

CLAUSE NOTES

Police Offences Amendment Bill 2025

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| Clause 1 | Short title Specifies the name of the proposed Act. |
| Clause 2 | Commencement The Act commences on a day on which it received Royal Assent. |
| Clause 3 | Principal Act Provides that the Principal Act that is being amended is the <i>Police Offences Act 1935</i> . |
| Clause 4 | Section 3 amended (Interpretation) Expands the definition of public place to include: <ul style="list-style-type: none">• 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: <ul style="list-style-type: none">• <u>Common</u> assault. From 20 penalty units and 12 months imprisonment to 50 penalty units and 18 months imprisonment, |

- Assault in circumstances of aggravation. From 50 penalty units and 2 years imprisonment to 100 penalty units and 3 years imprisonment,
- An assault where the Court considers the assault of an aggravated nature. From 50 penalty units and 2 years imprisonment to 100 penalty units and 3 years imprisonment, and
- 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, &c., 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. The offence is established 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.

This clause also defines '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)**
- This clause corrects a previous drafting error that appeared in the Act by replacing section 18B of the *Road Safety (Alcohol and Drugs) Act 1970* with section 19A of the *Road Safety (Alcohol and Drugs) Act 1970*, 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 one whereby the police officer has reasonable grounds for believing that a prescribed offence is or has been committed.
- A subsequent amendment to the same section is also included in this clause, which provides for clamping and confiscation (up to 90 days), to contemporise the language in accordance with the new evidentiary burden.
- Clause 14** **Section 37O amended (Period of clamping or confiscation for first prescribed offence)**

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

This clause also 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'.

This clause increases the period of clamping and confiscation (for the second prescribed offence) from 3 months to 6 months.

This clause also clears an anomaly for the [extended] period of disqualification where the second offence is an evade police in aggravated circumstances. Previously, the increased period of clamping or confiscation required both offences be evade police in aggravated circumstances. This clause amends the Act to require that only the second offence be an evade 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).

This clause also 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 (consequential to the enactment of clause 21 – forfeiture of vehicles).

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

This clause 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)

This clause 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'.

This clause also removes the requirement for a forfeiture application to be made where a vehicle has been clamped or confiscated for a third or subsequent offence.

Previously, on conviction for the third or subsequent prescribed offence, a police officer or prosecutor was required to, within 14 days following the conviction, make an application to the Court for forfeiture of the vehicle.

The effect of this clause is that on the third or subsequent conviction for a prescribed offence, the Court must make a forfeiture order, to take effect 28 days after the making of such order.

The clause maintains the existing provision whereby the offending driver, the owner or the registered operator, may, before the forfeiture order takes effect, apply to 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)

This clause is consequential to clause 21 – [automatic] forfeiture of vehicles in that it refers to an order made pursuant to (the amended) section 37Y(3) – Court order for forfeiture on conviction for third or subsequent prescribed offence. Reference to proceeding for forfeiture [application] is substituted with reference to proceeding where a forfeiture order must be made.

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

This clause is also consequential to clause 21 – [automatic] forfeiture of vehicles in that it refers to an order made pursuant to (the amended) section 37Y(3) – Court order for forfeiture on conviction for third or subsequent prescribed offence.

References to 'the hearing of an application for forfeiture' are replaced with 'proceedings in relation to which a forfeiture order was made ...', and '6 months' is replaced with '14 days'.

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

This section provides for the sale and disposal of non-recovered confiscated vehicles and reduces the time period for the sale or disposal of such vehicles from 2 months to 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)

This clause removes a reference to arrest without a warrant relating to a previously omitted (in 2017) sub-section that was detected whilst drafting the current amendments.

Further, the road rage offence (clause 9 – section 37FA inserted) is included in the relevant section as another offence for which a police officer may, arrest without a warrant, where there are reasonable grounds of for believing a person has committed an offence.

Clause 28 Section 67A substituted (Evidentiary provisions)

This clause expands on existing evidentiary provisions (in the absence of evidence to the contrary) for certain offences to include:

- Consorting of convicted offenders. In proceedings for this offence, an allegation in a complaint that an official warning (per section 20D of the Act) was authorised, served and in force, is evidence of those facts,
- Offences relation to property. In proceedings for property offences (destroy/injure property or kill, maim or wound an animal), an allegation in the 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, and

- Motor vehicle stealing. In proceedings for this offence, an allegation in a complaint that a specified person was the owner, registered operator or person lawfully in charge of a [stolen] motor vehicle, and that that person did not give consent to the driving or use of the motor vehicle, is evidence of those matters.

Clause 29

Repeal of the Act

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