

# Road Traffic (Administration) Bill 2007

## Explanatory Memorandum

### Overview of Bill

This Bill facilitates the introduction of the National Road Transport Reform (Compliance & Enforcement) Bill.

The Road Transport Reform (Compliance & Enforcement) Bill was developed by the National Transport Commission (NTC) in conjunction with its Legislation Advisory Panel and in consultation with representatives from the Commonwealth, State and Territory road transport agencies, police, the road transport industry, the Transport Workers Union, occupational health and safety organisations and road user organisations. This Road Transport Reform (Compliance & Enforcement) Bill is not law, but provides a legislative and policy framework for all jurisdictions.

The Road Transport Reform (Compliance & Enforcement) Bill provides nationally consistent framework to improve compliance outcomes for road safety, infrastructure and the environment, while minimising the adverse impacts of road transport on the community and minimising unfair competitive advantage. This is achieved via the introduction of the “chain of responsibility” concept, which is designed to promote positive changes to the on-road behaviour of those involved in the transport industry and to enable accountability to be placed upon all parties influencing compliance.

Given the size and complexity of the Bill it was necessary to restructure road traffic legislation in WA to facilitate the implementation of the concepts and policy objectives of the Bill.

The outcome of this restructure was the creation of the following proposed Bills:

- *Road Traffic (Administration) Bill 2007*
- *Road Traffic (Vehicles) Bill 2007*
- *Road Traffic (Authorisation to Drive) Bill 2007*
- *Road Traffic (Consequential Amendments) Bill 2007*
- *Road Traffic (Vehicle)(Taxing) Bill 2007*

A major benefit of this revised structure is that there will be clear delineation between the various administrative and enforcement functions relating to road traffic law in Western Australia.

This Bill consolidates all administrative type provisions and enforcement powers contained within the existing *Road Traffic Act 1974*, including similar provisions being introduced as part of Road Transport Reform (Compliance & Enforcement) Bill.

This Bill therefore contains a large number of provisions that have simply been transferred from the current *Road Traffic Act 1974*, and incorporates new provisions to give effect to the Road Transport Reform (Compliance & Enforcement) Bill.

## Part 1 - Preliminary

### Clause 1 Short title

This is the formal clause titling the Bill.

### Clause 2 Commencement

This clause provides that clauses (1) and (2) come into operation on the day the Act receives Royal Assent and the remaining parts of the Act come in to operation on a date to be fixed by proclamation. This provision is necessary to allow time for regulations to be gazetted that are necessary to support the Act.

### Clause 3 Crown bound

This clause replicates the substance of section 100(1) *Road Traffic Act 1974*, which will be repealed with the proclamation of this Act.

Subclause (1) provides that the Crown is subject to the road laws of WA to the extent that the legislative power of the Parliament of the State permits.

Subclause (2) exempts for the Governor's personal vehicle or a person driving the Governor's vehicle on official duties from all road laws within WA.

### Clause 4 Terms used in road laws

**"Australian drivers licence"** refers to the definition contained within the *Road Traffic (Authorisation to Drive) Bill 2007*.

**"Australian driver licensing authority"** refers to the definition contained within the *Road Traffic (Authorisation to Drive) Bill 2007*.

**"Australian police officer"** this is a broader definition of police officer that will include police officers from other Australian jurisdictions. This broader definition is necessary to give effect to evidentiary provisions contained in this Act.

**"axle"** this describes a component of a vehicle.

**"axle group"** sets out the various types of axle groups.

**"bodily harm"** refers to the definition contained within the Criminal Code section 1(1).

**"business address"**, this definition is required to provide for the obtaining of the location where business is conducted in order to give effect to various investigative provisions required for the effective application of the chain of responsibility concept.

**"CEO"** this definition replaces the previous reference to the Director General that appeared in the *Road Traffic Act 1974*.

**"co-driver"** this definition is required to ensure that a co-driver is subject to the same requirement as the driver of a vehicle to give effect to the application of the chain of responsibility concept.

**"condition"** this definition is provided to clarify the scope of what constitutes a condition as they relate to the requirement to comply with conditions or the power of an authority to place conditions on drivers and vehicles.

**“corresponding authority”** this definition links back to “Australian Authority” and is also referenced in the Act to provide for mutual recognition of licensing authorities in other Australian jurisdictions.

**“demerit points register”** refers to the definition contained within the *Road Traffic (Authorisation to Drive) Bill 2007*

**“district”** this definition is provided to clarify the meaning of the term district.

**“drive”** this definition is provided to clarify the meaning of the term drive.

**“driver”** this definition is provided to clarify the meaning of the term driver.

**“driver’s licence”** refers to the definition contained within the *Road Traffic (Authorisation to Drive) Bill 2007*.

**“driver's licence register”** refers to the definition contained within the *Road Traffic (Authorisation to Drive) Bill 2007*.

**“equipment”** this definition is required to provide clarity on what constitutes equipment for various administrative and compliance purposes.

**“extract”** this clarifies what constitutes and extract.

**“GCM”** refers to the definition contained within the *Road Traffic (Vehicles) Bill 2007*.

**“GVM”** refers to the definition contained within the *Road Traffic (Vehicles) Bill 2007*.

**“heavy vehicle”** refers to the definition contained within clause 3(1) *Road Traffic (Vehicles) Bill 2007*.

**“home address”** this definition was introduced as a part of the national Compliance and Enforcement Bill to clearly identify what constitutes a home address when requirements are placed on persons to provide this information.

**“infringement notice”** provides the statutory reference to provide clarity in what constitutes an infringement notice.

**“inspection station”** refers to the definition contained within clause 71 *Road Traffic (Vehicles) Bill 2007*.

**“involved person”** refers to the definition contained within clause 3(1) *Road Traffic (Vehicles) Bill 2007*.

**“journey documentation”** refers to the definition contained within clause 3(1) *Road Traffic (Vehicles) Bill 2007*.

**“jurisdiction”** clarifies which jurisdictions are captured by the various provisions of this Bill.

**“learner’s permit”** refers to the definition contained within clause 3(1) *Road Traffic (Authorisation to Drive) Bill 2007*.

**“light vehicle”** refers to the definition contained within clause 3(1) *Road Traffic (Vehicles) Bill 2007*.

**“load”**, this definition is required to provide clarity on what constitutes a load for various administrative and compliance purposes.

**“MDLR compliance purposes”** this definition identifies the purposes for which a Police Officer or Warden may use certain powers under the Bill to investigate MDLR offences (see clause 28).

**“MDLR offences”** this definition identifies those offences to which the new chain of responsibility concept applies (see clause 28).

**“motor vehicle”** this definition is required to provide clarity on what constitutes a motor vehicle for various administrative, licensing and compliance purposes

**“occupier”** this definition provides clarity as to what constitutes an occupier for the purposes of the powers of inspection and search that are introduced by the national Compliance and Enforcement Bill.

**“owner”** this definition has been moved from the *Road Traffic Act 1974* and is required for licensing and owner onus provisions.

**“passenger”** refers to the definition contained within clause 3(1) *Road Traffic (Vehicles) Bill 2007*.

**“premises”** this definition provides clarity as to what constitutes premises for the purposes of the powers of inspection and search that are introduced by the national Compliance and Enforcement Bill.

**“power assisted pedal cycle”** this definition provides clarity as to what constitutes power assisted pedal cycle.

**“public authority”**

This term is used in this Bill to designate specific places (ie premises owned by a public authority) and to provide for evidentiary provisions in relation to the provision and receipt of information (from public authorities).

**“public safety”** this definition is relevant in relation to the reasons for which vehicles can be moved or the driver can be directed to move them.

**“records”** it is necessary to define records for the purposes of the keeping and production of records as provided for in this Bill.

**“responsible person”** this is necessary to give effect to owner onus in relation to photographic based infringement notices.

**“road”** this definition clarifies what constitutes a road for the application of road laws.

**“road infrastructure”** this definition clarifies what constitutes road infrastructure for the purposes of Part 7 on this Bill, in regards to damage caused to road infrastructure by a person committing MDLR offence.

**“road law”** this definition incorporates all the legislation under WA’s Road Traffic law.

**“road transport”** refers to the definition contained within clause 3(1) *Road Traffic (Vehicles) Bill 2007*.

**“traffic”** this definition clarifies what constitutes traffic for the purposes of enforcing certain roads laws.

**“transport documentation”** refers to the definition contained within clause 3(1) *Road Traffic (Vehicles) Bill 2007*.

**“use”** this definition clarifies what constitutes using a vehicle on road.

**“vehicle”** this definition is required to provide clarity on what constitutes a vehicle for various administrative, licensing and compliance purposes

**“vehicle licence”** refers to the definition contained within clause 3(1) *Road Traffic (Vehicles) Bill 2007*.

**“warden”** the term used to describe an person appointed by the CEO or the Commissioner of Police to enforce certain road laws as prescribed.

#### **Clause 5      Owner of a vehicle**

This clause replicates the substance of section 5 *Road Traffic Act 1974*, which will be repealed with the proclamation of this Act.

The clause creates the definition of owner for the purposes of licensing vehicles.

#### **Clause 6      Persons responsible for a vehicle**

This clause replicates the substance of section 5A *Road Traffic Act 1974*, which will be repealed with the proclamation of this Act.

The clause creates the definition of responsible person for both licensing and enforcement purposes under road laws.

#### **Clause 7      Abbreviations**

This clause replicates the substance of section 5(1a) *Road Traffic Act 1974*, which will be repealed with the proclamation of this Act. The clause provides for various abbreviations are used when dealing with penalty provisions under road laws.

