

Magistrates (Summary Proceedings) (Amendment) Bill

No.

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LEGISLATIVE COUNCIL

Read 1° 16 October 1985

(Brought in by the Honourable J. H. Kennan)

A BILL

to amend the *Magistrates (Summary Proceedings) Act 1975* and other Acts and for other purposes.

Magistrates (Summary Proceedings) (Amendment) Act 1985

The Parliament of Victoria enacts as follows:

Purpose.

1. The main purpose of this Act is to provide a procedure for penalty enforcement by the registration of infringement notices.

5 Commencement.

2. Except as provided in section 8, this Act comes into operation on a day or days to be proclaimed.

Principal Act.

10 3. In this Act the *Magistrates (Summary Proceedings) Act 1975* is called the Principal Act.

Act No. 8731.
Reprinted to No.
9921.
Subsequently
amended by Nos.
9945, 9947,
10007, 10020,
10063, 10077,
10082, 10084,
10087 and
10152.

New Part VIIA. inserted.

4. After Part VII. of the Principal Act insert:

**“PART VIIA.—PROCEDURE FOR ENFORCEMENT OF
INFRINGEMENT PENALTIES”****Division 1—Infringement Notices**

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Interpretation.

‘89A. In this Division—

“**Appropriate officer**” means the holder of a prescribed office or the holder of an office in a prescribed class of offices.

“**Certificate**” means a certificate under section 89E.

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“**Clerk**” means the clerk of the court and includes deputy clerk.

“**Court**” means the Magistrates’ Court appointed under section 89C.

“**Courtesy letter**” means a notice served under section 89D (1).

“**Enforcement agency**” in relation to an infringement notice means a person or body authorized by or under an enactment to take proceedings for the offence in respect of which the infringement notice was issued.

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“**Enforcement order**” means an order under section 89F.

“**Fine**” means the amount payable under an enforcement order.

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“**Infringement notice**” means—

(a) a parking infringement notice, a traffic infringement notice or a transport infringement notice under the *Transport Act 1983*; or

(b) a litter infringement notice under the *Litter Act 1964*; or

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(c) a boating infringement notice under the *Motor Boating Act 1961*; or

(d) a dog infringement notice under the *Dog Act 1970*; or

(e) a parking offence notice under Schedule 5 to the *Housing Act 1983*—

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or a notice under a prescribed provision of any Act or statutory rule.

“**Infringement penalty**” means the amount specified in an infringement notice as payable in respect of the offence for which the infringement notice was issued.’

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Application of Division.

“89B. (1) The procedures set out in this Division may be used for the enforcement of infringement penalties.

5 (2) If the procedures of this Division are used, they apply without prejudice to the application of so much of any other procedure as is not inconsistent with this Division.

10 (3) The procedures under this Division may be used in relation to any infringement notice whether issued before or on or after the commencement of section 4 of the *Magistrates (Summary Proceedings) (Amendment) Act 1985.*”

Appointment of court.

“89C The Governor in Council may by Order appoint a magistrates’ court for the purposes of this Part.”

Courtesy letters.

15 ‘89D (1) If it appears to an appropriate officer that an infringement penalty has not been paid before the expiration of the time specified in the infringement notice as the time within which the infringement penalty is payable, the officer may serve on the person on whom the infringement notice was served a notice (“courtesy letter”) to the effect that—

- 20 (a) the person has a further 28 days in which to pay the infringement penalty together with any prescribed costs; and
- 25 (b) in default of payment, the person may be dealt with under this Division.

(2) A courtesy letter may also contain such other information as is prescribed.

30 (3) Upon the service on a person of a courtesy letter, in relation to an infringement notice, the time for payment of the infringement penalty under the infringement notice is extended until the expiration of the period of 28 days after the courtesy letter was served.

35 (4) The infringement penalty together with the prescribed costs may be paid within that extended period in pursuance of the infringement notice and of the relevant provisions of the law under which the notice was served as if that notice or law also required the payment of those costs.

