

NORTHERN TERRITORY OF AUSTRALIA

TRAFFIC ACT

As in force at 1 July 2008

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NORTHERN TERRITORY OF AUSTRALIA

As in force at 1 July 2008

TRAFFIC ACT

An Act to regulate traffic

Part I Preliminary

1 Short title

This Act may be cited as the *Traffic Act*.

2 Commencement

- (1) Sections 1 and 2 shall come into operation on the day on which the Administrator's assent to this Act is declared.
- (2) The remaining provisions of this Act shall come into operation on a date to be fixed by the Administrator by notice in the *Gazette*.

3 Interpretation

- (1) In this Act, unless the contrary intention appears:

ambulance means a vehicle specifically constructed or modified for the purpose of conveying persons to a place of medical treatment while being used for that purpose or while travelling to a place for that purpose.

authorized analyst means a person authorized under this Act to be an analyst.

bicycle means a 2 or 3 wheeled vehicle designed to be propelled by human power and includes a powered cycle.

blood test means a test of a sample of a person's blood carried out for the purpose of ascertaining the concentration of alcohol or the presence of another drug or substance in that person's blood.

breath analysis means an analysis of a sample of a person's breath carried out for the purpose of assessing the concentration of alcohol in that person's blood.

breath test means a test of a sample of a person's breath carried out for the purpose of ascertaining whether:

- (a) alcohol or another drug or substance; or
- (b) a concentration of alcohol equal to or exceeding 80 mg of alcohol per 100 mL of blood,

is present in that person's blood.

carriageway means a portion of a public street improved, designed or ordinarily used for vehicular traffic and includes the shoulders and areas at the side or centre of the carriageway used for the standing or parking of vehicles including parking bays, and, where a public street has 2 or more portions divided by a reservation, means each portion separately.

child means a person who has not attained the age of 18 years.

Commissioner means the Commissioner appointed under the *Police Administration Act*.

competent authority, in relation to a public street or public place, means the person, body or authority (which shall include the Territory) having the care, control and management of that street or place.

control area means an area declared under, or continued in force by, section 11 as a control area.

Deputy Director means the Deputy Director of Transport appointed under section 6(2).

Director means the Director of Transport appointed under section 6(1).

driver means a person driving, riding or in control of a vehicle.

emergency vehicle means a motor vehicle which is:

- (a) the property of the Territory and in the control of the Police Force of the Northern Territory;
- (b) the property of the Territory and in the control of the Northern Territory Fire and Rescue Service;
- (c) an ambulance; or
- (d) authorized as an emergency vehicle by the Registrar,

and which is sounding a siren, bell or repeater horn or flashing the prescribed lights.

footway includes a footpath, lane or other place intended exclusively for use by pedestrians and, except where bicycle use is expressly prohibited, by persons riding bicycles.

health centre means a health centre within the meaning of the *Medical Services Act*.

hospital means a hospital declared under section 6(2)(a)(i) of the *Medical Services Act*.

inspector means an inspector appointed under section 9.

intersection means a place where 2 or more public streets intersect or join and includes any area where vehicles travelling on different joining or intersecting public streets may collide.

lane line means a line marked on a carriageway to separate vehicles travelling in the same direction on the carriageway.

learner's licence means a licence granted under section 9 of the *Motor Vehicles Act*.

licence means a licence to drive a motor vehicle granted under the *Motor Vehicles Act*.

motor cycle means a motor vehicle which has 2 wheels or, where a side car is attached to the vehicle, has 3 wheels.

motor vehicle means a vehicle designed to be self propelled and includes a trailer when attached to a motor vehicle and a vehicle designed to be propelled by electric power obtained from overhead wires but not operated on rails, but does not include a motorized wheelchair which is not capable of travelling at a speed greater than 10 km/h or a powered cycle.

officer means an officer appointed under section 9.

pedestrian means a person on foot, on or in a toy vehicle, in a perambulator, or in a wheelchair which is not capable of travelling at a speed greater than 10 km/h.

powered cycle means a bicycle or other contrivance of a similar nature which is equipped with:

- (a) pedals which may be used as a means of propulsion; and

- (b) an engine, motor or other device which is capable of producing a power output not exceeding 200 W.

prescribed breath analysis instrument means a device prescribed under section 29AAW for the carrying out of breath analyses.

public place means a place (other than a public street) open to or used by the public or to which the public is permitted to have access whether on payment of a fee or otherwise, but does not include a track in an enclosed area used for motor vehicle or bicycle racing or speed trials.

public street means a street, road, lane, thoroughfare, footpath or place open to, or used by, the public and includes a road on land leased under the *Special Purposes Leases Act* for use as a road, but does not include:

- (a) a road, or part of a road, which is closed under the *Control of Roads Act* or the *Local Government Act*; or
- (b) a street, road, lane, thoroughfare, footpath or other place under construction,

and not open to or used by the public.

qualified person means a person who has been satisfactorily trained to take samples of blood from persons by a registered training organisation within the meaning of the "Australian Quality Training Framework – Standards for Registered Training Organisations", published by the Australian National Training Authority established under section 5 of the *Australian National Training Authority Act 1992* (Cth), as in force from time to time.

registered, in relation to a motor vehicle, means registered under the *Motor Vehicles Act*.

registered nurse means a registered nurse who has a right of practice under the *Health Practitioners Act*.

