



Western Australia

Road Traffic Legislation Amendment Act 2016

As at 21 Sep 2016

No. 25 of 2016

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Road Traffic Legislation Amendment Act 2016

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Western Australia

Road Traffic Legislation Amendment Act 2016

No. 25 of 2016

An Act to amend —

- the *Road Traffic Act 1974*; and
- the *Road Traffic (Administration) Act 2008*; and
- the *Road Traffic (Authorisation to Drive) Act 2008*; and
- the *Young Offenders Act 1994*.

[Assented to 21 September 2016]

The Parliament of Western Australia enacts as follows:

Part 1 — Preliminary

1. Short title

This is the *Road Traffic Legislation Amendment Act 2016*.

2. Commencement

This Act comes into operation as follows —

- (a) Part 1 — on the day on which this Act receives the Royal Assent (*assent day*);
- (b) Part 2 — on the day after assent day;
- (c) Part 3 — on a day fixed by proclamation, and different days may be fixed for different provisions.

Part 2 — Amendments that commence on the day after Royal Assent

Division 1 — *Road Traffic Act 1974* amended

3. Act amended

This Division amends the *Road Traffic Act 1974*.

4. Section 50 deleted

Delete section 50.

5. Section 54 amended

- (1) In section 54(3) delete each penalty and insert:

Penalty for this subsection: imprisonment for —

- (a) 20 years, if the incident occasioned death and, in any event, the court convicting the person must order that the person be disqualified from holding or obtaining a driver's licence for a period of not less than 2 years;
- (b) 14 years, if the incident occasioned grievous bodily harm but not death and, in any event, the court convicting the person must order that the person be disqualified from holding or obtaining a driver's licence for a period of not less than 2 years;
- (c) 10 years, in any other case and, in any event, the court convicting the person must order that the person be disqualified from holding or obtaining a driver's licence for a period of not less than 12 months.

Summary conviction penalty in a case to which paragraph (c) applies: imprisonment for 3 years and, in

Road Traffic Legislation Amendment Act 2016

Part 2 Amendments that commence on the day after Royal Assent

Division 1 Road Traffic Act 1974 amended

s. 6

any event, the court convicting the person must order that the person be disqualified from holding or obtaining a driver's licence for a period of not less than 12 months.

- (2) Delete section 54(4).
- (3) In section 54(6) in the Penalty delete "Penalty:" and insert:

Penalty for this subsection:

6. Section 56 amended

- (1) In section 56(1):
 - (a) after "bodily harm to" insert:

the driver or
 - (b) delete "to the officer in charge of a police station." and insert:

to —

 - (a) the officer in charge of a police station; or
 - (b) the Commissioner of Police in a manner approved by the Commissioner.
- (2) In section 56(4) delete "to the officer in charge of a police station." and insert:

to —

 - (a) the officer in charge of a police station; or

- (b) the Commissioner of Police in a manner approved by the Commissioner.

7. Section 64A amended

- (1) Before section 64A(1) insert:

- (1A) In this section —

cancellation provision means —

- (a) a provision of the *Road Traffic (Authorisation to Drive) Act 2008* Part 3 Division 2 under which a driver's licence may be cancelled; or
- (b) section 75(2a) or (2b) of this Act as in force at any time before those provisions were deleted by the *Road Traffic Legislation Amendment Act 2012* section 20.

- (2) In section 64A(2)(d) delete “the *Road Traffic (Authorisation to Drive) Act 2008* section 22(1) or (2)” and insert:

a cancellation provision

- (3) In section 64A(3)(b) delete “the *Road Traffic (Authorisation to Drive) Act 2008* section 22(1) or (2)” and insert:

a cancellation provision

- (4) In section 64A(5)(d) delete “GCM exceeding 22.5 tonnes; or” and insert:

GCM that is 22.5 tonnes or more; or

8. Section 65 amended

- (1) In section 65 delete “section 59B(5) and sections 63” and insert:

sections 59

- (2) In section 65 in the definition of *authorised person* delete “chief executive officer of the Chemistry Centre (WA)” and insert:

Commissioner of Police

- (3) In section 65 in the definition of *breath analysing equipment* after “Minister” insert:

under section 72(2)(a)

- (4) In section 65 in the definition of *preliminary test* after “Minister” insert:

under section 72(2)(b)

Note: The heading to amended section 65 is to read:

Terms used in s. 59 to 73

9. Section 65A amended

In section 65A(1) delete “section 59B(5) and sections 63” and insert:

sections 59

10. Section 67 amended

In section 67(2):

- (a) in paragraph (c) delete “analysis,” and insert:

analysis; or

- (b) after paragraph (c) insert:

(d) to accompany a police officer to a police station or some other place, and to wait at that place,

Note: The heading to amended section 67 is to read:

Failure to comply with s. 66 requirement to provide sample, allow sample to be taken or to accompany police officer

11. Section 70 amended

- (1) In section 70(2):

- (a) in paragraph (a) delete “chief executive officer of the Chemistry Centre (WA),” and insert:

Commissioner of Police,

- (b) delete the passage that begins with “such chief executive officer, or” and continues to the end of the subsection and insert:

the Commissioner of Police, the chief executive officer of the Chemistry Centre (WA), an authorised person, a technologist, a medical practitioner or registered nurse or an analyst (as is relevant).

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Part 2 Amendments that commence on the day after Royal Assent

Division 1 Road Traffic Act 1974 amended

s. 12

- (2) In section 70(3c):
- (a) delete “chief executive officer of the Chemistry Centre (WA),” and insert:
- Commissioner of Police,
- (b) delete “such chief executive officer.” and insert:
- the Commissioner of Police.

12. Section 72 amended

- (1) In section 72(1) delete “section 59B(5) and sections 63” and insert:
- sections 59
- (2) After section 72(2a) insert:
- (3A) In subsections (2) and (2a) —
- Minister** means the Minister to whom the administration of the *Police Act 1892* is committed.
- (3) In section 72(3):
- (a) in paragraph (aa) delete “substances; and” and insert:
- substances,
- (b) delete paragraph (b).

- (4) Delete section 72(4) and (5) and insert:
- (4) The Commissioner of Police may, from time to time —
 - (a) certify a person as being competent to operate all types of breath analysing equipment; and
 - (b) authorise a person to collect, and conduct drug testing of, samples of oral fluid for the purposes of section 66D; and
 - (c) rescind or revoke a certificate or an authorisation.
 - (5) The Commissioner of Police must not certify a person under subsection (4)(a) unless, in the Commissioner's opinion, the person has the appropriate training to operate all types of breath analysing equipment.
 - (6) The Commissioner of Police must not authorise a person under subsection (4)(b) unless, in the Commissioner's opinion, the person has the appropriate training to collect, and conduct drug testing of, samples of oral fluid in accordance with the regulations.
 - (7) If the certification of a person by the chief executive officer of the Chemistry Centre (WA) under subsection (3)(b) was in effect immediately before commencement day, the certification has effect, on and after commencement day, as if it were the certification of the person by the Commissioner of Police under subsection (4)(a) (including for the purposes of section 70(2)(a)).
 - (8) In subsection (7) —
commencement day means the day on which the *Road Traffic Legislation Amendment Act 2016* section 12 comes into operation.

