

**TRAFFIC (PHOTOGRAPHIC EVIDENCE) AMENDMENT  
BILL 1990**

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 Traffic Act 1909 to provide for acceptance by the courts of photographic evidence of speeding offences.

The Crimes Act 1900 is also to be amended to insert evidentiary provisions relating to the admissibility of photographic evidence of speeding offences in inquests or proceedings for indictable offences.

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**Clause 1** specifies the short title of the proposed Act.

**Clause 2** provides for the proposed Act to commence on a day or days to be appointed by proclamation.

**Clause 3** is a formal provision that gives effect to the Schedule of amendments to the Traffic Act 1909.

**Clause 4** is a formal provision that gives effect to the Schedule of amendments to the Crimes Act 1900.

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**SCHEDULE 1 - AMENDMENT OF TRAFFIC ACT 1909**

**Schedule 1 (1)** inserts definitions of "approved camera recording device" and "approved speed measuring device".

An approved speed measuring device is a device for measuring the speed of vehicles. Before any new device can be used by police, it has to be approved by order of the Governor-in-Council.

An approved camera recording device is a device for attachment to an approved speed measuring device. It is designed to enable photographs to be taken of vehicles being driven in excess of the applicable speed limit. The camera recording device will record and show on the photograph such details as its date, location and time, the

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speed limit applicable to the location and the speed and direction of the vehicle photographed.

**Schedule 1 (2)** amends section 4AB so that the evidentiary provisions that currently apply to radar speed measuring devices apply to all approved speed measuring devices. The amendments also provide that any radar speed measuring device currently approved for use by police is an approved speed measuring device for the purposes of the Principal Act but that, in future, when recommending that an order be made to legitimise the use by police of a new speed measuring device, the Minister for Transport must have the concurrence of the Attorney General.

**Schedule 1 (3)** provides for photographs taken by approved camera recording devices to be tendered in evidence in proceedings for offences of driving at a speed in excess of any speed limit or maximum speed fixed by or under the Principal Act. Such a photograph is prima facie evidence of the matters shown or recorded on it. A certificate from a member of the police force (which is to accompany each photograph when it is tendered in evidence) is prima facie evidence that the device was operating correctly at the time and date specified in the certificate.

**Schedule 1 (4)** provides that the owner of the motor vehicle identified in a photograph taken by a camera recording device is liable in respect of the speeding offence concerned unless the vehicle was stolen or the owner supplies, in a statutory declaration, the name and address of the person in charge of the vehicle at the relevant time.

### **SCHEDULE 2 - CONSEQUENTIAL AMENDMENT OF CRIMES ACT 1990**

Schedule 2 inserts equivalent evidentiary provisions concerning camera recording devices into the Crimes Act 1900. The provisions are to apply at an inquest or where a person is charged before a Magistrate or any court with an indictable offence.

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