

Transport and Other Legislation Amendment Bill 2026

Explanatory Notes

FOR

Amendments to be moved during consideration in detail by the Honourable Brent Mickelberg MP, Minister for Transport and Main Roads

Short title

The short title of the Bill is the Transport and Other Legislation Amendment Bill 2026.

Objectives of the amendments

The Transport and Other Legislation Amendment Bill 2026 (the Bill) was introduced to improve road safety and support the efficient implementation and enforcement of transport legislation. Following introduction of the Bill, some matters were identified that require amendment before the Bill is passed. The amendments are necessary to ensure the Bill operates as intended, aligns with related legislative reforms, addresses implementation and operational matters identified following introduction of the Bill, and to make a number of minor technical changes.

Consequential amendments relating to dangerous driving reforms

The Criminal Code (Dangerous Driving) and Other Legislation Amendment Bill 2026 (dangerous driving reforms) repeals section 328A (Dangerous operation of a vehicle) of the Criminal Code and replaces it with new offence provisions. The Bill contains references to section 328A of the Criminal Code in provisions relating to immediate driver licence suspension, and evidentiary provisions for breath and saliva analysing instruments. The objective of the amendments is to ensure those references in the Bill continue to operate as intended following commencement of the dangerous driving reforms.

Evidentiary certificates for speed cameras

The Bill includes amendments relating to evidentiary certificates and calibration testing for speed cameras. Existing testing entities for speed cameras have been approved under the current provisions of the *Traffic Regulation 1962* and will need to transition to the new approval framework for calibration testing entities. The objective of the amendments is to ensure evidentiary certificates relying on calibration testing undertaken by existing approved entities continue to operate as intended during the transition to the new framework.

Severe hardship permit review framework

The Bill introduces a severe hardship permit scheme for persons who are subject to immediate licence suspension for speeding over 40km/h over the speed limit. Further consideration of the proposed review framework identified opportunities to improve the clarity, operation and administration of the review of decisions about severe hardship permits. The objective of the amendments is to refine the review framework, support efficient and effective review of severe hardship permit decisions, and provide greater clarity regarding the functions and powers of the chief executive and the courts. The amendments also seek to improve procedural fairness and provide greater certainty regarding review rights under the framework.

Technical amendments

The objective of the amendments is to make technical changes, including to section 124(3) of TORUM, which deals with evidentiary certificates for vehicle disposal. The amendment will update section 124(3) to refer to the relevant disposal power under section 123Q of the *Police Powers and Responsibilities Act 2000*.

Achievement of objectives

Consequential amendments relating to dangerous driving reforms

The policy objective is achieved by amending references in the Bill that will be affected by the proposed commencement of the Criminal Code (Dangerous Driving) and Other Legislation Amendment Bill 2026. The amendments update references to existing dangerous driving offence provisions and ensure amendments to section 123P of the TORUM operate consistently with the dangerous driving reforms.

Evidentiary certificates for speed cameras

The policy objective is achieved by providing a transitional arrangement for the new calibration testing framework. The amendments ensure calibration testing undertaken by entities approved under the existing approval framework to conduct calibration testing of a photographic detection device will be taken to be approved, and to have always been approved, to undertake calibration of the speed measuring component for a photographic detection device. This will allow the evidentiary certificate framework, which facilitates the use of photographic detection device evidence in courts, to continue to operate as intended during the transition to the new approval framework.

Severe hardship permit review framework

The policy objective is achieved by amending the severe hardship permit review framework established under the Bill. The amendments clarify the regulation-making power relating to severe hardship permits and provide greater certainty regarding the role of the courts in reviewing severe hardship permit decisions. The amendments also replace appeal terminology with review terminology, clarify the role of the chief executive in review proceedings, refine provisions relating to court procedure and evidence, require review applications to be decided as soon as practicable, clarify the effect of a court's substituted decision and provide for a further right of appeal on a question of law. The amendments support the efficient administration of the severe hardship permit scheme and improve the clarity and operation of the review framework.

Technical amendments

The objective is achieved by updating TORUM to replace the reference to section 123K of the *Police Powers and Responsibilities Act 2000* with a reference to section 123Q of that Act. The amendment is technical in nature and ensures the provision refers to the relevant disposal power.

A number of minor technical amendments are also being made that improve clarity of the legislation without changing its substantive operation.

Alternative ways of achieving policy objectives

There are no reasonable alternative ways of achieving the policy objectives. The amendments represent the most effective and proportionate means of addressing the identified issues.