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Part 2 Amendments that commence on the day after Royal Assent

Division 2 Road Traffic (Administration) Act 2008 amended

s. 13

Note: The heading to amended section 72 is to read:

Taking and testing samples: regulations for s. 59 to 73, and approval of apparatus and persons

Division 2 — Road Traffic (Administration) Act 2008 amended

13. Act amended

This Division amends the *Road Traffic (Administration) Act 2008*.

14. Section 12 amended

In section 12(1) in the definition of *incident information*:

(a) in paragraph (b) delete “incident;” and insert:

incident; and

(b) after paragraph (b) insert:

(c) a copy of a statement or a report produced as a result of any investigation made into the incident;

15. Sections 13D and 13E inserted

After section 13C insert:

13D. Disclosure of incident information to ICWA

(1) In this section —

ICWA means the Commission as defined in the *Insurance Commission of Western Australia Act 1986* section 3;

incident information means —

- (a) information provided in relation to an incident in a report made under the *Road Traffic Act 1974* section 56(1) or (4); and
 - (b) details of any evidence, statement, report or other information obtained as a result of any investigation made into the incident; and
 - (c) a copy of a statement or a report produced as a result of any investigation made into the incident.
- (2) The Commissioner of Police may disclose incident information to ICWA.
 - (3) Information disclosed under subsection (2) may be used in the performance of ICWA's functions under the *Motor Vehicle (Third Party Insurance) Act 1943* but not for any other purpose.
 - (4) The disclosure of information under subsection (2) is to be free of charge.

13E. Disclosure of incident information to involved persons

- (1) In this section —
incident information means —
 - (a) information provided in relation to an incident in a report made under the *Road Traffic Act 1974* section 56(1) or (4); and
 - (b) details of any evidence, statement, report or other information obtained as a result of any investigation made into the incident.
- (2) The Commissioner of Police may, in relation to an incident, disclose incident information to any of the following —

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Part 2 Amendments that commence on the day after Royal Assent

Division 2 Road Traffic (Administration) Act 2008 amended

s. 16

- (a) a person, or a representative of the person, who suffered bodily harm in the incident;
- (b) the driver, or a representative of the driver, of a vehicle involved in the incident;
- (c) an owner, or a representative of the owner, of a vehicle involved in the incident;
- (d) an owner, or a representative of the owner, of property damaged in the incident.

16. Section 15 amended

- (1) In section 15(1) insert in alphabetical order:

incident information means —

- (a) information provided in relation to an incident in a report made under the *Road Traffic Act 1974* section 56(1) or (4); and
- (b) details of any evidence, statement, report or other information obtained as a result of any investigation made into the incident; and
- (c) a copy of a statement or a report produced as a result of any investigation made into the incident;

- (2) After section 15(2) insert:

- (3A) The Commissioner of Police may disclose incident information to a person if the Commissioner considers that the information is required by the person for a road safety purpose.

- (3) In section 15(3):

- (a) in paragraph (a) delete “subsection (2); or” and insert:

subsection (2) or (3A); or

(b) in paragraph (b) delete “subsection 2,” and insert:

subsection (2) or (3A),

17. Section 84 amended

In section 84(2) delete “2012” (1st occurrence) and insert:

2008

18. Section 91 amended

In section 91(a) delete “given, other than an offence under the *Road Traffic (Vehicles) Act 2012* section 4(2),” and insert:

given

19. Section 106 amended

After section 106(2) insert:

- (3) Subsection (2) does not apply to an indictable offence.
- (4) Subsection (3) has effect, in relation to an offence that was allegedly committed before the day on which the *Road Traffic Legislation Amendment Act 2016* section 19 comes into operation, as if that section had come into operation on the day on which this Act (other than sections 1 and 2) came into operation (that is, 27 April 2015).

Division 3 — Other Acts amended

20. Road Traffic (Authorisation to Drive) Act 2008 amended

- (1) This section amends the *Road Traffic (Authorisation to Drive) Act 2008*.
- (2) After section 22 insert:

23A. Calculation of period of disqualification

- (1) If a person is convicted by a court of an offence under a road law and, as a consequence, is disqualified from holding or obtaining a driver's licence, whether by an order of the court or operation of that law, the term of the disqualification does not elapse —
 - (a) while the person is in custody serving any sentence of imprisonment; or
 - (b) while the person is appealing against the conviction or sentence that gave rise to the disqualification.
- (2) Subsection (1) applies to all disqualifications other than a disqualification that commenced before the day on which the *Road Traffic Legislation Amendment Act 2016* section 20 comes into operation.

21. Young Offenders Act 1994 amended

- (1) This section amends the *Young Offenders Act 1994*.
- (2) In Schedule 1 item 3:
 - (a) after the row relating to section 60 insert:

s. 61 Dangerous driving

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Amendments that commence on the day after Royal Assent

Part 2

Other Acts amended

Division 3

s. 21

s. 62 Careless driving

s. 62A Causing excessive noise or smoke from
vehicle's tyres

(b) delete the row relating to section 67 and insert:

s. 67 Failure to comply with s. 66 requirement to
provide sample, allow sample to be taken or
to accompany police officer

(c) after the row relating to section 67AB insert:

s. 67A Failure to comply with other requirements
made under s. 66 to 66E

(3) In Schedule 2 item 3 before the row relating to section 59 insert:

s. 54 Driver in incident occasioning bodily harm
to stop, ensure assistance and give
information

Part 3 — Amendments that will be brought into operation by proclamation

Division 1 — Amendments relating to careless driving

Subdivision 1 — *Road Traffic Act 1974* amended

22. Act amended

This Subdivision amends the *Road Traffic Act 1974*.

23. Section 59 amended

In section 59(4) after “59A,” insert:

59BA(1),

24. Section 59A amended

In section 59A(4) after “section” insert:

59BA(1),

25. Section 59BA inserted

After section 59A insert:

59BA. Careless driving causing death, grievous bodily harm or bodily harm

- (1) If a motor vehicle driven by a person (the *driver*) is involved in an incident occasioning the death of, or grievous bodily harm or bodily harm to, another person and the driver was, at the time of the incident, driving

the motor vehicle without due care and attention, the driver commits an offence.

Penalty for this subsection: imprisonment for 3 years or a fine of 720 PU and, in any event, the court convicting the person must order that the person be disqualified from holding or obtaining a driver's licence for a period of not less than 3 months.

