

Authorised Version No. 007
Road Safety Camera Commissioner Act 2011

No. 47 of 2011

Authorised Version incorporating amendments as at
1 July 2020

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The Parliament of Victoria enacts:

Part 1—Preliminary

1 Purpose

The purpose of this Act is to establish the office of Road Safety Camera Commissioner and to provide for the appointment, functions and powers of the Road Safety Camera Commissioner.

2 Commencement

- (1) Subject to subsection (2), this Act comes into operation on a day or days to be proclaimed.
- (2) If a provision of this Act does not come into operation before 31 December 2011, it comes into operation on that day.

3 Definitions

In this Act—

Commissioner means the Road Safety Camera Commissioner and includes an Acting Road Safety Camera Commissioner;

contractor means a person or body engaged by the Department to deliver services for the operation of the road safety camera system;

S. 3 def. of *contractor* inserted by No. 39/2019 s. 3.

Department means the Department of Justice and Community Safety;

S. 3 def. of *Department* inserted by No. 39/2019 s. 3.

Road Safety Camera Commissioner Act 2011
No. 47 of 2011
Part 1—Preliminary

S. 3 def. of
*road safety
camera
system*
amended by
No. 77/2013
s. 43.

Reference Group means the group of advisers established under section 14;

road safety camera system means the road safety cameras and processes prescribed under the **Road Safety Act 1986** that are used to detect offences under that Act, including—

- (a) images or messages produced by them;
and
- (b) their testing, sealing and manner of use.

Part 2—Road Safety Camera Commissioner

Division 1—Establishment and appointment

Pt 2 Div. 1
(Heading)
inserted by
No. 39/2019
s. 4.

4 Establishment

There is to be a Road Safety Camera Commissioner.

5 Appointment

The Governor in Council may appoint a person as the Road Safety Camera Commissioner.

6 Terms and conditions of appointment

- (1) The Commissioner holds office for the period, not exceeding 3 years, specified in his or her instrument of appointment.
- (2) The Commissioner is eligible for re-appointment.
- (3) The Commissioner holds office, subject to this Part, on the terms and conditions specified in the instrument of appointment.
- (4) The Commissioner holds office on a part-time basis.

7 Remuneration and allowances

- (1) The Commissioner is entitled to be paid the remuneration and allowances that are determined by the Governor in Council.
- (2) The remuneration of the Commissioner must not be reduced during his or her term of office unless the Commissioner consents to the reduction.

8 Acting Commissioner

- (1) The Governor in Council may appoint a person to act in the office of Commissioner during a vacancy in that office.
- (2) The Minister may appoint a person to act in the office of Commissioner—
 - (a) during a period or all periods when the person holding that office is absent from duty or is, for any reason, unable to perform the functions and duties of that office; or
 - (b) if the Commissioner is, for any reason, unable to perform a particular function or duty on a particular occasion or in relation to a particular matter, to perform that function or duty on that occasion or in relation to that matter.

9 Vacancy, resignation

- (1) The Commissioner ceases to hold office if he or she—
 - (a) resigns by notice in writing delivered to the Governor in Council; or
 - (b) becomes an insolvent under administration; or
 - (c) is convicted of an indictable offence or an offence that, if committed in Victoria, would be an indictable offence; or
 - (d) is removed from office under subsection (2).
- (2) The Governor in Council may remove the Commissioner from office for misconduct, neglect of duty or physical or mental incapacity.