40 (5) A person alleged to have committed or to be guilty of the offence to which an infringement notice relates may within 28 days after the service of the courtesy letter on that person decline to be dealt with under this Division by serving on an officer or person specified in the letter a written statement declining to be so dealt with.’

Registration of infringement penalties.

“89E. (1) If, from a certificate given in accordance with the rules and produced to the clerk, it appears to the clerk that—

- (a) an infringement notice has been served on a person in relation to a particular offence referred to in the certificate; and 5
- (b) a courtesy letter has been served on the person after the expiration of the time specified in the infringement notice as the time within which the infringement penalty may be paid; and 10
- (c) a period of at least 28 days has elapsed since the courtesy letter was so served; and
- (d) the infringement penalty and any prescribed costs had not been paid before the certificate was executed; and
- (e) the person has not, in accordance with section 89D (4), declined to be dealt with under this Division; and 15
- (f) an information in relation to the offence has not been laid; and
- (g) an information may, having regard to the time when the offence was committed or is alleged to have been committed, be laid in relation to the offence; and 20
- (h) in the case of an infringement notice served under section 210 (2) (b) or (c) of the *Transport Act 1983*, the person named in the certificate was at the time of the alleged offence— 25
 - (i) the owner of the vehicle within the meaning of section 208 of that Act; or
 - (ii) the person in charge of the vehicle as shown in a sworn statement supplied pursuant to section 209 of that Act—

the clerk may, if satisfied that the facts as alleged in the certificate constitute the offence and that reasonably sufficient particulars of those facts are set out in the certificate, register the infringement penalty and any prescribed costs charged in relation to the courtesy letter and certificate for the purpose of enforcement under this Division. 30

- (2) A certificate under this section must— 35
 - (a) be in the prescribed form; and
 - (b) contain the particulars required by sub-section (1) and any other prescribed particulars; and
 - (c) be executed by an appropriate officer in accordance with the Rules.” 40

Enforcement orders.

“89F. (1) On registering an infringement penalty together with any costs, the clerk must make an order—

- 5 (a) in the case of a natural person, that the person pay to the court the amount of the infringement penalty together with the prescribed amount for costs and that in default of payment the person is to be imprisoned for a period of one day in respect of each \$50 or part thereof of the amount then remaining unpaid; or
- 10 (b) in the case of a corporation, that the corporation pay to the court the amount of the infringement penalty together with the prescribed amount for costs and that in default the amount is to be levied by distress.
- (2) An enforcement order is deemed to be an order of the court.
- 15 (3) In this section the prescribed amount for costs is the sum of—
- (a) the prescribed costs (if any) charged in relation to the relevant courtesy letter and certificate; and
- (b) the prescribed costs of the enforcement order; and
- 20 (c) any other costs required to be charged in relation to the enforcement order under this Act or any other Act.”

Notice of enforcement order.

“89G. (1) On the making of an enforcement order, the clerk must cause a notice in the prescribed form to be served on the person against whom the order is made.

- 25 (2) The notice is to state that if the fine is not paid within 28 days after the date of the notice—
- (a) in the case of a natural person, a warrant will be issued for the commitment of that person to prison for the period specified in the order; or
- 30 (b) in the case of a corporation, a warrant of distress will be issued.”

Applications.

“89H. (1) A person against whom an enforcement order is made may apply to the clerk of the court personally or in writing or in any other manner approved by the clerk for either or both of the following:

- 35 (a) An order that the time within which the fine is to be paid be extended; or
- (b) An order that the fine be paid by instalments.
- (2) On receipt of an application, the clerk may by order do one or
- 40 more of the following:

- (a) Allow additional time for the payment of the fine or the balance of the fine;
- (b) Direct payment of the fine to be made by instalments;
- (c) Direct payment of the fine or instalments to be made at the time or times specified.”

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Warrants.