Registrar means the Registrar of Motor Vehicles appointed under the *Motor Vehicles Act*.

reservation means a physical provision, including markings, made on a public street to divide it longitudinally and includes a nature strip adjoining a footway, but does not include a separation line or a lane line which is the only line between 2 adjoining traffic lanes.

resident of the Territory means a person who has resided continuously in the Territory for not less than 3 months.

separation line means a line marked on a carriageway to separate vehicles travelling in opposite directions on the carriageway.

solution of standard alcohol means a solution consisting of ethyl alcohol and distilled water in the proportion of 3.36 g of ethyl alcohol per litre of solution.

this Act includes the Regulations.

traffic control device means a traffic control signal or a light, sign, mark, structure or item placed, erected or displayed for the purpose of regulating, warning or guiding traffic.

traffic control signal means a device using a word, symbol, coloured light or a combination of them by means of which traffic may be controlled or regulated.

traffic infringement detection device means a device approved under section 44(1) as a traffic infringement detection device.

traffic island means a physical provision, including marking, made on a public street to guide traffic on the street, but does not include a traffic control device.

trailer means a vehicle without motive power constructed or adapted to be drawn by a motor vehicle.

vehicle means a conveyance or other device designed to be propelled or drawn by any means and includes a bicycle or an animal being driven or ridden, but does not include a train, or a wheelchair which is not capable of travelling at a speed greater than 10 km/h.

visiting motor vehicle means a motor vehicle which:

- (a) is registered in another country or in a State or in another Territory of the Commonwealth;
- (b) has affixed to it the current registration label and number plates required to be affixed by the law of that country, State, or other Territory; and
- (c) is temporarily in the Territory.

young person means a person who has attained the age of 8 years but has not attained the age of 14 years.

- (2) In this Act, a reference to the owner of a motor vehicle includes a reference to the operator (within the meaning of the *Motor Vehicles Act*) of the vehicle where an operator is nominated under section 92A of that Act.
- (3) In this Act, a reference to a person licensed to drive a motor vehicle is a reference to that person being licensed to drive a vehicle of a class permitted to be driven in accordance with that person's licence.
- (5) In this Act:

demerit points means the points incurred by a natural person in relation to a demerit points offence.

demerit points offence means an offence specified in Schedule 1 to the *Traffic Regulations* for which demerit points are prescribed.

Note

The administration of the demerit points scheme is under the Motor Vehicles Act.

4 Act to bind Crown

Except where otherwise expressly provided, this Act binds the Crown in right of the Territory and, in so far as is possible, the Crown in all its other capacities.

5 Application of Act

Unless the contrary intention appears, this Act, in so far as it applies to or in relation to a driver, vehicle or pedestrian, applies only to or in relation to a driver, vehicle or pedestrian on a public street or in a public place.

Part II Administration

6 Director of transport, &c.

- (1) The Minister may, by notice in writing, appoint a Chief Executive Officer or employee, as defined in the *Public Sector Employment and Management Act*, to be the Director of Transport for the purposes of this Act.
- (2) The Minister may, by notice in writing, appoint a Chief Executive Officer or employee, as defined in the *Public Sector Employment and Management Act*, to be the Deputy Director of Transport for the purposes of this Act.

- (3) The Deputy Director, while that person remains in office, shall have and may exercise, perform and discharge, subject to the control and direction of the Director, all the functions and powers of the Director, and all references in this Act or any other Act to the Director shall, so far as is necessary for the purpose of giving effect to this section, be read as including a reference to the Deputy Director.

7 Powers of Director

Subject to this Act, the Director has power to do all things necessary or convenient to be done for or in connection with, or incidental to, the performance of the Director's functions.

8 Direction of Minister

In the exercise of the powers and the performance of the functions vested in the Director under this Act, the Director is subject to the direction of the Minister.

9 Appointment of inspectors, &c.

- (1) The Director may appoint such inspectors and officers as the Director thinks necessary for the purposes of this Act.
- (2) In addition to the powers conferred, and the functions imposed, on an inspector or officer under this Act, an inspector or officer shall have and may exercise such powers and perform such functions of the Director as the Director determines.

10 Delegation

- (1) The Minister, the Director or the Registrar may, by instrument in writing, delegate to a person or competent authority any of their respective powers and functions under this Act, other than this power of delegation.
- (2) A competent authority may, by instrument in writing, delegate to a person any of its powers and functions under this Act, other than this power of delegation.
- (3) A power or function delegated under this section, when exercised or performed by the delegate, shall, for the purposes of this Act, be deemed to have been exercised or performed by the Minister, the Director, the Registrar or the competent authority, as the case may be.
- (4) A delegation under this section does not prevent the exercise of a power or the performance of a function by the Minister, the Director, the Registrar or the competent authority.

