

Explanatory Memorandum

ROAD TRAFFIC LEGISLATION AMENDMENT (INFRINGEMENT MANAGEMENT REFORM) BILL 2024

Overview

The *Road Traffic (Administration) Act 2008* (RTAA) is the principal WA legislation establishing the road law administrative framework, driver and vehicle responsibilities, compliance and enforcement powers, and prosecution and evidentiary provisions. The RTAA provisions relating to the administration of (traffic) infringement notices, including issuing and prosecution authority, payment options and methods of service have been relatively unchanged for more than 40 years.

The Road Traffic Legislation Amendment (Infringement Management Reform) Bill 2024 amends the RTAA to —

- modernise the management of infringement notices including enabling digital services, to introduce payment options, and to provide for the transition of infringement management administrative functions from the Western Australia Police Force to the Department of Transport;
- introduce new enforcement equipment known as Visual Detection Equipment (VDE), to be approved by the Minister for Police for the use in the detection of an act or omission by a driver against a prescribed road law offence for example, the use of a mobile phone. The VDE amendments are consistent with provisions in the RTAA for speed measuring and recording equipment (SMRE) speed cameras;
- set the period for commencing a prosecution for road law offences up to a uniform two years;
- create a new offence for providing false or misleading information in dealing with an infringement notice or notice requesting information. The new offence penalty is consistent with the Criminal Code's penalty model for making a false Statutory Declaration; and
- enhance regulation-making powers in relation to infringements, including provision of infringement payment instalment plans covering the number of instalments based on the dollar value of the modified penalty associated with the infringement, and modernising service provisions.

Part 3 of the Bill makes amendments to the *Fines, Penalties and Infringement Notices Enforcement Act 1994* (FPINEA) to support debt recovery in instances of default of the introduced infringement notice payment options.

Part 4 of the Bill makes consequential amendments to other legislation primarily to support operation of infringement payment instalments (Demerit Point Scheme) and provide clarity that all camera detected infringement notice monies are credited to the Road Trauma Trust Account.

Glossary of terms

The following terms are used throughout the Explanatory Memorandum.

CEO	Chief Executive Officer
DoJ	Department of Justice
DoT	Department of Transport
DVS	DoT Driver and Vehicle Services
FDN	Final Demand Notice (for unpaid infringement notice)
FER	Fines Enforcement Registry
FPINEA	<i>Fines, Penalties and Infringement Notices Enforcement Act 1994</i>
ICWA	Insurance Commission of Western Australia
IN	Infringement Notice
MDLR	Mass, Dimension and Load Restraints
NRI	Notice Requesting Information
PTA	Public Transport Authority
road law	The legislation suite RTAA, RTA, RTATD, RTVA
RP	Responsible person for the vehicle (licence holder) s.6 RTAA
RSCA	<i>Road safety Council Act 2002</i>
RTA	<i>Road Traffic Act 1974</i>
RTAA	<i>Road Traffic (Administration) Act 2008</i>
RTATD	<i>Road Traffic (Authorisation to Drive) Act 2008</i>
RTTA	Road Trauma Trust Account (under the RSCA)
RTVA	<i>Road Traffic (Vehicles) Act 2012</i>
SMRE	Speed Measuring and Recording Equipment
VDE	Visual Detection Equipment
WAPF	Western Australia Police Force

PART 1 - PRELIMINARY

1. Short title

Clause 1 provides that this Bill, after it is passed by Parliament and receives Royal Assent, is to be known as the *Road Traffic Legislation Amendment (Infringement Management Reform) Act 2024*.

2. Commencement

This clause provides for the commencement of the Amendment Act following Royal Assent.

Part 1 commences on the day the Bill receives Royal Assent.

The remainder of the Act commences on a day fixed by proclamation. Supporting regulations will also be drafted and timed to commence with the amendments in this Bill to support implementation.

PART 2 – ROAD TRAFFIC (ADMINISTRATION) ACT 2008 AMENDED

3. Act amended

This clause provides this Part amends the RTAA.

4. Section 4 amended

This clause deletes and inserts defined terms into section 4 of the RTAA.

Subsection (1) amends section 4 of the RTAA, Terms used in road law, to delete the defined term of *infringement notice*.

The deletion of the term *infringement notice* is necessary as this Bill deletes Part 5 – Infringement Notices and Notices Requestion Information and inserts a new restructured Part 5. The existing term points to section 79 of the RTAA and will no longer be correct.

The Bill, in modernising the infringement notice framework, introduces a suite of infringement notice types relevant to road law offences, the method of detection of offences and applied presumptions and options. The suite of infringement notice types provides clarity on the operation and responsibilities for different infringement notices.

Subsection (2) amends section 4 of the RTAA, Terms used in road law, to insert defined terms. These include —

Commissioner of Police means the person holding or acting in the office of Commissioner of Police under the *Police Act 1892*.

The term is used extensively in road law, the definition provides clarity.

electronic means includes —

- (a) an electronic database or document system; and
- (b) any other means by which a document can be accessed electronically.

The term provides clarity in relation to the means that information may be given or provided. The RTAA provides power for authorised officers to request or direct a person to produce or provide information or records. The modernising of the RTAA and the infringement management framework will enable persons to submit information by electronic means.

extension infringement notice has the meaning given in section 90(1).

The term provides clarity in the context of the infringement management framework, where an individual in receipt of an infringement notice may apply for an extension of time to pay the infringement notice. In this instance the initial infringement notice, having passed the due date is replaced by the issue of an extension infringement notice, provided an extended period of time for the matter to dealt with.

incident information means —

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

Modern drafting style moves the term '*incident information*' from within a number of sections, namely, sections 12, 13D and 15 of the RTAA, and places the term within section 4 - Terms.

infringement notice means any of the following —

- (a) an infringement notice (alleged offender);
- (b) an infringement notice (vehicle);
- (c) an infringement notice (visual evidence);
- (d) an extension infringement notice.

The term provides for a suite of infringement notice types. The term, infringement notice covers all notices, with the suite of different infringement notice types named to provide clarity when reference each type of notice, each covering different scenarios of alleged offence detection, onuses and options for dealing with the notice. The infringement notice types within the suite are each defined within section 4.

infringement notice (alleged offender) has the meaning given in section 81(1).

The term applies to an infringement notice issued to a known person whom an issuing officer reasonable believes to have committed an offence capable of being dealt with by way of infringement. Operationally the infringement notice (alleged offender) is known as an on-the spot infringement. The infringement notice (alleged offender) may be issued to a person, the identity ascertained at the time of the alleged offence or identified in investigations.

infringement notice (vehicle) has the meaning given in section 83(2).

The term applies to an infringement notice left on or affixed to a vehicle in relation to a vehicle parking or standing offence. The driver of the vehicle is not known at the time of issue. The infringement notice (vehicle) carries presumptions in relation to the responsible person for the vehicle and options in dealing with the notice.

infringement notice (visual evidence) has the meaning given in section 86(2).

The term applies to an infringement issued based on visual evidence. Operationally the infringement notice (visual evidence) is known as a safety camera infringement notice. The driver of the vehicle at the time of the alleged offence is not known. The infringement notice (visual evidence) carries presumptions in relation to the responsible person for the vehicle and options in dealing with the notice.

initial infringement notice means any of the following —

- (a) an infringement notice (alleged offender);
- (b) an infringement notice (vehicle);
- (c) an infringement notice (visual evidence).

The term provides clarity identifying the initial issued infringement notice to an individual and assists in delineation from the extension infringement notice if issued.

notice requesting information has the meaning given in section 96(2).

The term provides clarity in reference to provisions dealing with a request for information issued to a body corporate when their vehicle is identified in visual evidence from road law offence detection equipment (new term to be inserted by the Bill in section 117). A notice requesting information is issued where an infringement notice (visual evidence) cannot be issued as the vehicle owner is not an individual.

Part 5 document means —

- (a) an infringement notice, other than an infringement notice (vehicle); or
- (b) a notice requesting information; or
- (c) a notice served under section 94(1) or 99.

The term provides a collective term for specific documents in the infringement management framework, and aids in detailing service provisions that apply

across the suite of documents. Part 5 documents methods of service are provided by the Bill by insertion of section 100. Methods of service include personally, by post and with consent by electronic means. The infringement notice (vehicle) is excluded from the Part 5 document term as the infringement is served by affixing to a vehicle.

Subsection (3) amends section 4 of the RTAA, Terms used in road law, to delete 'to a responsible person' and insert 'to an individual' in the definition of a *family violence evidentiary document*. The amendment addresses a drafting anomaly, recognising that the term responsible person for a vehicle (defined in section 6 RTAA) applies to an individual or a body corporate. Family violence evidence documents are only applicable to an individual.

Subsection (3) makes minor amendments within *the family violence evidentiary document* definition to provide clarity all listed documents are in relation to an individual. The amendments remove ambiguity that family violence evidentiary documents may relate to a body corporate, this is not the case.