“89i. (1) If a person upon whom a notice under section 89G is served, defaults in the payment of a fine or part of a fine—

- (a) in the case of a natural person, the clerk must issue a warrant of commitment against that person; and
- (b) in the case of a corporation, payment of the fine may be enforced in any manner in which an order for the payment of money made under this Act may be enforced.

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(2) If a warrant issued pursuant to sub-section (1) has not been executed within the period prescribed by the Rules it ceases to have effect and must be returned to the court.

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(3) A warrant of commitment issued pursuant to sub-section (1) must not be executed unless the fine or any part of the fine remains unpaid for seven days after a demand made personally by a member of the police force upon the person in default for payment of the fine.

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(4) The member of the police force making the demand must deliver to the person in default a statement in writing in the prescribed form setting out a summary of the provisions of this Division and the Rules with respect to the allowance of time to pay and payment by instalments and with respect to applications for revocation of enforcement orders.

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(5) Without affecting the operation of any other provision of this Act, a warrant of distress issued pursuant to this section may be directed to the sheriff and, if so directed, shall order the sheriff to do the things specified in the warrant.

(6) Sub-sections (7) to (10) of section 12 apply to a warrant of distress directed to the sheriff under this section.”

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Effect of enforcement order.

“89j. (1) Subject to section 89k, if an enforcement order is made in relation to an offence alleged to have been committed by a person—

- (a) the matter of the alleged offence is deemed to have been heard and determined for the purpose of section 26 of the *Magistrates' Courts Act 1971*; and
- (b) the person is not thereby to be taken to have been convicted of the offence; and
- (c) the person is not to be liable for any further proceedings for the alleged offence; and

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(d) the making of the order does not in any way affect or prejudice any civil claim, action or proceedings arising out of the same occurrence; and

5 (e) payment pursuant to the order is not an admission of liability for the purpose of, and does not in any way affect or prejudice, any civil claim, action or proceeding arising out of the same occurrence.

10 (2) Any amount recovered as a result of the making of an enforcement order is to be dealt with in the same way as an amount recovered as a result of a conviction.”

Revocation of enforcement orders.

15 “89K. (1) An enforcement agency or any person against whom an enforcement order has been made may apply for the revocation of the enforcement order unless a warrant has been executed under this Division in enforcement of the order.

(2) An application must—

(a) be made in writing to the court; and

(b) be lodged with the clerk.

20 (3) The clerk must revoke the enforcement order and upon revocation the enforcement order ceases to have effect.”

Procedure after revocation.

“89L. If an enforcement order is revoked, the clerk must—

25 (a) cause a notice of revocation to be given or sent to the enforcement agency and to the person in respect of whom the enforcement order was made; and

30 (b) unless notice of withdrawal has been received under section 89M before that referral, not more than 14 days after the revocation send the certificate upon which the enforcement order was made to a suitable Magistrates’ Court for hearing of the alleged offence.”

Withdrawal of certificate.

“89M. (1) An enforcement agency may, by notice in writing in the prescribed form, request the clerk to withdraw any certificate produced before the clerk on its behalf under section 89E.

35 (2) If the notice of withdrawal is received by the clerk before the referral of the certificate to a Magistrates’ Court under section 89L, the clerk must withdraw the certificate in accordance with the Rules.

(3) A certificate which is withdrawn under this section has no further effect under this Part.”

Effect of certificate.

“89N. Subject to section 89M, if an enforcement order is revoked, a certificate given under section 89E in relation to the alleged offence is deemed for the purposes of a hearing under this Division—

- (a) to be an information in relation to the alleged offence; and 5
- (b) to have been laid at the time the certificate was produced before the clerk under section 89E; and
- (c) to have been laid by the appropriate officer who executed the certificate.”

Magistrates’ Court may hear matter.

“89O. If an enforcement order in relation to an alleged offence is revoked, the Magistrates’ Court to which the certificate in relation to that alleged offence is referred under section 89L may proceed to hear and determine the matter of the alleged offence even though a copy of the certificate has not been served on the defendant.” 15

Notice of hearing.