Part III Control areas**11 Declaration of control areas**

- (1) The Minister may, by notice in the *Gazette*, declare an area to be a control area for a period not exceeding 12 months.
- (2) The Minister may, on or before the expiration of the period specified in a notice under this section, declare, by notice in the *Gazette*, that a control area shall continue in force for a further period, not exceeding 12 months, as specified in the notice.
- (3) Where the Minister under this section declares an area to be, or to continue to be, a control area, the Minister, in the notice under subsection (1) or (2):
 - (a) shall specify the area in respect of which the control area is declared or declared to continue;
 - (b) shall specify the period during which the control area shall remain in force;
 - (c) shall specify the provisions, if any, of this Act which shall not apply to and in relation to the control area;
 - (d) may declare that the provisions contained in the notice shall apply to and in relation to the control area:
 - (i) in substitution of specified sections of; or
 - (ii) in addition to,this Act; and
 - (e) may declare that a person who contravenes or fails to comply with a provision declared under subsection (3)(d) as applying to and in relation to a control area is guilty of an offence, including a regulatory offence, and liable on being found guilty to a penalty not exceeding 20 penalty units or 12 months imprisonment, or both.
- (4) With effect on and from the date a control area is declared under subsection (1), or declared to continue in force under subsection (2), the sections of this Act specified in the notice in accordance with subsection (3)(c) or (d) shall not apply to or in relation to the control area.

- (5) A provision declared under subsection (3)(d) as applying to and in relation to a control area shall, for the purposes of the application of that provision to and in relation to that area, be deemed to be a section of this Act.
- (6) Where the Minister makes a declaration under subsection (3)(e), a person who contravenes or fails to comply with the provision to which the declaration relates is guilty of an offence.
- (7) Section 63(1)(c), (8), (9) and (10) of the *Interpretation Act* shall apply to and in relation to a notice declaring a control area where, in that notice, the Minister has, under subsection (3)(d), declared a provision contained in the notice to apply to and in relation to the control area (other than a notice declaring that provision to continue to apply to and in relation to that area) as if that notice were, for the purposes of those subsections of the *Interpretation Act*, a regulation.

Part IV Erection and operation of traffic control devices

12 Erection of or interference with traffic control devices

- (1) A person shall not, without the consent in writing of the competent authority:
 - (a) erect, establish or display; or
 - (b) interfere with, alter or take down,a traffic control device on a public street or public place.
- (2) A person shall not erect, establish, place, display or maintain anything on a public street or public place which:
 - (a) interferes with the effectiveness of a traffic control device;
 - (b) may prevent a driver approaching a traffic control device from clearly seeing that device or any part of it;
 - (c) may distract the attention of a driver approaching a traffic control device from that device;
 - (d) may prevent a driver on a public street or public place from clearly seeing the street or place ahead of that driver; or
 - (e) purports to be, or is an imitation of, or is similar to:
 - (i) a traffic control device; or

- (ii) a flashing light of a type fitted to an emergency vehicle.
- (3) The owner of a light shall not use it or permit it to be used where the Director has, by notice in writing to that owner, declared that the use of the light is a danger to traffic.
- (4) Where a person has erected, established, placed, displayed or maintained a thing on a public street or public place which, in the opinion of the Director or the competent authority, contravenes section 12(2), the Director or competent authority may direct that person to remove it in such time as the Director or competent authority specifies.
- (5) The Director or the competent authority may, where a person given a direction under subsection (4) fails to comply with the direction within the specified time, remove the thing or cause it to be removed, and the cost of that removal shall be a debt due and payable by that person to the Territory (where the direction is given by the Director) or the competent authority.

13 Competent authority may erect traffic control devices

- (1) Subject to subsection (2), a competent authority may:
 - (a) erect, establish, place or display a traffic control device on, near or above a public street or public place;
 - (b) erect or establish a traffic island or reservation on a public street or public place;
 - (c) mark a road marking on a carriageway or kerb of a public street or public place; or
 - (d) alter or remove a traffic control device, traffic island, reservation or road marking.
- (2) A traffic control device shall be in the prescribed form.

14 Minister may direct competent authority

- (1) Subject to subsection (2), the Minister may direct a competent authority (other than the Territory) to remove or alter:
 - (a) a traffic control device which is not in the prescribed form; or
 - (b) a traffic control device, traffic island, reservation or road marking established, placed or displayed by the competent authority.

- (2) The Minister shall not give a direction under subsection (1) in or in relation to the establishing, placing or displaying of a traffic control device, traffic island, reservation or road marking unless the Minister is satisfied that such a direction is necessary to ensure consistency in the Territory in the establishing, placing or displaying of such devices, islands, reservations or road markings.
- (3) A competent authority shall comply with a direction given under subsection (1).

