

New South Wales

# Road Transport Legislation Amendment (Evidence) Bill 2006

## Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

## Overview of Bill

The object of this Bill is to amend the *Road Transport (General) Act 2005*, the *Road Transport (Safety and Traffic Management) Act 1999*, the *Roads Act 1993*, and regulations made under the latter two Acts, with respect to evidentiary matters, including:

- (a) the evidentiary value of certain certificates, photographs, statutory declarations, and the like, that can be tendered as evidence in proceedings for various offences, and
- (b) the type of evidence that is capable of being sufficient, for the purposes of certain provisions, to rebut prima facie evidence or a presumption, or to raise doubt about a matter, in connection with approved speed measuring devices, various approved camera devices, and information (including photographs) derived from such devices.

## Outline of provisions

**Clause 1** sets out the name (also called the short title) of the proposed Act.

**Clause 2** provides for the commencement of the proposed Act, other than Schedule 2 [3], on the date of assent to the proposed Act. Schedule 2 [3] is to commence on the commencement of Schedule 1 [11] to the *Road Transport Legislation Amendment (Drug Testing) Act 2006* or on the date of assent to the proposed Act, whichever is the later.

**Clause 3** is a formal provision that gives effect to the amendments to the *Road Transport (General) Act 2005* set out in Schedule 1.

**Clause 4** is a formal provision that gives effect to the amendments to the *Road Transport (Safety and Traffic Management) Act 1999* set out in Schedule 2.

**Clause 5** is a formal provision that gives effect to the amendments to the *Roads Act 1993* set out in Schedule 3.

**Clause 6** is a formal provision that gives effect to the amendments to the *Road Transport (Safety and Traffic Management) (Road Rules) Regulation 1999* and the *Roads (General) Regulation 2000* set out in Schedule 4.

**Clause 7** provides for the repeal of the proposed Act after all amendments made by the proposed Act have commenced. Once the amendments have commenced, the proposed Act will be spent and section 30 of the *Interpretation Act 1987* provides that the repeal of the amending Act does not affect the amendments made by that Act.

## **Schedule 1      Amendment of Road Transport (General) Act 2005**

**Schedule 1 [1]** amends the *Road Transport (General) Act 2005* to clarify the evidentiary effect of a statutory declaration referred to in section 179 (9) of that Act. As proposed to be amended, section 179 (9) provides that such a declaration is prima facie evidence of matters referred to in that subsection.

**Schedule 1 [2] and [3]** make provision for matters of a saving and transitional nature consequent on the enactment of the proposed Act.

## **Schedule 2      Amendment of Road Transport (Safety and Traffic Management) Act 1999**

**Schedule 2 [1], [3], [7], [9], [12], [14], [15], [18] and [20]** amend a number of provisions of the *Road Transport (Safety and Traffic Management) Act 1999* (the *Traffic Management Act*) to clarify the evidentiary effect of the various certificates, photographs, statutory declarations and other forms of evidence to which the provisions refer. The amended provisions state that they are prima facie evidence of the various matters specified in those provisions. The provisions proposed to be amended are sections 33 (1), (2) and (4)–(7), 33B, 33D, 35 (1)–(3), 54 (2), 57 (3), 57B (3), 69C (2), 69D (1), 71 (10), 75 (3) and 76 (8) and clause 5 (2) (f) of Schedule 1.

**Schedule 2 [2]** substitutes section 33 (3) of the Traffic Management Act, which concerns evidence of matters relating to breath analysing instruments in certain proceedings. Under substituted section 33 (3), evidence of the condition of such an instrument or of the manner in which it was operated is not required unless evidence sufficient to raise doubt that the instrument was in proper condition and properly operated has been adduced. (Currently, section 33 does not indicate the weight that evidence that the instrument was not in proper condition or was not properly operated must have before evidence of the condition of the instrument or the manner in which it was operated is required.)

**Schedule 2 [4]** substitutes section 46 (1) and (2) of the Traffic Management Act, which concern certification of matters relating to an approved speed measuring device. Substituted section 46 (1) clarifies that the certificate concerned is prima facie evidence of those matters. Under substituted section 46 (2), if a certificate under section 46 (1) is tendered in proceedings, evidence of the accuracy or reliability of the device, or as to whether or not it operates or operated properly, is not required unless evidence sufficient to raise doubt that, at the time of the alleged offence, the device was accurate, reliable and operating properly is adduced. (Currently, section 46 does not indicate the weight that evidence that the device was not accurate or not reliable must have before evidence of the accuracy or reliability of the device is required.)