5. Section 6 amended

Section 6 of the RTAA provides the definition of a responsible person for a vehicle. Subsection (3) provides that a person is not the responsible person for a vehicle if that person can show that they did not agree to become the owner of the vehicle and had notified the CEO DoT or has given similar notice to another Australian driver licensing authority.

This clause addresses an anomaly identified in drafting, it deletes the reference to another jurisdiction's driver licensing authority and replaces it with the appropriate vehicle licensing term, a corresponding authority. The term corresponding authority is an existing term defined in section 4 of the RTAA.

6. Section 12 amended

Section 12 of the RTAA provides the framework for the exchange of information between the CEO and Commissioner of Police. The term '*incident information*' in modern drafting style has been moved to section 4, Terms used in road law.

7. Section 13A amended

Section 13A of the RTAA provides the framework for the exchange of information between the CEO and other authorities. A definition of infringement notice is amended by the Bill to provide clarity, in line with the suite of infringement notices defined by the Bill in section 4.

This clause adds the identifying reference 'ATD' to the definition of 'infringement notice', to provide clarity in relation to dealings with infringement notices under the RT(AtD)A and the recoding of demerit points. The reference

to infringement notice (ATD) includes infringements with demerit points issued under a law of another jurisdiction.

8. Section 13D amended

Section 13D of the RTAA provides the framework for the disclosure of incident information to ICWA. The term '*incident information*' in modern drafting style has been moved to section 4, Terms used in road law.

9. Section 13E amended

Section 13E of the RTAA provides the framework for the disclosure of incident information to involved persons. Section 13E has an abridged or shortened definition to the term 'incident information'. The definition excludes the release of statement and investigation reports to involved persons.

This clause inserts 'abridged' to the shortened definition of incident information, providing clarity and delineation from the term 'incident information, in section 4.

10. Section 15 amended

Section 15 of the RTAA provides the framework for the disclosure of information for road safety purposes. The term '*incident information*' in modern drafting style has been moved to section 4, Terms used in road law.

11. Section 24 amended

Section 24 of the RTAA provides the powers for wardens.

This clause applies modern drafting style by clarifying the reference to 'prescribed' to mean 'prescribed in the regulations.'

12. Section 34 amended

Section 34 of the RTAA establishes the duty upon a responsible person for a vehicle to identify offending driver or person in charge of a vehicle. Subsection (2) creates the offence if the responsible person fails to give the information. Subsection (3) creates the offence if the responsible person gives false information. The penalty for both subsection (2) and (3) is listed immediately following subsection (3).

This clause introduces modern drafting style and improved readability and insets the penalty at the foot of each subsection.

Subclause (3) provides clarity by deleting 'notice under section 98' and inserting the name of the notice, 'notice requesting information'. This amendment also removes the reference to section 98, that will not be correct as the Bill will delete Part 5 and insert new Part 5 with a new structure and different section numbering.

13. Section 56 amended

The RTAA, Part 4 - Enforcement of road laws, Division 6 – Other directions in relation to Mass, Dimension and Load restraints (MDLR) section 56 empowers police officers to give directions to produce records, devices or other things.

This clause modernises the language and provides clarity in subsection (2) where a direction to produce records, devices or other things under subsection (1) must specify certain things.

Firstly deleting ‘to be’ in reference to ‘the record, device or other things to be produced’ inserting ‘that must be’. The amendment clarifies that there is an obligation to produce the items, removing ambiguity of possible future compliance.

Secondly, restructuring the requirement of ‘where’ and ‘to whom’ the record is to be produced, clarifying the ‘when’ the records are to be produced. The direction must state the direction to be complied with either then and there, or in a specified period. The insertion of the ‘when’ the requirement within the subsection improves readability and aligns with modern drafting practice, moving the overarching ‘when’ a direction must be complied with for Division 6 at section 61 and inserting it into each relevant provision.

14. Section 57 amended

Section 57 of the RTAA provides that a police officer for MDLR compliance purposes may direct an involved person to do a number of things, including stating the name and address, business address and route details. The provision is silent on when the direction must be complied with, relying on the overarching Division 6, section 61 that a direction given orally must be complied with then and there, or a specified time.

Subclause (1) inserts a new subsection providing clarity on when compliance is required.

(2A) A direction under subsection (1) must state that the direction must be complied with –
(a) Then and there; or
(b) Within a specified period.

Subclause (2) and (3) introduce modern drafting style and improved readability, inserting the penalty at the foot of each subsection.

15. Section 58 amended

Section 58 of the RTAA provides that a police officer may give direction to provide reasonable assistance in exercising powers of inspection and search

Subclause (1) inserts a new subsection providing clarity on when compliance is required.

(2A) A direction under subsection (1) must state that the direction must be complied with –
(a) Then and there; or
(b) Within a specified period.

Subclause (2) introduces modern drafting style and improved readability, clarifying the penalty at the foot of subsection (5), is the ‘penalty for this subsection.’

16. Section 61 deleted

Section 61 of the RTAA provides that a direction given under Division 6 (MDLR compliance) must state whether it is to be complied with then and there, or within a specified period.

This clause deletes section 61, the Bill introducing modern drafting style and providing clarity inserts the elements of when a direction must be complied with into each relevant section, sections 56, 57, 58, 61C, 61D and 61E.

17. Section 61C amended

Part 6A of the RTA provides the enforcement framework for immobilisation, towing and detention of motor vehicles (anti-wheel clamping). Section 61C Division 6B of the RTAA provides that a police officer for compliance purposes may direct a person to produce records, devices or other things.

This clause modernises the language and provides clarity in subsection (2) where a direction to produce records, devices or other things under subsection (1) must specify certain things.

Firstly deleting ‘to be’ in reference to ‘the record, device or other things to be produced’ inserting ‘that must be’. The amendment clarifies that there is an obligation to produce the items, removing ambiguity of possible future compliance.

Secondly, restructuring the requirement of ‘where’ and ‘to whom’ the record is to be produced, clarifying the ‘when’ the records are to be produced. The direction must state the direction to be complied with either then and there, or in a specified period. The insertion of the ‘when’ the requirement within the subsection improves readability and aligns with modern drafting practice, moving the overarching ‘when’ a direction must be complied with for Division 6 at section 61 and inserting it into each relevant provision.

18. Section 61D amended

Part 6A of the RTA provides the enforcement framework for immobilisation, towing and detention of motor vehicles (anti-wheel clamping). Section 61D under Division 6B of the RTAA provides a police officer may require a person to provide information in relation to any matter related to Part 6A of the RTA.

This clause inserts a new subsection providing clarity on when compliance is required.

- (2A) A direction under subsection (1) must state that the direction must be complied with –
- (a) Then and there; or
 - (b) Within a specified period.

19. Section 61E amended

Part 6A of the RTA provides the enforcement framework for immobilisation, towing and detention of motor vehicles (anti-wheel clamping). Section 61E of Division 6B of the RTAA provides a police officer may direct a person to provide reasonable assistance for exercising officer powers of inspection or search under section 61A or 61B of the RTAA.

This clause inserts a new subsection providing clarity on when compliance is required.

- (2A) A direction under subsection (1) must state that the direction must be complied with –
- (a) Then and there; or
 - (b) Within a specified period.

20. Section 61F amended

Part 6A of the RTA provides the enforcement framework for immobilisation, towing and detention of motor vehicles (anti-wheel clamping). Section 61F of Division 6B of the RTAA provides that section 60 and section 61 of Division 6 of the RTAA apply when giving directions under this Division (6B).

This clause deletes reference to section 61. Section 61 of the RTAA is deleted by section 16 of the Bill.

21. Section 65 amended

Section 65 of the RTAA provides the framework for the issue of warrants for MDLR compliance and enforcement purposes.

This clause applies modern drafting style by clarifying the reference to 'prescribed' to mean 'prescribed in the regulations.'

22. Section 66 amended

Section 66 of the RTAA provides the framework for the duration and exaction of a warrant for MDLR compliance and enforcement purposes.

This clause applies modern drafting style by clarifying the reference to 'prescribed' to mean 'prescribed in the regulations.'

23. Section 71 amended

Section 71 of the RTAA provides for police officers to issue embargo notices in MDLR compliance and enforcement.

Subclause (1) applies modern drafting style amending the embargo notice from being a prescribed form (in the regulations) to a form approved by the CEO.

Subclause (2) applies modern drafting style deleting the gender term 'he or she' and inserts 'they'.

24. Section 74 amended

Section 74 of the RTAA provides occupier's rights, in respect to the entry of premises by police officers exercising MDLR compliance and enforcement powers. The section places requirements upon the police officer to provide information to the including the officer's details, if a warrant executed a copy of the warrant to the occupier, if present, and when the premises are unoccupied, including.

Subclause (1) applies modern drafting style deleting the gender term 'he or she' and inserts 'they'.