- (2) For the purposes of subsection (1) —
- (a) it is immaterial that the death, grievous bodily harm or bodily harm might have been avoided by proper precaution on the part of a person other than the person charged or might have been prevented by proper care or treatment; and
 - (b) when an incident occasions grievous bodily harm to a person and that person receives surgical or medical treatment, and death results either from the harm or the treatment, the incident is deemed to have occasioned the death of that person, although the immediate cause of death was the surgical or medical treatment if the treatment was reasonably proper in the circumstances and was applied in good faith.
- (3) A person charged with an offence against subsection (1) may, instead of being convicted of that offence, be convicted of an offence against section 62.

26. Section 59B amended

- (1) In section 59B(1) and (2) delete “59 and 59A,” and insert:

59, 59A and 59BA(1),

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Part 3 Amendments that will be brought into operation by proclamation

Division 1 Amendments relating to careless driving

s. 27

(2) After section 59B(6) insert:

(7) In any proceeding for an offence against section 59BA(1) it is a defence for the person charged to prove that the death, grievous bodily harm or bodily harm occasioned by the incident was not in any way attributable to the level of care and attention with which the motor vehicle was driven.

Note: The heading to amended section 59B is to read:

Ancillary matters and defences for sections 59, 59A and 59BA

27. Section 62 amended

In section 62 delete the Penalty and insert:

Penalty: a fine of 30 PU.

Subdivision 2 — *Young Offenders Act 1994* amended

28. Act amended

This Subdivision amends the *Young Offenders Act 1994*.

29. Schedule 2 amended

In Schedule 2 item 3:

(a) delete the row relating to section 59 and insert:

s. 59	Dangerous driving causing death or grievous bodily harm
-------	---

(b) after the row relating to section 59A insert:

s. 59BA(1) Careless driving causing death, grievous
bodily harm or bodily harm

Division 2 — Amendments relating to taking samples

30. Act amended

This Division amends the *Road Traffic Act 1974*.

31. Section 64AB amended

In section 64AB(7) delete “4 hours” and insert:

4 hours, or 12 hours if the sample was taken under
section 66(8B),

32. Section 64AC amended

In section 64AC(4) delete “4 hours” and insert:

4 hours, or 12 hours if the sample was taken under
section 66(8B),

33. Section 65 amended

In section 65 insert in alphabetical order:

prescribed sample taker means —

- (a) a medical practitioner or registered nurse; or
- (b) an appropriately qualified person prescribed for the purposes of the provision in which the term is used;

34. Section 66 amended

After section 66(6a) insert:

- (7) Subsection (8B) applies if a police officer has reasonable grounds to believe that —
- (a) the presence of a motor vehicle has occasioned, or its use has been an immediate or proximate cause of serious bodily harm to, or the death of, a person; and
 - (b) a person (*the person*) may have been the driver or person in charge of the motor vehicle at the time of that presence or use.
- (8A) In subsection (7) —
- serious bodily harm*, in relation to a person, means bodily harm that the police officer has reasonable grounds to believe is likely to require the attendance of the person at a hospital (whether or not that is practicable).
- (8B) If this subsection applies, a police officer may —
- (a) require the person to do one or both of the following —
 - (i) allow a prescribed sample taker to take a sample of the person's blood for analysis;
 - (ii) provide a sample of the person's urine for analysis;
- or
- (b) where the person is incapable of complying with that requirement — cause a prescribed

sample taker to take a sample of the person's blood for analysis.

- (8C) For the purposes of subsection (8B), a police officer may require the person to accompany a police officer to a police station or some other place, and may require the person to wait at the police station or place.
- (8) A police officer must not make a requirement under subsection (8B)(a), or cause a prescribed sample taker to take a sample under subsection (8B)(b), if it appears to the police officer that the sample cannot be taken or provided within 12 hours after the time of the presence or use of the motor vehicle referred to in subsection (7)(a).

35. Section 69 amended

- (1) In section 69(1) delete the passage that begins with "Act," and continues to the end of the subsection and insert:

Act.

- (2) After section 69(1a) insert:

- (2A) The prescribed sample taker must ensure that both samples are delivered to a police officer.
- (2B) One of the samples must be delivered, on behalf of the person from whom the samples were taken, to the Chemistry Centre (WA) by a police officer or a person appointed or engaged for that purpose.

36. Section 69A amended

- (1) In section 69A:
 - (a) delete "Where pursuant" and insert:

Road Traffic Legislation Amendment Act 2016

Part 3 Amendments that will be brought into operation by proclamation

Division 2 Amendments relating to taking samples

s. 37

- (1) Where pursuant
 - (b) delete the passage that begins with “Act,” and continues to the end of the section and insert:

Act.

- (2) At the end of section 69A insert:

- (2) The prescribed sample taker must ensure that both samples are delivered to a police officer.
- (3) One of the samples must be delivered, on behalf of the person who provided the samples, to the Chemistry Centre (WA) by a police officer or a person appointed or engaged for that purpose.

37. Section 69B amended

- (1) In section 69B:
 - (a) delete “If the drug” and insert:
 - (1) If the drug
 - (b) delete the passage that begins with “Act,” and continues to the end of the section and insert:

Act.

- (2) At the end of section 69B insert:

- (2) The authorised drug tester must ensure that both samples are delivered to a police officer.
- (3) One of the samples must be delivered, on behalf of the person who provided the samples, to the Chemistry Centre (WA) by a police officer or a person appointed or engaged for that purpose.

38. Sections 70A and 70B inserted

After section 69B insert:

70A. Blood, urine or oral fluid sample: delivery of person's sample to Chemistry Centre (WA)

- (1) A sample of blood, urine or oral fluid delivered to the Chemistry Centre (WA) on behalf of a person under section 69(2B), 69A(3) or 69B(3) must be retained, and appropriately stored, by the Chemistry Centre (WA) until the person requests the sample.
- (2) The person may, within 3 months after the day on which the sample was delivered to the Chemistry Centre (WA), request that the sample be delivered to an analyst (as defined in the *Misuse of Drugs Act 1981* section 3(1)) nominated by the person, for analysis.
- (3) The cost of delivering the sample is to be paid for by the person.
- (4) Despite subsection (1), the Chemistry Centre (WA) need not store the sample for more than 3 months.

