

Road Safety Amendment (Hoon Driving) Bill 2010

Introduction Print

EXPLANATORY MEMORANDUM

General

- Part 1 sets out the purposes of the Road Safety Amendment (Hoon Driving) Bill 2010 (the Bill) and when the Bill comes into operation.
- Part 2 amends the **Road Safety Act 1986**—
- to strengthen the application of the motor vehicle impoundment, immobilisation and forfeiture provisions in relation to serious offences; and
 - to extend the period for which a motor vehicle may be impounded or immobilised; and
 - to provide for mandatory impoundment or immobilisation of motor vehicles in certain circumstances; and
 - to provide for immobilisation of a motor vehicle by use of a steering wheel lock; and
 - to provide police with greater powers to locate a motor vehicle for the purposes of impoundment, immobilisation or forfeiture; and
 - to limit the ways in which a court may have regard to any exceptional hardship caused by impoundment, immobilisation or forfeiture of a motor vehicle; and
 - to provide for the giving of an undertaking as an alternative to impoundment, immobilisation or forfeiture of a motor vehicle; and

- to make provision in relation to search and seizure warrants; and
 - to provide for the extinguishing of interests in a motor vehicle that is forfeited or abandoned after impoundment in order to facilitate its sale or disposal; and
 - to make amendments of a statute law revision nature.
- Part 3 amends the **Melbourne City Link Act 1995** to insert a power to revoke certain declarations of roads.
- Part 4 provides for the repeal of this amending Bill.

Clause Notes

PART 1—PRELIMINARY

- Clause 1 sets out the purposes of the Bill.
- Clause 2 provides for the commencement of the Bill. The proposed amendments to the **Road Safety Act 1986** are to commence operation on 1 July 2011. The proposed amendments to the **Melbourne City Link Act 1995** are to commence operation on the day after the day on which the Bill receives the Royal Assent.
- Clause 3 provides that in the Bill the **Road Safety Act 1986** is referred to as the Principal Act.

PART 2—AMENDMENT OF THE ROAD SAFETY ACT 1986

- Clause 4 amends the definitions in section 84C of the Principal Act. Subclause (1) inserts a number of new definitions.
- The definition of *designated period* is amended so that it refers to a 7 day rather than a 48 hour period. The effect of this amendment is that the period of time for which a motor vehicle can be impounded or immobilised by a member of the police force under Division 2 of Part 6A of the Principal Act is extended to 7 days.
- The definition of *relevant offence* has been amended so that it now includes two subgroups of offences that are to be treated differently from each other under the vehicle impoundment scheme in Part 6A of the Principal Act. The first subgroup, referred to as *tier 1 relevant offences*, are subject to stronger vehicle impoundment, immobilisation and forfeiture sanctions

than the second subgroup, which is referred to as *tier 2 relevant offences*.

The majority of offences that were previously relevant offences under the Principal Act are now tier 2 relevant offences. An exception to this is the offence of driving while disqualified in contravention of section 30(1) of the Principal Act. This offence is categorised as a tier 1 relevant offence.

Also, speeding in the range of 70 kilometres per hour or more over the applicable speed limit (or travelling at 170 kilometres per hour or more in a 110 kilometres per hour speed zone) was previously a subset of the offence described in paragraph (f) of the definition of *relevant offence*. This extreme speeding subclass is now categorised as a tier 1 relevant offence.

A similar change has been made with respect to a subset of the offence currently set out in paragraph (b) of the definition of *relevant offence*. That is, if an offence is committed against section 64(1) of the Principal Act in circumstances where a vehicle is driven at 70 kilometres per hour or more over the applicable speed limit (or travelling at 170 kilometres per hour or more if the applicable speed limit is 110 kilometres per hour), it is categorised as a tier 1 relevant offence.