**Schedule 2 [6]** substitutes section 47 (2)–(6) of the Traffic Management Act, which concern approved camera recording devices, photographs taken by them, prescribed security indicators on the photographs, and associated certificates. Substituted section 47 clarifies that such a photograph, security indicator or certificate is prima facie evidence of various matters or raises certain rebuttable presumptions. Substituted section 47 (3) also introduces a presumption that a photograph tendered as bearing a security indicator of a kind prescribed by the regulations bears such an indicator unless evidence sufficient to raise doubt that it does so is adduced. Under substituted section 47 (6), if a certificate under section 47 (4) or (5) is tendered in proceedings, evidence of the accuracy or reliability of the camera recording device concerned, or as to whether or not it operates or operated properly, is not required unless evidence sufficient to raise doubt that, at the time of the alleged offence, the device was accurate, reliable and operating properly is adduced.

**Schedule 2 [8], [10], [11] and [13]** amend sections 57 and 57B of the Traffic Management Act in a manner consistent with the proposed amendments to sections 46 and 47 of that Act (see Schedule 2 [4] and [6]).

**Schedule 2 [16]** amends section 69E as a consequence of the proposed amendments to section 47 of the Traffic Management Act (see Schedule 2 [6]).

**Schedule 2 [19]** inserts section 73A in the Traffic Management Act. The proposed section applies to the determination of whether evidence is sufficient to rebut prima facie evidence or a presumption, or to raise doubt, for the purposes of section 46, 47, 57, 57B or 69E (all as proposed to be amended). Under proposed section 73A, an assertion that contradicts or challenges:

- (a) the accuracy or reliability, or the correct or proper operation, of an approved device, or
- (b) the accuracy or reliability of information (including a photograph) derived from such a device,

is capable of being sufficient, in proceedings to which the proposed section applies, to rebut such evidence or such a presumption, or to raise such doubt, only if it is evidence adduced from a person who has relevant specialised knowledge (based wholly or substantially on the person's training, study or experience). An **approved device** is an approved camera detection device, approved camera recording device, approved speed measuring device or approved traffic lane camera device, as defined by the Traffic Management Act. **Schedule 2 [5] and [17]** insert in relevant provisions a note about proposed section 73A.

**Schedule 2 [21] and [22]** make provision for matters of a saving or transitional nature consequent on the enactment of the proposed Act.

### **Schedule 3 Amendment of Roads Act 1993**

**Schedule 3 [1]–[3]** amend section 250A of the *Roads Act 1993* in a manner consistent with the proposed amendments to sections 46, 47, 57 and 57B of the Traffic Management Act (see Schedule 2 [4], [6], [8], [10], [11] and [13]). The amendments to section 250A include the introduction of a presumption that a photograph tendered as bearing a security indicator of a kind prescribed by the regulations bears such an indicator unless evidence sufficient to raise doubt that it does so is adduced. For the purposes of section 250A (as proposed to be amended), an assertion that contradicts or challenges:

- (a) the accuracy or reliability, or the correct or proper operation, of an approved toll camera, or
- (b) the accuracy or reliability of information (including a photograph) derived from such a camera,

is capable of being sufficient to rebut prima facie evidence or a presumption, or to raise doubt about a matter, only if it is evidence adduced from a person who has relevant specialised knowledge (based wholly or substantially on the person's training, study or experience).

**Schedule 3 [4] and [5]** make provision for matters of a saving or transitional nature consequent on the enactment of the proposed Act.

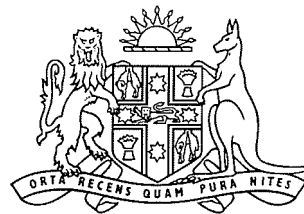
## **Schedule 4    Amendment of other legislation**

**Schedule 4** makes amendments to the *Road Transport (Safety and Traffic Management) (Road Rules) Regulation 1999* and the *Roads (General) Regulation 2000* that are consequential on amendments to the Traffic Management Act and the *Roads Act 1993* made by Schedules 2 and 3.