70B. Evidence of delivery of blood, urine or oral fluid samples

- (1) In proceedings for an offence against section 63, 64, 64AA, 64A, 64AAA, 64AB or 64AC, evidence of the delivery of a sample to an analyst or drug analyst may be given in the form of a certificate in which a person who took delivery of the sample sets out the prescribed particulars of the delivery of the sample to the person together with their signature.
- (2) In the absence of evidence to the contrary —
 - (a) it is to be presumed that each signature on the certificate is the signature of the person of whom it purports to be the signature; and
 - (b) the certificate is evidence of its contents.
- (3) Except with the consent of the accused, evidence of the delivery of a sample to a person in the form of a certificate cannot be given in the proceedings and, if it is given, is not admissible, unless a copy of the certificate is given to the accused at least 28 days before the proceedings.
- (4) If a copy of the certificate has been given as required by subsection (3), the accused cannot challenge or call into question a matter set out in the certificate unless —
 - (a) notice in writing of the accused's intention is given to the prosecutor at least 14 days before the proceedings; or
 - (b) the court, in the interests of justice, gives the accused leave to so do.
- (5) A notice under subsection (4)(a) must specify the matter that is to be challenged or called into question.

39. Section 70 amended

- (1) In section 70(1)(d) and (3a)(a) and (b) delete “4 hours” and insert:

4 hours, or 12 hours if the sample was taken under section 66(8B),

- (2) In section 70(3b) delete “medical practitioner, registered nurse,” and insert:

prescribed sample taker,

40. Various references to “medical practitioner or registered nurse” amended

In the provisions listed in the Table delete “medical practitioner or registered nurse” (each occurrence) and insert:

prescribed sample taker

Table

s. 66(2), (5), (6), (6a), (11) and (12)	s. 66B(1), (2) and (4)
s. 66E(1), (2) and (4)	s. 66F(1) and (2)
s. 67(2)	s. 67AA(2)
s. 67AB(2)	s. 67A(2)
s. 68(3) and (7)	s. 69(1)

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Part 3 Amendments that will be brought into operation by proclamation

Division 3 Amendments relating to driving instructors

s. 41

s. 69A	s. 70(1), (2), (3a) and (3b)
s. 72(1)	

Note: The heading to amended section 66F is to read:

Prescribed sample takers authorised to take blood samples

Division 3 — Amendments relating to driving instructors

Subdivision 1 — *Road Traffic Act 1974* amended

41. Act amended

This Subdivision amends the *Road Traffic Act 1974*.

42. Part V Division 1A replaced

Delete Part V Division 1A and insert:

Division 1AA — Terms used in this Part

49AAA. Terms used

In this Part —

grievous bodily harm has the meaning given in *The Criminal Code* section 1(1);

instructor means a person who may give driving instruction under the *Road Traffic (Authorisation to Drive) Act 2008* section 10(2);

learner driver means —

- (a) the holder of a learner's permit; or
- (b) a person authorised to drive under the *Road Traffic (Authorisation to Drive) Act 2008* section 6;

provide driving instruction means to provide or attempt to provide driving instruction to a learner driver who is driving a motor vehicle.

Division 1A — When person taken to be instructor or in charge of vehicle

49AA. Circumstances in which person taken to be instructor or in charge of motor vehicle

- (1) For the purposes of this Part, unless the contrary is shown, a person is to be taken to be an instructor providing driving instruction to a learner driver if the person is —
 - (a) seated beside the learner driver in a motor vehicle driven by the learner driver; or
 - (b) if there is no seat directly beside the learner driver —
 - (i) seated in the seat nearest the learner driver that faces forward in a motor vehicle driven by the learner driver; or
 - (ii) standing near the learner driver in a motor vehicle driven by the learner driver;

or

 - (c) riding in a side car attached, or on a pillion seat fitted, to a motor cycle driven by the learner driver.
- (2) Without limiting the circumstances in which a person is in charge of a motor vehicle, an instructor providing driving instruction to a learner driver is, for the purposes of this Part (other than sections 49AB and 66A), to be taken to be in charge of the motor vehicle driven by the learner driver.

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- (3) Subsection (2) does not affect any liability of a learner driver for any offence committed by that person while driving or being in charge of a vehicle.

43. Section 49AB amended

Before section 49AB(1) insert:

- (1A) In this section an instructor providing driving instruction to a learner driver is not to be taken, under section 49AA, to be in charge of the motor vehicle driven by the learner driver.

44. Part V Division 2A inserted

After Part V Division 1 insert:

Division 2A — Providing driving instruction to learner drivers: alcohol and drug related offences

62B. Providing driving instruction: blood alcohol content

- (1) An instructor who provides driving instruction to a learner driver while having a blood alcohol content of or above 0.05 g of alcohol per 100 ml of blood commits an offence.

Penalty for this subsection: a fine of not less than 6 PU or more than 10 PU.

- (2) Subsection (4) applies to an instructor who —
- (a) holds an extraordinary licence as defined in the *Road Traffic (Authorisation to Drive) Act 2008* section 3(1); or

- (b) has, within the last 3 years, ceased to be subject to an order disqualifying the instructor from holding or obtaining a driver's licence imposed for an offence against section 63 or 67, or for a second or subsequent offence against section 64, committed after the commencement of the *Road Traffic Amendment Act 1997*; or
 - (c) has, within the last 3 years, been granted a driver's licence in a case where the instructor did not hold a driver's licence because it had been cancelled under a cancellation provision as a result of an order disqualifying the instructor from holding or obtaining a driver's licence imposed for an offence against section 63 or 67, or for a second or subsequent offence against section 64, committed after the commencement of the *Road Traffic Amendment Act 1997*.
- (3) In subsection (2)(c) —
- cancellation provision*** means —
- (a) a provision of the *Road Traffic (Authorisation to Drive) Act 2008* Part 3 Division 2 under which a driver's licence may be cancelled; or
 - (b) section 75(2a) or (2b) of this Act as in force at any time before those provisions were deleted by the *Road Traffic Legislation Amendment Act 2012* section 20.
- (4) An instructor to whom this subsection applies who provides driving instruction to a learner driver while having any blood alcohol content commits an offence.
- Penalty for this subsection: a fine of not less than 6 PU or more than 10 PU.

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- (5) An instructor who provides driving instruction to a learner driver in respect of a motor vehicle that has a GCM that is 22.5 tonnes or more while having any blood alcohol content commits an offence.

Penalty for this subsection: a fine of not less than 6 PU or more than 10 PU.

- (6) It is a defence to a charge of an offence against subsection (4) or (5) for the accused to prove that the accused's blood alcohol content was not to any extent caused by any of the following —
- (a) the consumption of an alcoholic beverage (otherwise than for the purposes of religious observance);
 - (b) the consumption or use of any other substance (for example, food or medicine) for the purpose of consuming alcohol.
- (7) A person charged with an offence against subsection (1) may, instead of being convicted of that offence, be convicted of an offence against subsection (4) or (5) if, at the time of the alleged offence, the person was a person to whom subsection (4) or (5) applied.