## **Part 2 – Administration – general matters**

#### **Clause 8      Delegation of CEO’s functions**

This clause replicates the substance of section 6A *Road Traffic Act 1974*, which will be repealed with the proclamation of this Act.

Subclause (1) creates a power for the CEO to delegate a function or duty under the *Road Traffic (Vehicles) Bill 2007* and *Road Traffic (Authorisation to Drive) Bill 2007* to another person, this being required for various administrative, licensing and compliance purposes.

Subclause (2) provides that a delegation under clause (1) must be in writing.

Subclause (3) places a requirement on the CEO to obtain the approval of the Minister in cases where a delegation is to be made to person who is not employed by the Department Administering this Act.

Subclause (4) sets out the terms under which an approval may be made under subclause (3).

Subclause (5) creates an exemption to subclause (3) by allowing the CEO to delegate to the Commissioner of Main Roads the power to remove vehicles in accordance with clauses (61) and (62) *Road Traffic (Vehicles) Bill 2007*. This is to provide the Commissioner of Main Roads with scope to direct vehicles to be moved from a road where they are causing a danger to other road users.

Subclause (6) provides that a person, who has been delegated a function or duty by the CEO, does not have the power to delegate that function or duty to another person.

Subclause (7) this requires a person who has been delegated a function or duty by the CEO to exercises those functions or duties in accordance with the delegation, unless otherwise stipulated.

Subclause (8) provides that this clause does not affect the CEO's ability to perform a function through an officer or agent, as those functions can be performed without a delegation.

## **Clause 9 Delegation of Commissioner of Police**

This clause replicates the substance of section 6A *Road Traffic Act 1974*, which will be repealed with the proclamation of this Act.

Subclause (1) creates a power for the Commissioner of Police to delegate a power or duty under a road law to police officer or a person employed by the police department, this being required for various administrative and compliance purposes.

Subclause (2) provides that a delegation under clause (1) must be in writing.

Subclause (3) provides that a person who has been delegated a power or duty by the Commissioner of Police does not have the power to delegate that power or duty to another person.

Subclause (4) requires a person who has been delegated a power or duty by the Commissioner of Police to exercises those powers or duties in accordance with the delegation, unless otherwise stipulated.

Subclause (5) provides that this clause does not affect the Commissioner's ability to perform a function through an officer or agent, as those functions can be performed without a delegation.

## **Clause 10 Delegation of Commissioner of Main Roads**

Subclause (1) creates a power for the Commissioner of Main Roads to delegate the power or duty in relation to modifying vehicle mass or dimension limits, under Part 4 Division 3 *Road Traffic (Vehicles) Bill 2007* to a police officer or a person employed under section 10(1) *Mains Road Act 1930*. This is required for administrative and compliance purposes.

Subclause (2) provides that a delegation under clause (1) must be in writing.

Subclause (3) provides that a person who has been delegated a power or duty by the Commissioner of Main Roads does not have the power to delegate that power or duty to another person.

Subclause (4) this requires a person who has been delegated a power or duty by the Commissioner of Main Roads to exercises those powers or duties in accordance with the delegation, unless otherwise stipulated.

Subclause (5) provides that this clause does not affect the Commissioner's ability to perform a function through an officer or agent, as those functions can be performed without a delegation.

### **Clause 11 Agreement for performance of functions**

This clause replicates the substance of section 6B *Road Traffic Act 1974*, which will be repealed with the proclamation of this Act.

Subclause (1) enables the CEO to enter into agreements for others to perform his/her functions on his/her behalf. This is necessary in the provision of licensing services through local shires, or Australia Post agencies etc.

Subclause (2) does not limit with whom the CEO may enter into agreements.

Subclause (3) enables agreements to be made under subclause (1), subject to conditions, as to the performance of the CEO's functions.

Subclause (4) provides that where legislation requires a decision to be made based on information known to the CEO and those functions are being performed on behalf of the CEO then the person with whom the agreement has been made is authorised to make the decision based on their opinions stemming from information known to them.

Subclause (5) clarifies that where the law requires something to be done by the CEO and the function has been preformed another person, via an agreement, the function is deemed to have been done by the CEO.

### **Clause 12 Provision of access to information**

This clause replicates the substance of section 8 *Road Traffic Act 1974*, which will be repealed with the proclamation of this Act.

Subclause (1) this clause set outs definitions used within this clause.

**"Incident particulars"** this definition incorporates information gather by, or provided to the Commissioner of Police stemming from a motor vehicle crash.

**"licence"** this definition incorporates both driver and vehicle licences granted by the CEO, and includes a licence granted by the CEO under the *Motor Vehicle Drivers Instructors Act 1963* to a person for the purposes of given driving instruction.

**"offence particulars"** this definition sets out information that is able to be exchanged between the Commissioner of Police and the CEO, for the purposes of carrying out licensing functions and enforcing activities under road laws.

**“permit ”** this definition incorporates permits granted by the CEO for the purposes of learner to drive a motor vehicle, moving an unlicensed vehicle and includes a permit granted by the CEO under the *Motor Vehicle Drivers Instructors Act 1963* to a person for the purposes of given driving instruction.

**“supply ”** this definition sets out the method in which information is to be exchanged between the Commissioner of Police and the CEO under this clause.

Subclause (2) places a statutory requirement on the CEO to provide information to the Commissioner of Police in relation to driver licence and vehicle licence matters.

Subclause (3) allows the Commissioner of Police to use the information obtained under subclause (2) for perform any function the Commissioner has under a road law or for other matters, such as criminal investigations. This subclause also permits the Commissioner to supply information to a police officer, an employee of the police department or any other police enforcement agency, for the purposes of performing their functions.

Subclause (4) enables the CEO to prescribe classes of persons who are able to gain access to licence records, for the purposes of performing a function under a written law. For example, local councils for the purpose of enforcing parking regulations require information as to the register owners of vehicles in order to pursue unpaid parking fines.

Subclause (5) requires the CEO to allow the registrar of the Fines Enforcement Agency to have access to licence records. This information is used by the Registrar for the purposes of suspended vehicles and driver licenses for an unpaid fines to the state.

Subclause (6) this requires the Commissioner of Police to provide incident particulars and offence particulars to the CEO for the purposes for administering the vehicle and driver’s licence schemes.

Subclause (7) enables the CEO to use the information obtained under subclause (6) for perform any function the CEO has under a road law.

Subclause (8) requires that information exchanges between the Commissioner of Police and the CEO is to be free of charge, however other information released under this clause will be subject to a fee to be prescribed under regulations.

Subclause (9) enables the CEO to release limited information, under regulations, concerning a persons licence status. This function is to allow such people as employers or insurance companies to obtain information from the CEO, with the consent of the person to whom the information relates to.

### **Clause 13 CEO may provide information to corresponding authorities**

In principle a corresponding authority is one that performs similar licensing and compliance functions to that of the CEO or Commissioner of Main Roads in relation to the management and control of vehicles and drivers.

Subclause (1) enables information obtained under a road law in WA to be provided to another jurisdiction to facilitate cross border compliance activities.

Subclause (2) stipulates that this clause is not affect by the provisions under a clause 78, concerned with the provision of evidence to other jurisdictions.



## **Clause 14 Exchange of information between jurisdictions**

This clause replicates the substance of section 45 *Road Traffic Act 1974*, which will be repealed with the proclamation of this Act.

Subclause (1) draws upon the definition of “Infringement Notice”, contained within the *Road Traffic (Authorisation to Drive) Bill 2007*, as that definition incorporates infringement notices issued by another jurisdictions. Where as the definition of infringement notice, under Clause 79 of this Bill, only deals with infringement notices issued in WA.

Subclause (2) provides a legal authority for the CEO to provide information to another driver licensing authority for the limited purposes of assisting that authority in the performance of their licensing functions.

Subclause (3) prescribes the additional information that must be provided by the CEO when offence information is supplied to another driver licensing authority. This additional information relates to action that has been taken in relation to the offence. For example, the service of a demerit point disqualification notice under Part 4 *Road Traffic (Authorisation to Drive) Act 2007*.

Subclause (4) creates the legal authority for the CEO to seek information from another driver licensing authority to facilitate the performance of functions under a road law.

Subclause (5) authorises the CEO to use the information supplied by another driver licensing authority to perform functions under a road law.

## **Clause 15 Security of information in driver’s licence register and demerit points register**

This clause replicates the substance of section 46 and 104O *Road Traffic Act 1974*, which will be repealed with the proclamation of this Act.

The creates strict obligations on the CEO not to release information contained in the driver’s licence register and demerit register unless permitted to do so by regulations. For example, regulations may allow the CEO to provide a list of demerit points to a person’s employer or insurance company with the consent of the person to whom the information relates to.

## **Clause 16 Information about new motor vehicles**

This clause replicates the substance of regulation 70 *Road Traffic (Vehicle Standards) Regulations 2002*, which will be deleted with the proclamation of this Act.

This information places an obligation vehicle manufactures or distributors of new vehicles to supply to the CEO with information, when requested, for the purposes of vehicle licensing matters.

## **Clause 17 Reciprocal powers of officers**

The following clauses contain provisions that have been imported from the model Bill, which provide for agreements to be entered into to allow compliance officers to enforce laws across State borders.

Given the fundamental nature of road transport goods are conveyed from one jurisdiction to another, it is essential for compliance activities to be able to be conducted across those borders.

Subclause (1) requires that each jurisdiction wishing to enter into such compliance agreements must have laws corresponding to this clause, for such agreements to occur.

Subclause (2) empowers the Minister, with responsibility for the road laws in WA to enter into the agreement with a corresponding Minister, in the other jurisdiction.