15 Removal of hazardous sign, &c.

- (1) Where, in the opinion of the Director, a light, signal, flag, notice or other device is or is likely to be a hazard to traffic on a public street or public place, the Director may, by notice in writing to the owner of the light, signal, flag, notice or device, require the owner to remove it within the time specified in the notice.
- (2) A person served with a notice under subsection (1) who fails to comply with that notice is guilty of an offence.
- (3) Where a person served with a notice under subsection (1) fails to comply with that notice in the specified time, the Director may, without affecting the person's liability under subsection (2), remove, or cause to be removed, the light, signal, flag, notice or device, and the cost of that removal shall be a debt due and payable by that person to the Territory.
- (4) For the purposes of removing, or causing to be removed, a light, signal, flag, notice or device under subsection (3), the Director or a person authorized by the Director may enter on the land on which the light, signal, flag, notice or device is situated with such assistance as, and take whatever action, the Director or the authorized person considers necessary to remove it.

16 Court may order restitution

Where a person is found guilty of an offence under this Act in relation to a traffic control device, the court may, in addition to finding the person guilty, where damage was caused by the person to the traffic control device in committing the offence, order that person to pay the cost of the repair or replacement of the device.

17 Traffic control devices deemed to be lawfully erected

- (1) Where, under this Act, a traffic control device is erected, established, placed or displayed, it shall be deemed to be lawfully erected, established, placed or displayed and its presence to be consistent with its traffic control purpose, unless the contrary is proved.

- (2) A traffic control device which substantially conforms with the prescribed dimensions, shape, colour, position, direction, angle or other features of a particular traffic control device shall be deemed to be a traffic control device of that kind.

18 Evidence of traffic control device

Unless the contrary is proved, evidence that a traffic control device was erected, established, placed or displayed on, near or above a carriageway or an intersection or the surface of a public place is evidence that it was erected, established, placed or displayed by the competent authority in accordance with this Act.

Part V Driving with alcohol or drug in blood

Division 1 Preliminary matters

19 Interpretation

- (1) In this Part:

commercial passenger vehicle, see section 3(1) of the *Commercial Passenger (Road) Transport Act*.

crash, see Australian Road Rules – dictionary.

driving instructor means a person approved under section 25B of the *Motor Vehicles Act*.

drug means a substance (other than alcohol):

- (a) prescribed by the Regulations under section 28; or
- (b) that, when consumed, ingested or used by a person deprives the person, temporarily or permanently, of the person's normal mental or physical faculties.

GVM, see Australian Road Rules – dictionary.

high range blood alcohol content means a blood alcohol content of 0.15% or greater.

Note

The table in regulation 58 of the Traffic Regulations provides a conversion from blood alcohol level expressed as a percentage to a level expressed by grams per volume of blood.

immediate suspension offence means an offence that attracts a notice of immediate suspension under section 29AAN.

low range blood alcohol content means a blood alcohol content of 0.05% or greater, but less than 0.08%.

medium range blood alcohol content means a blood alcohol content of 0.08% or greater, but less than 0.15%.

road, see Australian Road Rules – dictionary.

road-related area, see Australian Road Rules – dictionary.

(2) In this Part:

drive:

- (a) means the act of driving a motor vehicle; and
- (b) includes starting the engine of a motor vehicle; and
- (c) also includes putting a vehicle in motion; and
- (d) includes attempting to do any of those things;

on a road, road-related area or public place.

(3) In this Part, a police officer directs a person to **pull over** (or pulls a driver over) when the officer signals to the person to bring the motor vehicle the person is driving to a stop near where the signal is made.

(4) In this Part, a reference to a failure to:

- (a) submit to a breath test or breath analysis; or
- (b) submit to a saliva test; or
- (c) provide a sample of blood for analysis;

is taken to be a reference to:

- (d) a refusal or failure to submit to a breath test or breath analysis, or to provide a sufficient sample of breath for a breath test or breath analysis; or
 - (e) a refusal or failure to submit to a saliva test or provide a sufficient sample of saliva; or
 - (f) a refusal or failure to submit to the taking of a sample of blood;
- respectively.

- (5) In this Part, a reference to driving under the influence of alcohol or a drug is taken to be a reference to driving a motor vehicle under the influence of alcohol or a drug, or any combination of alcohol and a drug or drugs, to such an extent as to be incapable of having proper control of the vehicle.

Division 2 Offence of driving with alcohol in blood

20 Impairment not necessary

It is not necessary to show that a person's ability to drive a motor vehicle is impaired in order to establish an offence under this Division.

21 High range blood alcohol content

- (1) A person who drives a motor vehicle with a high range blood alcohol content commits an offence.

Maximum penalty: For a first offence – 10 penalty units or imprisonment for 12 months.

For a second or subsequent offence –
20 penalty units or imprisonment for
12 months.