For the first time, a second or subsequent offence of driving with a blood or breath alcohol concentration of 0.10 or more is to become a relevant offence and is categorised as a tier 1 relevant offence. Also, a second or subsequent drug driving offence under section 49(1)(b), (f) or (g) of the Principal Act is to become a relevant offence and is categorised as a tier 1 relevant offence.

A second or subsequent offence for unlicensed driving in contravention of section 18(1) of the Principal Act (other than where section 18(2) applies) is also to become a relevant offence and is categorised as a tier 1 relevant offence.

A definition of *second or subsequent offence* has been inserted into section 84C(1). That definition refers to new section 84E which is inserted by clause 5 of the Bill.

Subclause (2) repeals section 84C(2) of the Principal Act. That provision is a transitional provision that has been replaced with new section 84E which defines second or subsequent offence.

Subclause (3) provides that if a person is charged with more than one relevant offence arising out of the same single set of circumstances, and one of those offences was a tier 1 relevant offence, that person will, for the purposes of Part 6A of the

Principal Act, be treated as if they have committed one tier 1 relevant offence.

- Clause 5 substitutes section 84E of the Principal Act with a new provision that defines *second or subsequent offence*. This defined term is relevant for certain tier 1 relevant offences. An offence will be a second or subsequent offence if the first offence or earlier offences (as the case requires) were committed on or after the commencement day. The commencement day varies depending on the offence being considered. Generally, the commencement day is the day on which Part 2 of the **Road Safety Amendment (Hoon Driving) Act 2010** commenced operation. However, for an offence against section 30(1) of the Principal Act, the commencement day is the day on which Part 2 of the **Road Safety and Other Acts (Vehicle Impoundment and Other Amendments) Act 2005** commenced operation.
- Clause 6 amends section 84F(1) of the Principal Act to refer to the expanded powers of Victoria Police, including a power to search for or gain access to a motor vehicle that is believed on reasonable grounds to have been used in the commission of a relevant offence. The new powers also include a power for Victoria Police to direct an adult person at premises that are being searched, to provide information concerning the location of the motor vehicle.
- Clause 7 amends section 84G of the Principal Act to provide that a member of the police force may seize a motor vehicle for the purposes of the impoundment, immobilisation or forfeiture of that vehicle from a place that is not a public place without the consent of the owner or occupier of that place following a search of that place in accordance with new section 84GA. This clause also specifies the time period in which the seizure power may be exercised.
- Clause 8 inserts new sections 84GA and 84GB in the Principal Act.
- New section 84GA provides members of the police force with additional search powers. A member of the police force may, for the purpose of seizing a motor vehicle so that it can be impounded, immobilised or forfeited, without consent and without warrant, enter and search the garage address for that motor vehicle and any other land or premises where the member reasonably believes that the motor vehicle is present. This search power is subject to the limitations set out in new section 84GA(3).

New section 84GB provides members of the police force with the power, for the sole purpose of locating a motor vehicle so that it can be impounded, immobilised or forfeited, to direct an adult person to provide information concerning the location of that motor vehicle. It will be an offence to fail to comply with such a direction if the subject of the direction knows the location of the motor vehicle. It will also be an offence to respond to such a direction with information that the subject knows to be false or misleading in a material particular.

A person subject to a direction under this provision is not excused from complying with it by the privilege against self-incrimination. Any information, document or other thing obtained as a consequence of a person complying with a direction under this provision is inadmissible in evidence against the person except in proceedings under this provision or proceedings for making a false or misleading statement.