Subclause (3) clarifies the scope and effect of such an agreement.

Subclause (4) is the legal recognition of actions by compliance officers under the laws of the jurisdictions that have entered into the agreement.

Subclause (5) is the authority to make regulations relating to the exercise of powers under such agreements.

#### **Clause 18 Effect of directions etc, administrative actions of other jurisdictions**

This clause contains provisions that have been imported from the model Bill.

Subclause (1) provides the definitions relevant to this clause.

Subclause (2) provides for the legal recognition of administrative actions across jurisdictions. Without this mutual recognition consistent national enforcement of the legislation could not be achieved.

Subclause (3) limits the recognition of administrative action to those relevant and applicable to the jurisdiction recognising them.

Subclause (4) is self-explanatory.

#### **Clause 19 Effect of court orders on other jurisdictions**

This clause contains provisions that have been imported from the model Bill.

Subclause (1) provides for the definition of “order” for purposes of this clause.

Subclause (2) recognises orders of courts or tribunals from other jurisdictions where the order relates to corresponding laws.

Subclause (3) (a) to (c) places limits on the extent orders from another jurisdiction will be recognising in WA.

#### **Clause 20 Funds to which charges and fees credited**

This clause replicates the substance of section 22 *Road Traffic Act 1974*, which will be repealed with the proclamation of this Act.

The clause stipulates how fees and charges collect under a road law are to be allocated including which fees can be retained by the Department administered by the CEO.

## **Part 3 – Wardens and police officers**

### **Clause 21 Terms used in this Part.**

This clause sets out the definitions of “issuing authority” and “warden’s functions” for the purposes of this part.

### **Clause 22 CEO may authorise persons to perform certain warden functions.**

This clause replicates the substance of section 7 *Road Traffic Act 1974*, which will be repealed with the proclamation of this Act.

There are numerous administrative and compliance functions that the CEO is responsible for and this provides for the authorisation of persons to perform those functions. Authority is not extended to the *Road Traffic Act 1974*, as the functions under that Act are the exclusive authority of the Commissioner of Police.

Wardens undertake various compliance activities such as the investigation of mass, dimension and load restraint breaches, the inspection of vehicles to ensure they meet the appropriate standards.

### **Clause 23 CEO may authorise persons to perform certain warden functions.**

This clause replicates the substance of section 7 *Road Traffic Act 1974*, which will be repealed with the proclamation of this Act.

This clause enables the Commissioner of Police to authorise persons to perform certain limited functions (those set out under (a) to (c)) under a road law or under specific functions under the *Road Traffic Act 1974*, that are the exclusive responsibility of the Commissioner of Police.

### **Clause 24 Powers of wardens**

This clause replicates the substance of section 7 *Road Traffic Act 1974*, which will be repealed with the proclamation of this Act.

Subclause (1) provides that a warden has the same powers conferred to on a police officer under a road law, as may be prescribed and reference to a police officer is read as also meaning a warden. This subclause is needed as road laws always make reference to a police officer and to clarify powers of wardens.

Subclause (2) provides that although a warden may have same powers conferred to on a police officer under a road law, a warden is not permitted not use force against a person while exercising a power under a road law.

Subclause (3) provides scope for a warden to amend or revoke a direction or a condition imposed by another warden. This is need for operational proposes for example, where a warden directs a driver to proceed along a certain route but that route is later found to be unsuitable due to the size of the vehicle’s load, another warden has the power to amend the initial direction.

Subclause (4) provides that the CEO has the same power of a warden other than a power that requires the CEO’ s physical presences. The CEO can use this function for the purposes of directing persons to provide information in relation to breach of a road law (see subclause 43(2)).

## **Clause 25 Identification cards**

This clause contains provisions that have been imported from the model Bill.

Subclause (1) requires the CEO or the Commissioner of Police to issue a warden with an identification card identifying the officer. This is enable a warden to present evidence to a member of the public a person of their authority, when exercising a power under a road law.

Subclause (2) sets out the nature of an identification card and the information that it must contain.

## **Clause 26 Production of identification**

This clause contains provisions that have been imported from the model Bill.

Subclause (1) set out the definitions of “incident” and “request” for the purposes of this clause.

Subclause (2) clarifies that a warden is only required to identify himself or herself when exercising a power that requires their physical presence.

Subclause (3) requires a warden to identify himself or herself when exercising a power under a road law or produce his or her identification card

Subclause (4) provides that a police officer is also required to identify himself or herself when exercising a power under a road law by producing his or her identification card or by stating their name, rank and place of duty.

Subclause (5) requires a police officer or warden to identify himself or herself immediately or if it is not practical, they must do so soon as practicable afterwards.

## **Clause 27 Return of identification cards**

This clause contains provisions that have been imported from the model Bill.

This clause requires a warden to return his or her identification card whenever his or her authorisation ceases to have effect and makes it an offence for a failure to do so.

# **Part 4 – Enforcement of road laws**

## **Division 1- Terms used in this Part**

### **Clause 28 Terms used in this Part.**

This clause set definitions for the purposes of this part.

### **Clause 29 Qualified, fit or authorised to drive or run engine**

This clause contains provisions that have been imported from the model Bill.

This clause defines the meanings of a “qualified to drive a vehicle or run it’s engine” and “fit to drive a vehicle or run its engine”. These definitions are relevant to the offences in Division 2.

### **Clause 30 Unattended vehicle**

This clause contains provisions that have been imported from the model Bill.

This clause defines the meaning of “unattended”, which is important when referring to the offences in Division 2 pertaining to the power to move unattended or broken down vehicles.

### **Clause 31 Broken down vehicles**

This clause contains provisions that have been imported from the model Bill.

This clause defines the term “broken down” which is relevant to the power in clause (46) to moving an unattended or broken down vehicle.

## **Division 2- General obligations**

### **Clause 32 Giving name and address**

This clause replicates the substance of section 53 *Road Traffic Act 1974*, which will be repealed with the proclamation of this Act and incorporates aspects of the model Bill.

Subclause (1) defines the term “personal details” for the purposes of subclause (2)

Subclause (2) empowers a police officer to give a direction to a person to provide their personal details, if the officer suspects that one of the matters set out in subparagraph (a) to (a) applies to the person.

Subclause (3) empowers a police officer to direct a person to produce evidence of their identity, where the officer suspects the person has provided false personal details to the officer.

Subclause (4) creates an offence for a person to fail to comply with a direction given by a police officer under subclauses (2) and (3).

Subclause (5) provides an accused person with a defence to a charge under subclause (4) if they can demonstrate that the Police officer did not warn them that they would commit an offence by failing to comply with the direction given to them.

Subclause (6) provides an accused person with a defence to a charge of failing to provide an officer with their business address details.

### **Clause 33 Production of driver’s licence document, learner’s permit**

This clause replicates the substance of section 53 *Road Traffic Act 1974*, which will be repealed with the proclamation of this Act.

Subclause (1) empowers a police officer to give a direction to a driver of a vehicle to produce their driver’s licence or learners permit to the officer.

Subclause (2) creates an offence for a person to fail to comply with a direction under subclause (1).

Subclause (3) provides a defence for a person charged under subclause (2).

### **Clause 34 Duty to identify offending driver or person in charge of vehicle**

This clause replicates the substance of section 58 *Road Traffic Act 1974*, which will be repealed with the proclamation of this Act.

This clause gives effect to existing “owner onus” provisions by requiring a responsible person for vehicle to identify an offending driver.

### **Clause 35 Duty to take reasonable measures to be able to comply with a driver identity request**

This clause replicates the substance of section 58A *Road Traffic Act 1974*, which will be repealed with the proclamation of this Act.

This clause supports clause (34), by creating an offence for a responsible person for failing to take reasonable steps, in order to comply with a request made under clause (34), for the purposes of identifying an offending driver.

### **Clause 36 Other offences**

This clause replicates the substance of section 97 *Road Traffic Act 1974*, which will be repealed with the proclamation of this Act.

This clause creates general offences for breaches of various licensing and traffic related matters under road laws.

### **Clause 37 Manner of giving directions etc. under this division**

This clause contains provisions that have been imported from the model Bill, by clarifying the manner in which a direction or a request can be made under made by a police officer under this division.

## **Division 3- Direction to stop, move or leave vehicles**

### **Clause 38 Vehicles and drivers to which this Division applies**

Subclause (1) creates the broader definitions of “co-driver”, “driver” and “vehicle” for the purposes of this division.

### **Clause 39 Directions to stop vehicle: to enable exercise of other powers**

This clause replicates the substance of section 53 *Road Traffic Act 1974*, which will be repealed with the proclamation of this Act and empowers a police officer to direct a driver to stop a motor vehicle.

### **Clause 40 Directions to move vehicle: to enable exercise of other powers**

This clause contains provisions that have been imported from the model Bill, which empowers a police officer to direct the movement of vehicles to exercise other powers under a road law.

Subclause (1) defines the terms of “prescribed area” and “suitable location” for the purposes of this clause.

Subclause (2) empowers a police officer to direct a driver to move a vehicle for the purposes of exercising a road law. For example, an officer may direct a vehicle to be moved to a parking bay, for the purposes of weighing a vehicle using load meters (See clause 113).

Subclause (3) creates certain defence provisions, for a driver who fails to comply with a direction under subclause (2).

#### **Clause 41     Directions to move vehicle: where danger or obstruction**

This clause contains provisions that have been imported from the model Bill.

Subclause (1) requires a police officer to have reasonable grounds that the vehicle is causing a danger or traffic obstruction before giving a direction under subclause (2).