- (2) An offence against subsection (1) (a relevant offence) is a second or subsequent offence if the person has previously been found guilty of any of the following offences:

- (a) driving with:
 - (i) a high range blood alcohol content; or
 - (ii) a medium range blood alcohol content;
- (b) driving under the influence of alcohol or a drug;
- (c) failing to provide a sufficient sample of breath for a breath analysis;
- (d) failing to give a sample of blood for analysis;
- (e) driving with alcohol in the blood (if the person, at the time of the previous offence, was of a class mentioned in section 24(1)).

- (3) If a court finds a person guilty of a relevant offence, the person's licence to drive is automatically cancelled and the person is disqualified from obtaining a licence:
- (a) for a first offence – for a minimum period of 12 months; or
 - (b) for a second or subsequent offence – for a minimum period of 18 months.

- (4) However, if a court finds a person guilty of a relevant offence and the person has previously been found guilty of any of the following offences, committed within 3 years before committing the relevant offence:

- (a) driving with a high range blood alcohol content;
- (b) failing to provide a sufficient sample of breath for a breath analysis;
- (c) failing to provide a sample of blood for analysis;

the person's licence to drive is automatically cancelled and the person is disqualified from obtaining a licence for a minimum period of 5 years.

- (5) Also, if a court finds a person guilty of a relevant offence and the person has previously been found guilty of any of the following offences, committed within 3 years before committing the relevant offence:

- (a) driving with a medium range blood alcohol content;
- (b) driving under the influence of alcohol or a drug;
- (c) driving with alcohol in the blood (if the person, at the time of the previous offence, was of a class mentioned in section 24(1));

and the person has also been previously found guilty at any time of committing any of the following offences:

- (d) driving with:
 - (i) a high range blood alcohol content; or
 - (ii) a medium range blood alcohol content;
- (e) driving under the influence of alcohol or a drug;
- (f) failing to provide a sufficient sample of breath for a breath analysis;

- (g) failing to provide a sample of blood for analysis;
- (h) driving with alcohol in the blood (if the person, at the time of the previous offence, was of a class mentioned in section 24(1));

the person's licence to drive is automatically cancelled and the person is disqualified from obtaining a licence for a minimum period of 5 years.

- (6) A relevant offence is an immediate suspension offence.

22 Medium range blood alcohol content

- (1) A person who drives a motor vehicle with a medium range blood alcohol content commits an offence.

Maximum penalty: For a first offence – 7.5 penalty units or imprisonment for 6 months.

For a second or subsequent offence –
20 penalty units or imprisonment for
12 months.

- (2) An offence against subsection (1) (a relevant offence) is a second or subsequent offence if the person has previously been found guilty of any of the following offences:

- (a) driving with:
 - (i) a high range blood alcohol content; or
 - (ii) a medium range blood alcohol content;
- (b) driving under the influence of alcohol or a drug;
- (c) failing to provide a sufficient sample of breath for a breath analysis;
- (d) failing to give a sample of blood for analysis;
- (e) driving with alcohol in the blood (if the person, at the time of the previous offence, was of a class mentioned in section 24(1)).

- (3) If a court finds a person guilty of a relevant offence, the person's licence to drive is automatically cancelled and the person is disqualified from obtaining a licence:

- (a) for a first offence – for a minimum period of 6 months; or

- (b) for a second or subsequent offence – for a minimum period of 12 months.
- (4) A relevant offence that is a second or subsequent offence is an immediate suspension offence.

23 Low range blood alcohol content

- (1) A person who drives a motor vehicle with a low range blood alcohol content commits an offence.

Maximum penalty: For a first offence – 5 penalty units or imprisonment for 3 months.

For a second or subsequent offence – 7.5 penalty units or imprisonment for 6 months.

- (2) An offence against subsection (1) (a relevant offence) is a second or subsequent offence if the person has previously been found guilty of any of the following offences:
 - (a) driving with:
 - (i) a high range blood alcohol content; or
 - (ii) a medium range blood alcohol content; or
 - (iii) a low range blood alcohol content (only if the previous offence was committed after 1 July 2007 and only if the previous offence was committed within 3 years before committing the relevant offence);
 - (b) driving under the influence of alcohol or a drug;
 - (c) failing to provide a sufficient sample of breath for a breath analysis;
 - (d) failing to give a sample of blood for analysis.
 - (e) driving with alcohol in the blood (if the person, at the time of the previous offence, was of a class mentioned in section 24(1)).
- (3) For subsection (2)(a)(iii), an offence for which an infringement notice was issued and not withdrawn is taken to be a previous finding of guilt for the offence.

- (4) If a court finds a person guilty of a relevant offence that is a second or subsequent offence, the person's licence to drive is automatically cancelled and the person is disqualified from obtaining a licence:
 - (a) for a second offence – for a minimum period of 3 months; or
 - (b) for a subsequent offence – for a minimum period of 6 months.
- (5) A relevant offence that is a second or subsequent offence is an immediate suspension offence.
- (6) The Regulations may prescribe persons to whom, or circumstances in which, this section does not apply.