Subclause (2) amends subsection (5) to improve readability and remove ambiguity in relation to if premises entered by police are unoccupied, that may imply abandoned or not used, to provide clarity of the requirements upon police, if no occupier is present at the premises they enter.

25. Part 5 replaced

This clause deletes, Part 5 – Infringement Notices in the RTAA, in its entirety (sections 79 to section 104 inclusive) and inserts a new Part 5 – Infringement Notices and Notices Requesting Information (sections 79 to 101 inclusive).

The replacement of Part 5 of the RTAA is to facilitate the modernising of traffic infringement management, transition of infringement management functions from WA Police Force to DoT, enable payment options for individuals and enable enhanced customer services with electronic service and communications in dealing with notices.

Section 79 – Terms used

designated departmental officer means a person who is designated under section 80(1)(a).

The term is introduced to provide for the CEO DoT to designate persons (individual or classes of persons) employed in or engaged for the purposes of infringement management, to be able in specific circumstances to issue an infringement notice, namely, an extension infringement. The designated departmental officer in completing the application from an individual for an extension of time to pay their initial infringement notice, is authorised to perform the administrative function. The designated departmental officer is not issuing an infringement on forming the reasonable belief that a person has committed the alleged offence.

extended payment period has the meaning given in section 90(2)(b).

The term introduced to support the desired policy that individuals may apply to the CEO for an extension of time to pay their infringement notice.

initial payment period has the meaning given in section 91(2)(a).

The term introduced to provide clarity in dealing with extension infringement notices.

issuing officer means —

- (a) a police officer; or
- (b) a person who is designated under section 80(1)(b); or
- (c) in relation to public transport offences — a person who is designated under section 80(2).

The term introduced to provide for persons other than a police officer be empowered to issue a traffic infringement notice. An issuing officer can be,

- (a) Police officer (existing infringement framework), or
- (b) A person designated by the CEO DoT in performing infringement management functions (supports the transition of infringement management function from WA Police Force to DoT), or
- (c) A person designated by the chief executive officer of the PTA – only for certain offences prescribed in regulations. The policy intention is to enable authorised PTA officers issue infringement notices for road rule offences specific to the unlawful use of Bus Lanes and Busways when detected using approved visual detection equipment.

modified penalty, in relation to an infringement notice, means the applicable penalty prescribed for the purposes of section 95(1)(b) for the alleged offence to which the infringement notice relates.

Notes for this definition:

1. The modified penalty in relation to an infringement notice that relates to an alleged offence under the Road Traffic (Vehicles) Act 2012 section 10(6) also includes other amounts for the purposes of sections 89, 90, 91(1)(c) and (2), 92, 93, 94 and 95 and the Fines, Penalties and Infringement Notices Enforcement Act 1994: see section 82(3).

2. The modified penalty in relation to an infringement notice that relates to an alleged offence under section 97(1) is determined in accordance with section 98(2).

The Bill provides publishing supporting notes for the definition of 'modified penalty' to assist the reader, identifying separate provisions where a broader meaning is applied.

Note 1 highlights that the modified penalty for an infringement relating to a vehicle licensing offence, failing to apply for the transfer of the vehicle licence includes additional sums (vehicle licence transfer fee, and vehicle licence duty).

Note 2 highlights that the offence of fail to comply with a notice requesting information issued to a body corporate, the penalty is determined by section 98, effectively double the modified penalty of the detected road rule offence detected by the speed measuring and recording equipment or visual detection equipment.

period for complying has the meaning given in section 96(3)(d)(i).

Modern drafting style inserts an existing definition into a section that provides terms used within this Part. The period for complying is the time a body corporate has to respond to a notice requesting information issued seeking driver identity of their vehicle at the time of a road law offence detection equipment captured incident.

prescribed road law offence has the meaning given in section 95(1)(a).

Note for this definition:

An offence under section 97(1) is also a prescribed road law offence: see section 98(1).

The term introduced to provide for road law offences that are able to be dealt with by way of infringement notice. Road law offences provided with a modified penalty.

Public Transport Authority means the Public Transport Authority of Western Australia established under the Public Transport Authority Act 2003 section 5.

public transport offence means a prescribed road law offence prescribed by the regulations for the purposes of this definition.

The term introduced to provide for the prescribing certain road rule offences that may be dealt with by issue of an infringement notice by authorised PTA officers. The intention is Road Traffic Code 2000 offences relating to illegal use of Bus Lanes and Bus ways where the enforcement activity is undertaken by use of visual detection equipment (camera detected).

visual evidence means 1 of the following —

- (a) a photograph or digital image, including an image produced from a video or other form of recording;
- (b) a video or other form of recording.

withdrawing officer means —

- (a) a police officer who is, or is of a class, prescribed by the regulations for the purposes of this definition; or
- (b) a person who is designated under section 80(1)(c).

The term introduced to support the transition of infringement management functions from WA Police Force to DoT. The term provides for the continue model of senior police officers (Commissioned officer rank of Inspector or higher), and CEO DoT designated persons. The operation of this provision will retain police considering the withdrawal of police issued infringements and enable CEO DoT designated officers to consider the withdrawal of infringements issued based on visual evidence.

Section 80 - Designating persons as designated departmental officers, issuing officers or withdrawing officers

This section provides the ability for CEO DoT and the Chief executive officer of the Public Transport Authority to authors person for infringement functions including issue and withdraw. The section enables the transition of infringement management functions from WA Police Force to the DoT.

This section requires the CEO to publish on the website of the department if classes of persons are designated as designated departmental officer, issuing officer or withdrawing officer. The publication provides a mechanism for a recipient of a notice to obtain a level of confidence of the authenticity of a notice received.

Section 81 – Infringement notice (alleged offender)

This section provides the framework for an issuing officer to serve an infringement notice to an alleged offender.

The infringement notice (alleged offender) covers issue of an infringement notice in the situations of –

- an on-the-spot or roadside infringement,
- fail to comply with notice requesting information offence,
- DoT licensing offences, and
- identified driver (an individual identified by a responsible person for a vehicle in dealing with their infringement notice (visual evidence)).

The section outlines requirements for the infringement notice (alleged offender), including compliance with new defined general requirements for all infringement notices introduced by the Bill at Section 91 and specific matters. The infringement notice must contain information to enable the recipient to understand their options in dealing with the infringement and consequences.

The methods of service are provided by the Bill in section 100.

Section 82 - Infringement notices for not applying for transfer of vehicle licence

This section provides that the infringement notice (alleged offender) issued to a person for the offence of failing to apply for the transfer of a vehicle licence has 3 components to the modified penalty. In addition to the prescribed modified penalty, the vehicle licence transfer fee and the vehicle licence duty amounts are added for a total amount.

This section provides clarity that if the unpaid infringement notice debt is registered with the Fines Enforcement Registry the modified penalty is the sum of the 3 elements and clarifies the sequence reconciliation of FER part payments are to be attributed. The order being transfer fee, vehicle licence duty and the modified penalty of the offence.

The section clarifies that if the infringement notice is withdrawn after payment, that only the modified penalty for the offence can be refunded. Any monies paid in relation to the vehicle licence transfer fee and vehicle licence duty remain collected or paid.

Section 83 - Service of infringement notice on responsible person by leaving notice on vehicle

This section provides the framework for a police officer to serve an infringement notice on a responsible person for a vehicle where the commission of a parking or standing offence is alleged and the identity of the driver is unknown. Police officer issued parking infringements are restricted to areas not covered by Local Government parking laws. These areas are limited, an example is the car park of the Murdoch Police Station.

The section outlines requirements for the infringement notice (vehicle), including compliance with new defined general requirements for all infringement notices introduced by the Bill at section 91 and specific matters. The infringement notice must contain information to enable the recipient to understand their options in dealing with the infringement and consequences. The infringement notice must inform the responsible person of the presumption established in section 84, that they committed the offence, and the manner to deal with their responsibilities to identify the alleged offending driver.

The method of service is by leaving a hard copy of the infringement notice (vehicle) in or upon or attached to the vehicle.

Section 84 - Responsible person presumed to have committed offence in certain circumstances

This section establishes the presumption that the responsible person for the vehicle committed the alleged offence, unless certain things happen or the responsible person meets their responsibility to identify the driver or provide further information.

This section modernises the infringement management framework for Infringement notice (vehicle) by aligning the options for a responsible person for the vehicle to meet their responsibilities with those options in an infringement notice (visual evidence), commonly known as a camera infringement. The infringement notice provision relating to police issued parking offences have not been updated possibly due to limited enforcement action. The existing provisions only presented the responsible person for the vehicle with the options if they were not the driver at the time of the offence, of providing the name and address of the offending driver or informing that the vehicle was stolen at the time of the alleged offence.