Division 2—Functions and powers

10 Functions

The Commissioner has the following functions—

- (a) to undertake, at least annually, reviews and assessments of the accuracy of the road safety camera system in order to monitor compliance of the system with the requirements of the **Road Safety Act 1986** and regulations made under that Act;
- (b) to undertake, at least annually, reviews and assessments of the information about the road safety camera system that is made available to the public by the Department;
- (c) to undertake investigations requested or agreed to by the Minister into the integrity, accuracy or efficiency of the road safety camera system;
- (d) to receive complaints concerning any aspect of the road safety camera system and—
 - (i) if appropriate, to refer a complaint to an appropriate person or body for further action; or
 - (ii) to provide information on the available avenues for resolution of a complaint;
- (e) to investigate complaints referred to in paragraph (d) that appear to indicate a problem with the road safety camera system and to make recommendations to the Minister to address any systemic issues identified;
- (f) to investigate any matter in relation to the road safety camera system that the Minister refers to the Commissioner;

Pt 2 Div. 2
(Heading)
inserted by
No. 39/2019
s. 5.

S. 10(b)
amended by
No. 39/2019
s. 6.

S. 10(fa)
inserted by
No. 79/2014
s. 54.

- (fa) to provide information about the road safety camera system in response to a request for information from a person or body;
- (g) to provide advice to the Minister on any matter in relation to the road safety camera system;
- (h) to refer appropriate matters to the Reference Group for research and advice;
- (i) to keep records of investigations undertaken and complaints received by the Commissioner and the action taken in response, if any;
- (j) to make available to the Minister, on request, the records kept under paragraph (i);
- (k) any other function conferred on the Commissioner by or under this or any other Act.

11 Powers

- (1) The Commissioner has all the powers necessary or convenient to perform his or her functions.
- (2) Without limiting subsection (1), the Commissioner may—
 - (a) request information from the Department concerning the operation of the road safety camera system;
 - (b) make copies of, or take extracts from, any document relating to the operation of the road safety camera system.
- (3) In exercising his or her powers, the Commissioner must comply with any relevant requirements specified by or under any other Act.

S. 11(2)(a)
amended by
No. 39/2019
s. 7.

S. 11A
inserted by
No. 39/2019
s. 8.

11A Protection from liability

- (1) The Commissioner is not personally liable for anything done or omitted to be done in good faith—
 - (a) in the exercise of a power or the performance of a function under this Act; or
 - (b) in the reasonable belief that the act or omission was in the exercise of a power or the performance of a function under this Act.
- (2) Any liability resulting from an act or omission that, but for subsection (1), would attach to the Commissioner attaches instead to the State.

12 Conflict of interest

The Commissioner must disclose to the Minister in writing any direct or indirect interest, whether pecuniary or otherwise, that the Commissioner has or acquires that could conflict with the proper performance of the duties of the office of Commissioner.

13 Staff

There may be employed under Part 3 of the **Public Administration Act 2004** any employees that are necessary for the purposes of this Act.

13A Delegation

The Commissioner may by instrument delegate any power, function or duty of the Commissioner under this Act, other than this power of delegation, to a member of staff employed under section 13.

S. 13A
inserted by
No. 77/2013
s. 44.

Division 3—Administrative matters

Pt 2 Div. 3
(Heading and
ss 13B–13D)
inserted by
No. 39/2019
s. 9.

13B Request from Commissioner for information concerning the operation of the road safety camera system

S. 13B
inserted by
No. 39/2019
s. 9.

- (1) If the Commissioner requests information from the Department under section 11(2)(a), the Department is authorised to disclose information to the Commissioner for the purposes of complying with the Commissioner's request.
- (2) If a contractor is in possession or control of information that is subject to the Commissioner's request under section 11(2)(a), the contractor must provide the information to the Department on the Department's request.
- (3) The Department must ensure that any information provided to the Commissioner in response to the Commissioner's request under section 11(2)(a)—
 - (a) is provided to the Commissioner in a timely manner; and
 - (b) is comprehensive and relevant to the Commissioner's request.

13C Duty to cooperate

S. 13C
inserted by
No. 39/2019
s. 9.

The Department and any contractor must cooperate with any reasonable request made by the Commissioner, or any person assisting the Commissioner, that has been made for the purposes of performing the functions or exercising the powers of the Commissioner.