“89P. (1) The clerk of the Magistrates’ Court to which a certificate is referred under section 89L must, as soon as practicable, give notice of the time and place of the hearing of the alleged offence to all parties to the proceedings. 20

(2) The hearing of the matter may proceed notwithstanding any omission or error in a notice under sub-section (1), or a failure to give notice, if the court is satisfied that the defendant and the other parties to the proceedings had knowledge of the time and place of hearing and were not prejudiced by the omission, error or failure. 25

(3) If, but for this sub-section, the hearing of an alleged offence under this Division may not proceed by reason only that—

- (a) the defendant was not served with a notice of the time and place of hearing of the alleged offence; and
- (b) the Magistrates’ Court exercising jurisdiction under this Part is not satisfied that— 30
 - (i) the defendant had knowledge of the time and place of the hearing; or
 - (ii) if the court is satisfied that the defendant had that knowledge, the defendant would not be prejudiced by the non-service— 35

the hearing of the alleged offence may proceed if the Magistrates’ Court exercising jurisdiction under this Division is satisfied that the defendant is avoiding service of the notice or cannot, after reasonable search and inquiry, be found.” 40

Order made upon hearing.

5 “89Q. An order made under section 89O in relation to an offence in respect of which an enforcement order was revoked may be enforced in the same manner and in all respects as if the enforcement order had not been made.”

Service of documents.

“89R. (1) All notices or documents authorized or required under this Part to be given or served may be served personally or by post or in any other prescribed manner.

- 10 (2) If a courtesy letter is served by post it must be addressed—
- (a) to the last known place of residence or business of the person alleged to have committed the offence; or
 - (b) in the case of an infringement notice served under section 210 (2) (b) or (c) of the *Transport Act 1983*—
 - 15 (i) to the last address of the owner of the vehicle within the meaning of section 208 of that Act; or
 - (ii) if a sworn statement has been supplied by the owner of the vehicle pursuant to section 209 of that Act to the last address of the person alleged in that statement to have been in charge of the vehicle.
- 20 (3) Any other notice or document served by post under this Part must be addressed—
- (a) to the address given by the person on whom the notice is required to be served; or
 - 25 (b) where no such address has been given, to the address shown in the certificate filed pursuant to section 89E.”

Division 2—Penalty Notices

Interpretation.

- 30 “89s. In this Division—
- “**Penalty notice**” means a penalty notice under section 570A of the *Companies (Victoria) Code* or section 141A of the *Securities Industry (Victoria) Code*.
- 35 “**Prescribed offence**” means a prescribed offence under section 570A of the *Companies (Victoria) Code* or section 141A of the *Securities Industry (Victoria) Code*.”

Application of Division.

“89T. This Division applies to penalty notices and prescribed offences notwithstanding anything to the contrary in the *Companies (Victoria) Code* or the *Securities Industry (Victoria) Code*.”

Application of Division 1 to penalty notices.

‘89U. Sections 89A to 89J, with such adaptations as are necessary, apply to penalty notices and prescribed offences as if—

- (a) any reference in those sections to an “infringement notice” were a reference to a penalty notice; and
- (b) for section 89J (1) (b) there were substituted the following paragraph:

“(b) the person is not thereby to be taken to have been convicted of the offence except as provided in section 89v.”’

Deemed conviction where failure to do act or thing.

“89v. If a penalty notice has been served on a person in relation to a prescribed offence constituted by a failure to do a particular act or thing and—

- (a) the person pays the infringement penalty together with any prescribed costs after the expiration of the period specified in the penalty notice but before an enforcement order is made under this Part in relation to the prescribed offence but does not do the act or thing and at the date of payment that act or thing was still able to be done, the obligation to do that act or thing continues and section 571 of the *Companies (Victoria) Code* or section 142 of the *Securities Industry (Victoria) Code* (as the case may be) applies in relation to the continued failure to do the act or thing as if, on the day on which the person made the payment, the person had been convicted of an offence constituted by a failure to do the act or thing; or
- (b) an enforcement order is made and the person has not done that act or thing and at the date of the enforcement order that act or thing was still able to be done, the obligation to do that act or thing continues and section 571 of the *Companies (Victoria) Code* or section 142 of the *Securities Industry (Victoria) Code* (as the case may be) applies in relation to the continued failure to do that act or thing as if, on the day on which the enforcement order was made, the person had been convicted of an offence constituted by a failure to do the act or thing.”