Subclause (2) empowers a police officer to direct a driver, co driver or a responsible person to move a vehicle a vehicle to avoid or minimise harm or obstruction to other road uses.

Subclause (3) creates certain defence provisions, for a person who fails to comply with a direction under subclause (2).

#### **Clause 42     Directions to leave vehicles**

This clause contains provisions that have been imported from the model Bill.

Where a driver fails to comply with a direction under this Division, an officer is empowered by this clause to direct the driver to vacate the driver's seat, leave the vehicle and not to reoccupy the driver's seat until permitted to do so by a police officer.

#### **Clause 43     Manner of giving directions under this Division**

This clause contains provisions that have been imported from the model Bill.

This clause allows a direction to be given to a driver orally or by means of a sign or signal (electronic or otherwise), or in any other manner while a direction under this Division may be given to a responsible person orally or by telephone, facsimile, electronic mail or radio, or in any other manner.

#### **Clause 44     Direction to be complied with**

This clause contains provisions that have been imported from the model Bill.

This clause creates a general offence provision for a person to fail to comply with a direction given under clauses 39, 40,41 and 42.

### **Division 4- Power to move vehicles**

#### **Clause 45     Moving unattended vehicles to exercise Division 5**

This clause contains provisions that have been imported from the model Bill.

Subclause (1) empowers a police officer to enter and move an unattended vehicle for the purpose of exercising powers under division 5.

Subclause (2) empowers a police officer to move an unattended vehicle or to authorise another person drive the vehicle or causing the vehicle to be moved (for example, by towing the vehicle).

Subclause (3) empowers a police officer or a person authorised by the officer to enter a vehicle for purposes moving the vehicle.

Subclause (4) provides that a police officer or an authorised person may, by virtue of this clause, use reasonable force to enter the vehicle.

Subclause (4) requires that a police officer or an authorised person must be qualified and fit to drive a vehicle while exercising a power under this clause (see clause 29).

#### **Clause 46 Moving unattended or broken down vehicle where danger or obstruction**

This clause contains provisions that have been imported from the model Bill.

Subclause (1) empowers a police officer or an authorised person to enter and move an unattended vehicle that is causing serious harm, or creating an imminent risk of serious harm, to public safety, the environment or road infrastructure, or is causing or likely to cause an obstruction to traffic.

Subclause (2) provides that a police officer or an authorised person may either drive a vehicle or cause the vehicle to be moved under this clause.

Subclause (3) provides that a police officer or an authorised person may enter a vehicle or separate it from another vehicle (trailer), for the purposes of moving it under subclause (2).

Subclause (4) provides that a police officer or authorised person need not hold the appropriate licence of the appropriate class if the officer believes on reasonable grounds that there is no other person in, on or in the vicinity of the vehicle or combination who is more capable of driving it than the officer and who is fit and willing to drive it.

Subclause (5) provides that a police officer or an authorised person may, by virtue of this clause, use reasonable force to enter the vehicle.

#### **Clause 47 Moving vehicles parked without authority in certain areas**

This clause replicates the substance of section 86 *Road Traffic Act 1974*, which will be repealed with the proclamation of this Act and empowers a police officer or an authorised person, to direct a driver or person in charge of a vehicle to move the vehicle if found to be parked prohibited area.

#### **Clause 48 Moving vehicles involved in an offence**

This clause replicates the substance of section 86A *Road Traffic Act 1974*, which will be repealed with the proclamation of this Act, which empowers a police officer to move a vehicle where the officer reasonably believes that a vehicle has been used in connection with an offence under a written law.

#### **Clause 49 Removal of other Moving vehicles involved in an offence**

This clause replicates the substance of regulation 274 *Road Traffic Code 2000 1974*, which will be deleted with the proclamation of this Act.



The clause empowers a police officer to remove a vehicle from a road, where the officer believes that the vehicle is either unlicensed, abandoned or has been involved in an incident on road (ie traffic crash).

#### **Clause 50 Authorisation of responsible person not required**

This clause provides a protection to a person seeking to enforce clauses 45,46,47,48 and 49 from driving a vehicle without the authority of the responsible person (vehicle licence holder).

### **Division 5- Power of inspection and search for MDLR compliance purposes**

This division introduces new powers of inspection and search from the Model Bill, which are necessary in order to be complainant with other jurisdictions and more importantly, to give effect to the new “chain of responsibility” principles.

The powers of inspection are limited to the purposes of carrying out “audit” type functions of information or documents that are required to be carried on or in the vehicle under the proposed *Road Traffic Vehicles Bill 2007*. Where as the power to search extends to other information and documents that may be gathered as evidence, as part of a chain of responsibility investigation into a suspected breach of an MDLR offence (see definition at clause 28).

#### **Clause 51 Residential purposes**

This clause contains provisions that have been imported from the model Bill.

This clause provides that premises, or a part of premises, that are used for business purposes is not to be considered as residential purposes. This is important because the power to inspect and search premises under clauses 54(7) and 55(7) does not apply to premises that are used for predominantly residential purposes.

#### **Clause 52 Inspections of vehicles on roads, in public places or certain official premises**

This clause contains provisions that have been imported from the model Bill and provides a general power for police officers to inspect vehicles for the purposes of checking compliance with mass, dimension or loading requirements and general roadworthiness, under the proposed *Road Traffic Vehicles Bill 2007*.

Subclause (1) creates a broader definition of “vehicle”, for the purposes of this division.

Subclause (2) empowers a police officer to inspect a vehicle for MDLR (see clause 28) compliance purposes and to check for any vehicle defects.

Subclause (3) empowers a police officer to enter a vehicle for the purposes of carrying out an inspection under this clause. For example, to check vehicles steering or braking controls.

Subclause (4) provides that a police officer can exercise a power of inspection at any time and without the need for consent of the driver of any other person.

Subclause (5) (a) to (d) sets out the various powers that a police officer may use as part of inspection. An inspection may also include the inspection of any information or documents that are required to be carried in the vehicle under, Part 4 of the proposed *Road Traffic (Vehicles) Bill 2007*. The power to inspect under Part 4 only applies in respect of information and documents that are required to be kept in relation to a modification or approval of mass, dimension limit.

Subclause (6) this clause prohibits a police officer from using force when carrying out an inspection, but it does allow an officer to open unlocked doors, panels, objects or other things and the moving, but not the removal of, anything that is not locked up or sealed.

### **Clause 53 Search of vehicles on roads, in public places or certain official premises**

This clause contains provisions that have been imported from the model Bill and creates a limited power for police officers to search vehicles for the purposes of investigating breaches of a mass, dimension or load restraint offences under the proposed *Road Traffic (Vehicles) Bill 2007*.

Subclause (1) refers to the definition of “vehicle”, at clause 52 (1).

Subclause (2) this clause empowers a police officer to search a vehicle solely for the purposes to investigating a breach or suspected breach of a mass, dimension or load restraint offence (MDLR offence -see clause 28).

Subclause (3) empowers a police officer to enter a vehicle for the purposes of carrying out a search under this clause. For example, an officer may search the vehicle in an effort to locate transport documentation, (see definition at clause 4) relating to the load being transported.

Subclause (4) provides that a police officer can exercise a power of search at any time and without the need for consent of the driver of any other person.

Subclause (5) (a) to (c) sets out the various powers that a police officer may use as part of search.

Subclause (6) this clause prohibits a police officer from using force when carrying out a search.

Subclause (7) this empowers a police officer to seize various items that may be located within the vehicle, for the purposes of gathering evidence of a suspected breach of a MDLR offence. For example, an officer may seize transport documentation, laptop computer or a restraining device used to restraining the vehicle’s load.

Subclause (8) this permits a police officer to use reasonable force when conducting a search to deal with situations where a person is being obstructive, for example, refuses the officer entry to the vehicle.

### **Clause 54 Inspection of premises**

This clause contains provisions that have been imported from the model Bill and creates a limited power for police officers to inspect premises for the purposes of checking compliance with mass, dimension or loading requirements under the proposed *Road Traffic (Vehicles) Bill 2007*.

Subclause (1) creates a definition of “premises” for the purposes of this clause, which is limited to premises that are associated or involved with Road Transport (see definition at clause 4).

Subclause (2) empowers a police officer to inspect premises.

Subclause (3) empowers a police officer to enter premises to carry out an inspection.

Subclause (4) permits a police officer after having entered premises under subclause (2), to also inspect and enter any vehicle located at those premises. For example, an officer may enter the premises of a transport company and inspect the vehicles located at the premises, for suspected breaches of MDLR offences.

Subclause (5) provides that an entry and inspection may be made at any time during the hours the business is usually operating without the consent of the occupier. However, if the premises are unattended at the time of the proposed entry, or the premises are used for predominantly residential purposes, consent to the inspection must have been obtained.

Subclause (6) restricts a police officer from entering and inspecting premises under subclause (5) without the consent of the occupier, unless the officer has reason to believe the premises are attended at the time.

Subclause (7) restricts a police officer from entering and inspecting premises under subclause (5) without consent of the occupier, if parts of the premises are used for residential purposes.

Subclause (8) (a) to (d) sets out the various powers that a police officer may use as part of inspection. An inspection may also include the inspection of any information or documents that are required to be carried in the vehicle under proposed, Part 4 *Road Traffic (Vehicles) Bill 2007*.

Subclause (9) this clause does not authorise a police officer to use of force when carrying out an inspection, but it does allow a police officer to open unlocked doors, panels, objects or other things and the moving, but not the removal of, anything that is not locked up or sealed.