62C. Providing driving instruction with prescribed illicit drug in oral fluid or blood

- (1) An instructor who provides driving instruction to a learner driver while a prescribed illicit drug is present in the instructor's oral fluid or blood commits an offence.

Penalty for this subsection: a fine of not less than 6 PU or more than 10 PU.

- (2) If in any proceeding for an offence against this section it is proved that a certain drug was present in the

accused's body at any time within 4 hours after the time that the accused was providing the driving instruction, the presence of that drug in the accused's body at the time the accused was providing the driving instruction is to be taken to be proved in the absence of proof to the contrary.

- (3) If a person takes a prescribed illicit drug mistakenly believing it to be another drug, that mistake is not a defence in any proceeding for an offence against this section if that other drug is also a drug within the meaning of paragraph (a) or (b) of the definition of *drug* in section 65.

45. Section 62B amended

In section 62B(2):

- (a) in paragraph (c) delete "*Act 1997.*" and insert:

Act 1997; or

- (b) after paragraph (c) insert:

- (d) is a member of a class of persons prescribed for the purposes of section 64A(2)(g) by regulations made for the purposes of the *Road Traffic (Authorisation to Drive) Act 2008* section 5A.

46. Section 62C amended

In section 62C(2) delete "4 hours" and insert:

4 hours, or 12 hours if the sample was taken under section 66(8B),

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47. Section 66 amended

(1) In section 66(2)(a)(ii) delete “section 64A(1)” and insert:

section 62B(4) or (5) or 64A(1)

(2) After section 66(2)(ca) insert:

(cb) a police officer has reasonable grounds to believe that —

(i) an offence against section 59(1)(a) or 59A(1)(a) has been committed by a learner driver; and

(ii) a person may have been an instructor providing driving instruction to that learner driver at the time of that offence;

or

(3) In section 66(2)(cb)(i) delete “section 59(1)(a) or 59A(1)(a)” and insert:

section 59(1)(a), (ba) or (bb) or 59A(1)(a), (ba) or (bb)

(4) In section 66(2)(d) delete “63,” and insert:

63; or

(5) After section 66(2)(d) insert:

- (e) a police officer has reasonable grounds to believe that —
 - (i) the presence of a motor vehicle has occasioned, or its use has been an immediate or proximate cause of, personal injury or damage to property; and
 - (ii) a learner driver was driving or attempting to drive the motor vehicle at the time of that presence or use; and
 - (iii) a person may have been an instructor providing driving instruction to the learner driver at that time; and
 - (iv) at that time, the person would have committed an offence against section 63 if the person had been driving a motor vehicle,

(6) In section 66(6a)(a) delete “(ca) or (d),” and insert:

(ca), (cb), (d) or (e),

(7) In section 66(11) delete “(ca) or (d)” and insert:

(ca), (cb), (d) or (e)

48. Section 66A amended

Before section 66A(1) insert:

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(1A) In this section an instructor providing driving instruction to a learner driver is not to be taken, under section 49AA, to be in charge of the motor vehicle driven by the learner driver.

49. Section 67 amended

In section 67(2) delete “person” and insert:

person, other than a person to whom section 68A(3) applies,

50. Section 67AB amended

In section 67AB(2) delete “person” and insert:

person, other than a person to whom section 68A(3) applies,

51. Section 67A amended

In section 67A(1) delete “person” and insert:

person, other than a person to whom section 68A(3) applies,

52. Section 68A inserted

After section 67A insert:

68A. Failure to comply with s. 66, 66C, 66D or 66E requirement: instructors

(1) In this section —

requirement means a requirement of a police officer made under section 66, 66C, 66D or 66E.

- (2) Subsection (3) applies to a person of whom a requirement was made on the basis that the person was, or that there were reasonable grounds to believe that the person was, an instructor providing driving instruction to a learner driver.
- (3) A person to whom this subsection applies who fails to comply with a requirement commits an offence.
- (4) A person convicted of an offence against this section is liable to a fine of 20 PU.
- (5) It is a defence to a prosecution for an offence against this section if the accused satisfies the court that there was some substantial reason for the accused's failure to comply other than a desire to avoid providing information that might be used as evidence.
- (6) Without limiting the generality of subsection (5), it is a defence to a prosecution for failing to comply with a requirement under section 66, to provide a urine sample, if the accused satisfies the court that the accused attempted to comply with the requirement.
- (7) Without limiting the generality of subsection (5), it is a defence to a prosecution for failing to comply with a requirement to provide a sample of breath for a preliminary test if the accused satisfies the court that the accused complied with a requirement under section 66, to provide a sample of breath for analysis or to allow a sample of blood to be taken for analysis, that arose out of —
 - (a) the accused's failure to comply with the requirement to provide a sample of breath for a preliminary test; or
 - (b) the circumstances that gave rise to the requirement to provide a sample of breath for a preliminary test.

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53. Section 70B amended

In section 70B(1) after “offence against section” insert:

62B, 62C,

54. Section 70 amended

(1) In section 70(1) after “offence against section” insert:

62B,

(2) In section 70(3a) after “offence against section” insert:

62C or

(3) In section 70(3c) after “section 67(2)(a)” insert:

or 68A

(4) In section 70(3d) after “section 67A(1)” insert:

or 68A

(5) In section 70(5c), (5d) and (5e) delete “67AB or 67A.” and insert:

67AB, 67A or 68A.

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s. 55

(6) In section 70(6) delete “67AA or 67A.” and insert:

67AA, 67A or 68A.

Subdivision 2 — Road Traffic (Administration) Act 2008 amended

55. Act amended

This Subdivision amends the *Road Traffic (Administration) Act 2008*.

56. Section 28 amended

In section 28 insert in alphabetical order:

instructor has the meaning given in the *Road Traffic Act 1974* section 49AAA;

learner driver has the meaning given in the *Road Traffic Act 1974* section 49AAA;

provide driving instruction has the meaning given in the *Road Traffic Act 1974* section 49AAA;

57. Part 4 Division 2A inserted

After Part 4 Division 1 insert:

Division 2A — When person taken to be instructor or in charge of vehicle

32A. Circumstances in which person taken to be instructor or in charge of motor vehicle

(1) For the purposes of this Part, unless the contrary is shown, a person is to be taken to be an instructor

providing driving instruction to a learner driver if the person is —

- (a) seated beside the learner driver in a motor vehicle driven by the learner driver; or
 - (b) if there is no seat directly beside the learner driver —
 - (i) seated in the seat nearest the learner driver that faces forward in a motor vehicle driven by the learner driver; or
 - (ii) standing near the learner driver in a motor vehicle driven by the learner driver;
- or
- (c) riding in a side car attached, or on a pillion seat fitted, to a motor cycle driven by the learner driver.
- (2) Without limiting the circumstances in which a person is in charge of a motor vehicle, an instructor providing driving instruction to a learner driver is, for the purposes of this Part, to be taken to be in charge of the motor vehicle driven by the learner driver.
- (3) Subsection (2) does not affect any liability of a learner driver for any offence committed by that person while driving or being in charge of a vehicle.