Application for revocation of enforcement order.

“89w. (1) An enforcement agency or any person against whom an enforcement order has been made in relation to a prescribed offence may apply for the revocation of the enforcement order unless a warrant has been executed under this Division in enforcement of the order.

(2) An application must—

- (a) be made in writing to the court; and

(b) be lodged with the clerk.”

Referral of application to Magistrates’ Court.

5 “89x. Within 14 days after receiving an application under section 89w the clerk must send the application and the certificate upon which the enforcement order was made to a suitable Magistrates’ Court for its determination.”

Withdrawal of certificate.

10 “89y. If an application for revocation has been made under section 89w, the enforcement agency may, by notice in the prescribed form, apply to the Magistrates’ Court to which the application has been sent under section 89x for the withdrawal of the certificate.”

Magistrates’ Court may hear matter.

15 “89z. (1) The Magistrates’ Court to which an application and certificate are sent under section 89x may—

(a) revoke the order; and

(b) if an application for withdrawal of the certificate has been made; allow the withdrawal of the certificate.

(2) Upon revocation an enforcement order ceases to have effect.

20 (3) A certificate which is withdrawn under this section has no further effect under this Part.”

Effect of certificate.

25 “89za. If an enforcement order is revoked under section 89z and the relevant certificate is not withdrawn, the certificate is deemed for the purposes of a hearing under this Division—

(a) to be an information in relation to the alleged offence; and

(b) to have been laid at the time the certificate was produced before the clerk under section 89E; and

(c) to have been laid by the appropriate officer who executed the certificate.”

30 Court may proceed to hear offence.

35 “89zb. (1) If a Magistrates’ Court revokes an order under section 89z and the relevant certificate is not withdrawn, the Magistrates’ Court may proceed to hear and determine the matter of the alleged offence even though a copy of the certificate has not been served on the defendant.

(2) The Magistrates’ Court may adjourn a hearing under sub-section (1) to some convenient day and may direct notice of the adjournment to be given to any party within such time and in such manner as it thinks fit.”

Notice of hearing.

“89ZC. (1) Section 89P applies to the hearing of an application under section 89Z as if in that section—

- (a) the reference to section 89L were a reference to section 89Y; and
- (b) any reference to the hearing of an alleged offence were a reference to the hearing of the application.

(2) Section 89P applies to the hearing of the matter of an alleged offence under section 89ZB as if in section 89P the reference to section 89L were a reference to section 89Y.

(3) The notice given under section 89P (1) of the hearing of an application in respect of an alleged offence under section 89Z is deemed to be the notice required to be given under section 89P (1) in relation to the hearing of the matter of the alleged offence under section 89ZB.

Order made upon hearing.

“89ZD. An order made under section 89ZB in relation to an offence may be enforced in the same manner and in all respects as if the enforcement order had not been made in relation to that offence.”

Service of documents.

‘89ZE. Section 89R applies to the service of notices and documents under this Division as if after sub-section (2) (a) of that section there were inserted—

“(aa) in the case of an infringement notice served under section 570A of the *Companies (Victoria) Code* or under section 141A of the *Securities Industry (Victoria) Code*—

- (i) to the address of the registered office of the company alleged to have committed the offence notice of which has been lodged with the Commission; or
- (ii) to the last address of the person alleged to have committed the offence notice of which has been or the particulars of which appear from documents lodged with the Commission.”’

Table of Parts.

5. Section 1 (3) of the Principal Act is repealed.

Service of documents by post in relation to taxation offences.