## **Clause 55 Search of premises**

This clause contains provisions that have been imported from the model Bill and provides a limited power for police officers to search premises for the purposes of investigating breaches of a mass, dimension or load restraint (MDLR) offence, under the *Road Traffic Vehicles Bill*.

Subclause (1) refers to the definition of “premises” at clause 54(1) and extends the definition for the purposes of this clause.

Subclause (2) this clause empowers a police officer to search premises solely for the purposes of investigating a breach or suspected breach of MDLR offence.

Subclause (3) empowers a police officer to enter premises for the purposes of carrying out a search under this clause. For example, an officer may search the premises of a transport company in an effort to locate certain transport documentation (see definition at clause 4).

Subclause (4) permits a police officer after having entered premises under subclause (3), to also search and enter any vehicle located at those premises.

Subclause (5) (a) to (c) sets out the various reasons for which a police officer may use the powers under the clause to search premises.

Subclause (6) restricts a police officer from entering and searching premises under subclause (5) (c) without a warrant or the consent of the occupier, unless the officer has reason to believe the premises are attended at the time.

Subclause (7) restricts a police officer from entering and searching premises under subclause (5)(c) without a warrant or consent of the occupier if parts of the premises are used for residential purposes.

Subclause (8) (a) to (e) set out the various powers that a police officer may use as part of inspection.

Subclause (9) clarifies that the power to search under this clause does not include the power to search a person.

Subclause (10) empowers a police officer to seize various items located during a search, for the purposes of gathering evidence of a suspected breach of a MDLR offence.

Subclause (11) permits a police officer to use reasonable force when conducting a search to deal with situations where a person is being obstructive, for example, the occupier of the premises refuses the officer lawful entry into the premises.

## **Division 6- Other directions in relation to MDLR compliance purposes**

This division contains provisions that have been imported from the model Bill which introduces new powers of direction, designed to support the powers of inspection and search under division 5. These powers relate to the giving of directions in order to gather evidence necessary to give effect to the new “chain of responsibility” principles. The powers will be limited to investigating suspected breaches of MDLR offences (see definition at clause 28).

### **Clause 56 Direction to produce records, devices or other things**

This clause contains provisions that have been imported from the model Bill.

Subclause (1) empowers a police officer to direct an involved person (see definition at clause 3) to provide an officer with any information, documents, records, devices or things in their possession or control that may assist in the investigation of a suspected breach of a MDLR offence.

Subclause (2) places a requirement on a police officer under subclause (1) to specify the matter to which the direction relates. For example, if an officer gives a direction to a person to produce journey documentation, the officer must specify the vehicle to which it relates. In other words, a direction must not be of general nature.

Subclause (3) provides that a police officer may inspect, make copies of, take extracts from, or seize and remove documents, records, devices or things produced that are believed by the officer to provide evidence of MDLR offence.

Subclause (4) this clause makes it an offence for a person to, without reasonable excuse, fail to comply with a direction under subclause (1).

Subclause (5) creates a definition of "reasonable excuse", for the purposes of subclause (4).

Subclause (6) provides that where a person produces a record, device or other thing in compliance with a direction under subclause (1), those items cannot be used in any legal proceedings against the person.

#### **Clause 57 Direction to provide information**

This clause contains provisions that have been imported from the model Bill.

Subclause (1) empowers a police officer to direct an involved person (see definition at clause 3) to provide an officer with information concerning a vehicle and its load for MDLR compliance purposes.

Subclause (2) sets out the nature of the information that an involved person may be directed to produce under subclause (1).

Subclause (3) this clause creates an offence for a person to, without reasonable excuse, to fail to comply with a direction under subclause (1).

Subclause (4) this clause creates an additional offence for a person to provide false or misleading information in responses to a direction under subclause (1).

Subclause (5) creates a definition of "reasonable excuse", for the purposes of subclause (3).

Subclause (6) provides that information provided by a person under subclause (1), cannot be used in any legal proceedings against the person, other than for an offence under subclause (4).

#### **Clause 58 Direction to provide reasonable assistance for powers of inspection and search**

This clause contains provisions that have been imported from the model Bill.

Subclause (1) enables police officers to direct an involved person to provide assistance to the officer for the purposes of exercising a power under clauses 52(2)(a), 53, 54 or 55.

Subclause (2) sets out the types of things that an involved person may be directed to assist with under subclause (1).

Subclause (3) provides that a direction under subclause (1) that includes a direction for a person to run a vehicle's engine, does not include the ability to direct the person to drive the vehicle.

Subclause (4) sets out the scope under which a direction can be given under subclause (1).

Subclause (5) creates an offence for a person to, without reasonable excuse, to fail to comply with a direction under subclause (1).

Subclause (6) creates a definition of "reasonable excuse", for the purposes of subclause (6).

Subclause (7) stipulates that information provided by a person under subclause (1) as result of a direction to provide assistance, cannot be used in any legal proceedings against the person.

Subclause (8) empowers a police officer to enter a vehicle for the purposes of running its engine in a case where a person fails to comply with a direction under subclause (4).

#### **Clause 59 Provisions relating to running engines**

This clause contains provisions that have been imported from the model Bill.

Subclause (1) creates a definition of "authorised person", for the purposes of this clause.

Subclause (2) empowers an authorised person to run an engine even though the person may not be qualified (see clause 29) if the a police officer reasonably believes there is no other person available or willing to run the vehicle's engine.

Subclause (3) enables an authorised person to use reasonable force for the limited purposed of entering the vehicle to run it's engine.

Subclause (4) provides authorised officers with protection from any criminal responsibilities, for running a vehicle's engine without the authority of the vehicle owner.

#### **Clause 60 Manner of giving directions under his division**

This clause contains provisions that have been imported from the model Bill and sets out the manner in which directions must be given under this division.

#### **Clause 61 Directions to state when to be comply with**

This clause contains provisions that have been imported from the model Bill and places a requirement that every direction must stipulate the period in which a person has, to comply with a direction given under this division.

### **Division 7- Warrants to enter premise for MDLR purposes**

This division contains provisions from the model Bill that introduces news powers to enter premises. These powers will assist enforcement officers in the gathering of evidence necessary to give effect to the new "chain of responsibility" principles. The powers will be limited to investigating suspected breaches of MDLR offences only (see definition at clause 28).

#### **Clause 62 Terms used in this applies**

This clause creates definitions of "remote communications", "warrant" and "Warrant, grounds for application" for the purposes of this division.

#### **Clause 63 Warrant, grounds for application**

This clause contains provisions that have been imported from the model Bill which introduce the ability for a police officer may apply for warrant, for the purposes of entering premises to conduct a search under Division 5.

Subclause (1) empowers a police officer to apply for a warrant under this division.

Subclause (2) requires that an application for a warrant must be made to a Justice of the Peace (JP).

Subclause (3) sets out the matters that must be contained in an application for a warrant.

#### **Clause 64 Warrant, manner of application**

This clause contains provisions that have been imported from the model Bill which deal with manner in which a warrant must be applied for and the nature of a warrant.

Subclause (1) clarifies that an application for a warrant may include any additional information given to a JP by a police officer. This clause recognises additional information that a police officer may give to a JP in support of an application for a warrant.

Subclause (2) confirms that an application under this clause must be made to a JP.

Subclause (3) requires that an application for a warrant must be made in person unless a JP is not available within a reasonable distance.

Subclause (4) sets out the forms in which an application can be made to a JP.

Subclause (5) sets out the manner in which application is to be made to a JP.

Subclause (6) creates the requirement on a JP who issues a warrant to ensure that a copy of the warrant is provided to the applicant.

Subclause (7) places a requirement on JP to give an applicant a copy of the warrant in cases when an application is made by remote communication.

#### **Clause 65 Warrant, issue of**

This clause contains provisions that have been imported from the model Bill that deal with the terms that a warrant must be issued under.

Subclause (1) places a requirement of JP to be satisfied of the matters contained under clause 63(3) before a warrant can be issued.

Subclause (2) sets out the information that must be contained within a warrant.

Subclause (3) requires that every warrant issued must be in a prescribed form.

Subclause (4) if a JP refuses an application for a warrant the JP must endorse the warrant as having been refused.

#### **Clause 66 Warrant, duration and execution**

This clause contains provisions that have been imported from the model Bill.

Subclause (1) clarifies when a warrant comes into force.

Subclause (2) clarifies that a warrant can only be executed during the period specified in the warrant.

Subclause (3) empowers any police officer to execute a valid warrant.

Subclause (4) provides the times of the day in which a warrant can be executed.

Subclause (4) places a requirement of a police officer when executing a warrant to endorse the warrant with information confirming its execution.

### **Division 8- Other provisions regarding inspections and searches for MDLR compliance purposes**

This division contains provisions from the model Bill, which compliment the powers of search and inspection under Division 5 of this Bill. These provisions will assist enforcement officers in gathering the necessary evidence to give effect to the new “chain of responsibility” principles.

#### **Clause 67 Use of assistants and equipment**

This clause contains provisions that have been imported from the model Bill.

Subclause (1) enable a police officer to use assistants and equipment for the purposes of carrying out an inspection or search under Division 5 of this Bill. This may include the using a person to assist in accessing computer records or engaging a person to verify or check that a weighing device, such as a weighbridge is working correctly.

Subclause (2) provides that an assistant has the same powers of a police officer under division 5, whilst the assistant is under the supervision by the police officer.

Subclause (3) clarifies the intent of the subclause, by stipulating that although an assistant may have the same powers of a police officer under division 5, an assistant does not have the power to use force against another person.

#### **Clause 68 Use of equipment to examine or process things**

This clause contains provisions that have been imported from the model Bill.

