

## Road Safety (Wheel Clamping) Bill

### EXPLANATORY MEMORANDUM

- Clause 1 states the purpose of the Act.
- Clause 2 provides for the commencement of the Act. It states that clauses 1 and 2 operate from the date of the Royal Assent. Sub-clause (2) states that the remaining provisions of the Act come into effect on a day or days to be proclaimed. The effect of sub-clause(3) is that if a provision has not been proclaimed to come into operation within six months of the date of the Royal Assent it will come into operation six months after that date.
- Clause 3 provides that the **Road Safety Act 1986** is the Principal Act.
- Clause 4 inserts a new Part 7A, "Private Parking Areas", in the **Road Safety Act 1986**.

Proposed section 90A sets out definitions used in Part 7A.

Proposed section 90B abolishes the common law remedy of distress damage feasant to the extent that it applies in cases of trespass to land by motor vehicles.

Proposed section 90C makes it an offence to wheel clamp or otherwise detain or immobilise a motor vehicle except in certain circumstances or places.

Proposed section 90D enables an owner or occupier of land to enter into an agreement with the relevant municipal council for the provision by that council of parking services. It also sets out the matters to be provided for in an agreement and requirements about signs and their siting.

Proposed section 90E makes it an offence to park in a council controlled area contrary to the applicable signs or limitations.

Proposed section 90F provides a mechanism whereby once a parking infringement notice has been served, a member of the police force can authorise a licensed tow truck operator to remove a motor vehicle from a council controlled area. This mechanism can only be used in the limited circumstances specified in sub-section (2). A vehicle removed under this provision may be reclaimed by the owner on payment of a release fee.

Proposed section 90G ensures that members of the police force are entitled to enter council controlled areas to issue parking infringement notices or to authorise the towing of a motor vehicle.

Proposed section 90H renders an agreement void to the extent that it authorises actions contrary to proposed section 90C.

- Clause 5 of the Bill amends section 87 of the **Road Safety Act 1986** in relation to the power to serve parking infringement notices on land within a council controlled area or on land to which the **Road Safety Act** otherwise applies. It extends the power to serve a parking infringement notice in respect of a parking infringement committed within a municipality to a person authorised by the relevant municipal council who is not a member of the staff of the council. Sub-clause (1C) sets out the criteria a person must possess before they can be so authorised by a municipal council. Sub-clauses (1D) to (1H) specify requirements that the activities of such authorised persons must meet.
- Clause 6 amends the **Road Safety Act 1986** to provide the "on the spot" penalty for a parking infringement in a council controlled area.
- Clause 7 makes a consequential amendment to the **Road Safety Act 1986**.