Road Transport Legislation Amendment (Evidence) Bill 2006

Explanatory note

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New South Wales

# Road Transport Legislation Amendment (Evidence) Bill 2006

## Contents

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	Page
1 Name of Act	2
2 Commencement	2
3 Amendment of Road Transport (General) Act 2005 No 11	2
4 Amendment of Road Transport (Safety and Traffic Management) Act 1999 No 20	2
5 Amendment of Roads Act 1993 No 33	2
6 Amendment of other legislation	2
7 Repeal of Act	2
Schedule 1 Amendment of Road Transport (General) Act 2005	3
Schedule 2 Amendment of Road Transport (Safety and Traffic Management) Act 1999	4
Schedule 3 Amendment of Roads Act 1993	12
Schedule 4 Amendment of other legislation	14

Road Transport Legislation Amendment (Evidence) Bill 2006

Contents

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Page

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Contents page 2





New South Wales

# Road Transport Legislation Amendment (Evidence) Bill 2006

No. , 2006

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## **A Bill for**

An Act to amend the *Road Transport (General) Act 2005*, the *Road Transport (Safety and Traffic Management) Act 1999* and the *Roads Act 1993* with respect to evidentiary matters; and for other purposes.

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<b>The Legislature of New South Wales enacts:</b>	1
<b>1 Name of Act</b>	2
This Act is the <i>Road Transport Legislation Amendment (Evidence) Act 2006</i> .	3 4
<b>2 Commencement</b>	5
(1) This Act commences on the date of assent to this Act, except as provided by subsection (2).	6 7
(2) Schedule 2 [3] commences on the commencement of Schedule 1 [11] to the <i>Road Transport Legislation Amendment (Drug Testing) Act 2006</i> or on the date of assent to this Act, whichever is the later.	8 9 10
<b>3 Amendment of Road Transport (General) Act 2005 No 11</b>	11
The <i>Road Transport (General) Act 2005</i> is amended as set out in Schedule 1.	12 13
<b>4 Amendment of Road Transport (Safety and Traffic Management) Act 1999 No 20</b>	14 15
The <i>Road Transport (Safety and Traffic Management) Act 1999</i> is amended as set out in Schedule 2.	16 17
<b>5 Amendment of Roads Act 1993 No 33</b>	18
The <i>Roads Act 1993</i> is amended as set out in Schedule 3.	19
<b>6 Amendment of other legislation</b>	20
The <i>Road Transport (Safety and Traffic Management) (Road Rules) Regulation 1999</i> and the <i>Roads (General) Regulation 2000</i> are amended as set out in Schedule 4.	21 22 23
<b>7 Repeal of Act</b>	24
(1) This Act is repealed on the day following the day on which all of the provisions of this Act have commenced.	25 26
(2) The repeal of this Act does not, because of the operation of section 30 of the <i>Interpretation Act 1987</i> , affect any amendment made by this Act.	27 28