- Clause 9 amends section 84H(4) of the Principal Act to provide that if a vehicle is not surrendered in accordance with a notice served under section 84H of the Principal Act, a member of the police force may, within 10 days after the period specified the notice, exercise the new powers set out in new sections 84GA and 84GB.
- Clause 10 amends section 84I(b) of the Principal Act to provide that members of the police force may immobilise a motor vehicle by means of a steering wheel lock.
- Clause 11 amends section 84J(d) of the Principal Act to provide that a person authorised by a member of the police force under that section may immobilise a motor vehicle by means of a steering wheel lock.
- Clause 12 amends section 84L(f) of the Principal Act to provide that a notice to a driver or registered operator under section 84K of the Principal Act must, if the notice relates to a vehicle that has been immobilised with a steering wheel lock, specify the address and telephone number of the police station from which the key for that steering wheel lock may be collected. This clause also amends section 84L(g) of the Principal Act to provide that a notice under section 84K must specify that, where applicable, the Chief Commissioner of Police may apply to the relevant court for an impoundment or immobilisation order or a forfeiture order.

Clause 13 amends section 84O of the Principal Act which provides certain appeal rights where a vehicle is impounded or immobilised by a member of the police force under Division 2 of Part 6A of the Principal Act. In particular, that provision provides that a person whose interests are substantially affected by the impoundment or immobilisation of a motor vehicle may apply to the Magistrates' Court for the vehicle to be released on the ground that the impoundment or immobilisation is causing or will cause exceptional hardship to the applicant or another person.

New subsection (3A) provides that exceptional hardship caused to an offender cannot be considered by the Court if the offender is disqualified from obtaining a driver licence or permit or the offender's driver licence or permit is suspended for a period longer than the period of impoundment or immobilisation.

New subsection (3B) provides that, in those cases where new subsection (3A) does not apply, an appeal relating to exceptional hardship relating to the offender's employment cannot be considered by the Court unless the applicant satisfies the Court that driving the impounded or immobilised motor vehicle is essential (not merely convenient) for the offender's employment. The applicant must also satisfy the Court that no other transport to his or her place of employment is available to the offender. Finally, the applicant must satisfy the Court that the offender, after making reasonable enquiries, is unable to arrange for another person to drive the offender to his or her place of employment.

New subsection (3C) provides that for all applications under section 84O(1) of the Principal Act, the Magistrates' Court must have regard to the safety of the public and the public interest in preventing the use of a motor vehicle that the Court considers is reasonably likely in all the circumstances to be used for further driving offences.

Clause 14 amends section 84P(2)(a) of the Principal Act to provide that if a motor vehicle is immobilised by use of a steering wheel lock, the vehicle may be moved to an alternative location such as the residence of the registered operator of the vehicle, provided that a member of the police force is notified of the new location of the vehicle.

Clause 15 inserts a new section 84QA in the Principal Act.

New subsection (2) of that provision provides that where a vehicle has been immobilised with a steering wheel lock, the key for the lock must be made available at the end of the immobilisation period.

New subsection (3) provides that the key and the steering wheel lock must be returned to the police station from which the key was collected within 24 hours of the collection of the key. It is an offence for a person who collects a key to fail to return it without a reasonable excuse.

New subsection (4) provides that it is an offence for a person to copy, or attempt to copy, a key to a steering wheel lock.

New subsection (5) provides certain exceptions to this offence.

New subsection (6) provides that it is an offence for a person (other than a member of the police force or an authorised person) to unlock, or attempt to unlock, a steering wheel lock with anything other than a key made available under new subsection (2).

Clause 16 substitutes new subsections (1) and (2) in section 84S of the Principal Act.

New subsection (1) provides that if a driver is found guilty of a tier 1 relevant offence or a tier 2 relevant offence (and within the period of 3 years immediately preceding the commission of that tier 2 relevant offence the driver has committed one or more relevant offences) the relevant court must, on the application of the Chief Commissioner of Police, order that the motor vehicle used in the commission of the relevant offence before the court or a substituted motor vehicle be impounded or immobilised.

The length of that impoundment or immobilisation period shall be either 28 days or, on the application of the Chief Commissioner of Police, a longer period of up to 3 months.

New subsection (1) is subject to section 84Z of the Principal Act which provides certain grounds upon which an impoundment or immobilisation order need not be made. Also, the court is not required to make an impoundment or immobilisation order if a forfeiture order is made under section 84T(1) of the Principal Act.