6. In section 11 (1) of the Principal Act—

- (a) after “*Transport Act 1983*” insert “or for any taxation offence within the meaning of Part III. of the *Taxation Administration Act 1953* of the Commonwealth as in force for the time being”; and

- (b) for the expression "\$1000" there shall be substituted the expression "10 penalty units".

Alternative procedure offences.

7. The Principal Act is amended as follows:

- 5 (a) After section 84 (12) insert—
 “(13) The Governor in Council may make regulations to amend Schedule Two by adding any offence or deleting any offence.”; and
- 10 (b) In Schedule Two—
 (i) for paragraph (j) substitute—
 “(j) Offences against the *Companies (Victoria) Code* other than offences punishable by a fine exceeding \$2500 or by imprisonment for a term exceeding six months or both;”; and
- 15 (ii) after paragraph (k) insert—
 “(l) Offences against the *Securities Industry (Victoria) Code*, other than offences punishable by a fine exceeding \$2500 or by imprisonment for a term exceeding six months or both;
- 20 (m) Offences against the *Business Names Act 1962*;
 (n) Offences against the *Associations Incorporation Act 1981* except offences against section 49.”.

Infringement notices under the *Motor Car Act 1958*.

8. (1) The *Magistrates (Summary Proceedings) Act 1975* is amended as follows:

- 25 (a) In section 89A after paragraph (e) insert—
 “or
 (f) an infringement notice under section 82C of the *Motor Car Act 1958*—”;
- 30 (b) After section 89E (1) (h) insert—
 “or
 (i) in the case of an infringement notice served under section 82C of the *Motor Car Act 1958*, the person named in the certificate was at the time of the alleged offence—
 35 (i) the owner of the motor car within the meaning of section 89B of that Act; or
 (ii) the driver of the motor car as shown in a sworn statement supplied pursuant to section 82B of that Act—”;
- 40 (c) After section 89R (2) (b) insert—
 “or

- (c) in the case of an infringement notice served under section 82C of the *Motor Car Act 1958*—
- (i) to the last address of the owner of the motor car within the meaning of section 82B of that Act; or
- (ii) if a sworn statement has been supplied by the owner of the motor car pursuant to section 82B of that Act, to the last address of the person alleged in that statement to have been the driver of the motor car.”. 5
- (2) In section 82B (3) (a) of the *Motor Car Act 1958* for “a summons” substitute: 10
- “(i) a summons;
- (ii) an information under Part VII. of the *Magistrates (Summary Proceedings) Act 1975*; or
- (iii) a courtesy letter under Part VIIA. of that Act— 15
- (whichever is first served).”.
- (3) This section comes into operation—
- (a) immediately after the date of commencement of section 4 of this Act if the *Motor Car (Photographic Detection Devices) Act 1985* is in operation on that date; or 20
- (b) if the *Motor Car (Photographic Detection Devices) Act 1985* is not in operation on that date, immediately after the commencement of that Act.
- Amendment to *Magistrates’ Courts Act 1971*.**
9. The *Magistrates’ Courts Act 1971* is amended as follows: 25
- (a) After section 24 insert—
- Register of proceedings under Part VIIA. of the *Magistrates (Summary Proceedings) Act 1975*.**
- “24A. (1) The clerk of the Court appointed under section 89C of the *Magistrates (Summary Proceedings) Act 1975*— 30
- (a) must keep a record under this section of the orders and other proceedings of that Court and the clerk of that Court under Part VIIA. of that Act in the form or manner prescribed by the Rules;
- (b) must keep all records, files and documents arising from those proceedings for the prescribed period. 35
- (2) In any legal proceedings where it is necessary to prove any matter which appears in or can be calculated from the record kept under sub-section (1) (a), a certificate in the prescribed form signed or purporting to be signed by the clerk of the Court referred to in sub-section (1) setting 40

out that matter is *prima facie* evidence of the facts stated therein.