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<b>Schedule 1</b>	<b>Amendment of Road Transport (General) Act 2005</b>	1
		2
	(Section 3)	3
<b>[1]</b>	<b>Section 179 Liability of responsible person for vehicle for designated offences</b>	4
		5
	Omit “is evidence (unless contrary evidence is adduced)” wherever occurring in section 179 (9) (including the heading to the subsection).	6
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	Insert instead “is admissible and is prima facie evidence”.	8
<b>[2]</b>	<b>Schedule 1 Savings, transitional and other provisions</b>	9
	Insert at the end of clause 1 (1):	10
	<i>Road Transport Legislation Amendment (Evidence) Act 2006</i>	11
<b>[3]</b>	<b>Schedule 1</b>	12
	Insert at the end of the Schedule, with appropriate Part and clause numbers:	13
<b>Part</b>	<b>Provisions consequent on enactment of Road Transport Legislation Amendment (Evidence) Act 2006</b>	14
		15
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	<b>Definition</b>	17
	In this Part, <i>amending Act</i> means the <i>Road Transport Legislation Amendment (Evidence) Act 2006</i> .	18
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	<b>Amendments not to apply to proceedings instituted before commencement of amendments</b>	20
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	(1) An amendment made to this Act by the amending Act does not apply to proceedings for an offence that were instituted before the commencement of the amendment.	22
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	(2) An amendment made to this Act by the amending Act applies to proceedings for an offence that are instituted on or after the commencement of the amendment even if the proceedings involve an offence that was committed before that commencement.	25
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<b>Schedule 2</b>	<b>Amendment of Road Transport (Safety and Traffic Management) Act 1999</b>	1
		2
	(Section 4)	3
<b>[1]</b>	<b>Sections 33 (1), (2) and (4)–(7), 35 (1)–(3) and 76 (8) and clause 5 (2) (f) of Schedule 1</b>	4
	Omit “is evidence (unless evidence to the contrary is adduced)” wherever occurring.	5
	Insert instead “is admissible and is prima facie evidence”.	6
<b>[2]</b>	<b>Section 33 Certificate evidence about breath or blood analysis in proceedings for offences under section 9</b>	7
	Omit section 33 (3). Insert instead:	8
	(3) In proceedings for an offence under section 9 or Division 3, evidence of the condition of a breath analysing instrument, or of the manner in which it was operated, is not required unless evidence sufficient to raise doubt that the instrument was in proper condition and properly operated has been adduced.	9
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<b>[3]</b>	<b>Sections 33B and 33D (as inserted by Schedule 1 [11] to the Road Transport Legislation Amendment (Drug Testing) Act 2006)</b>	17
	Omit “is evidence (unless evidence to the contrary is adduced)” wherever occurring.	18
	Insert instead “is admissible and is prima facie evidence”.	19
<b>[4]</b>	<b>Section 46 Certificates concerning use of approved speed measuring devices</b>	20
	Omit section 46 (1) and (2). Insert instead:	21
	(1) In proceedings for any offence against this Act in which evidence is given of a measurement of speed obtained by the use of an approved speed measuring device, a certificate purporting to be signed by an appropriate officer certifying that:	22
	(a) the device is an approved speed measuring device within the meaning of this Act, and	23
	(b) on a day specified in the certificate (being within the time prescribed by the regulations before the alleged time of the offence) the device was tested in accordance with the regulations and sealed by an appropriate officer, and	24
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(c)	on that day the device was accurate and operating properly, is admissible and is prima facie evidence of the particulars certified in and by the certificate.	1 2 3
(2)	If any such certificate is tendered in proceedings for an offence, evidence:	4 5
(a)	of the accuracy or reliability of the approved speed measuring device, or	6 7
(b)	as to whether or not the device operated properly or operates properly (generally or at a particular time or date or during a particular period),	8 9 10
	is not required in those proceedings unless evidence sufficient to raise doubt that, at the time of the alleged offence, the device was accurate, reliable and operating properly is adduced.	11 12 13
<b>[5]</b>	<b>Section 46, note</b>	14
	Insert at the end of the section:	15
	<b>Note.</b> See also section 73A.	16
<b>[6]</b>	<b>Section 47 Photographic evidence of speeding offences</b>	17
	Omit section 47 (2)–(6). Insert instead:	18
(2)	In proceedings in which such evidence is given:	19
(a)	the provisions of section 46 relating to the accuracy or reliability of the approved speed measuring device apply, and	20 21 22
(b)	subsections (3)–(7) apply in relation to the approved camera recording device, and	23 24
(c)	evidence that a photograph taken by an approved digital camera recording device bears a security indicator of a kind prescribed by the regulations is prima facie evidence that the photograph has not been altered since it was taken.	25 26 27 28
(3)	A photograph tendered in evidence as a photograph taken by an approved camera recording device on a day and at a location specified on the photograph, and as bearing a security indicator of a kind prescribed by the regulations, is admissible and:	29 30 31 32
(a)	is to be presumed to have been so taken unless evidence sufficient to raise doubt that it was so taken is adduced, and	33 34
(b)	is to be presumed to bear such a security indicator unless evidence that is sufficient to raise doubt that it does so is adduced, and	35 36 37