58. Section 33 amended

In section 33(1) delete “vehicle” and insert:

vehicle, or an instructor providing driving instruction to a learner driver,

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s. 59

59. Section 35 amended

(1) Delete section 35(1) and insert:

(1) In this section —

identity request means a request made under a road law for information as to the identity of the person who was driving or in charge of a vehicle at any particular time.

(2) In section 35(2) delete “a driver” and insert:

an

Note: The heading to amended section 35 is to read:

Duty to take reasonable measures to be able to comply with identity request

60. Section 109 amended

In section 109(1):

(a) in paragraph (f) after “section” insert:

62B(4) or

(b) after paragraph (f) insert:

(gaa) that the vehicle to which the alleged offence relates was, at the time of the alleged offence, a motor vehicle referred to in the *Road Traffic Act 1974* section 62B(5);

Division 4 — Other amendments

Subdivision 1 — *Road Traffic Act 1974* amended

61. Act amended

This Subdivision amends the *Road Traffic Act 1974*.

62. Section 49 amended

- (1) In section 49(1) in the Penalty delete “Penalty:” and insert:

Penalty for this subsection:

- (2) In section 49(1) in the Penalty paragraph (c) after “(b),” insert:

(ca),

- (3) Delete section 49(3)(b) and insert:

(b) who, at the time of the commission of the offence, is disqualified from holding or obtaining an Australian driver licence of a kind required, other than for the reason described in paragraph (d), whether or not the person has ever held an Australian driver licence of the kind required; or

(ca) who has held an Australian driver licence of a kind required but ceased to hold the licence of that kind most recently held other than —

(i) because the person had, before the time of the commission of the offence, voluntarily surrendered the licence most recently held; or

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- (ii) because the licence expired; or
- (iii) for the reason described in paragraph (d);

or

(4) In section 49(4) and (6) after “(b),” insert:

(ca)

(5) In section 49(7) in the definition of *relevant offence* paragraph (a) after “(b),” insert:

(ca)

63. Section 78A amended

In section 78A in the definition of *impounding offence (driver’s licence)* paragraph (a) after “(b),” insert:

(ca),

64. Section 110 inserted

At the end of Part VIII insert:

110. Transitional provisions for the Road Traffic Legislation Amendment Act 2016

- (1) Until the *Road Traffic Legislation Amendment Act 2016* section 62(2) comes into operation, section 49(1) has effect as if paragraph (c) of the

Penalty also referred to the application of subsection (3)(ca).

- (2) Until the *Road Traffic Legislation Amendment Act 2016* section 63 comes into operation, the definition of ***impounding offence (driver's licence)*** paragraph (a) in section 78A, has effect as if it also referred to section 49(3)(ca).

Subdivision 2 — *Road Traffic (Administration) Act 2008* amended

65. Act amended

This Subdivision amends the *Road Traffic (Administration) Act 2008*.

66. Section 117 amended

- (1) In section 117(1) delete “section —” and insert:

section and section 117A —

- (2) In section 117(1) delete the definition of ***Minister***.

- (3) In section 117(1) insert in alphabetical order:

approved procedure, in relation to setting up, installing, testing or retrieving data from speed measuring and recording equipment or producing images from the data, means the procedure approved by the Commissioner of Police;

Minister means the Minister to whom the administration of the *Police Act 1892* is committed;

speed measuring and recording equipment means apparatus of a type approved by the Minister under subsection (2)(c);

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(4) In section 117(1) in the definition of *authorised person* after paragraph (b) insert:

and

- (c) in relation to speed measuring and recording equipment, means —
- (i) a police officer; or
 - (ii) a person certified by the Commissioner of Police as being competent to install, set up, test or retrieve data from, the equipment or produce images from the data;

(5) In section 117(1) in the definition of *distance measuring equipment* delete “(3);” and insert:

(2)(b);

(6) In section 117(1) in the definition of *speed measuring equipment* delete “(2).” and insert:

(2)(a).

(7) Delete section 117(2) and (3) and insert:

- (2) The Minister may, from time to time, by notice published in the *Gazette*, approve of types of apparatus for the purposes of —
- (a) ascertaining the speed at which a vehicle is moving; or

- (b) ascertaining distances on roads; or
- (c) ascertaining the speed at which a vehicle is moving, recording an image of the vehicle and recording —
 - (i) the speed at which the vehicle was moving; and
 - (ii) the date on which the image was recorded; and
 - (iii) the time and location at which the image was recorded; and
 - (iv) the speed limit applicable at that location at that time.
- (3) The Minister may, by notice published in the *Gazette*, revoke an approval under subsection (2).
- (8) Delete section 117(6) and insert:
 - (6) In a prosecution for an offence under a written law evidence may be given of —
 - (a) the use of speed measuring and recording equipment at a particular location; and
 - (b) the identity of a vehicle as recorded by that equipment at a particular time; and
 - (c) the speed at which a vehicle was moving as ascertained and recorded by that equipment at that time.
 - (7A) The evidence referred to in subsection (6) is prima facie evidence of the identity of the vehicle and the speed at which it was moving at that time and location.
 - (7B) In a prosecution mentioned in subsection (6), evidence of the matters referred to in that subsection may be

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given in the form of an image of the vehicle on which is recorded the matters referred to in subsection (2)(c), as ascertained and recorded by the speed measuring and recording equipment at the time and location referred to in subsection (6).

(9) In section 117(7):

(a) delete “(5),” and insert:

(4), (5) or (6),

(b) after “person was” insert:

speed measuring equipment, speed measuring and recording equipment or

(10) Delete section 117(8) and insert:

(8) In a prosecution mentioned in subsection (4), (5) or (6), a certificate purporting to be signed by the Commissioner of Police certifying that a specified person is, or was at the material time, a person certified by the Commissioner as being competent to —

(a) use distance measuring equipment; or

(b) use speed measuring equipment; or

(c) install, set up, test or retrieve data from, speed measuring and recording equipment or produce images from the data,

is prima facie evidence of the matters in the certificate, without proof of the signature of the person purporting to have signed it or proof that the purported signatory was the Commissioner.