This section provides the uniform options for the responsible person for the vehicle to address their responsibilities relating to the infringement notice to;

- 1) Pay the infringement.
- 2) Infringement reviewed and withdrawn.
- 3) Inform they were not the driver and provide name and address of the driver.
- 4) Inform they were not the driver, and the vehicle was stolen and provide supporting evidence.
- 5) Inform they were not the driver, do not know the driver, cannot reasonably ascertain the driver.
- 6) Inform they were not the driver and vehicle sold and provide the name and address of the new owner.
- 7) Inform they were not the driver, and risk of family violence against an individual if they seek to ascertain the driver identity, supply family violence evidence document.

Section 85 – Effect of giving notice under section 84

This section is a new provision in the infringement management framework and provides clarity in the administration of infringement notice (vehicle) that when the responsible person, not being the driver at the time of the alleged offence addresses their responsibilities and provides suitable information, the infringement is withdrawn. This administrative action by effect of the law (section 85) withdraws the initial infringement and extinguishes the presumption created upon the responsible person on issue of the infringement notice (vehicle).

The withdrawal of the infringement notice does not erase the occurrence of alleged offence, if warranted a new infringement notice or prosecution action may be commenced.

Section 86 - Service of infringement notice on responsible person if there is visual evidence in relation to offence

This section provides the framework for an issuing officer to serve an infringement notice on a responsible person for a vehicle where the commission of a prescribed road law offence with an element of driving a vehicle has been committed, and the belief is based on visual evidence, and

the identity of the driver is not known at the time. The identify of the vehicle is ascertained in the visual evidence and the responsible person for the vehicle is an individual.

The section outlines requirements for the infringement notice (visual evidence), including compliance with new defined general requirements for all infringement notices introduced by the Bill at section 91 and specific matters including access to view the visual evidence (images). The infringement notice must contain information to enable the recipient to understand their options in dealing with the infringement and consequences.

The methods of service are provided by the Bill in Section 100.

Section 87 - Responsible person presumed to be driver in certain circumstances

This section establishes the presumption that the responsible person for the vehicle committed the alleged offence, unless certain things happen, or the responsible person meets their responsibility to identify the driver or provide further information.

This section modernises the infringement management framework for Infringement notice (visual evidence) removing the requirement to provide certain information via the completion of and submission of a statutory declaration. This supports the policy intent to enable digital services and communication. The creation of new offence and penalty for providing false or misleading information introduced by the Bill at section 101 will encourage responsible persons to provide accurate information.

This section provides the uniform options for the responsible person for the vehicle to address their responsibilities related to the infringement notice to;

- 1) Pay the infringement.
- 2) Infringement reviewed and withdrawn.
- 3) Inform they were not the driver and provide name and address of the driver.
- 4) Inform they were not the driver, and the vehicle was stolen and provide supporting evidence.
- 5) Inform they were not the driver, do not know the driver, cannot reasonably ascertain the driver.
- 6) Inform they were not the driver and vehicle sold and provide the name and address of the new owner.
- 7) Inform they were not the driver, and risk of family violence against an individual if they seek to ascertain the driver identity, supply family violence evidence document.

Section 88 – Effect of giving notice under section 87

This section is a new provision in the infringement management framework and provides clarity in the administration of infringement notice (visual evidence) that when the responsible person, not being the driver at the time of

the alleged offence addresses his responsibilities and provides suitable information, the infringement is withdrawn. This administrative action by effect of the law (section 88) withdraws the initial infringement and extinguishes the presumption created upon the responsible person on issue of the infringement notice (visual evidence).

The withdrawal of the infringement notice does not erase the occurrence of alleged offence, if warranted a new infringement notice, including an infringement notice (alleged offender) to the identified driver or prosecution action may be commenced.

89 - Individual may apply for more time to pay modified penalty

This section introduces the ability for an individual to apply for an extension of time to pay their infringement notice. This section supports the policy intent that an individual has more options to pay their infringement than pay in full by the due date, where failure to pay by the due date incurs additional costs and debt enforcement recovery action with the Fines enforcement registry.

90 – Service of extension infringement notices

This section requires if an individual applies, within the period of dealing with the infringement, for an extension of time to pay their infringement a designated departmental officer must issue an extension infringement.

The extension infringement providing a new period, not less than 28-days, for a due date. The individual can make full payment within the extended period or elect to have the matter dealt with by a court.

The section outlines requirements for the extension infringement notice, including compliance with new defined general requirements for all infringement notices introduced by the Bill at section 91 and specific matters including advising that on issue of the extension infringement notice the initial infringement notice is withdrawn. This prevents the risk of the initial infringement notice treated as unpaid and risk of debt enforcement action being initiated. The infringement notice must contain information to enable the recipient to understand their options in dealing with the infringement and consequences.

The methods of service are provided by the Bill in Section 100.

Section 91 - General requirements for infringement notices

This section introduces the general requirements for all infringement notices. The section includes the modern drafting style of the infringement form being approved by the CEO and no longer a form prescribed in the regulations.

The section stipulates the information and matters that must be included in an infringement notice, ensuring the recipient is informed of the offer to deal with the alleged offence by payment, or elect to have the matter heard and

determined in a court, or if unpaid that debt enforcement action with the Fines Enforcement Registry may occur.

This section also introduces the new ability in relation to options to pay an infringement other than in full by the due date, Informing the individual may apply within the initial payment period to the CEO DoT for more time to pay (an extension infringement) or enter an infringement payment instalment arrangement with the CEO DoT, paying the first instalment and the remaining instalments in accordance with a scheme provided in the regulations.

Section 92 – Effect of payment of modified penalty

An infringement notice is offered by a prosecuting authority as a means for the person to deal with the alleged offence without being prosecuted, or having the matter dealt with in a court. This section provides clarity that if the recipient of an infringement notice pays the modified penalty they cannot be prosecuted for the alleged offence, unless the infringement notice is withdrawn.

This section clarifies:

- when an infringement notice has been paid the person cannot then elect to have the matter dealt with by a court.
- when an infringement notice has been issued upon a responsible person for a vehicle that carries a presumption, they committed the offence or were the driver, and the infringement notice has been paid, the responsible person cannot then tender information in relation to the infringement notice that they were not the driver and give other information.
- that the payment of an infringement notice is taken to be a conviction, in a number of matters, whereas an infringement is not usually taken to be a conviction (being dealt without court).

Payment of the infringement is taken to be a conviction for the purposes of;

- Section 35(4)(b)(v) of the RT(AtD)A enabling a court in hearing an application to vary or cancel an extraordinary licence to consider the infringement in the number and nature of road law convictions as to the suitability of the person to have an extraordinary licence.
- Sections 126(6) and 128(4) of the RT(V)A in relation to a court considering in mass, dimension and load restraint compliance whether the person is likely to comply with a supervisory intervention order or a prohibition order if granted based on the number and nature of road law convictions.
- Section 16(1)(a) of the RT(AtD)A if the individual is the holder of a provisional licence, certain offences, including careless driving will be effect of the law cause the individual to be disqualified for 3 months and their driver's licence cancelled.

This section modernises the reference to dishonoured payments, currently limited to dishonoured cheques and applies the meaning of dishonoured

payments defined in section 3 of the *Fines, Penalties and Infringement Notices Act 1994*. This expands the meaning to include credit card payment not authorised by the issuer of the card, and direct debit of an account a payment not authorised by the person.

Section 93 - Effect of election to have charge for alleged offence heard and determined by court

This section provides clarity to the effect of a person making an election to have the alleged offence on an infringement notice heard and determined by a court. This section gives effect upon an election the initial or extension infringement notice is withdrawn. The election moving the enforcement action to prosecution and out of Part 5.

Section 94 – Withdrawal of infringement notices

This section provides that authorised withdrawing officers may withdraw an infringement notice, once issued and regardless of if the infringement notice has been paid. The withdrawal being completed by a CEO approved notice.

The methods of service are provided by the Bill in section 100.

The section provides that if the infringement notice is withdrawn after payment that any monies (provides for infringement payment instalment arrangements) is to be refunded. A note is provided at the foot of the section to aid the reader that section 82(4) excludes refund of vehicle licence transfer fee and vehicle licence duty monies.

Section 95 – Regulations relating to infringement notices

This section consolidates the regulation making provision of the current infringement management framework that appear in the current Part 5 within section 79 and section 85 of the RTAA providing for prescribed road law offences to be dealt with by way of infringement notice.

This section introduces the head of power for the making of regulations to support infringement notice payment instalment arrangements make in relation to an initial infringement notice served upon an individual. This supports the desired policy that infringement notice payment options are available for individuals, with a body corporate required if paying an infringement notice to pay the modified penalty in full by the due date. The intent of infringement notice payment arrangement options is to assist individuals manage their costs associated with the modified penalty, without defaulting on payment by the due date and incurring added costs and embarrassment of debt recovery with the Fines Enforcement Registry.

This section provides for the regulation to establish the infringement notice instalment scheme detailing the number of instalments by which the modified penalty can be paid, the amount of each instalment and the due date for each instalment. An example of an infringement notice instalment plan within the

scheme is a set number of 4 instalments for modified penalty values between fifty dollars to four hundred dollars (\$50 to \$400), where each instalment falls due 28 days after the first instalment (a period of time the same as and familiar to persons as applied on all infringement notices) and is of an equal amount of the modified penalty divided by 4.

