

Question on Notice

Transport and Resources Committee

Committee inquiry into the Transport Legislation (Road Safety and Other Matters) Amendment Bill 2022

Asked on Monday 20 June 2022

The Transport and Resources Committee asked the Department of Transport and Main Roads

QUESTION:

On page 12 of the Explanatory Notes for the Bill, clause 5 states: "The amendment to create the new offence is discussed below". But there does not seem to be any information below. The committee seeks clarification about where the information about the new offence is located.

ANSWER:

I thank the Transport and Resources Committee for the question.

The amendment to create the new section 239A offence in the *Transport Operations (Road Use Management – Road Rules) Regulation 2009* is made at clause 35 of the Bill. The discussion in relation to clause 35 appears on page 19 of the Explanatory Notes and states:

Clause 35 inserts new section 239A (Operating a motorised mobility device on a path). Section 239A replaces the provisions of sections 288(1) and (3) as they apply to motorised wheelchairs and reframes them to apply to the operator of an MMD. In effect, section 239A removes the unladen mass limit that previously applied to motorised wheelchairs under section 288(3) but retains the speeding offence so that it will continue to be an offence for a Motorised Mobility Device (MMD) to travel more than 10km/h on a path (a bicycle path, footpath or shared path). It will also continue to be an offence for a person to operate an MMD on a path unless, because of their physical condition, the person has a reasonable need to use an MMD. This is intended to ensure that persons who do not have a reasonable need to use an MMD do not use these devices on a path.

Further, subsection 239A(2) will insert a section-specific definition of motorised mobility device so that the offence applies to a device that would be an MMD but for the fact that it can reach a speed on level ground of more than 15 km/h. For example, a device that otherwise meets the definition of a mobility scooter (as defined in Schedule 4 of the Act) but can reach a speed on level ground of 25 km/h will be considered an MMD for the purposes of the offence in section 239A. The maximum penalty that will apply to a breach of section 239A is 20 penalty units, consistent with the maximum penalty that currently applies under section 288(1). The penalty infringement notice amount that will apply will be two-fifths of a penalty unit, consistent with other pedestrian offences in Division 1 and 2 of Part 14 of the QRRs.

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QUESTION:

The Explanatory Notes on page 14 for Part 5 of the *Transport Operations (Road Use Management) Act* refers to "clause 14 amends section 93". In the second sentence it says, "Clause 7(1) amends paragraph (a)". There does not appear to be a clause 7(1). The committee seeks clarification that it is proposed [to amend] section 93(5) not 7(1).

ANSWER:

I thank the Transport and Resources Committee for the question.

The reference to "Clause 7(1)" in the discussion about clause 14 of the Bill is an error. The reference should be to "Clause 14(1)". Clause 14(1) of the Bill does amend section 93(5) of the *Transport Operations (Road Use Management) Act 1995*.