This clause enables a police officer exercising powers under Division 8 of the Bill to bring on to a vehicle or premises any equipment reasonably necessary for determining evidence that may be seized.

#### **Clause 69 Use of seizure of electronic equipment**

This clause contains provisions that have been imported from the model Bill.

Subclause (1) enables a police officer to operate electronic equipment to access information contained on a disk, tape or other storage device, if the police officer reasonably believes that the information contained on the storage device is relevant to determine whether a contravention of a MDLR breach has occurred.

Subclause (2) provides what an officer may do if he or she finds information contained on a disk, tape or other storage device.

Subclause (3) provides that equipment must not be operated or seized unless there are reasonable grounds for believing that the operation or seizure can be carried out without damage to the equipment.



## **Division 9- Other provisions regarding seizure for MDLR compliance purposes**

This division contains provisions from the model Bill, which compliment the provisions under Division 8 of Part 4 of the Bill. These provisions provide protection to the both police officers and the public, when material is seized as evidence.

### **Clause 70 Receipts for access to sized material**

This clause contains provisions that have been imported from the model Bill.

Subclause (1) requires a police officer who has seized a document, or other thing to give a copy to the owner and provide the owner reasonable access to it.

### **Clause 71 Embargo notices**

This clause contains provisions that have been imported from the model Bill.

This clause provides for the issue of an embargo notice in respect of evidence that cannot, or cannot readily, be physically seized and removed. An embargo notice is a notice forbidding the movement, sale, leasing, transfer, deleting of information from or other dealing with a thing, or any part of the thing, without the permission of the officer, CEO or the Commissioner of Police.

## **Division 10- Miscellaneous**

This division contains provisions from the model Bill.

### **Clause 72 Power to use force against persons to be exercised only by police officers**

This clause provides that the power to use reasonable force only authorises police officers to use force against a person.

### **Clause 73 Consent**

This clause contains provisions that have been imported from the model Bill.

Subclause (1) requires police officers to inform persons when exercising a power under this Part that they are able to refuse consent, if the officer seeks it.

Subclause (2) provides that where consent has been given to a police officer in relation to powers this under Part, the consent is not lawful unless the person gave it voluntary.

Subclause (3) enables a person to withdraw any consent given to a police officer.

### **Clause 74 Occupiers rights**

This clause contains provisions that have been imported from section 31, *Criminal Investigations Act 2006*.

Subclause (1) provides that this clause applies in situations where a police officer enters premise under Part 4 of the Bill.

Subclause (2) requires police officers to comply with the matters contained in subparagraphs (a) to (e), whenever they are entering premises where the occupier is present.

Subclause (3) places additional requirements on police officers in a case where they have entered premises without complying with subclause (2). This is to cater for a situation where the officer only becomes aware of the occupier after having entered the premises.

Subclause (4) enables an occupier to be present while a police officer is conducting a search of the premises.

Subclause (5) requires police officers in cases where premises have been entered without the occupier being present, to leave information (or copy of a warrant) for the occupier, advising them of what has occurred.

Subclause (5) provides that where a police officer gives an occupier a copy of a warrant, the warrant must not show the name of the JP who issued the warrant.

#### **Clause 75      Directions may be given under more than one provision**

This clause contains provisions that have been imported from the model Bill that enables a police officer to give directions under one or more provisions under Part 4 of the Bill.

#### **Clause 76      Defence of compliance with direction**

This clause contains provisions that have been imported from the model Bill that provide a person with a defence, in situations where the offence stemmed from the person complying with a direction given by a police officer of the CEO.

#### **Clause 77      Restoring vehicles or premises to original condition after action taken**

This clause contains provisions that have been imported from the model Bill, and creates an obligation on police officers to take reasonable steps in returning a vehicle, equipment, load or premises to the condition they were in immediately before executing a power under Part 4 of the Bill. This includes carrying out repairs to any damages caused by an officer who unreasonably exercises a power under Part 4 of the Bill.

#### **Clause 78      Providing evidence to other authorities**

This clause contains provisions that have been imported from the model Bill that enable any records, devices or other things seized, or any information obtained, under Divisions 5 or 6, may be given to any Australian police officer, any public authority, if considered appropriate by the CEO or the Commissioner of Police.

## **Part 5 – Infringement notices**

*The provisions contained within this part have been transferred from the Road Traffic Act 1974, as part of the restructure of WA's Road Traffic legislation.*

## **Division 1- Infringement notices generally**

This division replicates the substance of section 102 *Road Traffic Act 1974*, which will be repealed with the proclamation of this Act.

### **Clause 79 Infringement notices**

This clause empowers a police officer to issue an infringement notice.

### **Clause 80 Service of infringement notices**

This clause provides the method in which an infringement notice is to be served on a person.

### **Clause 81 Infringement notices for not applying for transfer of vehicle licence**

This clause deals with the issue of infringement notice for offences under the proposed, clause 10 *Road Traffic (Vehicles) Act 2007*.

### **Clause 82 Declined to be dealt with under this Division**

This stipulates that where a person fails to pay the prescribed penalty contained in an infringement notice, this deems the person as having declined to be dealt with infringement notice. This then enables the matter to be registered with Fines Enforcement Registry, for the purposes of recovery monetary penalty.

### **Clause 83 Withdrawal of infringement notices**

This clause provides the mechanism whereby certain prescribed officers can withdraw infringement notice.

### **Clause 84 Effect of payment of prescribed penalty**

This clause protects a person from being prosecuted for an offence where the person has already paid a penalty attached to an infringement notice, for the same offence.

### **Clause 85 Regulations as to infringement**

This clause enables regulations to be created to deal with such matters as, prescribing which offences, under a road law cannot be issued with an infringement notice and prescribing the “form” of an infringement notice and the information that it may include. This clause will also introduce a new provision which will enable an infringement notice to be issued for offences under section 4(2) *Road Traffic (Vehicles) Act 2007*, (unlicensed vehicle offence) relating to light vehicles.

This clause further prescribes the maximum penalty (\$1000) that can be imposed on an infringement notice, for an offence under a road law.

## **Division 2- Infringement notices left on vehicles**

This division replicates the substance of section 102A *Road Traffic Act 1974*, which will be repealed with the proclamation of this Act.

**Clause 86      Circumstances in which infringement notices can be left on vehicles**

This clause enables an officer to leave an infringement notice on a vehicle under certain prescribed circumstances.

**Clause 87      If more than one responsible person**

This clause provides clarification in circumstances where an infringement notice left on a vehicle under clause 86, and there is more than one responsible person (owner) for the vehicle.

**Clause 88      Effect of leaving infringement notice on a vehicle**

This clause creates a deeming provision, whereby a responsible person for a vehicle is presumed to have committed an offence where an infringement notice has been left on a vehicle, in accordance with clause 86.

**Clause 89      Content of infringement notices**

This clause places a requirement that an infringement issued under clause 86, must be accompanied with information relating to matters contained under clause 88(1) and (2).

**Division 3- Infringement notices served on responsible persons**

This division replicates the substance of section 102B *Road Traffic Act 1974*, which will be repealed with the proclamation of this Act.

**Clause 90      Terms used in this Division**

This clause defines the terms of “period for complying” and photographic evidence” for the purpose of this Division.

**Clause 91      Service of infringement notices on responsible persons if identity of alleged offender not**

This clause enables infringement notices to be posted to a responsible person for vehicle, to give effect to the concept of “owner onus”.

**Clause 92      If more than one responsible person**

This clause provides clarification in circumstances where an infringement notice is posted to a responsible person under clause 91, and there is more than one responsible person (owner) for the vehicle.

**Clause 93      If photographic evidence not included with infringement notice**

This clause enables a second infringement notice, enclosing a photograph, to be issued to a responsible person, where the first notice was issued under clause 91 and the person failed to take any action in regards to it.

**Clause 94 Responsible person presumed to be the driver in certain circumstances**

This clause provides that a responsible person for a vehicle is presumed to be the driver of a vehicle, at the time of an alleged offence, unless paragraphs (a) or (b) apply.

**Clause 95 Content of infringement notices served on responsible persons**

This clause places a requirement that an infringement issued under clause 91 or 93, must be accompanied with information explaining the operation clause 94.

**Clause 96 Statutory declarations – requirement as to delivery etc.**

This clause places a requirement that a declaration given by a person under clause 94(b)(iii) must be given personally to the officer in charge of a police station, for it to be accepted.

**Division 4- Notices requesting information from responsible persons**

This division replicates the substance of section 102C and 102D *Road Traffic Act 1974*, which will be repealed with the proclamation of this Act.

**Clause 97 Meaning of “period for complying”**

This clause defines the periods in which a responsible person must comply with when given a notice under clause 98.

**Clause 98 Notice requesting information**

This clause empowers a police officer to require a responsible person to provide information as to the driver of their vehicle, at the time of an alleged offence.

**Clause 99 If photographic evidence not included with notice**

This clause enables a second infringement notice, enclosing a photograph, to be issued to a responsible person, where the first notice was issued under clause 98 and the person failed to take any action in regards to it.

**Clause 100 Offences of failing to provide information, statutory declaration**

This clause creates an offence for a responsible person to fail to comply with notice served upon them, under clauses 98 or 99.

**Clause 101 Withdrawal of notices**

This clause creates the mechanism whereby notices issued under clauses 98 or 98 can be withdrawn by a prescribed officer.

**Clause 102 Content of infringement notices**

This clause places a requirement that a notice issued under clauses 98 or 99, must be accompanied with information explaining the operation of clauses 100(1) and 104.

