



TASMANIA

TRAFFIC AMENDMENT ACT 1992

No. 54 of 1992

TABLE OF PROVISIONS

1. Short title
2. Commencement
3. Principal Act
4. Section 3 amended (Interpretation)
5. Section 31 amended (Regulations on recommendation of committee or council)
6. Sections 43DA and 43DB inserted
7. Section 43L amended (Service of notices)
8. Section 51 amended (Facilitation of proof of certain matters)
9. Section 54 amended (Proceedings in relation to certain offences)

**TRAFFIC AMENDMENT ACT 1992**

No. 54 of 1992

AN ACT to amend the *Traffic Act 1925*

[Royal Assent 21 December 1992]

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

Short title

1—This Act may be cited as the *Traffic Amendment Act 1992*.

Commencement

2—This Act commences on the day on which it receives the Royal Assent.

Principal Act

3—In this Act, the *Traffic Act 1925** is referred to as the Principal Act.

Section 3 amended (Interpretation)

4—Section 3 of the Principal Act is amended as follows:—

(a) by inserting in subsection (1) after the definition of “parking offence” the following definition:—

“**photographic detection device**” means an apparatus that is capable of being used for the detection and recording of offences of exceeding a prescribed speed limit and that is specified in a notice in force under subsection (3);

(b) by inserting after subsection (2) the following subsection:—

(3) The Minister may, by notice published in the *Gazette*, declare that a device specified in the notice is a photographic detection device for the purposes of this Act.

Section 31 amended (Regulations on recommendation of committee or council)

5—Section 31 (1) of the Principal Act is amended as follows:—

(a) by omitting from paragraph (zg) “books.” and substituting “books; and”;

(b) by inserting after paragraph (zg) the following paragraphs:—

(zh) providing for the operation and testing of a photographic detection device; and

(zi) conferring on persons charged with an offence detected by a photographic detection device a right to inspect, or to receive a copy of, any photographic evidence before the hearing of the charge; and

* 16 Geo. V No. 38. For this Act, as amended to 1 October 1979, see the continuing Reprint of Statutes. Subsequently amended by No. 76 of 1979, Nos. 10, 11, 74 and 107 of 1980, Nos. 13, 19, 34 and 69 of 1981, No. 99 of 1982, Nos. 9 and 19 of 1983, Nos. 29, 55 and 80 of 1984, No. 35 of 1986, Nos. 34 and 73 of 1987, Nos. 3, 5 and 40 of 1990 and No. 9 of 1991.

- (zj) applying to offences specified in the regulations that are detected by means of a photographic detection device; and
- (zk) in the case of an offence committed by a body corporate, requiring the body corporate to give the name and address of the place of residence of the driver of the vehicle at the time of the offence.

Sections 43DA and 43DB inserted

6—After section 43D of the Principal Act, the following sections are inserted:—

No demerit points for joint offences

43DA—Where 2 or more registered owners of a motor vehicle are found guilty of an offence of exceeding a prescribed speed limit that has been detected by a photographic detection device, no demerit points may be awarded in respect of that offence.

Limitations of demerit points in certain cases

43DB—(1) In this section, “speeding offence” means an offence of exceeding a prescribed speed limit that is detected by means of a photographic detection device.

(2) Notwithstanding any other provision of this Part, if—

- (a) a person has committed a speeding offence; and
- (b) in the period of time between the commission of the offence and the service of the traffic infringement notice or summons in respect of the offence the person has committed a subsequent speeding offence—

that person may give written notice to the Commissioner of Police that he or she has committed the speeding offence and the subsequent offence and, if the Commissioner or a police officer authorized by the Commissioner is satisfied as to those facts, no demerit points are to be awarded against that person for the subsequent speeding offence.

(3) If the court before which the subsequent speeding offence is heard is satisfied as to the facts mentioned in subsection (2), no demerit points are to be awarded against that person for the subsequent speeding offence.

(4) If any demerit points have been awarded against a person for a subsequent speeding offence as mentioned in subsection (2), those demerit points are taken to be withdrawn.

Section 43L amended (Service of notices)

7—Section 43L of the Principal Act is amended as follows:—

- (a) by omitting from subsection (1) “subsection” and substituting “subsections (1AA) and”;
- (b) by inserting after subsection (1) the following subsection:—

(1AA) Where a traffic infringement notice relates to an offence of exceeding a prescribed speed limit and the offence has been detected by means of a photographic detection device, the notice is to be served within 21 days after the commission of the offence and may be served by post.

(1AB) Where a traffic infringement notice relating to an offence for exceeding a prescribed speed limit as mentioned in subsection (1AA) is not served on the owner within 21 days after the commission of that offence, no prosecution may be brought in respect of that offence.

- (c) by omitting from subsection (2) “person.” and substituting “person or by post.”.

Section 51 amended (Facilitation of proof of certain matters)

8—Section 51 of the Principal Act is amended as follows:—

- (a) by omitting from subsection (1) (h) “person.” and substituting “person;”;

- (b) by inserting after subsection (1) (h) the following paragraphs:—
- (i) the production of a certificate purporting to be signed by the Commissioner of Police or a commissioned police officer that a device specified in the certificate that was used on an occasion so specified in the detection of offences of exceeding a prescribed speed limit is evidence that that device was on that occasion a photographic detection device;
 - (j) the production of a certificate in the prescribed form purporting to be signed by a person having the prescribed qualifications and specifying the manner in which, and the time when, a photographic detection device was tested is evidence of the facts stated in the certificate;
 - (k) the production of a photograph that was taken by a photographic detection device and that contains such information as may be prescribed is evidence that at a particular time and place the speed of a motor vehicle shown in the photograph was the speed endorsed on that photograph.

Section 54 amended (Proceedings in relation to certain offences)

9—Section 54 of the Principal Act is amended as follows:—

- (a) by inserting before subsection (1) the following subsection:—
- (1AA) This section applies to—
 - (a) a parking offence; and
 - (b) an offence of exceeding a prescribed speed limit that has been detected by a photographic detection device.
- (b) by omitting from subsection (1) “a parking offence” and substituting “an offence to which this section applies”;
- (c) by omitting from subsection (1) “parking”, lastly occurring;
- (d) by omitting from subsection (3) “parking”;
- (e) by omitting from subsection (4) “a parking offence” and substituting “an offence to which this section applies”;

- (f) by omitting from subsection (4) “parking”, lastly occurring;
- (g) by inserting after subsection (5) the following subsections:—

(5A) Where there are 2 or more registered owners of a motor vehicle—

(a) a prosecution for an offence to which this section applies may be brought against one of those owners or against some or all of those owners jointly; and

(b) if the court is satisfied that any such offence has been committed and a defence is not established under subsection (3), the defendant or each of the defendants who does not establish such a defence may be found guilty of the offence.

(5B) Where a fine is imposed on 2 or more registered owners of a motor vehicle who have been found guilty of an offence to which this section applies, the total of any fines imposed in respect of that offence is not to exceed the maximum fine that could have been imposed if only one of them had been found guilty of that offence.

- (h) by omitting from subsection (6) (a) “a parking offence” and substituting “an offence to which this section applies”;
- (i) by omitting from subsection (6) “parking”, secondly and lastly occurring;
- (j) by omitting from subsection (7) “a parking offence” and substituting “an offence to which this section applies”.