Example 1: Modified penalty of \$100 divided by 4 provides for equal instalments of \$25 each 28 days (a month).

\$100 or 2 penalty units is the penalty for exceeding the speed limit by more than 0 but not more than 9 kilometres per hour; the most common traffic infringement issued.

Example 2: Modified penalty of \$400 divided by 4 provides for equal instalments of \$100 each 28 days (a month).

The regulations may provide for a greater number of infringement payment instalments based on higher modified penalty values. An example would be 6 or 10 instalments for modified penalties up to \$1000 or the maximum infringement notice penalty of \$2000.

Section 96 – Service of notice requesting information

This section provides for an issuing officer, where a prescribed road law offence is believed to have been committed, involving the driving of a vehicle, and the belief is based on visual evidence, and the responsible person for the identified vehicle is not an individual. The issuing officer may serve a notice requesting the identity of the driver of the vehicle upon the responsible person, being a company or body corporate owner and holder of the vehicle licence.

The notice requesting information to be a form approved by the CEO and must set out the detected alleged offence and provide access to view the visual evidence to assist the responsible person in meeting their responsibility to identify the driver of their vehicle and provide the manner in which the information in response may be provided. The responsible person must comply with the notice within the period for complying set out in the notice. The compliance period not to be less than 28 days (the same period an individual has for dealing with an infringement notice).

The methods of service are provided by the Bill in Section 100.

Section 97 – Offence of failing to provide information

This section establishes the offence if a responsible person fails to comply with the notice requesting information within the period for complying.

This section provides the options for the responsible person for the vehicle to address their responsibilities related to the notice to;

- 1) Inform the name and address of the driver.
- 2) Inform the vehicle was stolen and provide supporting evidence.
- 3) Inform they do not know the driver and cannot reasonably ascertain the driver.
- 4) Inform the vehicle sold and provide the name and address of the new owner.
- 5) Inform the risk of family violence against an individual if they seek to ascertain the driver identity, and supply family violence evidence document in relation to the individual.

This section provides the penalty for failing to comply with the notice requesting information, driver identity, is double the dollar value of the modified penalty of the detected alleged prescribed road law offence.

Example: if the detected offence involving their vehicle was to fail to comply with a red coloured traffic control light, for which the driver of the vehicle would incur a modified penalty of \$300. The penalty for the body corporate would be \$600. The intention is to encourage body corporate to identify the driver of their vehicle at the time of the alleged offence.

Section 98 – Offence under section 97(1) is prescribed road law offence

This section provides that the offence under section 97(1) of a responsible person being a body corporate failing to comply with a notice requesting information, driver identity is an offence which may be dealt with by way of infringement notice.

This section provides that the modified penalty in relation to the infringement notice is double the dollar value of the modified penalty of the detected alleged prescribed road law offence.

This section clarifies the effect of payment of an infringement notice for an offence under section 97(1) the body corporate is not taken to have been convicted of the detected alleged offence. The provisions in section 92(2)(c) that sees payment of infringement notices for certain offences the individual is taken to have been convicted of the offence. The section 92(2)(c) provisions do not apply, notably as a body corporate cannot drive a vehicle.

Section 99 – Withdrawal of notice requesting information

This section provides that authorised withdrawing officers may withdraw a notice requesting information at any time before the end of the period for complying detailed in the notice. The withdrawal being completed by a CEO approved notice. This provision provides for administrative power to withdraw the notice for valid reasons that may include error in issue.

The methods of service are provided by the Bill in section 100.

Section 100 – Service methods for Part 5 document

This section provides how Part 5 documents, defined in section 4 may be served on a person.

The section provides for-

- (a) personally; or
- (b) by posting it to —
 - (i) the person’s address as provided by the person at the time of, or immediately following, the act or omission that constitutes the alleged offence to which the Part 5 document relates; or
 - (ii) the person’s address as provided by a responsible person under section 34, 84, 87 or 97; or
 - (iii) the person’s current address shown in the records of the CEO; or
- (c) if the person consents to being served Part 5 documents by particular electronic means — by those means in accordance with regulations made for the purposes of subsection (2)(b).

This section clarifies the ability, in effective administration of infringement notices, to utilise address details provided by the responsible person for the vehicle in giving driver identification information and aligns to those provided for the Registrar in administration of the *Fines, Penalties and Infringement Notices Act 1994*.

This section provides for the electronic service of Part 5 documents, upon consent of the person. The section provides the head of power for regulations to be made in relation to,

- the time which electronic service of the document is taken to be served,
- the manner service by electronic means, for example by email, or to a mobile telecommunication device,
- the manner consent for electronic service is obtained, for example then and there in relation to roadside incidents or an informed opt-in and opt-out model similar to DoT electronic billing and communication services.

Section 101 – Offence to give information known to be false

This section introduces the offence and penalty in relation to a responsible person for a vehicle giving information known to be false or misleading information in a written (including via electronic means) notice in dealing with an infringement notice or notice requesting information, when responding to the presumption of being the driver at the time of the alleged offence, or responsibilities in providing driver identity or other information. The offence also covers information provided in supporting evidence material associated the responsibilities in the infringement notice or notice requesting information. Examples include, giving false or misleading information in submitted evidence of the vehicle being stolen or unlawfully used at the time, in family violence evidence documents, or identified driver details.

The Bill in replacing Part 5 in support of electronic or digital services removes existing requirements to provide some information in the form of a completed statutory declaration. In the replaced provisions the offence of giving false information lay outside of road law, under section 169 of *The Criminal Code*.

This section provides for the administration of infringement notices and notices requesting information wholly in the road law. The offence and penalty mirror the model in *The Criminal Code*. The penalty, able to be applied by a magistrate in a court is \$18,000 and 18 months imprisonment. This supports the intended ease and increased flexibility of giving information in the modern infringement management framework, whilst disincentives dishonesty should certain persons seek to avoid prosecution.

26. Section 105 amended

Section 105 of the RTAA provides who may commence a prosecution for an offence under the RTA (other than Part 6A – vehicle immobilisation or anti-wheelclamping that is administered by CEO DoT). The RTA includes subsidiary legislation, the Road Traffic Code 2000, also known as the road rules. The section currently restricts the authority to police officers, or persons authorised to do so by the Commissioner of Police.

The Bill provides the authority for the CEO DoT to authorise a person for this purpose.

This section supports the policy intent of the transition of infringement management function from the WA Police Force to DoT. DoT performing infringement management functions will have authorised issuing officers who will issue road rule infringements on behalf of police supporting the on the spot or roadside enforcement activity, and issue road rule infringements for offences detected by approved road law offence detection equipment (safety cameras).

The section provides for the DoT as a prosecuting authority for the offences dealt with by issue of an infringement, to issue final demand notices in relation to unpaid infringements under the *Fines, Penalties and Infringement Notices Enforcement Act 1994*. The ability to issue final demand notice is an essential administrative role in the management of infringement notices.

The DoT is already a prosecuting authority for offences under road law, other than under the RTA, and is empowered to issue infringements and final demand notices for those unpaid infringement notices.

27. Section 106 amended

Section 106 of the RTAA provides a limitation for when a prosecution may be commenced for offences under road laws. Section 106 provides a range of road law offences that prosecution must be commenced within 2 years of when the alleged offence was committed. However, section 106 also places a restriction of a period of 12 months to commence a prosecution for other road law offences.

The Bill will apply a uniform 2-year period for the commencement of prosecution for road law offences. This supports the desired outcome, to address behaviour of certain individuals that play the system in relation to matters initially dealt with by way of infringement notice to avoid prosecution.

28. Section 109 amended

Section 109 of the RTAA provides in the prosecution of an offence a range of averments for matters to be taken to be proved in the absence of proof to the contrary. An example being on a specified date a vehicle licence was granted for a vehicle.

The Bill introduces the averment in a prosecution.

That the vehicle to which the alleged offence relates was, at the time of the alleged offence, required under a written law to be fitted with a seatbelt in order for a vehicle licence to be granted in respect of the vehicle.

The averment supports the use of automated traffic enforcement, using approved road law offence detection equipment to monitor compliance and enforcement of the requirements for a driver of a vehicle to wear a seatbelt, and to ensure the front passenger wears a seat belt.

29. Section 116 amended

Section 116 of the RTAA provides for, in a prosecution, evidentiary provisions relating to the proof of appointment and signatures of office holders. Office holder is defined within the section. The section provides that for road law purposes it is not necessary to prove the appointment of the office holder, and that the signature purporting to be signed by the office holder is evidence of the signature it purports to be.

The Bill introduces into the definition in section 116 of '*office holder*',

A person authorised by the Commissioner of Police for the purposes of section 105(1)(c).