**Clause 103 Statutory declarations – requirement as to delivery etc.**

This clause sets out mechanism for returning a declaration under clause 100(1)(c) to police officer.

**Clause 104 Notices under section 98 or 99 may become an infringement notice**

This clause provides that where a person fails to comply with a notice issued under clauses 98 or 99, that failure results in the notice(s) being treated as an infringement notice. Where that occurs the person is then liable to a penalty equal to double the amount prescribed for the offence under clause 79. This provision is designed to penalize responsible persons who fail to identify offending drivers.

**Part 6 – Prosecutions**

*This Part contains provisions from the model Bill and those that have been transferred from the Road Traffic Act 1974, and Road Traffic (Vehicle Standards) 2002, as part of the restructure of WA's Road Traffic legislation.*

**Division 1- Commencing Prosecutions**

**Clause 105 Who may commence a prosecution**

This clause replicates the substance of section 107 *Road Traffic Act 1974*, which will be repealed with the proclamation of this Act and sets out who can commence a prosecution for an offence under a road law.

**Clause 106 When a prosecution can commence**

Subclause (1) provides that a prosecution for an offence listed in subparagraphs (a) must be commenced within 2 years of the alleged offence occurring.

Subclause (2) directs that a prosecution for an offence other than those mentioned in Subclause (1), must be commenced within 12 months of the alleged offence occurring.

**Clause 107 Limitation on period for which previous offences taken into account**

This clause replicates the substance of section 105 *Road Traffic Act 1974*, which will be repealed with the proclamation of this Act and outlines time for which offences can be taken into account for sentencing purposes.

**Clause 108 Production of licences, permits at hearings**

This clause replicates the substance of section 93 *Road Traffic Act 1974*, which will be repealed with the proclamation of this Act. This clause creates an offence for a person to fail to produce their licence or permit to a Court hearing a charge against them.

## **Division 2- Evidentiary provisions**

### **Clause 109 Averments etc. in prosecutions notices**

This clause replicates the substance of section 98 *Road Traffic Act 1974*, and includes averments from the model Bill, which are to be used for prosecuting breaches of road law offences.

### **Clause 110 Certificate Evidence**

This clause replicates the substance of section 98 *Road Traffic Act 1974*, and includes provisions from the model Bill, which will enable evidence to be tendered to a court by way of a certificate, under certain circumstances.

### **Clause 111 Proof of authority of warden, vehicle examiner**

This clause provides that a copy of an authority or an identification card issued by the CEO or the Commissioner of Police is taken to be prima facie evidence of such authorisation and is admissible in any proceedings. This clause removes the need to for the CEO or the Commissioner to give evidence confirming the validity of an authorisation.

### **Clause 112 Ascertainment of mass by weighbridge**

This clause replicates the substance of regulation 18 *Road Traffic (Vehicle Standards) Regulations 2002*, which provides that a vehicle and its load or any part of the vehicle may be weighed on a registered public weighbridge or any weighbridge certified under the *Trade Measurements Act 2006*.

### **Clause 113 Ascertainment of mass by loadmeter etc**

This clause replicates the substance of regulation 18 *Road Traffic (Vehicle Standards) Regulations 2002*, which provides that the mass of a vehicle (and its load) can be obtained by using one or more loadmeters or another prescribed weighing device.

### **Clause 114 Ascertainment of mass by reference to manufacturer's specifications**

This clause replicates the substance of regulation 18 *Road Traffic (Vehicle Standards) Regulations 2002*, which provides that if the mass of a vehicle or its load cannot be conveniently obtained from either a certified weighbridge or by using loadmeters and weight can be derived from weights that may be stipulated on the equipment.

### **Clause 115 Evidence regarding manufacturers ratings**

This clause contains provisions that have been imported from the model Bill

Subclause (1) enables a statement made by a manufacturer to be tendered as evidence, either by the prosecution or the defence as to a vehicles safe mass rating.

Subclause (2) enables a statement made by a manufacturer to be tendered as evidence, either by the prosecution or the defence, regarding limits load restraint equipment.

Subclause (3) clarifies that any written statement issued by the manufacturer of certain equipment, is taken to be prima facie evidence.

**Clause 116 Proof of appointments and signatures unnecessary**

This clause provides that for the purposes of a road law, it is not necessary to prove the appointment of an office holder nor a signature purporting to be the signature of an office holder is evidence of the signature it purports to be. This clause removes the need to appointing authority to give evidence confirming the validity of an authorisation.

**Clause 117 Certain measuring equipment**

This clause replicates the substance of section 98A *Road Traffic Act 1974*, and contains provisions that enable the responsible Minister to approve types of speed measuring devices or distance measuring apparatus for traffic enforcement matters. The clause further provides for evidentiary matters relating to evidence gathered by such devices/apparatus.

**Clause 118 Proof of transport journey documentation**

This clause enables transport or journey documentation to be admissible as evidence in a prosecution for a breach of a road law, without the need for further proof unless there is evidence to show the contrary.

**Clause 119 Bodies corporate or employers, conduct on behalf of**

This clause contains provisions that have been imported from the model Bill

Subclause (1) defines terms used for the purposes of this clause.

Subclause (2) stipulates that this clause applies only to proceedings for offences committed under a road law.

Subclause (3) provides that where it is necessary to establish a state of mind of a body corporate, then it is sufficient to show that the conduct of the person was recognised under the body corporate structure and that the person acted within the power or authority vested in them.

Subclause (4) provides that any conduct engaged by a person associated with a body corporate and within the scope of their authority is also deemed to have been conducted by the body corporate unless it can be proven that the body corporate took reasonable precautions to avoid the conduct occurring.

Subclause (5) provides that where it is necessary to establish a state of mind of a person other than a body corporate, then it is sufficient to show that the conduct of the person was engaged through an employee or agent of the person who acted within the power or authority vested in them

Subclause (6) provides that an employer is responsible for conduct of an employee or agent, unless the employer can demonstrate that they took reasonable precautions to avoid the conduct from occurring in the first place.



### **Clause 120 Burden of proof when load falls off vehicle**

This clause provides that where a person is charged with an offence alleged a breach of a load restraint requirement, which result in a load falling from a vehicle, the accused person must prove that they had adequately secured the load to avoid the incident from occurring.

### **Division 3 - Sentencing matters**

#### **Clause 121 Minimum fines**

This clause provides that where a road law offence stipulates a minimum penalty, a court is bound to issue a penalty, not less than the minimum prescribed.

#### **Clause 122 Penalties for bodies corporate**

This clause provides that offences under a road law that are committed by a body corporate, are subject to the provisions of Section 40(5) *Sentencing Act 1995*, which provides that the penalty can be five (5) times the maximum penalty that can be imposed on a natural person.

## **Part 7 – Damage to road infrastructure**

*This Part contains provisions from the model Bill as well provisions that have been transferred from the Road Traffic Act 1974, as part of the restructure of WA's Road Traffic legislation.*

#### **Clause 123 Terms used in this part**

This clause defines terms used under this Part.

#### **Clause 124 Compensation orders for damage to road infrastructure in consequence of MDLR offences**

This clause contains provisions that have been imported from the model Bill.

This clause empowers a court to make a compensation order requiring the offender to pay a road authority, compensation for damage to any road infrastructure, that the road authority has incurred or is likely to incur in consequence of the offence. For example, a court may make an order for compensation as consequence of vehicle causing damage to bridge, due to a breach of height requirement.

#### **Clause 125 Assessment of compensation**

This clause contains provisions that have been imported from the model Bill.

This clause complements clause 124, but setting out matters that a court may have regard to in assessing the amount of compensation, including the ability for a road authority to provide a court with a certificate estimating the cost of the damages caused to road infrastructure.

#### **Clause 126 Service of certificates**

This clause contains provisions that have been imported from the model Bill.

This clause compliments clause 125, by setting out the requirements on a road authority, seeking a compensation order from a court.

#### **Clause 127 Limits on amount of compensation**

This clause contains provisions that have been imported from the model Bill.

This clause places limits on a court in relation to the amount of compensation that can be ordered under clause 124.

#### **Clause 128 Costs**

This clause contains provisions that have been imported from the model Bill.

This clause provides that the court has the same power to award costs in relation to the proceedings for a compensation order as it has in relation to civil proceedings.

#### **Clause 129 Enforcement of compensation order and costs**

This clause contains provisions that have been imported from the model Bill.

This clause provides that compensation orders and any award of costs are enforceable as if they were a judgment of the court in civil proceedings.

#### **Clause 130 Relationship with orders or awards of other courts and tribunals**

This clause contains provisions that have been imported from the model Bill.

This clause provides that a compensation order may not be made if another court or tribunal has awarded compensatory damages or compensation in civil proceedings in respect of the damage based on the same or similar facts.

#### **Clause 131 Liability for damage to road infrastructure**

This clause replicates the substance of section 84 *Road Traffic Act 1974*, which will be repealed with the proclamation of this Act

This clause creates a liability on each responsible person connected with a vehicle that causes damage for any expenses incurred by the road authority in repairing or replacing damage incurred by the use of the vehicle on the road. The clause further places a requirement on the person in charge of a vehicle to do certain things should there be any danger to other road users as a result of damage caused by their vehicle.

#### **Clause 132 Road authorities may recover expenses of damage caused by heavy traffic**

This clause replicates the substance of section 85 *Road Traffic Act 1974*, which will be repealed with the proclamation of this Act

This clause allows a road authority to pursue either directly or through the courts avenues to recover expenses associated with the repair of damaged caused by

heavy traffic. This being subject to the road authority proving that use of a particular section of road by the heavy traffic has accelerated the wear or has damaged the road generally in comparison to road infrastructure in the vicinity.