- (c) is prima facie evidence of the matters shown or recorded on the photograph. 1  
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- (4) When the photograph taken by an approved camera recording device (other than an approved digital camera recording device) is tendered in evidence, a certificate purporting to be signed by a police officer and certifying the following particulars is also to be tendered in evidence and the certificate is admissible and is prima facie evidence of those particulars: 3  
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  - (a) that the officer is authorised by the Commissioner of Police to install and inspect approved camera recording devices, 9  
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  - (b) that within 168 hours before the time and day recorded on the photograph as the time at which and the day on which the photograph was taken, the officer carried out the inspection specified in the certificate on the approved camera recording device that took the photograph, 12  
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  - (c) that on that inspection the approved camera recording device was found to be operating correctly. 17  
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- (5) When the photograph tendered in evidence is taken by an approved digital camera recording device, a certificate purporting to be signed by an authorised person and certifying the following particulars is also to be tendered in evidence and the certificate is admissible and is prima facie evidence of those particulars: 19  
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  - (a) that the person is an authorised person, 25
  - (b) that within 30 days (or such other period as may be prescribed by the regulations) before the time and day recorded on the photograph as the time at which and the day on which the photograph was taken, the person carried out the inspection specified in the certificate on the approved digital camera recording device that took the photograph, 26  
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  - (c) that on that inspection the approved digital camera recording device was found to be operating correctly. 33  
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- (6) If a certificate under subsection (4) or (5) is tendered in proceedings for an offence, evidence: 35  
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  - (a) of the accuracy or reliability of the camera recording device concerned, or 37  
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(b)	as to whether or not the device operated correctly or operates correctly (generally or at a particular time or date or during a particular period),	1 2 3
	is not required in those proceedings unless evidence sufficient to raise doubt that, at the time of the alleged offence, the device was accurate, reliable and operating correctly is adduced.	4 5 6
(7)	In this section, <i>authorised person</i> means a person (or person belonging to a class of persons) authorised by the Authority to install and inspect approved digital camera recording devices.	7 8 9
	<b>Note.</b> See also section 73A.	10
<b>[7]</b>	<b>Section 54 Cost of removal of prescribed traffic control device</b>	11
	Omit “is evidence (unless evidence to the contrary is adduced)” from section 54 (2).	12 13
	Insert instead “is admissible in any such proceedings and is prima facie evidence”.	14 15
<b>[8]</b>	<b>Section 57 Photographic evidence of traffic light offences</b>	16
	Omit section 57 (2). Insert instead:	17
(2)	In proceedings for a traffic light offence:	18
(a)	a photograph tendered in evidence as a photograph taken by means of the operation, on a day specified on the photograph, of an approved camera detection device installed at a location specified on the photograph is admissible and is to be presumed to have been so taken unless evidence sufficient to raise doubt that it was so taken is adduced, and	19 20 21 22 23 24 25
(b)	any such photograph is prima facie evidence of the matters shown or recorded on the photograph.	26 27
<b>[9]</b>	<b>Section 57 (3)</b>	28
	Omit “and is evidence (unless evidence to the contrary is adduced)”.	29
	Insert instead “, is admissible and is prima facie evidence”.	30