This administrative provision addresses the ability should the Commissioner of Police exercise his authority under section 105(1) to authorise a person other than a warden under section 23 to commence a prosecution for offences under the RTA. No person has been authorised to date.

The Bill makes a consequential amendment to section 116 to incorporate the amendment to section 105 to provide the provisions of section 116 apply to office holders being persons authorised by the CEO DoT for the purposes of commencing prosecutions for offences under the RTA. This outcome supports the policy intent to transition infringement management functions from WA Police Force to DoT.

30. Section 117 amended

Section 117 of the RTAA deals with evidentiary provisions in a prosecution and provides for the approval of certain measuring equipment, purposes for use of approved equipment and approval of persons for the use of approved equipment. The section provides for the Minister of Police to approve a suite of equipment used in road law offence compliance monitoring and enforcement activities.

Subclause (1) of section 30 of the Bill deletes the definition of '*approved procedure*'.

Subclause (2) introduces in the definitions within section 117 of the RTAA the new terms.

road law offence detection equipment means —

- (a) distance measuring equipment; or
- (b) speed measuring and recording equipment; or
- (c) speed measuring equipment; or
- (d) visual detection equipment.

The term provides for a collective suite of the different road law enforcement equipment deployed by WA Police Force. The term includes existing speed measuring and recording equipment, commonly known as speed cameras, and encompasses the new term of visual detection equipment.

visual detection equipment means apparatus of a type approved by the Minister under subsection (2)(d).

Visual detection equipment provides a term for apparatus incorporating technology that may be used for the detection of an act or omission being an element of a road law offence involving the driving of a vehicle. The technology includes the capability to capture and record visual evidence (images or video) of a vehicle and the driver / rider. Visual detection equipment provisions mirror the provisions for speed measuring and recording equipment.

Subclause (3) of the Bill in the definition of 'authorised person' modernises and addresses an operational anomaly in relation to an authorised person certified as competent by the Commissioner of Police to physically retrieving data from approved equipment. The Bill deletes the reference to retrieving data, historically wet photographic film, or transportable data storage devices,

from the equipment. The Bill introduces 'obtain data produced by' the equipment. This amendment provides for the modern transmission of data from approved road law offence detection equipment and obtaining the data at a remote from the equipment location.

Subclause (3) introduces in the definition of an 'authorised person' in relation to visual detection equipment, means —

- (i) a police officer; or
- (ii) a person certified by the Commissioner of Police as being competent to install, set up, test or obtain data produced by, the equipment or produce images or video from the data;

The provision mirrors the provision for an authorised person in relation to the existing speed measuring and recording equipment, commonly known as speed cameras.

Subclause (4) provides minor grammatical amendment to enable inserting of a new subsection within section 117 of the RTAA.

Subclause (5) introduces in subsection (2) dealing with the Minister for Police ability to approve types of apparatus for listed purposes, doing all the following —

- (i) ascertaining the occurrence of an act or omission, prescribed by the regulations, that is an element of an offence under a road law of which the driving or being in charge of a vehicle is an element;
- (ii) recording images or videos of the vehicle and the prescribed act or omission;
- (iii) recording the date on which the images or videos were recorded;
- (iv) recording the time and location at which the images or videos were recorded.

This provision supports the use of visual detection equipment for the compliance monitoring and enforcement activity in relation to road law offences with elements of driving a vehicle. An example of the provision includes use of visual detection equipment in monitoring the act of unlawful use of mobile phones, and the omission of the requirement to wear a seatbelt securely fastened and secured.

Subclause (6) insets new subsections (7C), (7D) and (7E) into section 117 of the RTAA. The new provisions support the use of visual detection equipment in monitoring compliance and enforcement of road law offences with an element of driving a vehicle. The provisions replicate the provisions for use of speed measuring and recording equipment.

The new provisions enable in a prosecution, evidence may be tendered of the use of visual detection equipment, at a particular location, the identity of the vehicle as recorded by the equipment at a particular time, and the occurrence of an act or omission as prescribed by the regulations as recorded at that time. The evidence is prima facie evidence of the identity of the vehicle and the occurrence of the act or omission at the time and location. That the evidence must be given in the form of images or video, where at least 1 is of the vehicle and at least 1 reasonably indicates the occurrence of the prescribed act or omission.

The provision reverses the burden of proof to the accused to satisfy the court on the balance of probabilities the visual evidence does not show the act or omission associated to the alleged offence. In an example of alleged use of a mobile phone whilst driving, where images are tendered as visual evidence of the act of holding a mobile phone, the accused may satisfy the court that the item indicated in the image being held by the person was not a mobile phone.

Subclause (7) provides consequential amendment to incorporate the new section 117 subsection (7C) introduced by the Bill. This subclause improves readability replacing the list of different approved equipment with the all-encompassing new term 'road law offence detection equipment'.

Subclause (8) provides consequential amendments to incorporate the new section 117 subsection (7C), and the modernising of the term 'retrieved data from' replacing it with 'obtained data produced by' introduced by the Bill. This subclause also provides that the person specified in the certificate as being competent by the Commission of Police to obtain data produced by equipment is competent for both speed measuring and recording equipment and the introduced visual detection equipment.

31. Section 117A amended

Section 117A of the RTA provides evidentiary provisions for images recorded by speed measuring and recording equipment. The section provides when evidence in the form of an image and is accompanied by a certificate under this section the image is to be taken as having been recorded as described, unless there is evidence to the contrary and is prima facie evidence of matters shown in the image.

The application of section 10 of the *Interpretation Act 1984* provides that use of the singular includes the plural, providing for more than 1 image may be tendered.

Subclause (1) inserts new subsection (1A) to provide for the tender of an image recorded by visual detection equipment and accompanied by a certified to be also taken as prima facie evidence of the matters show in the image or video.

Subclause (2) makes minor modernising and clarifying amendments to section 117A(2) including where speed measuring and recording equipment is reference inclusion of, or visual detection equipment.

Subclause (2) provides for the certificate to certify the data relevant to use of speed measuring and recording equipment or visual detection equipment was obtained by the approved person by deleting subsection (2)(e) and inserting subsections (e) and (ea).

(e) if subsection (1) applies — data relating to the vehicle and its speed, and the time and place at which its speed was ascertained and the data recorded, was produced by the equipment, and obtained by an authorised

person, named in the certificate, in accordance with the approved procedure; and

(ea) if subsection (1A) applies — data relating to the vehicle, the prescribed act or omission and the time and place at which the data was recorded, was produced by the equipment, and obtained by an authorised person, named in the certificate, in accordance with the approved procedure.

This amendment supports and clarifies the modern method of obtaining data from approved equipment, addressing the operational anomaly that restricted use of the certificate as it prescribed retrieving data from the equipment. The courts have interpreted retrieving data from equipment to physical collection of data, a procedure not associated with the use of speed measuring and recording equipment, or the new visual detection equipment.

Subclause (3) provides clarity that the term ‘approved; used in the section means approved by the Commissioner of Police.

Subclause (4), (5) and (6) makes minor modernising and clarifying amendments to section 117A including updating the section heading to ‘Evidentiary provisions for images or video recorded by speed measuring and recording equipment or visual detection equipment.’

32. Section 117B amended

Section 117B of the RTAA provides for evidence of average speed as actual speed. Average speed being calculated using an approved average speed detection system.

This clause supports and clarifies the modern method of obtaining data from approved equipment. The clause amends the definition of an authorised person in section 117B(1) deleting reference to retrieve data from an average speed detection system and inserting obtain data produced by an average speed detection system.

33. Section 140 amended

Section 140 of the RTAA empowers the Commissioner of Main Roads if the Commissioner forms the opinion that lights visible from a road may confuse traffic or create risk of danger to traffic to by means of a written notice require the person in charge of the light or occupier of premises to effect to extinguish, remove or modify the light to address the risk.

This clause inserts a new subsection providing clarity on when compliance is required and that failure to comply constitutes an offence.

This clause makes modern drafting style amendment to subsection (4) to clarify the penalty, is the penalty for this subsection. The clause makes minor style amendment to the lay out of the penalty amending continuous text and introducing paragraph (a) and (b) improving readability.

Subclause (5) makes a minor modernising and clarifying amendment deleting 'authorised in writing' and inserting in place, given written authorisation.

34. Section 143 amended

Section 143 of the RTAA provides head of power for the Governor to make regulations required by the Act or necessary or convenient to give purpose to the Act.

This clause amends section 143(3) by inserting subsection (c).

- (c) make the following provision for or in relation to a record required or permitted to be given under this Act (other than a Part 5 document) —
- (i) the giving of the record (including the giving of the record by electronic means);
 - (ii) the time at which the record is taken to have been given;
 - (iii) the means of satisfying a requirement under this Act in relation to a record in writing (for example, a requirement that the original of a record be given or that a record be signed) if the record is given by electronic means.

Note for this subsection:

In relation to paragraph (c), section 100(2) sets out what regulations may provide in relation to service of Part 5 documents.