## **Part 8 – Miscellaneous**

### **Clause 133 Review of decisions under road laws**

This clause enables a person to seek a review of various decisions that will be made under road laws. Those decisions are contained in paragraphs (a) to (g) inclusive

The processes for how a person applies for such reviews and how they are to be determined will be prescribed under regulations to provided consistency across all road laws.

### **Clause 134 Amendment or revocation of directions and conditions**

This clause contains provisions that have been imported from the model Bill.

This clause contains provisions that have been imported from the model Bill, and enables a police officer to amend, vary or revoke a condition or direction that has been given by another police officer.

### **Clause 135 Protection from liability for wrongdoing**

This clause replicates the substance of section 101 *Road Traffic Act 1974*, which will be repealed with the proclamation of this Act.

This clause provides a person with protection from legal action being taken against any person who performs a function under a road law, if that person acts in good faith.

### **Clause 136 Protection of people testing or examining or giving certain information**

This clause replicates the substance of section 101A *Road Traffic Act 1974*, which will be repealed with the proclamation of this Act.

This clause provides additional protections to persons that carry out test or examinations under a road law and then provide this information to the CEO to assist the performance of his or her functions under a road law. For example a medical test or similar that leads the person to report to the CEO that the subject of the test is no longer fit to drive a motor vehicle.

### **Clause 137 Liability of director etc., of a body corporate that is owner of a vehicle**

This clause replicates the substance of section 112 *Road Traffic Act 1974*, which will be repealed with the proclamation of this Act.

This provides that where a director of a body corporate has been required to pay any monies due under a road law for the body corporate that they have a right to take legal action to recoup those monies from the body corporate or proportionately from other directors.

### **Clause 138 Contracting out prohibited**

This clause contains provisions that have been imported from the model Bill.

This provides that legal obligations and requirements under a road law cannot be contracted out. This is to prevent persons and companies entering into contracts with third parties and passing on their legal responsibilities to those third parties. For example a company cannot enter into a contract with a cartage company and state in the contract that the cartage company is liable for all mass, dimension and loading requirements and that the primary companies contracts out their liability.

### **Clause 139 Temporary suspension of road law**

This clause replicates the substance of section 83 *Road Traffic Act 1974*, which will be repealed with the proclamation of this Act, that enable the Minister to suspend road laws for race meetings and speed tests. For example, if Rally Australia takes place on Riverside Drive.

### **Clause 140 Confusing lights affecting traffic on roads**

This clause replicates the substance of section 87 *Road Traffic Act 1974*, which will be repealed with the proclamation of this Act.

This clause empowers the Commissioner of Main Roads to take action where he believes that a light (as defined in subclause (1)) is likely to cause a risk, danger to road users.

### **Clause 141 Closure of roads**

This clause replicates the substance of section 92 *Road Traffic Act 1974*, which will be repealed with the proclamation of this Act.

This provides for the Minister and local government to close roads that are unsafe. The Minister can close a road as long as required. A local government cannot close a road for more than one month without first getting Ministerial approval. Persons must not use a road that is closed.

### **Clause 142 Liability under other laws**

This clause replicates the substance of section 99 *Road Traffic Act 1974*, which will be amended with the proclamation of this Act.

This provides that all liability placed on drivers, owners and responsible persons under common law or any other law apply in addition to the road traffic law.

### **Clause 143 Regulations**

This clause replicates the substance of section 111 *Road Traffic Act 1974*, which will be amended with the proclamation of this Act.

This clause provides the head of power for the making of regulations necessary and convenient for the application and administration of this Bill.

**Clause 144 Minister's declarations to apply regulations to areas other than roads etc.**

This clause replicates the substance of section 111AA *Road Traffic Act 1974*, which will be amended with the proclamation of this Act.

This empowers the Minister to apply regulations to areas that are not roads but are open to and used by the public. This is necessary to control various aspects of road traffic in certain circumstances. For example where there is a major public event and traffic is permitted into areas that are not roads.

**Clause 145 Minister's declarations that specified regulations do not apply to specified persons or vehicles**

This clause replicates the substance of section 111AB *Road Traffic Act 1974*, which will be amended with the proclamation of this Act.

This clause creates a head of power for regulations to provide for the Minister to exempt specified persons or vehicles from specified provisions of the regulations.

**Clause 146 Regulations may refer to published documents**

This clause replicates the substance of section 47 *Road Traffic Act 1974*, which will be repealed with the proclamation of this Act.

This clause enables regulations to be made to include reference any text of any published documents and the effect of those regulations.

## **Part 9 – Transitional and consequential provisions**

### **Division 1 – Transitional provisions arising from certain amendments made by the *Road Traffic (Consequential Provisions) Act 2007***

#### **Subdivision 1 – Transitional provisions arising from certain amendments made by the *Road Traffic (Consequential Provisions) Act 2007***

**Clause 147 Interpretation**

This clarifies terms and references made in this subdivision.

**Clause 148 Application of the *Interpretation Act 1984***

This provides that the *Interpretation Act* provisions continue to apply notwithstanding any provisions of this Division.

**Clause 149 Notices by which a person nominated as vehicle owner**

Where a notice has been provided to the Director General declaring joint ownership of a vehicle prior to the commencement of this Act it shall continue to apply after the commencement of this Act as though it had been made under this Act.

**Clause 150 Notices as to corresponding law about persons responsible for a vehicle**

Where the Minister has declared a law of another jurisdiction to be a corresponding law for the purpose of identifying persons responsible for a vehicle, such declarations continue to have effect when these Acts take effect.

**Clause 151 Delegations and approvals**

All delegations and approvals in place prior to the enactment of this Act continue when this Act is proclaimed.

**Clause 152 Agreements as to Director General's functions**

This continues agreements entered into by the Director General prior to the commencement of this Act. This would include agreements for the delivery of licensing services by external providers such as Australia Post and Shires.

**Clause 153 Use of certain particulars**

Where the Director General has supplied particulars to the Commissioner of Police and the Commissioner of Police has supplied offence information to the Director General prior to this Act, such information is still valid and lawful upon the commencement of this Act.

**Clause 154 Application for grant or transfer of vehicle licences**

This continues the validity of applications for vehicle licence transfers made prior to the commencement of this Act.

**Clause 155 Notices and delegations as to temporary suspension of laws**

This clause provides that where a temporary suspension of road laws for the conduct of a race meeting or speed test has been announced via a public notice prior to the commencement of this Act, it will continue to be valid after the commencement of this Act.

**Clause 156 Agreement as to expenses for repairing damage to roads caused by heavy traffic**

This clause continues agreements that are in place between local governments and heavy vehicle operators for the payment of monies to the local government towards the upkeep of the roads used by vehicles operated by that contractor.

**Clause 157 Unauthorised parking areas**

This clause provides that notices issued in the Government Gazette declaring certain areas as unauthorised parking, will continue to have effect after this Act commences.

**Clause 158 Confusing lights affecting traffic on roads**

Where the Commissioner of Main Roads has issued a notice to a person requiring them to remove any lights that may adversely affect traffic on roads, such notices remain valid after the commencement of this Act.

#### **Clause 159 Closure of roads**

Where a local government or the Minister has issued a notice closing a road, that notice will remain valid upon the commencement of this Act.

#### **Clause 160 Notices, certificates and delegations as to evidence about measuring equipment**

Subclause (1) provides that notices issued in the Government Gazette approving speed-measuring equipment (police radars etc) remain valid after the commencement of this Act.

Subclause (2) provides that certificates issued by the Commissioner of Police as evidence in legal proceedings stating a person was authorised to use such equipment as mentioned above remain valid upon the commencement of this Act.

Subclause (3) provides that any delegations made by the Commissioner of Police for the issue of certificates mentioned above remain valid upon the commencement of this Act.

#### **Clause 161 Infringement notices**

This continues the validity of any infringement notices issued prior to this Act that have not been withdrawn or paid.

#### **Clause 162 Notices requesting information**

This continues the validity of notices issued seeking information about who was driving a vehicle where the alleged breach was detected via police camera operations.

#### **Clause 163 Minister's declarations to apply regulations to areas other than roads etc.**

The Minister may declare that traffic regulations apply in areas that are not roads. This clause continues the operation of those declarations.

#### **Clause 164 Transitional regulations**

This provides the authority for regulations to contain any provisions necessary or convenient to deal with transitional matters.

#### **Subdivision 2 – Transitional provisions arising from certain amendments made to other written laws by the *Road Traffic (Consequential Provisions) Act 2007***

#### **Clause 165 Transitional regulations for laws other than road laws**

This provides the head of power to create regulations to deal with transitional matters that arise from the restructure of the road traffic legislation. These may not deal specifically with road laws because road traffic legislation is referenced in a variety of statutes for different purposes. For example the definition of a road may be used for planning or property law and the application of those definitions may need to be transitioned.

## **Division 2 – Amendments to regulations as consequence of certain 2007 enactments**

### **Clause 166 Power to make consequential amendments to regulations under any Act**

This provides the head of power for consequential amendments to be made to subsidiary legislation under any Act in Western Australia as necessary or desirable as a result of the enactment of the three Acts that form the new road traffic legislation. These being the *Road Traffic (Authorisation to Drive) Act 2007*, *Road Traffic (Vehicles) Act 2007* and the *Road Traffic (Consequential Provisions) Act 2007*.

For example various other regulations reference the current *Road Traffic Act 1974* and with the enactment of these Acts such references will require amendment where provisions have been moved from the *Road Traffic Act 1974*.