<b>[10] Section 57 (4)</b>	1
Insert after section 57 (3):	2
(4) If a certificate under subsection (3) is tendered in proceedings for an offence, evidence:	3
(a) of the accuracy or reliability of the approved camera detection device, or	4
(b) as to whether or not the device operated properly or operates properly (generally or at a particular time or date or during a particular period),	5
is not required in those proceedings unless evidence sufficient to raise doubt that, at the time of the alleged offence, the device was accurate, reliable and operating properly is adduced.	6
<b>Note.</b> See also section 73A.	7
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<b>[11] Section 57B Photographic evidence of public transport lane offences</b>	14
Omit section 57B (2). Insert instead:	15
(2) In proceedings for a public transport lane offence:	16
(a) one or more photographs tendered in evidence as photographs taken by means of the operation, on a day specified on the photographs, of an approved traffic lane camera device or devices installed at a location or locations specified on the photographs, and as each bearing a security indicator of a kind prescribed by the regulations, are admissible and are to be presumed:	17
(i) to have been so taken unless evidence sufficient to raise doubt that they were so taken is adduced, and	18
(ii) to bear such a security indicator unless evidence that is sufficient to raise doubt that they do so is adduced, and	19
(b) evidence that a photograph tendered in evidence taken by an approved traffic lane camera device bears a security indicator of a kind prescribed by the regulations is prima facie evidence that the photograph has not been altered since it was taken, and	20
(c) any such photograph is prima facie evidence of the matters shown or recorded on the photograph.	21
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<b>[12] Section 57B (3)</b>	1
Omit “and is evidence (unless evidence to the contrary is adduced)”.	2
Insert instead “, is admissible and is prima facie evidence”.	3
<b>[13] Section 57B (5)</b>	4
Insert after section 57B (4):	5
(5) If a certificate under subsection (3) is tendered in proceedings for an offence, evidence:	6
(a) of the accuracy or reliability of the approved traffic lane camera device, or	7
(b) as to whether or not the device operated properly or operates properly (generally or at a particular time or date or during a particular period),	8
is not required in those proceedings unless evidence sufficient to raise doubt that, at the time of the alleged offence, the device was accurate, reliable and operating properly is adduced.	9
<b>Note.</b> See also section 73A.	10
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<b>[14] Section 69C Vehicles to be speed limited</b>	17
Omit “is evidence (unless contrary evidence as to that speed is adduced)” from section 69C (2).	18
Insert instead “is admissible and is prima facie evidence”.	19
<b>[15] Section 69D Certificate evidence of speed limiter compliance</b>	20
Omit “is evidence (unless contrary evidence is adduced)” from section 69D (1).	21
Insert instead “is admissible and is prima facie evidence”.	22
<b>[16] Section 69E Photographic evidence of speed of vehicle</b>	23
Omit “Section 47 (2)–(6)” from section 69E (2).	24
Insert instead “Section 47 (2)–(7)”.	25
<b>[17] Section 69E, note</b>	26
Insert at the end of the section:	27
<b>Note.</b> See also section 73A.	28
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<b>[18] Section 71 Regulations</b>	1
Omit “as evidence concerning that matter in proceedings before a court or tribunal unless evidence to the contrary is adduced” from section 71 (10).	2 3
Insert instead “and prima facie evidence of that matter in proceedings before a court or tribunal”.	4 5
<b>[19] Section 73A</b>	6
Insert after section 73:	7
<b>73A Rebuttal of evidence of matters of specialised knowledge</b>	8
(1) This section applies to the determination of whether evidence is sufficient to rebut prima facie evidence or a presumption, or to raise doubt about a matter, as referred to in section 46, 47, 57, 57B or 69E and for the purposes of proceedings to which those sections apply.	9 10 11 12 13
(2) An assertion that contradicts or challenges:	14
(a) the accuracy or reliability, or the correct or proper operation, of an approved device, or	15 16
(b) the accuracy or reliability of information (including a photograph) derived from such a device,	17 18
is capable of being sufficient, in proceedings to which this section applies, to rebut such evidence or such a presumption, or to raise such doubt, only if it is evidence adduced from a person who has relevant specialised knowledge (based wholly or substantially on the person’s training, study or experience).	19 20 21 22 23
(3) In this section, <i>approved device</i> means:	24
(a) an approved camera detection device, or	25
(b) an approved camera recording device, or	26
(c) an approved speed measuring device, or	27
(d) an approved traffic lane camera device.	28
<b>[20] Section 75 Removal of dangers and obstructions to traffic</b>	29
Omit “is evidence (unless evidence to the contrary is adduced)” from section 75 (3).	30 31
Insert instead “is admissible in any such proceedings and is prima facie evidence”.	32 33