This clause supports the policy intent of modernising the methods of communication, giving information and receiving information in the RTAA to include electronic means.

This clause supports provision of digital services and improved customer service. The clause excludes Part 5 documents – Infringement Notices and Notices Requesting Information, the Bill providing for electronic means in in section 25 that inserts section 100 in Part 5 of the RTAA. Electronic means defined in section 4 of the RTAA.

35. Section 146A inserted

This clause inserts section 146A in to the RTAA.

146A. Approved forms must be published on website

The CEO must ensure that a form approved by the CEO under section 71(3)(aa), 91(1)(a), 94(1), 96(3)(a) or 99 is published on the website of the

department of the Public Service principally assisting in the administration of this Act.

This clause provides for image examples of CEO DoT approved forms;

- Embargo Notice (under MDLR compliance and enforcement).
- Infringement notices (all types).
- Notice Requesting Information.
- Withdrawal notices (Infringement and Notice Requesting information).

Be accessible on the department website, providing citizens an ability to seek a level of assurance of authenticity of a form received including served upon them.

36. Part 9 Division 3 inserted

This section inserts at the end of part 9 of the RTAA.

Division 3 — Transitional provisions arising from certain amendments made by the Road Traffic Legislation Amendment (Infringement Management Reform) Act 2024

170. Terms used

In this Division —

commencement day means the day on which the Road Traffic Legislation Amendment (Infringement Management Reform) Act 2024 Part 2 comes into operation;

former, in relation to a provision, means that provision as in force immediately before commencement day.

171. Infringement notices and notices requesting information served under former Part 5

Former Part 5 continues to apply in relation to the following notices served before commencement day as if former Part 5 had not been amended by the Road Traffic Legislation Amendment (Infringement Management Reform) Act 2024 section 25 —

- (a) an infringement notice served under former Part 5;
- (b) a notice served under former section 98 or 99;
- (c) a notice served under former section 98 or 99 that is regarded as an infringement notice under former section 104(2).

172. Prosecutions for relevant offences must be commenced within 12 months

(1) In this section —

relevant offence means an offence under a road law to which former section 106(2) applied before commencement day.

(2) Former section 106(2) continues to apply to a relevant offence that was allegedly committed before commencement day.

173. Authorised persons in relation to speed measuring and recording equipment data

(1) In this section —

speed measuring and recording equipment has the meaning given in section 117(1).

(2) This section applies if, immediately before commencement day, a person has a certification by the Commissioner of Police under section 117(1) in relation to competence to retrieve data from speed measuring and recording equipment and produce images from the data.

(3) On and from commencement day, the person’s certification is taken to be certification in relation to competence to obtain data produced by speed measuring and recording equipment and produce images from the data.

174. Authorised persons in relation to average speed detection system data

(1) In this section —

average speed detection system has the meaning given in section 117B(1).

(2) This section applies if, immediately before commencement day, a person has a certification by the Commissioner of Police under section 117B(1) in relation to competence to retrieve data from an average speed detection system and produce images from the data.

(3) On and from commencement day, the person’s certification is taken to be a certification in relation to competence to obtain data produced by an average speed detection system and produce images from the data.

37. Various penalties amended

This clause makes minor modernising and clarifying amendments deleting ‘Penalty’ and inserting ‘Penalty for this subsection’ where it appears in the sections of the RTAA listed in the below table.

s.16(1)	s.27(2)
s.32(4)	s.33(2)
s.35(2)	s.36(1) and (2)
s.47(2) and (4)	s.131(3)
s.139(5)	s.141(3)

PART 3 – FINES, PENALTIES AND INFRINGEMENT NOTICES ENFORCEMENT ACT 1994 AMENDED

38. Act amended

This clause provides Part 3 of the Bill amends the FPINEA.

39. Section 3 amended

This clause inserts the following definitions in section 3(1) of the FPINEA -

modified penalty means the amount of money prescribed in written law and specified in an infringement notice as the amount the alleged offender is to pay if the matter is dealt outside of court proceedings.

outstanding balance, in relation to a modified penalty, has the meaning given in section 14A(4)(b) of the FPINEA.

40. Section 11 amended

Subclause (1) amends section 11 of FPINEA and deletes the current definition of **modified penalty**, which is replaced by the same term in section 3(1).

Subclause (2) updates the definition of **unpaid infringement amount** to provide that the unpaid amount includes the remaining balance of the modified penalty and enforcement fees specified in the balance payment order.

41. Section 14 amended

Section 14 of FPINEA provides for when the final demand may be issued to an alleged offender.

This clause amends section 14 of FPINEA to remove references to 'prescribed enactment' and provides that a prosecuting authority may issue a final demand under this section when section 14(1) criteria is satisfied, including that section 14A does not apply.

42. Section 14A inserted

This clause inserts section 14A in the FPINEA.

14A. Final demand may be issued if instalment under *Road Traffic (Administration) Act 2008 Part 5* not paid

This section provides that a prosecuting authority may issue a final demand for an infringement notice served on an individual under the RTAA for a road law offence where the notice has not been withdrawn, and the offender has paid the first instalment of the modified penalty within the initial payment

period but has failed to pay subsequent instalments in accordance with regulations made under the RTAA.

The final demand must be served on the alleged offender, and –

- Identify the infringement notice concerned and the alleged offence;
- Set out the outstanding balance, or remaining amount that remains unpaid and the applicable enforcement fees;
- State that unless the outstanding balance is paid within the manner specified in the final demand notice within 28 days after the date of issue, then the infringement notice may be registered with FER and a licence suspension order may be made and further enforcement fees may be imposed;
- State that the alleged offender cannot elect to have the matter dealt with by court; and
- Set out any other matter prescribed by the regulations.

43. Section 15 replaced

This clause replaces section 15 of FPINEA.

15. Infringement notice may be registered

Section 15 of FPINEA provides when an infringement notice may be registered with FER depending on when the final demand notice has been issued under section 14 or 14A.

Paragraph (a) provides for registration for infringement notices where a final demand has been issued under section 14 where 28 days have elapsed since the issue of the final demand, and the specified penalty and fees have not been paid, and where no election has been made.

Paragraph (b) provides for registration for infringement notices where a final demand has been issued under section 14A with respect to a road law offence where the outstanding balance set out in the final demand remain unpaid after 28 days.

44. Section 16 amended

Section 16 of FPINEA provides that to register an infringement notice with FER for enforcement, the prosecuting authority must give FER an enforcement certificate signed by the authority's prosecuting officer and any information prescribed in regulations and pay any applicable prescribed fees. The enforcement certificate must state the information set out in subsection (2).

This clause amends section 16 to expand its application for enforcement certificates where a final demand was served under section 14A in respect of an infringement notice for a road law offence and the outstanding balance had not been paid.

45. Section 17 inserted

Section 17 of FPINEA provides where an infringement notice is registered with FER, FER must issue an order to pay or elect to the alleged offender.

This clause amends section 17 to provide the requirement to issue an order to pay or elect is applicable where the final demand is issued under section 14 (as opposed to section 14A – where the alleged offender can no longer elect for the matter to be dealt with by court).

46. Section 17A inserted

This clause inserts section 17A in the FPINEA.

17A. Balance payment order

This section provides that FER is to issue a balance payment order with respect to a registered infringement notice where a final demand was issued under section 14A. A balance payment order is an order that, within 28 days after its issue, the outstanding balance of the modified penalty and enforcement fees specified in the order must be paid to FER.

The balance payment order must advise the alleged offender that if the order is not complied with, that FER may make a licence suspension order or issue an enforcement warrant.

47. Section 18 amended

Section 18 of FPINEA relates to issuing a notice of intention to enforce an unpaid infringement.

This clause amends section 18 of the FPINEA and expands the current section of issuing an intention to enforce an unpaid infringement to where a balance payment order has been issued under section 17A, and the unpaid infringement amount in respect of the infringement notice has not been paid to FER.

Further, the notice of intention to enforce must contain a statement to the effect that the Registrar may make a licence suspension order or issue an enforcement warrant if the unpaid infringement amount remains unpaid by the due date.

48. Section 19 amended

Section 19 of the FPINEA provides the Registrar may make a licence suspension order in certain circumstances. This order has the effect of prohibiting the person subject to the order from driving a motor vehicle that requires a driver's licence until such time the order is cancelled.

This clause replaces section 19(1) of FPINEA to expand on existing circumstances where the Registrar may issue a licence suspension order to where a balance payment order and notice of intention to enforce has been issued and the unpaid infringement amount remains unpaid after the due date specified in the intention to enforce notice has passed.

49. Section 20 amended

Section 20 of FPINEA provides for cancelling licence suspension orders.

This clause amends section 20(1)(a) to provide that a licence suspension order is taken to have been cancelled at the time the relevant modified penalty, or outstanding balance of a modified penalty, and associated enforcement fees are paid to FER.