Estimated cost for government implementation

The amendments are not expected to result in any material additional cost to government beyond the costs associated with implementing the Bill as introduced. Any administrative activities required to support the amendments will be managed using resources and arrangements already proposed for implementation of the Bill.

Consistency with fundamental legislative principles

The amendments are consistent with fundamental legislative principles.

Severe hardship permit review framework

The amendments relating to the severe hardship permit review framework are consistent with fundamental legislative principles. The amendments improve the clarity and operation of the review process, including by clarifying review rights, appeal rights, court powers and procedures, and the role of the chief executive in review proceedings. The amendments promote procedural fairness and provide greater certainty regarding the operation of the review framework.

Other amendments

The consequential dangerous driving amendments, evidentiary certificate amendments and update to the cross-reference are technical or machinery amendments that do not raise additional fundamental legislative principle issues.

Consultation

The Chief Magistrate was consulted on the amendments refining the severe hardship permit review framework in the Bill. Her feedback about the proposed court review process was reflected in the amendments.

Consultation has not been undertaken on the remaining amendments because they are administrative, technical or consequential in nature.

Notes on provisions

Amendment 1 – After clause 65

This amendment inserts a new clause 65A in the Bill which updates section 124 of TORUM to omit a reference to section 123K of the *Police Powers and Responsibilities Act 2000* and insert a reference to section 123Q of that Act.

Amendment 2 – Clause 67

This amendment inserts a new section 249A in the transitional provisions being inserted in TORUM for the Bill. The new section will ensure entities already approved to conduct calibration testing of photographic detection devices immediately before commencement are taken to be

approved to conduct calibration testing of speed measuring components for photographic detection devices under the amended framework. The amendment preserves the validity and continuity of existing approvals and removes any doubt about the status of calibration testing undertaken by those entities before or after commencement.

Amendments 3 and 4 – Clause 70

These amendments update references in clause 70 of the Bill to ensure the provision refers to the intended subsections of section 79 of TORUM.

Amendment 5 – Clause 70

This amendment removes a drafting artifact from clause 70 of the Bill. The amendment is technical in nature and does not change the operation of the provision.

Amendments 6 and 7 – Clause 84

These amendments are technical updates to the drafting of clause 84 of the Bill. Amendment 6 removes an unnecessary reference to section 80(22)(b). Amendment 7 inserts the word “from” to ensure the provision reflects its intended meaning.

Amendment 8 – Clause 93

This amendment is a consequence of the Criminal Code (Dangerous Driving) and Other Legislation Amendment Bill 2026. It inserts an additional paragraph into the definition of *relevant offence* to include an offence against the Criminal Code, section 334I or 334K. The amendment ensures the evidentiary provision also applies to offences against sections 334I (Driving motor vehicle dangerously) and 334K (Operating a vehicle dangerously) of the Criminal Code. This supports the prosecution of those offences where evidence generated by approved analysing instruments is relied upon.

Amendments 9 to 11 – Clause 96

These amendments expand the regulation-making power relating to severe hardship permits. The amendments allow a regulation to prescribe the powers and procedures of a court when dealing with severe hardship permit matters. The amendments support the establishment of a court review process, under new Chapter 14, Part 3 being inserted in the *Transport Operations (Road Use Management—Driver Licensing) Regulation 2021* (Driver Licensing Regulation) by the Bill, as part of the severe hardship permit framework.

Amendment 12 – Clause 99

This amendment is a consequence of the Criminal Code (Dangerous Driving) and Other Legislation Amendment Bill 2026. This amendment updates the definition of “drug-related driver offence” in schedule 4 to refer to an offence against section 334I of the Criminal Code, where the offence is committed with the circumstance of aggravation in section 334I(4)(a)(i) while the offender is under the influence of a drug, or with the circumstance of aggravation in section 334I(4)(a)(iii).

Amendment 13 – Clause 130

This amendment is a consequence of the Criminal Code (Dangerous Driving) and Other Legislation Amendment Bill 2026. This amendment updates a Criminal Code section reference to

section 334I (Driving motor vehicles dangerously), which ensures the severe hardship permit eligibility provisions continue to operate as intended.

Amendments 14 to 27 – Clauses 131, 133 and 134

These amendments replace references to "appeals" and related terminology with references to "reviews". The amendments clarify that a person is applying to a court for a review of a reconsidered decision, rather than bringing an appeal. The amendments also make consequential changes to headings, procedural requirements and relevant terminology throughout the new review provisions.

Amendment 28 – Clause 134

This amendment makes a number of changes to support the new court review process for severe hardship permit decisions. The changes are additions to new section 389C in new Chapter 14, Part 3 being inserted in the *Driver Licensing Regulation* by the Bill to provide for review of decisions relating to severe hardship permits.