67. Sections 117A to 117I inserted

After section 117 insert:

117A. Evidentiary provisions for images recorded by speed measuring and recording equipment

- (1) If, in a prosecution mentioned in section 117(6), evidence is given in the form of an image as described in section 117(7B) and the image is accompanied by a certificate under subsection (2), the image —
 - (a) is to be accepted as having been recorded as described in section 117(7B), unless there is evidence to the contrary; and
 - (b) is prima facie evidence of the matters shown in or recorded on the image.
- (2) For the purposes of subsection (1), the certificate is a certificate purporting to be signed by the Commissioner of Police, certifying that —
 - (a) the equipment, specified in the certificate, was speed measuring and recording equipment; and
 - (b) the equipment was installed or set up by an authorised person, named in the certificate, in accordance with the approved procedure on a day specified in the certificate; and
 - (c) the equipment was tested by an authorised person, named in the certificate, in accordance with the approved procedure on a day, specified in the certificate, that was within the prescribed number of days (for that type of equipment) before the day on which the alleged offence was committed; and

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- (d) on the specified day referred to in paragraph (c) and on the day on which the alleged offence was committed, the equipment was accurate and operating properly; and
 - (e) data relating to the vehicle and its speed, and the time and place at which its speed was ascertained and the data recorded, was retrieved from the equipment by an authorised person, named in the certificate, in accordance with the approved procedure; and
 - (f) the data referred to in paragraph (e) was used to produce the image by an authorised person, named in the certificate, in accordance with the approved procedure.
- (3) The certificate is prima facie evidence of the matters in it.
- (4) A certificate under subsection (2) is not admissible in evidence in a prosecution mentioned in section 117(6) unless a copy of the certificate and a copy of the relevant image are given to the accused at least 28 days before the day on which the proceedings begin or within a shorter period that is agreed by the accused.
- (5) If a copy of the image and the certificate have been given as required by subsection (4), the accused cannot challenge or call into question a matter certified in the certificate unless —
 - (a) notice in writing of the accused's intention is given to the prosecutor at least 14 days before the proceedings begin; or
 - (b) the court, in the interests of justice, gives the accused leave to so do.
- (6) A notice under subsection (5)(a) must specify the matter that is to be challenged or called into question.

- (7) In a prosecution mentioned in section 117(6), it is to be presumed, in the absence of evidence to the contrary, that a certificate under subsection (2) purporting to have been signed by the Commissioner of Police was so signed, without proof of the signature of the person purporting to have signed it or proof that the purported signatory was the Commissioner.

117B. Evidence of average speed as actual speed

- (1) In this section and in sections 117C to 117I —
- authorised person*** means —
- (a) a police officer; or
 - (b) a person certified by the Commissioner of Police as being competent to install, set up, test or retrieve data from, an average speed detection system or produce images from the data;

average speed detection system means a system, comprising electronic equipment linked to an information technology system and computer programs, of a type approved by the Minister under section 117C;

carriageway means a portion of a road that is designed or ordinarily used for vehicular traffic;

detection points means the different points on a carriageway by reference to which the average speed of a vehicle is proposed to be calculated;

Minister means the Minister to whom the administration of the *Police Act 1892* is committed;

shortest practicable distance, that could be travelled by a vehicle on a carriageway between detection points, means the shortest distance between those points that a driver of the vehicle could have used to

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travel between the points without contravening any road law applicable to the driver.

- (2) In a prosecution for an offence under any written law evidence may be given of —
 - (a) the use of an average speed detection system in respect of a particular location; and
 - (b) the identity of a vehicle as ascertained by that system at a particular time; and
 - (c) the average speed of a vehicle between detection points calculated in accordance with section 117D.
- (3) The evidence referred to in subsection (2)(b) is prima facie evidence of the identity of the vehicle.
- (4) The average speed of a vehicle referred to in subsection (2)(c) is prima facie evidence of the actual speed of the vehicle between the detection points.
- (5) In a prosecution mentioned in subsection (2), evidence of the matters referred to in that subsection may be given in the form of an image of the vehicle on which is recorded —
 - (a) the location referred to in subsection (2)(a); and
 - (b) the time referred to in subsection (2)(b); and
 - (c) the average speed of the vehicle between detection points calculated in accordance with section 117D (which may have been calculated using an average speed detection system).
- (6) In a prosecution mentioned in subsection (2), evidence by an authorised person that a system used in respect of a particular location was an average speed detection system is prima facie evidence of that fact.

- (7) In a prosecution mentioned in subsection (2), a certificate purporting to be signed by the Commissioner of Police certifying that a specified person is, or was at the material time, an authorised person is prima facie evidence of the matters in the certificate, without proof of the signature of the person purporting to have signed it or proof that the purported signatory was the Commissioner.
- (8) This section is in addition to, and does not derogate from, any other mode of proof of the speed of a vehicle.

117C. Average speed detection systems

- (1) The Minister may, from time to time, by notice published in the *Gazette*, approve types of average speed detection systems for the purposes of —
 - (a) ascertaining the average speed of a vehicle between detection points; and
 - (b) recording —
 - (i) an image of the vehicle; and
 - (ii) the date on which the image was recorded; and
 - (iii) the time and location at which the image was recorded.
- (2) The Minister may, by notice published in the *Gazette*, revoke an approval under subsection (1).

117D. How average speed is to be calculated

The average speed of a vehicle between detection points is to be calculated in accordance with the following formula and expressed in kilometres per hour rounded down to the next whole number —

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$$\frac{D_T \times 3600}{T}$$

where —

D_T is the total shortest practicable distance, expressed in kilometres and rounded down to 2 decimal places, that could be travelled by a vehicle on a carriageway between the detection points;

T is the time, expressed in seconds, that elapsed between the vehicle passing the first and last detection points.

117E. How average speed limit is to be calculated

The average speed limit for a driver of a vehicle on a carriageway between detection points in circumstances where more than one speed limit applied to the driver between those points is to be calculated in accordance with the following formula and expressed in kilometres per hour rounded up to the next whole number —

$$\frac{D_T}{\frac{D_1}{S_1} + \frac{D_2}{S_2} + \dots + \frac{D_n}{S_n}}$$

where —

D_T is the total shortest practicable distance, expressed in kilometres and rounded down to 2 decimal places, that could be travelled by a vehicle on a carriageway between the detection points;

$D_1, D_2 \dots D_n$ are each part of the total shortest practicable distance D_T between the detection points, expressed in kilometres and rounded down to

2 decimal places, for the different speed limits $S_1, S_2 \dots S_n$ that would have applied to the driver of the vehicle between the detection points;

$S_1, S_2 \dots S_n$ are each of the speed limits, expressed in kilometres per hour, that would have applied to the driver of the vehicle if the vehicle were travelling along the shortest practicable distance D_T on a carriageway between the detection points.