13D Minister may make guidelines

- (1) The Minister may make guidelines in relation to the following matters—
 - (a) the performance of functions and the exercise of powers by the Commissioner;
 - (b) privacy and security requirements under the Act;
 - (c) record-keeping requirements under the Act;
 - (d) information sharing between the Department, any contractor and the Commissioner including any timeframes for the provision of information to the Commissioner;
 - (e) reporting requirements to the Minister in relation to information sharing between the Department, any contractor and the Commissioner;
 - (f) any other matter necessary to meet the requirements of the Act.
- (2) The Minister must publish guidelines made under this section in the Government Gazette.

S. 13D
inserted by
No. 39/2019
s. 9.

Division 4—Reference Group

Pt 2 Div. 4
(Heading)
inserted by
No. 39/2019
s. 10.

14 Reference Group

- (1) The Commissioner may establish a group of advisers to be known as the Reference Group.
- (2) The Reference Group is to consist of the Commissioner and not less than 3 and not more than 7 members who are appointed by the Minister on the recommendation of the Commissioner.

15 Function and powers of Reference Group

- (1) The function of the Reference Group is to provide advice and information to the Commissioner in order to assist the Commissioner in the performance of his or her functions under this Act.
- (2) The Reference Group has all the powers necessary or convenient to perform its functions.

16 Fees and allowances

A member of the Reference Group, other than the Commissioner and a member who is an officer or employee of the public service, is entitled to be paid the fees and travelling and other allowances from time to time approved by the Minister.

17 Procedure of the Reference Group

- (1) The Commissioner is to be the chairperson of the Reference Group and is to provide its terms of reference.
- (2) The terms of reference must not exceed the functions and powers of the Commissioner under this Act.
- (3) A quorum of the Reference Group consists of a majority of the members of the Reference Group for the time being.
- (4) Subject to this Act, the Reference Group may regulate its own procedure.

18 Member of Reference Group as expert witness

A member of the Reference Group must not act as an expert witness in, or comment publicly on, a matter currently under consideration by the Reference Group.

Part 3—General

19 Complaints

- (1) A complaint may be made to the Commissioner only by—
 - (a) a person or body, whether corporate or unincorporated, that is aggrieved by any aspect of the road safety camera system; or
 - (b) a representative of a person or body referred to in paragraph (a).
- (2) A complaint must be made in writing.

19A Disclosure of information collected or received by the Secretary to the Department of Transport

S. 19A
(Heading)
amended by
No. 49/2019
s. 186(Sch. 4
item 36.1).

S. 19A
inserted by
No. 55/2013
s. 13.

- (1) The Secretary to the Department of Transport or a relevant person may disclose relevant information to the Commissioner or to the Reference Group for the purpose of the performance of functions under this Act.
- (2) In this section—

S. 19A(1)
amended by
No. 49/2019
s. 186(Sch. 4
item 36.2).

relevant information has the same meaning as it has in section 90I of the **Road Safety Act 1986**;

relevant person has the same meaning as it has in section 90I of the **Road Safety Act 1986**.

20 Law enforcement documents

The Commissioner or a person who is or has been a member of the Reference Group must not disclose any document if its disclosure under this Act would, or would be reasonably likely to—

- (a) prejudice the investigation of a contravention or possible contravention of the law or prejudice the enforcement or proper administration of the law in a particular instance; or
- (b) prejudice the fair trial of a person or the impartial adjudication of a particular case; or
- (c) disclose, or enable a person to ascertain, the identity of a confidential source of information in relation to the enforcement or administration of the law; or
- (d) disclose methods or procedures for preventing, detecting, investigating or dealing with matters arising out of, contraventions or evasions of the law the disclosure of which would, or would be reasonably likely to, prejudice the effectiveness of those methods or procedures; or
- (e) endanger the lives or physical safety of persons engaged in or in connection with law enforcement or persons who have provided confidential information in relation to the enforcement or administration of the law.