A note is inserted under new section 84S(1) to clarify that an application under section 84ZG for a search and seizure warrant may be heard and determined immediately after an impoundment or immobilisation order is made.

Clause 17 substitutes new subsections (1), (1A) and (2) in section 84T of the Principal Act.

New subsection (1) provides that if a driver is found guilty of a tier 1 relevant offence (and within the period of 3 years immediately preceding the commission of that offence the driver has committed one or more tier 1 relevant offences or two or more tier 2 relevant offences) or a tier 2 relevant offence (and within the period of 3 years immediately preceding the

commission of that offence the driver has committed two or more relevant offences) the relevant court may, on the application of the Chief Commissioner of Police, order that the motor vehicle used in the commission of the relevant offence before the court or a substituted motor vehicle be forfeited to the Crown.

New subsection (1A) provides that if the relevant court declines to make a forfeiture order under that subsection, the court must order that the motor vehicle used in the commission of the relevant offence or a substituted motor vehicle be impounded or immobilised by order under section 84S(1) of the Principal Act.

Both subsections (1) and (1A) are subject to section 84Z which provides certain grounds on which a forfeiture order or impoundment or immobilisation order need not be made.

A note is inserted under new section 84T(1A) to clarify that an application under section 84ZG for a search and seizure warrant may be heard and determined immediately after a forfeiture order or an impoundment or immobilisation order is made.

- Clause 18 inserts a new section 84TA in the Principal Act. This new provision provides that the Registrar of Personal Property Securities is to be notified as soon as practicable after an impoundment or immobilisation order or forfeiture order takes effect.
- Clause 19 amends section 84U of the Principal Act to provide that if an offender has committed a tier 1 relevant offence, the Chief Commissioner of Police may apply for an impoundment or immobilisation order even if that offender has not been found guilty of any previous relevant offences.
- Clause 20 inserts a new section 84WA in the Principal Act. That new section provides that the Registrar of Personal Property Securities is to be notified if the Chief Commissioner of Police intends to make an application for an impoundment or immobilisation order or a forfeiture order.
- Clause 21 makes consequential amendments to section 84Y of the Principal Act. The information to be contained in a notice under that section is amended to reflect the new tiers of relevant offences and the new criteria for making impoundment or immobilisation orders and forfeiture orders.

Clause 22 makes consequential amendments to section 84YA of the Principal Act. The circumstances in which a direction not to transfer registration or to register a motor vehicle ceases to apply are amended to reflect the new tiers of relevant offences and the new criteria for making impoundment or immobilisation orders and forfeiture orders.

Clause 23 amends section 84Z of the Principal Act.

Subclause (3) inserts new subsections (3A) to (3E) in section 84Z of the Principal Act.

New subsection (3A) provides that the court must not decline to make an impoundment or immobilisation order or a forfeiture order on the grounds of exceptional hardship caused to the offender if either the offender is disqualified from obtaining a driver licence or permit or the offender's driver licence or permit is suspended. In the case of an impoundment or immobilisation order, the subsection only prevents the court from declining to make the order if the suspension or disqualification is for longer than 3 months.

New subsection (3B) provides that the court must not decline to make an impoundment or immobilisation order or a forfeiture order on the grounds of exceptional hardship relating to the offender's employment unless the offender, or another person appearing before the court, satisfies the court that driving the impounded or immobilised motor vehicle is essential (not merely convenient) for the offender's employment. The applicant must also satisfy the Court that no other transport to his or her place of employment is available to the offender. Finally, the applicant must satisfy the Court that the offender, after making reasonable enquiries, is unable to arrange for another person to drive the offender to his or her place of employment.

New subsection (3C) provides that in determining whether to decline to make an impoundment or immobilisation order or a forfeiture order on the ground of exceptional hardship, the court must have regard to the safety of the public and the public interest in preventing the use of a motor vehicle that the court considers is reasonably likely in all the circumstances to be used for further driving offences.