50. Section 21A amended

Section 21A of FPINEA sets out the criteria for when the Registrar may issue an enforcement warrant and details regarding the form and other administrative requirements of these warrants.

This clause deletes section 21A(1) and replaces it with new provisions that set out that the Registrar may issue an enforcement warrant in relation to an alleged offender and infringement notice when the criteria of subclause (1)(a) or subclause (1)(b) are met.

Subclause (1A) provides that subclause (1) applies whether or not a licence suspension order made under section 19 is in force.

51. Section 21 amended

This clause amends section 21(1)(a) to provide that the alleged offender or the prosecuting authority that registered the infringement notice may make election (to have a charge for an alleged offence heard and determined by a court) in regard to a notice to which a final demand is issued under section 14 – ‘Final demand may be issued to alleged offender’.

52. Section 22 amended

This clause amends section 22(5) by adding a note at the end of the subsection that provides that if the alleged offence to which an infringement notice relates is the offence under the *Road Traffic (Vehicles) Act 2012* section 10(6), relating to the transfer of a vehicle licence, particular amounts paid under the infringement notice cannot be refunded.

53. Section 23 amended

Section 23 of the FPINEA provides that the making of an order to pay or elect does not constitute a conviction of the alleged offender for the alleged offence, except as provided in sections 25 and 26.

This clause amends section 23 to expand the provisions relating to the effect of order to pay or elect to also apply to balance payment orders.

54. Section 24 amended

Section 24 of FPINEA sets out the effect of payment of modified penalties. This clause amends section 24(1)(a) by extending the provisions to apply to outstanding balances of modified penalties.

55. Section 26 replaced

This clause replaces section 26 of FPINEA relating to road laws and the effect of proceedings by infringement notice.

26. Effect of order to pay or elect in relation to offences under road laws

Section 26 sets out effect of order to pay or elect in relation to infringement notices served under the *Road Traffic (Administration) Act 2008* in relation to alleged offence under section 16(1)(a) of the *Road Traffic (Authorisation to Drive) Act 2008*.

56. Section 27 amended

Section 27 of FPINEA provides that modified penalties received by the Registrar are to be dealt with under section 60 of the *Sentencing Act 1995* as though they are a fine and fees recovered from an alleged offender under Part 3 – ‘infringement notices’ are to be credited to the Consolidated Account.

This clause amends section 27 by extending the provisions to outstanding balances of modified penalties.

57. Section 56A amended

Section 56A of FPINEA provides definitions for terms used in Part 5A – ‘Publication of details of persons on Registrar’s website’.

Subclause (1) deletes the definition of modified penalty.

Subclause (2) inserts definitions for the following terms ‘*outstanding balance payment order*’ and ‘*outstanding payment obligation*’.

Subclause (3) amends the definition of ‘aggregate amount owned’ to include:

- (c) the amount owned for each outstanding balance payment order in relation to the person.

Subclause (4) amends the definition of *amount owed* to include:

- (aa) for a balance payment order issued under section 17A – means that amount of the outstanding balance of the modified penalty, and enforcement fees, specified in the order that has not been paid or recovered under an enforcement warrant.

58. Section 56AB inserted

This clause inserts section 56AB in to FPINEA.

56AB. Outstanding balance payment orders

This section defines an ***outstanding payment order***, which in relation to a person, means a balance payment order issued to the person under section 17A if –

- The outstanding balance of the modified penalty and enforcement fees specified in the balance payment order have not been paid or recovered in full;
- No time to pay order is in force under section 21C in respect of the person and the infringement notice to which the balance payment order relates;
- There is no arrangement under section 68A is in force in relation to an enforcement warrant issued under section 21A (if applicable); and
- The prosecuting authority has not withdrawn proceedings under section 22 in respect of the infringement notice to which the balance payment order relates.

59. Section 56C amended

Section 56C of FPINEA defines what ***relevant details*** of an individual or a body corporate are that can be published on the FER website.

This clause amends section 56C to expand on existing relevant details for either an individual or body corporate, to include whether the person has 1 or more outstanding payment obligations.

60. Section 56D amended

This clause amends section 56D(1) of FPINEA to make minor changes to modernise the legislation, by replacing references to “one” to “1”.

61. Section 56E amended

This clause amends section 56E(2) of FPINEA to update the wording of outstanding “order to pay or elect, or outstanding registered fine” with outstanding “payment obligation”.

62. Section 95ZC amended

Section 95ZC of FPINEA provides where the Sheriff, on application, may refund money deducted under garnishee order.

This clause amends section 95ZC(2) of FPINEA by inserting a note relating to the application of section 95 at the end of the subsection, that if the deducted amount relate back to an alleged offence under the RTVA 2012 section 10(6), that amount cannot be refunded in accordance with the RTAA section 82(4).

63. Section 101 amended

Section 101 of FPINEA provides for when a Magistrates court may, upon application by the person subject to a licence suspension order, cancel that licence suspension order.

This clause makes minor modernising and clarifying amendments to section 101 including updating the section heading to “Magistrates Court may set aside licence suspension order made under Part 3”.

64. Section 101AA amended

Section 101AA of FPINEA provides where the Magistrates Court may make an order to cancel an enforcement warrant issued under Part 3 of FPINEA.

This clause makes minor modernising and clarifying amendments to section 101AA(7).

PART 4 – OTHER ACTS AMENDED

Division 1 – *Botanic Gardens and Parks Authority Act 1998* amended

65. Act amended

This clause provides this Division amends the *Botanic Gardens and Parks Authority Act 1998*.

66. Section 50 amended

Section 50 provides evidentiary provisions for the use of speed measuring equipment by park management officers under this Act.

This clause amends the section to use the definition of speed measuring equipment in section 117(1) RTAA.

Division 2 – *Parks and Reserves Act 1895* amended

67. Act amended

This clause provides this Division amends the *Parks and Reserves Act 1895*.

68. Section 7C amended

Section 7C provides evidentiary provisions for the use of speed measuring equipment by authorised persons under this Act.

This clause amends the section to use the definition of speed measuring equipment in section 117(1) RTAA.

Division 3 – *Road Safety Council Act 2002* amended

69. Act amended

This clause provides this Division amends the *Road Safety Council Act 2002*.

70. Section 12 amended

Section 12 establishes the Road Trauma Trust Account (the RTTA) as an agency special purpose account under section 16 of the *Financial Management Act 2006*.

The RTTA currently receives, among other monies, the total amount of each prescribed penalty paid for a photograph-based vehicle infringement notice specified in regulations. *The Road Safety Council (Specified Offences) Regulations 2002* specify speeding and red traffic-control signal offences accordingly.

This clause amends section 12 to expand the possible offences that may be specified in the regulations to include any modified penalty paid pursuant to a 'visual evidence-based infringement notice' (which term includes an NRI for the offence). This term includes the current specified speeding and red traffic-control signal offences and may also include VDE detected offences such as those around the use of mobile phones or offences for improper or non-use of seat belts.

71. Section 17 inserted

This clause provides for transition following the commencement of amendments to section 12 of the Act.

In respect to a specified photographic-based infringement notice that was paid but not credited to the RTTA prior to commencement, or that was served but not paid prior to commencement, this clause applies the current form of sections 12(2), (3), and (4) to ensure the penalty paid is credited to the RTTA.

Division 4 – Road Traffic Act 1974 amended

72. Act amended

This clause provides this Division amends the *Road Traffic Act 1974*.

73. Section 81G amended

This section provides an offence for driving a motor vehicle on a road while fitted with a radar detector or while a radar detector is within or on the vehicle.

A radar detector is defined in terms of being capable of detecting:

- an average speed detection system;
- speed measuring and recording equipment; or
- speed measuring equipment.

This clause amends section 81G to also include visual detection equipment.

Division 5 – Road Traffic (Authorisation to Drive) Act 2008 amended

74. Act amended

This clause provides this Division amends the *Road Traffic (Authorisation to Drive) Act 2008*.

75. Section 40 amended

Part 4 of the Act provides for a demerit point scheme, this section provides terms used in the Part.

Currently the term 'dealt with by infringement notice', for the purpose of incurring demerit points, includes where an infringement for a demerit point offence is paid in accordance with the infringement notice – i.e. in full.

This Bill introduces the ability to enter into a payment plan in relation to such an infringement. Accordingly, this definition is being amended to include where only part of the penalty is paid.

Division 6 – Road Traffic (Vehicles) Act 2012

76. Act amended

This clause provides this Division amends the *Road Traffic (Vehicles) Act 2012*.

77. Section 5 amended

Section 5 of the Act currently provides that payment of a sum specified under section 81(2) RTAA, which includes the prescribed transfer fee and any transfer duty, in an infringement notice is taken to be an application for the transfer of the licence for the vehicle. Section 81 RTAA applies to an offence of failing to apply for the transfer of a vehicle under section 10(6) RTVA.

This clause amends section 5 to reflect the fact that such an infringement notice would display separate amounts relating to the penalty; transfer fee; and any applicable transfer duty.

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