21 Reports to Parliament

- (1) The Commissioner must cause a report to be laid before each House of the Parliament in respect of each financial year on the performance of his or her functions under this Act during the financial year.
- (2) A report must include—
 - (a) a report on the activities of the Reference Group during the financial year; and

- (b) the findings of investigations conducted by the Commissioner during the financial year and the recommendations made; and
- (c) any other information or recommendation that the Commissioner considers appropriate; and
- (d) any information requested by the Minister.

* * * * *

S. 21(3)
repealed by
No. 39/2019
s. 11(1).

- (4) The Commissioner may at any time prepare a report for the Parliament on any matter arising in connection with the performance of his or her functions under this Act if the Commissioner considers it necessary to do so.

- (5) If the Commissioner intends to include in a report under this section a finding or comment that names a person or body, the Commissioner must—

S. 21(5)
inserted by
No. 39/2019
s. 11(2).

- (a) first give that person or body a reasonable opportunity to respond to the Commissioner's finding or comment; and
- (b) fairly set out in the report each element of the response of the person or body.

- (6) The Commissioner must give a copy of a report prepared under this section to the Minister at least 28 days before the report is transmitted to Parliament under section 22.

S. 21(6)
inserted by
No. 39/2019
s. 11(2).

22 Transmission of reports to Parliament

- (1) The Commissioner must cause a report prepared under section 21 to be transmitted to the clerk of each House of the Parliament not later than 3 months after the end of the financial year to which the report relates.

- (2) A report transmitted to the clerk of a House of the Parliament under subsection (1)—
 - (a) is deemed to have been ordered by the House to be printed; and
 - (b) as published must be laid before the House on the next sitting day of the House.
- (3) If a report is received by the clerk of a House of the Parliament under subsection (1), the clerk must—
 - (a) as soon as practicable after the report is received, notify each member of the House of its receipt and advise that the report is available on request; and
 - (b) give a copy of the report to any member of the House on request to the clerk.
- (4) The publication of a report in accordance with this section is absolutely privileged and the provisions of sections 73 and 74 of the **Constitution Act 1975** and of any other enactment or rule of law relating to the publication of the proceedings of the Parliament apply to and in relation to the publication of the report as if it were a report to which those sections applied and had been published by the Government Printer under the authority of the Parliament.

S. 22A
inserted by
No. 39/2019
s. 12.

22A Commissioner's draft work program

- (1) At the beginning of each financial year, the Commissioner must prepare a draft work program that sets out any proposed reports for the Parliament under section 21(4) for that year.
- (2) In preparing a draft work program under this section, the Commissioner must consult with the Department.

23 Regulations

The Governor in Council may make regulations for or with respect to any matter or thing required or permitted by this Act to be prescribed or necessary to be prescribed to give effect to this Act.

* * * * *

**Pt 4 (Heading
and ss 24–26)
repealed by
No. 47/2011
s. 26.**

Endnotes

1 General information

See www.legislation.vic.gov.au for Victorian Bills, Acts and current authorised versions of legislation and up-to-date legislative information.

Minister's second reading speech—

Legislative Assembly: 31 May 2011

Legislative Council: 1 September 2011

The long title for the Bill for this Act was "A Bill for an Act to establish the office of Road Safety Camera Commissioner and for other purposes."

The **Road Safety Camera Commissioner Act 2011** was assented to on 22 September 2011 and came into operation on 12 October 2011: Special Gazette (No. 313) 4 October 2011 page 1 (see Erratum: Special Gazette (No. 315) 4 October 2011 page 1.

INTERPRETATION OF LEGISLATION ACT 1984 (ILA)

Style changes

Section 54A of the ILA authorises the making of the style changes set out in Schedule 1 to that Act.

References to ILA s. 39B

Sidenotes which cite ILA s. 39B refer to section 39B of the ILA which provides that where an undivided section or clause of a Schedule is amended by the insertion of one or more subsections or subclauses, the original section or clause becomes subsection or subclause (1) and is amended by the insertion of the expression "(1)" at the beginning of the original section or clause.