<b>[21] Schedule 2 Savings, transitional and other provisions</b>	1
Insert at the end of clause 1 (1):	2
<i>Road Transport Legislation Amendment (Evidence) Act 2006</i>	3
<b>[22] Schedule 2</b>	4
Insert at the end of the Schedule, with appropriate Part and clause numbers:	5
<b>Part Provisions consequent on enactment of Road Transport Legislation Amendment (Evidence) Act 2006</b>	6
	7
	8
<b>Definition</b>	9
In this Part, <i>amending Act</i> means the <i>Road Transport Legislation Amendment (Evidence) Act 2006</i> .	10
	11
<b>Amendments not to apply to proceedings instituted before commencement of amendments</b>	12
	13
(1) An amendment made to this Act by the amending Act does not apply to proceedings for an offence that were instituted before the commencement of the amendment.	14
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	16
(2) An amendment made to this Act by the amending Act applies to proceedings for an offence that are instituted on or after the commencement of the amendment even if the proceedings involve an offence that was committed before that commencement.	17
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<b>Schedule 3</b>	<b>Amendment of Roads Act 1993</b>	1
	(Section 5)	2
<b>[1] Section 250A Approved camera recording devices—toll offences</b>		3
Omit section 250A (2). Insert instead:		4
(2) In proceedings for a toll offence:		5
(a) a photograph tendered in evidence as a photograph taken by means of the operation, on a day specified on the photograph, of an approved toll camera installed at a location specified on the photograph, and as bearing a security indicator of a kind prescribed by the regulations, is admissible and is to be presumed:		6
(i) to have been so taken unless evidence sufficient to raise doubt that it was so taken is adduced, and		7
(ii) to bear such a security indicator unless evidence sufficient to raise doubt that it does so is adduced, and		8
(b) evidence that a photograph tendered in evidence bears a security indicator of a kind prescribed by the regulations is prima facie evidence that the photograph has not been altered since it was taken, and		9
(c) any such photograph is prima facie evidence of the matters shown or recorded on the photograph.		10
<b>[2] Section 250A (3)</b>		11
Omit “is evidence (unless evidence to the contrary is adduced)”.		12
Insert instead “is admissible and is prima facie evidence”.		13
<b>[3] Section 250A (6) and (7)</b>		14
Insert after section 250A (5):		15
(6) If a certificate under subsection (3) is tendered in proceedings for an offence, evidence:		16
(a) of the accuracy or reliability of the approved toll camera, or		17
(b) as to whether or not the camera operated correctly or operates correctly (generally or at a particular time or date or during a particular period),		18
is not required in those proceedings unless evidence sufficient to raise doubt that, at the time of the alleged offence, the camera was accurate, reliable and operating correctly is adduced.		19

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(7)	For the purposes of this section, an assertion that contradicts or challenges:	1
		2
(a)	the accuracy or reliability, or the correct or proper operation, of an approved toll camera, or	3
		4
(b)	the accuracy or reliability of information (including a photograph) derived from such a camera,	5
		6
	is capable of being sufficient to rebut prima facie evidence or a presumption, or to raise doubt about a matter, only if it is evidence adduced from a person who has relevant specialised knowledge (based wholly or substantially on the person's training, study or experience).	7
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<b>[4]</b>	<b>Schedule 2 Savings, transitional and other provisions</b>	12
	Insert at the end of clause 1 (1):	13
	<i>Road Transport Legislation Amendment (Evidence) Act 2006</i>	14
<b>[5]</b>	<b>Schedule 2</b>	15
	Insert at the end of the Schedule, with appropriate Part and clause numbers:	16
<b>Part</b>	<b>Provisions consequent on enactment of Road Transport Legislation Amendment (Evidence) Act 2006</b>	17
		18
		19
	<b>Definition</b>	20
	In this Part, <i>amending Act</i> means the <i>Road Transport Legislation Amendment (Evidence) Act 2006</i> .	21
		22
	<b>Amendments not to apply to proceedings instituted before commencement of amendments</b>	23
		24
(1)	An amendment made to this Act by the amending Act does not apply to proceedings for an offence that were instituted before the commencement of the amendment.	25
		26
		27
(2)	An amendment made to this Act by the amending Act applies to proceedings for an offence that are instituted on or after the commencement of the amendment even if the proceedings involve an offence that was committed before that commencement.	28
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<b>Schedule 4</b>	<b>Amendment of other legislation</b>	1
	(Section 6)	2
<b>4.1</b>	<b>Road Transport (Safety and Traffic Management) (Road Rules) Regulation 1999</b>	3 4
<b>[1]</b>	<b>Clause 138 Schemes to assist children to cross roads</b>	5
	Omit “is evidence (unless evidence to the contrary is adduced)” from clause 138 (7).	6 7
	Insert instead “is admissible and is prima facie evidence”.	8
<b>[2]</b>	<b>Clause 156A Security indicators: section 47 of Act</b>	9
	Omit “section 47 (2) (c)” from clause 156A (1). Insert instead “section 47”.	10
<b>[3]</b>	<b>Clause 156B Security indicators: section 57B of Act</b>	11
	Omit “section 57B (2) (b)” from clause 156B (1). Insert instead “section 57B”.	12
<b>4.2</b>	<b>Roads (General) Regulation 2000</b>	13
	<b>Clause 23D Security indicators: section 250A of Act</b>	14
	Omit “section 250A (2) (b)” from clause 23D (1).	15
	Insert instead “section 250A”.	16