New subsection (3D) provides that if the court declines to make an impoundment or immobilisation order or a forfeiture order on the ground of exceptional hardship, it may require the applicant (where the applicant is not the offender) to give an undertaking that the motor vehicle will not be made available to be driven by the offender for a specified period.

New subsection (3E) provides for the early release from an undertaking if the offender is found not guilty of the relevant offence in relation to which the motor vehicle was impounded, immobilised or forfeited and is not found guilty of any other relevant offence arising out of the same single set of circumstances or where the conviction for that relevant offence is set aside.

Clause 24 amends section 84ZA of the Principal Act.

Subclause (2) inserts new subsections (2A) and (2B) in section 84ZA of the Principal Act.

New subsection (2A) provides that where a person applies for the variation of an impoundment or immobilisation order or a forfeiture order, that application cannot be made on the grounds of exceptional hardship caused to the offender if either the offender is disqualified from obtaining a driver licence or permit or the offender's driver licence or permit is suspended. In the case of an impoundment or immobilisation order, the subsection only prevents the application being made if the suspension or disqualification is for longer than 3 months.

New subsection (2B) provides that an application for the variation of an impoundment or immobilisation order or a forfeiture order cannot be made where the relevant order was made on the breach of an undertaking in accordance with new section 84ZAC.

Subclause (4) inserts new subsections (5) to (8) in section 84ZA of the Principal Act.

New subsection (5) provides that the court must not make a variation order on the grounds of exceptional hardship relating to the offender's employment unless the applicant satisfies the court that driving the impounded or immobilised motor vehicle is essential (not merely convenient) for the offender's employment. The applicant must also satisfy the court that no other transport to his or her place of employment is available to the offender. Finally, the applicant must satisfy the court that the offender, after making reasonable enquiries, is unable to arrange for another person to drive the offender to his or her place of employment.

New subsection (6) provides that in determining whether to make a variation order, the court must have regard to the safety of the public and the public interest in preventing the use of a motor vehicle that the court considers is reasonably likely in all the circumstances to be used for further driving offences.

New subsection (7) provides that if the court makes a variation order, it may require the applicant (other than the offender) to give an undertaking that the motor vehicle will not be made available to be driven by the offender during a specified period.

New subsection (8) provides for the early release from an undertaking if the offender is found not guilty of the relevant offence in relation to which the motor vehicle was impounded, immobilised or forfeited and is not found guilty of any other relevant offence arising out of the same single set of circumstances or where the conviction for that relevant offence is set aside.

Clause 25 inserts new sections 84ZAB and 84ZAC in the Principal Act.

New section 84ZAB provides that if a person is bound by an undertaking given under new section 84Z(3D) or 84ZA(7), the person must not, before the expiry of the period of the undertaking, without the approval of the relevant court, sell or otherwise dispose of any interest in the motor vehicle in relation to which the undertaking was given.

New section 84ZAC provides that if a person has given an undertaking to a relevant court and it appears to the court that the person has failed to comply with that undertaking, the court must direct that the person and the registered operator for the relevant motor vehicle be served with a notice to appear before the court.

If the relevant court is satisfied that a person has failed to comply with an undertaking, the court may make an impoundment or immobilisation order in accordance with section 84S of the Principal Act or a forfeiture order in accordance with section 84T of the Principal Act (as the case requires).

When the court is considering whether or not to make an impoundment or immobilisation order or a forfeiture order after the breach of an undertaking, the relevant court must not consider whether making that order will cause exceptional hardship to any person.

Clause 26 amends section 84ZC of the Principal Act to provide that a member of the police force or an authorised person acting under an impoundment or immobilisation order or a forfeiture order made under Division 3 of Part 6A of the Principal Act may exercise the powers specified in new sections 84GA and 84GB.