Interpretation

As from 1 January 2001, amendments to section 36 of the ILA have the following effects:

- **Headings**

All headings included in an Act which is passed on or after 1 January 2001 form part of that Act. Any heading inserted in an Act which was passed before 1 January 2001, by an Act passed on or after 1 January 2001, forms part of that Act. This includes headings to Parts, Divisions or Subdivisions in a Schedule; sections; clauses; items; tables; columns; examples; diagrams; notes or forms. See section 36(1A)(2A).

- **Examples, diagrams or notes**

All examples, diagrams or notes included in an Act which is passed on or after 1 January 2001 form part of that Act. Any examples, diagrams or notes inserted in an Act which was passed before 1 January 2001, by an Act passed on or after 1 January 2001, form part of that Act. See section 36(3A).

- **Punctuation**

All punctuation included in an Act which is passed on or after 1 January 2001 forms part of that Act. Any punctuation inserted in an Act which was passed before 1 January 2001, by an Act passed on or after 1 January 2001, forms part of that Act. See section 36(3B).

- **Provision numbers**

All provision numbers included in an Act form part of that Act, whether inserted in the Act before, on or after 1 January 2001. Provision numbers include section numbers, subsection numbers, paragraphs and subparagraphs. See section 36(3C).

- **Location of "legislative items"**

A "legislative item" is a penalty, an example or a note. As from 13 October 2004, a legislative item relating to a provision of an Act is taken to be at the foot of that provision even if it is preceded or followed by another legislative item that relates to that provision. For example, if a penalty at the foot of a provision is followed by a note, both of these legislative items will be regarded as being at the foot of that provision. See section 36B.

- **Other material**

Any explanatory memorandum, table of provisions, endnotes, index and other material printed after the Endnotes does not form part of an Act. See section 36(3)(3D)(3E).

Road Safety Camera Commissioner Act 2011
No. 47 of 2011
Endnotes

2 Table of Amendments

This publication incorporates amendments made to the **Road Safety Camera Commissioner Act 2011** by Acts and subordinate instruments.

Road Safety Camera Commissioner Act 2011, No. 47/2011

Assent Date: 22.9.11
Commencement Date: S. 26 on 31.12.12: s. 26
Current State: All of Act in operation

Road Legislation Amendment (Use and Disclosure of Information and Other Matters) Act 2013, No. 55/2013

Assent Date: 24.9.13
Commencement Date: S. 13 on 1.1.14: s. 2(3)
Current State: This information relates only to the provision/s amending the **Road Safety Camera Commissioner Act 2011**

Justice Legislation Amendment (Miscellaneous) Act 2013, No. 77/2013

Assent Date: 17.12.13
Commencement Date: Ss 43, 44 on 18.12.13: s. 2(1)
Current State: This information relates only to the provision/s amending the **Road Safety Camera Commissioner Act 2011**

Justice Legislation Amendment (Confiscation and Other Matters) Act 2014, No. 79/2014

Assent Date: 21.10.14
Commencement Date: S. 54 on 22.10.14: s. 2(1)
Current State: This information relates only to the provision/s amending the **Road Safety Camera Commissioner Act 2011**

Police Legislation Amendment (Road Safety Camera Commissioner and Other Matters) Act 2019, No. 39/2019

Assent Date: 6.11.19
Commencement Date: Ss 3–12 on 1.7.20: Special Gazette (No. 323) 30.6.20 p. 1
Current State: This information relates only to the provision/s amending the **Road Safety Camera Commissioner Act 2011**

Transport Legislation Amendment Act 2019, No. 49/2019

Assent Date: 3.12.19
Commencement Date: S. 186(Sch. 4 item 36) on 1.1.20: Special Gazette (No. 514) 10.12.19 p. 1
Current State: This information relates only to the provision/s amending the **Road Safety Camera Commissioner Act 2011**

3 Amendments Not in Operation

This version does not contain amendments that are not yet in operation.

4 Explanatory details

No entries at date of publication.