24 Some drivers to be zero alcohol

- (1) This section applies to the following persons:
 - (a) a person who has not reached the age of 18 years;
 - (b) the holder of a learner licence when driving a vehicle of the class to which the learner licence relates;
 - (c) the holder of a licence that is provisional under section 42 or section 10A of the *Motor Vehicles Act*;
 - (d) a person who is not licensed to drive a motor vehicle (other than through failure to renew a licence);
 - (e) a person who is not a resident of the Territory who does not have a right under section 32(1) to drive in the Territory.
- (2) The person must not drive a motor vehicle if the person's blood contains alcohol.

Maximum penalty: For a first offence – 5 penalty units or imprisonment for 3 months.

For a second or subsequent offence –
7.5 penalty units or imprisonment for
6 months.

- (3) An offence against subsection (2) (a relevant offence) is a second or subsequent offence if the person has previously been found guilty of any of the following offences:
 - (a) driving with:
 - (i) a high range blood alcohol content; or
 - (ii) a medium range blood alcohol content; or

- (iii) a low range blood alcohol content (only if the previous offence was committed after 1 July 2007 and only if the previous offence was committed within 3 years before committing the relevant offence);
 - (b) driving under the influence of alcohol or a drug;
 - (c) failing to provide a sufficient sample of breath for a breath analysis;
 - (d) failing to give a sample of blood for analysis;
 - (e) driving with alcohol in the blood (if the person, at the time of the previous offence, was of a class mentioned in subsection (1));
 - (f) driving with alcohol in the blood (if the person, at the time of the previous offence, was of a class mentioned in section 25(1) or (2) and only if the previous offence was committed within 3 years before committing the relevant offence).
- (4) For subsection (3)(a)(iii), (e) and (f), an offence for which an infringement notice was issued and not withdrawn is taken to be a previous finding of guilt for the offence.
- (5) If a court finds a person guilty of a relevant offence, the person's licence to drive is automatically cancelled and the person is disqualified from obtaining a licence:
- (a) for a first offence – for a minimum period of 3 months; or
 - (b) for a second or subsequent offence – for a minimum period of 6 months.
- (6) A relevant offence that is a second or subsequent offence is an immediate suspension offence.

25 Driver of certain vehicles to be zero alcohol

- (1) Subject to the Regulations, this section applies to the following persons:
- (a) the driver of a vehicle having a GVM of more than 15 t;
 - (b) the driver of a vehicle carrying dangerous goods within the meaning of the *Dangerous Goods Act*;
 - (c) the driver of a commercial passenger vehicle within the meaning of the *Commercial Passenger (Road) Transport Act*;

- (d) the driver of a vehicle capable of seating more than 12 persons (including the driver);
 - (e) the driver of a vehicle carrying more than 12 persons (including the driver);
 - (f) the driver of a vehicle that has a space designed primarily for the carriage of goods when a person is travelling in that space.
- (2) This section also applies to a person who:
- (a) is under the age of 25 years; and
 - (b) has not held, in the Territory or elsewhere, a licence to drive a motor vehicle for a continuous period of 3 years;
- but does not apply if section 24 applies to the person.
- (3) The person must not drive a motor vehicle if the person's blood contains alcohol.
- Maximum penalty: For a first offence – 5 penalty units or imprisonment for 3 months.
- For a second or subsequent offence –
7.5 penalty units or imprisonment for
6 months.
- (4) An offence against subsection (3) (a relevant offence) is a second or subsequent offence if the person has previously been found guilty of any of the following offences:
- (a) driving with:
 - (i) a high range blood alcohol content; or
 - (ii) a medium range blood alcohol content; or
 - (iii) a low range blood alcohol content (only if the previous offence was committed after 1 July 2007 and only if the previous offence was committed within 3 years before committing the relevant offence);
 - (b) driving under the influence of alcohol or a drug;
 - (c) failing to provide a sufficient sample of breath for a breath analysis;
 - (d) failing to give a sample of blood for analysis;

- (e) driving with alcohol in the blood (if the person, at the time of the previous offence, was of a class mentioned in section 24(1));
 - (f) driving with alcohol in the blood (if the person, at the time of the previous offence, was of a class mentioned in subsection (1) or (2) and only if the previous offence was committed within 3 years before committing the relevant offence).
- (5) For subsection (4)(a)(iii) and (f), an offence for which an infringement notice was issued and not withdrawn is taken to be a previous finding of guilt for the offence.
- (6) If a court finds a person guilty of a relevant offence that is a second or subsequent offence, the person's licence to drive is automatically cancelled and the person is disqualified from obtaining a licence:
- (a) for a second offence – for a minimum period of 3 months; or
 - (b) for a subsequent offence – for a minimum period of 6 months.
- (7) A relevant offence that is a second or subsequent offence is an immediate suspension offence.
- (8) The Regulations may prescribe persons to whom, or circumstances in which, this section does not apply.

