otherwise, Part 7 of the Act commences on a day to be proclaimed.

Part 2 – Traffic Act 1925 Amended

- Clause 3:** **Principal Act**
Clause 3 provides that the Principal Act to which the amendments in Part 2 apply is the *Traffic Act 1925*.
- Clause 4:** **Section 32 amended (Reckless driving)**
Clause 4 amends section 32 of the *Traffic Act 1925*.
- Paragraph 4(a) amends subsection 32(1) of the *Traffic Act 1925*. Subsection 32(1) of the *Traffic Act 1925* presently contains two offences: dangerous driving and reckless driving. Paragraph 4(a) removes the words “or at a speed or in a manner that is dangerous to the public,” from subsection 32(1), which has the effect of removing dangerous driving as an offence from that subsection.
- Paragraph 4(b) inserts new subsection 32(1A) into the *Traffic Act 1925*. This new subsection will ensure that prior findings of guilt for dangerous driving will continue to be taken into account for the purposes of sentencing an offender under subsection 32(1).
- Paragraphs 4(c) and (d) increase the maximum sentences of imprisonment for the offence of negligent driving causing death. The amendments increase the maximum sentences of imprisonment to a term not exceeding two years for a first offence, and a term not exceeding three years for a subsequent offence.
- Paragraphs 4(e) and (f) amend the maximum sentences of imprisonment for the offence of negligent driving causing grievous bodily harm. The

amendments increase the maximum sentences of imprisonment to a term not exceeding one year for a first offence, and a term not exceeding 18 months for a subsequent offence.

Part 3 – Criminal Code Act 1924 Amended

Clause 5: **Principal Act**
Clause 5 provides that the Principal Act to which the amendments in Part 3 apply is the *Criminal Code Act 1924*.

Clause 6: **Principal Act amended**
Paragraph 6(a) inserts new section 172A into the *Criminal Code Act 1924*. New section 172A places the offence of dangerous driving, formerly in the *Traffic Act 1925*, into the *Criminal Code Act 1924*.

Paragraph 6(b) amends section 334 of the *Criminal Code Act 1924*. Section 334 of the *Criminal Code Act 1924* provides for alternative convictions for a person indicted for manslaughter. At present, an offender indicted for manslaughter can be convicted of, among other offences, dangerous driving under subsection 32(1) of the *Traffic Act 1925*. The amendment in paragraph 6(b) will ensure that offenders indicted for manslaughter can continue to be convicted of dangerous driving as an alternative conviction.

Section 334B of the *Criminal Code Act 1924* provides for alternative convictions for a person charged on indictment with causing grievous bodily harm by dangerous driving. Paragraph 6(c) removes section 334B from the *Criminal Code Act 1924* and replaces it with new section 334B. New section 334B retains dangerous driving and reckless driving as alternative convictions, while adding negligent driving causing grievous bodily harm as a further alternative conviction.

Section 334C of the *Criminal Code Act 1924* provides for alternative convictions for a person charged on indictment with causing death by dangerous driving. Paragraph 6(c) removes section 334C from the *Criminal Code Act 1924* and replaces it with new section 334C. New section 334C retains dangerous driving and reckless driving as alternative convictions, while adding negligent driving causing death as a further alternative conviction.

Part 4 – Coroners Act 1995 Amended

Clause 7: **Principal Act**
Clause 7 provides that the Principal Act to which the amendments in Part 4 apply is the *Coroners Act 1995*.

Clause 8: **Section 25 amended (Procedure at inquest where person charged with an offence)**
Clause 8 makes consequential amendments to section 25 of the *Coroners Act 1995*.

Part 5 – Motor Accidents (Liabilities and Compensation) Act 1973 Amended

- Clause 9: **Principal Act**
Clause 9 provides that the Principal Act to which the amendments in Part 5 apply is the *Motor Accidents (Liabilities and Compensation) Act 1973*.
- Clause 10: **Section 18 amended (Recovery by Board from owner or driver in certain cases)**
Clause 10 makes consequential amendments to section 18 of the *Motor Accidents (Liabilities and Compensation) Act 1973*.
- Clause 11: **Section 24 amended (Exclusions from scheduled benefits)**
Clause 11 makes consequential amendments to section 24 of the *Motor Accidents (Liabilities and Compensation) Act 1973*.
- Clause 12: **Section 28B amended (Recovery by Board of scheduled benefits)**
Clause 12 makes consequential amendments to section 28B of the *Motor Accidents (Liabilities and Compensation) Act 1973*.

Part 6 – Passenger Transport Services Act 2011 Amended

- Clause 13: **Principal Act**
Clause 13 provides that the Principal Act to which the amendments in Part 6 apply is the *Passenger Transport Services Act 2011*.
- Clause 14: **Section 3 amended (Interpretation)**
Clause 14 makes consequential amendments to section 3 of the *Passenger Transport Services Act 2011*.

Part 7 – Road Safety (Alcohol and Drugs) Act 1970 Amended

- Clause 15: **Principal Act**
Clause 15 provides that the Principal Act to which the amendments in Part 7 apply is the *Road Safety (Alcohol and Drugs) Act 1970*.
- Clause 16: **Section 18A amended (Traffic infringement notice may be issued in certain circumstances)**
Clause 16 makes consequential amendments to section 18A of the *Road Safety (Alcohol and Drugs) Act 1970*.

Part 8 - Miscellaneous

- Clause 17: **Repeal of Act**
Clause 17 inserts a repeal provision to remove the empty shell of the Bill after its provisions have been transferred and have come into effect. Clause 17 repeals the Act on the 365th day from the day on which it receives the Royal Assent. The repeal will include a repeal of Part 7 whether or not that Part commences, as regardless of whether it commences, the Part will no longer be required.