(3) Section 24 does not apply to orders and proceedings under Part VIIA. of the *Magistrates (Summary Proceedings) Act 1975* of the Court appointed under section 89C of that Act or the clerk of that Court.”; and

(b) After section 28 (3B) insert—

‘(3C) where—

(a) a certificate under Part VIIA. of the *Magistrates (Summary Proceedings) Act 1975* is filed in circumstances in which, pursuant to sub-section (3), no filing fee is paid by the informant; and

(b) an enforcement order is made in relation to that certificate—

the clerk of the court shall order the defendant to pay by way of costs, in addition to the amount of the infringement penalty and any other prescribed costs, an amount equal to the amount that would have been payable upon the filing of the certificate by a person to whom sub-section (3) does not apply.

(3D) For the purposes of sub-section (3C) “clerk” and “court” have the same meanings as they have in Part VIIA. of the *Magistrates (Summary Proceedings) Act 1975*; and

(c) In section 69—

(i) after sub-section (1) (g) insert—

“(ga) with an offence against section 91 or the *Crimes Act 1958*,” and

(ii) after sub-section (1) (p) insert—

“(q) with an indictable offence under the *Occupational Health and Safety Act 1985* but subject to sub-section (6)”;

(iii) after sub-section (5) insert—

“(6) The sentence which may be imposed by the Court under sub-section (1) in relation to an indictable offence under the *Occupational Health and Safety Act 1985* is as follows:

(a) For an offence against section 42, 44, 53 or 54 of that Act—

(i) in the case of body corporate a penalty of not less than 50 penalty units and not more than 100 penalty units; or

(ii) in any other case, a penalty of not less than 10 penalty units and not more than 50 penalty units or imprisonment for a period not exceeding two years or both;

- (b) For any other indictable offence under that Act—
- (i) in the case of a body corporate, a penalty of not more than 100 penalty units; or
 - (ii) in any other case, a penalty of not more than 25 penalty units.”. 5

Amendment of *Motor Car Act 1958*.

10. In section 27A of the *Motor Car Act 1958* for sub-section (1) substitute—

- “(1) If the holder of a licence to drive a motor car— 10
- (a) is convicted of an offence referred to in the Fifth Schedule; or
 - (b) expiates such an offence; or
 - (c) is convicted within the meaning of section 213 (4) of the *Transport Act 1983* with respect to such an offence; or 15
 - (d) is a person against whom an enforcement order has been made and not revoked under Part VIIA. of the *Magistrates (Summary Proceedings) Act 1975* with respect to such an offence—

the Authority shall record against the holder of the licence in the Demerits Register kept by the Authority for the purposes of this section for each offence the number of demerit points set opposite the relevant offence or class of offence referred to in the Fifth Schedule and the points so recorded shall be recorded in respect of the day upon which the offence was committed.”. 20
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Amendment of *Transport Act 1983*.

11. The *Transport Act 1983* is amended as follows:

- (a) In section 209 (3) (a) for “a summons” substitute—
 - “(i) a summons;
 - (ii) an information under Part VII. of the *Magistrates (Summary Proceedings) Act 1975*; or 30
 - (iii) a courtesy letter under Part VIIA. of that Act— (whichever is first served)”; and
- (b) After section 209 (3) insert—
 - “(3A) In sub-section (3) a reference to “the informant” in relation to a courtesy letter under Part VIIA. of the *Magistrates (Summary Proceedings) Act 1975* is a reference to the appropriate officer under that Part.”; and 35
- (c) In section 210 (6) (d) for “fourteen days” substitute “28 days”; and 40
- (d) In section 212 (4) (d) for “one month” substitute “28 days”.

Amendment of *Penalties and Sentences Act 1981*.

12. In section 13A (3) of the *Penalties and Sentences Act 1981* after "1975" insert "or proceedings under Part VIIA. of that Act by the Magistrates' Court appointed under that Part or the clerk of that Court."

5 Amendment of *Crimes Act 1958*.

13. For section 91 (4) of the *Crimes Act 1958* substitute—

"(4) On the conviction of a person for an offence under this section, the court may order the article to be forfeited to the Crown and disposed of in the manner set out in the order."