26 Driving instructor

- (1) A driving instructor, when instructing another person how to drive a motor vehicle, must not:
- (a) drive a motor vehicle; or
 - (b) permit a person to drive a motor vehicle if the instructor is occupying a passenger seat in the vehicle for the purpose of instructing the person to drive the vehicle;

if the instructor's blood contains alcohol.

Maximum penalty: For a first offence – 5 penalty units or imprisonment for 3 months.

For a second or subsequent offence – 7.5 penalty units or imprisonment for 6 months.

- (2) An offence against subsection (1) (a relevant offence) is a second or subsequent offence if the person has previously been found guilty of any of the following offences:
- (a) driving with:
 - (i) a high range blood alcohol content; or
 - (ii) a medium range blood alcohol content; or
 - (iii) a low range blood alcohol content (only if the previous offence was committed after 1 July 2007 and only if the previous offence was committed within 3 years before committing the relevant offence);
 - (b) driving under the influence of alcohol or a drug;
 - (c) failing to provide a sufficient sample of breath for a breath analysis;
 - (d) failing to give a sample of blood for analysis;
 - (e) driving with alcohol in the blood (if the person, at the time of the previous offence, was of a class mentioned in section 24(1));
 - (f) driving with alcohol in the blood (if the person, at the time of the previous offence, was of a class mentioned in section 25(1) or (2) and only if the previous offence was committed within 3 years before committing the relevant offence);
 - (g) a relevant offence (a previous relevant offence) only if the previous relevant offence was committed within 3 years before committing the relevant offence;
 - (h) an offence (a previous offence) committed before the commencement of this section that would, if committed after the commencement of this section, be a relevant offence (only if the previous offence was committed after 1 July 2007 and only if the previous offence was committed within 3 years before committing the relevant offence).
- (3) For subsection (2)(a)(iii), (f), (g) and (h) an offence for which an infringement notice was issued and not withdrawn is taken to be a previous finding of guilt for the offence.

- (4) If a court finds a person guilty of a relevant offence that is a second or subsequent offence, the person's licence to drive is automatically cancelled and the person is disqualified from obtaining a licence:
 - (a) for a second offence – for a minimum period of 3 months; or
 - (b) for a subsequent offence – for a minimum period of 6 months.
- (5) A relevant offence that is a second or subsequent offence is an immediate suspension offence.

Division 3 Offence of driving with drug in blood

27 Impairment not necessary

It is not necessary to show that a person's ability to drive a motor vehicle is impaired in order to establish an offence under this Division.

28 Driving with certain drugs in the blood

- (1) A person commits an offence if, while there is in the person's blood a prohibited drug, the person:
 - (a) drives a motor vehicle; or
 - (b) is a driving instructor occupying a passenger seat in a vehicle for the purpose of instructing another person to drive the vehicle.

Maximum penalty: For a first offence – 5 penalty units or imprisonment for 3 months.

For a second or subsequent offence –
7.5 penalty units or imprisonment for
6 months.

- (2) An offence against subsection (1) (a relevant offence) is a second or subsequent offence if the person has previously been found guilty of any of the following offences:
 - (a) driving under the influence of alcohol or a drug;
 - (b) driving with a prohibited drug in the blood.
- (3) For subsection (2)(b), an offence for which an infringement notice was issued and not withdrawn is taken to be a previous finding of guilt for the offence.

- (4) If a court finds a person guilty of a relevant offence that is a second or subsequent offence, the person's licence to drive is automatically cancelled and the person is disqualified from obtaining a licence:
 - (a) for a second offence – for a minimum period of 3 months; or
 - (b) for a subsequent offence – for a minimum period of 6 months.
- (5) A relevant offence that is a second or subsequent offence is an immediate suspension offence.
- (6) For subsection (1), a prohibited drug means a drug prescribed by the Regulations as either of the following:
 - (a) drugs that are strictly prohibited for subsection (1);
 - (b) drugs that are prohibited for subsection (1) but to which the defence under section 29 applies.

29 Defence for certain drugs

- (1) It is a defence to a prosecution for an offence against section 28(1) if:
 - (a) analysis of a blood sample taken under this Part:
 - (i) gives no indication of any drug prescribed under section 28(6)(a); but
 - (ii) does indicate the presence of a drug (or drugs) prescribed under section 28(6)(b); and
 - (b) the defendant satisfies the court as to the matters mentioned in subsection (2).
- (2) The defendant must satisfy the court that:
 - (a) the defendant was, at the time of the alleged offence, under treatment by a medical practitioner and had taken the drug as part of that treatment; and
 - (b) the defendant had taken the drug in accordance with the directions of the medical practitioner.

Division 4 Offence of driving under influence of alcohol or drug

29AAA Driving under influence

(1) A person commits an offence if, while under the influence of alcohol or a drug to such an extent as to be incapable of having proper control of the vehicle, the person:

- (a) drives a motor vehicle; or
- (b) is a driving instructor occupying a passenger seat in a vehicle for the purpose of instructing another person to drive the vehicle.