Clause 27 amends section 84ZH of the Principal Act to provide that a search and seizure warrant issued under that section may authorise the person or persons named in the warrant to exercise the power set out in new section 84GB.

Clause 28 amends section 84ZQ of the Principal Act.

New subsection (1A) of section 84ZQ provides that if a motor vehicle that was impounded and remained uncollected for an extended period is sold (or any item or thing left in or on the motor vehicle is sold), the purchaser will acquire good title to that vehicle, item or thing.

Subclauses (2) and (3) provide that the notification requirements that previously were located in subsections (3)(b) and (3)(c) have been replaced with the notice requirements set out in new section 84ZQA as inserted by clause 29.

Subclause (4) inserts new subsections (4) to (6) in section 84ZQ of the Principal Act.

New subsection (4) provides that if the necessary notices have been given under new section 84ZQA, 14 days after that notice is given, the motor vehicle and any items or things left in or on the vehicle vest absolutely in the Crown, free from all other interests, rights, titles or claims in or to ownership or possession.

New subsection (5) provides an exception to the new rule in subsection (4). It provides that the Chief Commissioner of Police may prevent vesting occurring under subsection (4) if the Chief Commissioner makes a determination that the motor vehicle, item or thing should not be sold or otherwise disposed of. This determination must be made within 14 days after notice is given under new section 84ZQA.

Clause 29 inserts new sections 84ZQA, 84ZQB and 84ZQC in the Principal Act.

New section 84ZQA provides that where a motor vehicle that was impounded but remained uncollected for an extended period, the Chief Commissioner of Police must give notice of intention to sell or otherwise dispose of the motor vehicle (or any item or thing left in or on the motor vehicle) prior any sale or disposal.

The notice must state that the Chief Commissioner of Police intends to sell or otherwise dispose of the motor vehicle, and any uncollected item or thing left in or on the motor vehicle, not less than 14 days after the notice is given. It must also contain information that identifies the motor vehicle. The notice must state that 14 days after the notice has been given, the motor vehicle and any uncollected item or thing left in or on it will vest absolutely in the Crown, free from all other interests, rights, titles or claims in or to ownership or possession.

The notice must be provided to the driver of the motor vehicle, the registered operator of the motor vehicle, any person who the Chief Commissioner is aware has an interest in the motor vehicle and to the Roads Corporation. The notice must also be placed in a newspaper circulating generally in the State.

New section 84ZQB provides that the Chief Commissioner of Police must notify the Registrar of Personal Property Securities of an intention to sell or dispose of a motor vehicle under section 84ZQ of the Principal Act.

New section 84ZQC provides that if a motor vehicle vests in the Crown under section 84ZQ(4) of the Principal Act, the Chief Commissioner of Police must give notice to the Registrar of Personal Property Securities.

Clause 30 amends section 84ZR of the Principal Act.

New subsection (1A) of section 84ZR provides that if a motor vehicle was forfeited to the Crown and that motor vehicle (or any item or thing left in or on the motor vehicle) is sold, the purchaser will acquire good title to that vehicle, item or thing.

New subsection (3) prevents the sale or disposal of a motor vehicle until 14 days after the notice is given under section 84ZRA.

Clause 31 inserts new section 84ZRA in the Principal Act. This new section provides that the Chief Commissioner of Police must give notice of intention to sell or otherwise dispose of a motor vehicle that is the subject of a forfeiture order, and any uncollected item or thing left in or on the motor vehicle.

Clause 32 amends section 84ZS(c) of the Principal Act to provide that where a motor vehicle or item or thing is sold under section 84ZQ or 84ZR of the Principal Act, the proceeds of sale that would have previously been used to discharge any security interest over the motor vehicle existing at the time of the sale, such as a bank loan or a lease arrangement will instead be paid to those persons who held those security interests immediately before they were extinguished by virtue of new section 84ZQ(4) or by virtue of the making of a forfeiture order under section 84T(1) of the Principal Act.