117F. Evidence of, proceedings for, certain matters related to evidence of average speed

- (1) The following provisions apply in a prosecution mentioned in section 117B(2) —
 - (a) for the purposes of calculating the vehicle's average speed and any average speed limit, the vehicle and any of its drivers are to be taken to have travelled between the detection points by means of the shortest practicable distance between those points regardless of the actual route taken by any of the drivers between the points;
 - (b) if more than one speed limit applied to a driver of a vehicle between detection points —
 - (i) the average speed limit for the driver on a carriageway between the points calculated in accordance with section 117E is to be taken (subject to section 117B(8)) to be the speed limit that applied to the driver at all times on the carriageway between those points; and

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- (ii) a driver of, and any responsible person for, the vehicle may be dealt with under a road law accordingly;
 - (c) if there was more than one driver of the vehicle between the detection points, each driver is to be taken to have driven the vehicle at the average speed of the vehicle calculated in accordance with section 117D, except as provided by subsection (2).
- (2) Subsection (1)(c) does not apply to a driver —
 - (a) who satisfies the court that he or she did not, at any time whilst driving the vehicle between the detection points, drive at a speed that exceeded the speed limit applicable to that driver; or
 - (b) in prescribed circumstances.
- (3) If there is evidence of the average speed of a vehicle between detection points calculated in accordance with section 117D, one or more drivers of the vehicle may be prosecuted for, and found guilty or convicted of, an offence in respect of which the evidence was given.

117G. Evidentiary provisions for images recorded by average speed detection systems

- (1) If, in a prosecution mentioned in section 117B(2), evidence is given in the form of an image as described in section 117B(5) and the image is accompanied by a certificate under subsection (2), the image —
 - (a) is to be accepted as having been recorded as described in section 117B(5), unless there is evidence to the contrary; and
 - (b) is prima facie evidence of the matters shown in or recorded on the image.

- (2) For the purposes of subsection (1), the certificate is a certificate purporting to be signed by the Commissioner of Police certifying that —
- (a) the system, specified in the certificate, was an average speed detection system; and
 - (b) components of the system were tested by an authorised person, named in the certificate, in accordance with the approved procedure on a day, specified in the certificate, that was within the prescribed number of days (for each component) before the day on which the alleged offence was committed; and
 - (c) on the specified day referred to in paragraph (b) and on the day on which the alleged offence was committed, the components were operating properly and were accurate; and
 - (d) data obtained from the system was obtained by an authorised person, named in the certificate, in accordance with the approved procedure; and
 - (e) the image was produced by an authorised person, named in the certificate, in accordance with the approved procedure, from data obtained from the system.
- (3) In subsection (2) —
- approved*** means approved by the Commissioner of Police.
- (4) A certificate under subsection (2) may also certify any one or more of the following matters —
- (a) the average speed calculated in accordance with section 117D at which the vehicle travelled between detection points (which may have been calculated using the average speed detection system);

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- (b) if one speed limit applied to a driver of the vehicle between detection points (measured along the shortest practicable distance), the speed limit;
 - (c) if more than one speed limit applied to a driver of the vehicle between detection points (measured along the shortest practicable distance) —
 - (i) each distance for which each speed limit applied to the driver, expressed in kilometres and rounded down to 2 decimal places; and
 - (ii) the average speed limit calculated in accordance with section 117E that applied to the driver between the detection points (which may have been calculated using the average speed detection system).
- (5) The certificate is prima facie evidence of the matters in it.
- (6) In a prosecution mentioned in section 117B(2), it is to be presumed, in the absence of evidence to the contrary, that a certificate under subsection (2) purporting to have been signed by the Commissioner of Police was so signed, without proof of the signature of the person purporting to have signed it or proof that the purported signatory was the Commissioner.

117H. Certificate evidence as to shortest practicable distance

- (1) In this section —
- licensed surveyor* has the meaning given in the *Licensed Surveyors Act 1909* section 3(1).

- (2) In a prosecution mentioned in section 117B(2), a certificate purporting to be signed by a licensed surveyor certifying any one or more of the following matters is prima facie evidence of the matters that are certified, without proof of the signature of the person purporting to have signed it or proof that the purported signatory was a licensed surveyor —
- (a) the shortest practicable distance, expressed in kilometres and rounded down to 2 decimal places, that could be travelled by a vehicle on a carriageway between detection points;
 - (b) if more than one speed limit between detection points applied (measured along the shortest practicable distance), each distance for which each speed limit applied, expressed in kilometres and rounded down to 2 decimal places.

117I. Certificate, image copies to be given before proceedings

- (1) A certificate of the Commissioner of Police under section 117G is not admissible in evidence in a prosecution mentioned in section 117B(2) unless a copy of the certificate and a copy of the relevant image are given to the accused at least 28 days before the day on which the proceedings begin or within a shorter period that is agreed by the accused.
- (2) A certificate of a licensed surveyor under section 117H is not admissible in evidence in a prosecution mentioned in section 117B(2) unless a copy of the certificate is given to the accused at least 28 days before the day on which the proceedings begin or within a shorter period that is agreed by the accused.
- (3) If a copy of a certificate has been given as required by subsection (1) or (2), the accused cannot challenge or

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call into question a matter certified in the certificate unless —

- (a) notice in writing of the accused's intention is given to the prosecutor at least 14 days before the proceedings begin; or
 - (b) the court, in the interests of justice, gives the accused leave to do so.
- (4) A notice under subsection (3)(a) must specify the matter that is to be challenged or called into question.

68. Part 9 Division 2 replaced

Delete Part 9 Division 2 and insert:

Division 2 — Transitional provisions arising from certain amendments made by the *Road Traffic Legislation Amendment Act 2016*

166. Terms used

In this Division —

commencement day means the day on which the *Road Traffic Legislation Amendment Act 2016* section 66 comes into operation;

RT(A) Act means the *Road Traffic (Administration) Act 2008* as in force before commencement day.

167. Approval of apparatus for ascertaining vehicle speed

An approval under the RT(A) Act section 117(2) that was in effect immediately before commencement day is, on and from commencement day, to be taken to be an approval for the purposes mentioned in section 117(2)(a).

168. Approval of apparatus for ascertaining distances on roads

An approval under the RT(A) Act section 117(3) that was in effect immediately before commencement day is, on and from commencement day, to be taken to be an approval for the purposes mentioned in section 117(2)(b).

169. Certain authorised persons to be authorised persons for speed measuring and recording equipment, average speed detection systems

- (1) In this section —
speed measuring equipment has the meaning given in the RT(A) Act section 117(1).
- (2) A person who, immediately before commencement day, is a person certified by the Commissioner of Police as being competent to use speed measuring equipment is, on and from commencement day, to be taken to be a person certified by the Commissioner of Police as being competent to install, set up, test and retrieve data from speed measuring and recording equipment as defined in section 117(1) and produce images from the data.
- (3) A person who, immediately before commencement day, is a person certified by the Commissioner of Police as being competent to use speed measuring equipment is, on and from commencement day, to be taken to be a person certified by the Commissioner of Police as being competent to install, set up, test and retrieve data from an average speed detection system as defined in section 117B(1) and produce images from the data.

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