The amendment allows an applicant to file an affidavit in support of an application for review. The affidavit may outline any changes in the applicant's circumstances, or circumstances affecting the applicant, that have occurred since the applicant provided the statutory declaration required for the severe hardship permit application. This ensures the court may consider more recent information that may be relevant to the review.

The amendment also requires the chief executive to provide the court with documents relevant to the original application, the original decision and the reconsidered decision. The requirement helps ensure the court has access to the information considered during the administrative decision-making process.

Amendment 29 – Clause 134

This amendment inserts new section 389CA in the new Chapter 14, Part 3 being inserted in the *Driver Licensing Regulation* by the Bill to provide for review of decisions relating to severe hardship permits. The new section clarifies that filing an application for review does not stay either the suspension of the applicant's licence under the original decision or the operation of the reconsidered decision. The amendment ensures those decisions continue to have effect unless and until the court decides otherwise.

Amendment 30 – Clause 134

This amendment replaces a reference to "appeal" with "review" to reflect that, under new Chapter 14, Part 3 being inserted in the *Driver Licensing Regulation* by the Bill, a person is applying to a court for a review of a reconsidered decision, rather than bringing an appeal.

Amendment 31 – Clause 134

This amendment clarifies that the court may inform itself in any way it considers appropriate when conducting a review under new Chapter 14, Part 3 being inserted in the *Driver Licensing Regulation* by the Bill. The Bill already provides that the court is not bound by the rules of evidence. The amendment gives the court flexibility to obtain and consider information relevant to deciding the application.

Amendment 32 – Clause 134

This amendment clarifies the scope of a review under new Chapter 14, Part 3 being inserted in the Driver Licensing Regulation by the Bill, in circumstances where an applicant is seeking review only of restrictions imposed on a severe hardship permit.

The amendment provides that, unless it is necessary for deciding the application, the court is not required to reconsider whether the severe hardship permit should have been granted. This allows the court to focus on the restrictions that are the subject of the review.

Amendments 33 and 34 – Clause 134

These amendments replace references to "appeal" with references to "review" hearings to reflect that, under new Chapter 14, Part 3 being inserted in the Driver Licensing Regulation by the Bill, a person is applying to a court for a review of a reconsidered decision rather than bringing an appeal.

Amendment 35 – Clause 134

This amendment establishes additional procedures for the conduct of review proceedings under new Chapter 14, Part 3 being inserted in the Driver Licensing Regulation by the Bill.

It provides that the court may require the applicant to attend and give evidence, permit other witnesses to give evidence, and allows the applicant or another witness to be cross-examined.

The amendment also provides that the chief executive is a party to the review proceeding. The court may also require the chief executive to give further evidence or make further submissions if necessary. However, unless required by the court, the chief executive is not required to appear at the hearing.

The amendment also allows the court, where appropriate, to conduct all or part of a review on the basis of documents without requiring parties, representatives or witnesses to appear.

The amendment establishes a practical and flexible framework for the conduct of review proceedings.

Amendments 36 to 38 – Clause 134

These amendments make consequential changes arising from the change in terminology from appeal to review and remove references that are no longer required. The amendments ensure the provisions operate consistently with the amended review framework under new Chapter 14, Part 3 being inserted in the Driver Licensing Regulation by the Bill.

Amendment 39 – Clause 134

This amendment inserts new sections 389G and 389H in the new Chapter 14, Part 3 being inserted in the Driver Licensing Regulation by the Bill to provide for review of decisions relating to severe hardship permits.

New section 389G provides that each party to a review proceeding must bear their own costs.

New section 389H provides that copies of material used by the chief executive in making a reconsidered decision are admissible in evidence as if they were the original material. This avoids the need to produce original documents and assists in the efficient conduct of review proceedings.

Amendment 40 – Clause 140

This amendment replaces a reference to "appeal" with a reference to "review" to reflect that, under new Chapter 14, Part 3 being inserted in the Driver Licensing Regulation by the Bill, a person is applying to a court for a review of a reconsidered decision, rather than bringing an appeal.

Amendment 41 – After clause 155

This amendment inserts a new clause 155A in the Bill that clarifies the definition of "take" in schedule 1 of the *Transport Planning and Coordination Act 1994* to make it clear that a reference to taking a signature is a reference to taking the signature of a person. The amendment is consequential to the amendment in clause 151 of the Bill which inserts a new definition of "take" in relation to a digital photo or signature for section 28E of the *Transport Planning and Coordination Act 1994*. This amendment ensures internal consistency of definitions in that Act without changing its substantive operation.