Clause 33 amends section 84ZT(1) of the Principal Act to provide that where a motor vehicle is the subject of a disposal order, and that vehicle (or any item or thing left in or on the motor vehicle) is sold, the purchaser will acquire good title to that vehicle, item or thing.

- Clause 34 amends section 84ZU(3)(b) of the Principal Act to provide that on the making of the disposal order, the relevant motor vehicle, and all items or things left in or on the motor vehicle, will vest absolutely in the Crown, free from all other interests, rights, titles or claims in or to ownership or possession.
- Clause 35 inserts new section 84ZUA in the Principal Act. This new provision requires the Chief Commissioner of Police to notify the Registrar of Personal Property Securities if the Chief Commissioner intends to apply for a disposal order.
- Clause 36 inserts new subsections (3) to (6) in section 84ZW of the Principal Act.
- New subsection (3) provides that the court must not decline to make a disposal order on the grounds of exceptional hardship relating to the accused if the accused is disqualified from obtaining a driver licence or permit or the offender's driver licence or permit is suspended.
- New subsection (4) provides that the court must not decline to make a disposal order on the grounds of exceptional hardship relating to the employment of the accused unless the accused, or another person appearing before the court, satisfies the court that driving the impounded or immobilised vehicle is essential (not merely convenient) for the employment of the accused. The applicant must also satisfy the Court that no other transport to his or her place of employment is available to the accused. Finally, the applicant must satisfy the Court that the accused, after making reasonable enquiries, is unable to arrange for another person to drive the accused to his or her place of employment.
- New subsection (5) provides that if the court makes a disposal order, the relevant motor vehicle vests absolutely in the Crown, free from all other interests, rights, titles or claims in or to ownership or possession.
- Clause 37 inserts new section 84ZWA in the Principal Act. This new provision requires the Chief Commissioner of Police to notify the Registrar of Personal Property Securities if a disposal order is made.
- Clause 38 amends section 84ZX(1)(c) of the Principal Act to provide that where a motor vehicle or item or thing is sold under a disposal order, the proceeds of sale that would have previously been used to discharge any security interest over the motor vehicle existing at the time of the sale, such as a bank loan or a lease arrangement, will instead be paid to those persons who held those

security interests immediately before they were extinguished by virtue of new section 84ZW(5).

- Clause 39 inserts a new section 103ZC in the Principal Act. This new provision provides for certain transitional matters.
- New section 103ZC(1) provides that the amendments made by Part 2 of the Bill apply to relevant offences committed on or after the commencement of Part 2.
- New section 103ZC(3) provides that for the purposes of sections 84S(1) and 84T(1), which deal with the imposition or impoundment or immobilisation orders and forfeiture orders, in determining whether a driver has committed previous relevant offences, a relevant offence committed before the commencement of Part 2 of the **Road Safety Amendment (Hoon Driving) Act 2010** is to be taken to be a tier 2 relevant offence.
- Clause 40 makes amendments to sections 77, 84ZB, 84ZF and 84ZU of the Principal Act that are of a statute law revision nature.
- Subclause (1) corrects an incorrect cross reference in section 77(5A) of the Principal Act to subsection (2A). Subsection (2A) no longer exists. It was replaced by subsection (2)(db) by virtue of the **Transport Legislation Amendment Act 2007**.
- Subclauses (2) and (4) make amendments that remove expressions that were made obsolete by the **Criminal Procedure Act 2009**.
- Subclause (3) addresses a typographical error.

PART 3—AMENDMENT OF THE MELBOURNE CITY LINK ACT 1995

- Clause 41 inserts a new section 61A in the **Melbourne City Link Act 1995** to create an express power for the Minister to revoke certain declarations of the Link road made under section 61 of the **Melbourne City Link Act 1995**.
- New section 61A(1) provides that the Minister may revoke, in whole or in part, a declaration made under section 61, in respect of land which is not the subject of a lease under section 60 of the **Melbourne City Link Act 1995**. This provision will enable the Minister, in appropriate circumstances, to remove such declarations so that the land may be used for other purposes.

