

MOTOR TRAFFIC (BLOOD SAMPLES) AMENDMENT BILL 1988

NEW SOUTH WALES



EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

The object of this Bill is to amend the Motor Traffic Act 1909—

- (a) to make it clear that section 4F of that Act (in so far as that section imposes duties and liabilities, and confers certain immunities, on medical practitioners in relation to the taking of blood samples) applies to persons involved in accidents outside New South Wales; and
- (b) to provide for the analysis, for the purposes of evidence in drink-drive prosecutions, of blood samples taken in accordance with an interstate law from persons involved in accidents in New South Wales; and
- (c) to permit certain certificates made out in accordance with an interstate law to be given in evidence in drink-drive prosecutions in New South Wales in the same manner, and so as to have the same weight, as a similar certificate given in accordance with the law of this State.

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on the date of assent.

Clause 3 is a formal provision that gives effect to the Schedule of amendments.

SCHEDULE 1—AMENDMENTS

Schedule 1 (1) amends section 4F (1) and (1) (b) of the Principal Act.

Section 4F (1), which requires a medical practitioner at a hospital who is attending a person injured in a road accident to take a blood sample from the person, is amended to make it clear that that requirement applies irrespective of whether the accident occurred in New South Wales or elsewhere.

Motor Traffic (Blood Samples) Amendment 1988

Section 4F (11) provides immunity from suit to medical practitioners in respect of the taking of a blood sample from a person in the reasonable belief that section 4F required it. The subclause is amended so as to provide that the immunity extends to a doctor who believes that the person was injured in a road accident outside the State.

Schedule 1 (2) (a) amends section 4G of the Principal Act by inserting a new subsection (3A), which deals with blood samples taken, in another State or Territory of the Commonwealth, in the manner prescribed by a law of that State or Territory relating to the taking of blood samples for purposes similar to the purposes of section 4F of the Principal Act. The new subsection enables a portion of the sample to be forwarded for analysis in New South Wales. (Evidence of the results of the analysis may then be given, in a drink-drive prosecution, in the same manner as if the blood sample had been taken in this State.)

Schedule 1 (2) (b) and (c) make consequential amendments.

Schedule 1 (2) (d) amends section 4G of the Principal Act by inserting a new subsection (11A), which deals with certificates given by persons who, in another State or Territory of the Commonwealth, took or analysed a blood sample in the manner prescribed by a law of that State or Territory relating to the taking and analysis of blood samples for purposes similar to the purposes of section 4F or 4G of the Principal Act. The new subsection provides for admissibility of such a certificate as evidence in a drink-drive prosecution in New South Wales. The certificate is prima facie evidence of what it declares, and has the same force and effect as a certificate under section 4G of the Principal Act.