New section 61A(2) provides that a revocation under new section 61A(1) must specify the land which is the subject of the declaration. This provision is intended to ensure that there is no uncertainty as to the land affected by any whole or partial revocation.

New section 61A(3) provides that the Minister must cause a notice of a revocation to be published in the Government Gazette.

New section 61A(4) provides that, on the publication of a revocation under section 61A(3), the land specified in the revocation ceases to be a freeway or arterial road under the **Road Management Act 2004** or a highway within the meaning of the **Road Safety Act 1986**. The provision also establishes that the further consequence of a road declaration, being that the land constitutes a road that is open to and for use by the public, ceases, and any associated rights, easements and privileges in that land as a road are extinguished.

New section 61A(5) provides that a partial revocation of a declaration under section 61A(1) does not affect the operation of any toll zone existing on land in respect of which the revocation does not apply. This provision is intended to safeguard the continued operation of toll zones on land that is not the subject of a revocation under section 61A(1).

New section 61A(6) provides that following a revocation under section 61A(1), any reference (so far as it relates to any period on or after the revocation) to the Link road in a notice of a toll zone specified under section 71(1) of the **Melbourne City Link Act 1995** is taken not to include any land the subject of the revocation.

This provision is intended to ensure that land the subject of a revocation is, once that revocation takes effect, not included in any reference to the "Link road" in a toll zone specified under section 71(1) of the **Melbourne City Link Act 1995**. This is to safeguard the continued operation of any existing toll zones unaffected by the revocation.

Clause 42 inserts a new section 93HA in the **Melbourne City Link Act 1995** to create an express power for the Minister to wholly or partially revoke declarations of the Extension road made under section 93H of the **Melbourne City Link Act 1995**.

New section 93HA provides that the Minister may revoke, in whole or in part, a declaration made under section 93H, in respect of land which is not the subject of a lease under section 93G of the **Melbourne City Link Act 1995**. This provision will enable the Minister, in appropriate circumstances, to remove such declarations so that the land may be used for other purposes.

New section 93HA(2) provides that a revocation under new section 93HA must specify the land which is the subject of the declaration. This provision is intended to ensure that there is no uncertainty as to the land affected by a revocation.

New section 93HA(3) provides that the Minister must cause a notice of a revocation to be published in the Government Gazette.

New section 93HA(4) provides that, on the publication of a revocation under section 93HA(3), the land specified in the revocation ceases to be a freeway or arterial road under the **Road Management Act 2004** or a highway within the meaning of the **Road Safety Act 1986**. The provision also establishes that the further consequence of a road declaration, being that the land constitutes a road that is open to and for use by the public, ceases, and any associated rights, easements and privileges in that land as a road are extinguished.

New section 93HA(5) provides that a partial revocation of a declaration under section 93HA(1) does not affect the operation of any toll zone existing on land in respect of which the revocation does not apply. This provision is intended to safeguard the continued operation of toll zones on land that is not the subject of a revocation under section 93HA(1).

New section 93HA(6) provides that following a revocation under section 93HA(1), any reference (so far as it relates to any period on or after the revocation) to the Extension road in a notice of a toll zone specified under section 71(1) of the **Melbourne City Link Act 1995** is taken not to include any land the subject of the revocation.

This provision is intended to ensure that land the subject of a revocation is, once that revocation takes effect, not included in any reference to the "Extension road" in a toll zone specified under section 71(1) of the **Melbourne City Link Act 1995**. This is to safeguard the continued operation of any existing toll zones unaffected by the revocation.

PART 4—REPEAL OF AMENDING ACT

Clause 43 provides for the repeal of the amending Bill. This repeal does not affect the continuing operation of the amendments made by the amending Act (see section 15(1) of the **Interpretation of Legislation Act 1984**).