Maximum penalty: For a first offence – 10 penalty units or imprisonment for 12 months.

For a second or subsequent offence –
20 penalty units or imprisonment for
12 months.

(2) An offence against subsection (1) (a relevant offence) is a second or subsequent offence if the person has previously been found guilty of any of the following offences:

- (a) driving with:
 - (i) a high range blood alcohol content; or
 - (ii) a medium range blood alcohol content;
- (b) driving under the influence of alcohol or a drug;
- (c) failing to provide a sufficient sample of breath for a breath analysis;
- (d) failing to give a sample of blood for analysis;
- (e) driving with alcohol in the blood (if the person, at the time of the previous offence, was of a class of person mentioned in section 24(1)).

(3) If a court finds a person guilty of a relevant offence, the person's licence to drive is automatically cancelled and the person is disqualified from obtaining a licence:

- (a) for a first offence – for a minimum period of 6 months; or

- (b) for a second or subsequent offence – for a minimum period of 12 months.
- (4) A relevant offence that is a second or subsequent offence is an immediate suspension offence.
- (5) Evidence other than the result of a breath analysis or blood test may be given in a court to show the concentration of alcohol in a person's blood or to show that a person was or was not under the influence of alcohol or a drug.
- (6) A court may find that a person was, at the relevant time, under the influence of alcohol or a drug:
 - (a) without there being evidence of the concentration of alcohol or a prohibited drug in the person's blood; or
 - (b) even though the evidence showed there was present in the person's blood a concentration of alcohol less than 0.05%.
- (7) For this section, a person is taken to be under the influence of alcohol or a drug even though the effect on the person's ability to have proper control of a vehicle arises from a combination of alcohol and a drug or a combination of drugs.

Division 5 Taking of samples

29AAB When police can pull driver over at random

- (1) A police officer may direct the driver of a motor vehicle to pull over, without reasonable suspicion the driver has committed an offence, for one or both of the following purposes:
 - (a) to require the driver to submit to a breath test to determine whether there is alcohol in the driver's blood;
 - (b) to require the driver of a vehicle with a GVM of 4.5 t or greater to submit to a saliva test to determine whether there is a prohibited drug in the driver's blood.
- (2) The person must comply with the direction.

Maximum penalty: 200 penalty units or imprisonment for 12 months.

29AAC Breath test and breath analysis

- (1) A police officer may, in the following circumstances, require a person to submit to a breath test or a breath analysis (or both) to determine if the person's blood contains alcohol:
 - (a) the person is a driver directed to pull over under section 29AAB(1)(a);
 - (b) the officer has reasonable cause to suspect the person:
 - (i) has committed an offence against Division 2 or 4; or
 - (ii) was the driver of a motor vehicle that was involved in a crash on a road, road-related area or public place; or
 - (iii) was involved in a crash on a road, road-related area or public place and the person has, or had at the time of the crash, alcohol in the person's blood.
- (2) The officer may only require the person to submit to a breath test or breath analysis if not more than 4 hours has expired since the driver was pulled over or the offence, or crash, mentioned in subsection (1) occurred.
- (3) If a police officer requires a person to submit to a breath test, the person must comply with the directions given by the officer or another police officer.
- (4) If a police officer requires a person to submit to a breath test and:
 - (a) the person fails to provide a sufficient sample of breath for the completion of the test; or
 - (b) the officer reasonably believes (whether as a result of the test or otherwise) that the person may have committed an offence under Division 2;the officer or another police officer may arrest the person without warrant and detain the person for the purpose of carrying out a breath analysis.
- (5) A police officer may require the arrested person to submit to a breath analysis.

- (6) A police officer must not require a person to submit to a breath test or breath analysis under this section if it appears to the officer that the person:
- (a) is injured, and the officer is satisfied it may be detrimental to the person's medical condition for the person to submit to the breath test or breath analysis within the time mentioned in subsection (2); or
 - (b) has a physical disability that prevents the person from providing a sufficient sample of breath for the completion of a breath test or breath analysis.

29AAD Further breath analyses

- (1) A person who has provided a sufficient sample of breath for a breath analysis may be required by a police officer to submit to one more breath analysis on the same occasion and the person must provide a sufficient sample of breath for that analysis.
- (2) A person who has submitted to a breath analysis may, after receiving the result of the initial analysis, request that a further analysis be carried out on one other sample of the person's breath, and the police officer who carried out the initial analysis (or another officer) must carry out an analysis on one further sample of the person's breath provided the sample of breath is sufficient.
- (3) A request under subsection (2) must be made without undue delay after the person receives the result of the initial analysis.

29AAE Offence of failing to submit to breath analysis

- (1) A person who is required under section 29AAC or 29AAD to submit to a breath analysis must not fail to provide a sample of breath sufficient for the analysis to be carried out.

Maximum penalty: For a first offence – 10 penalty units or imprisonment for 12 months.

For a second or subsequent offence – 20 penalty units or imprisonment for 12 months.

- (2) An offence against subsection (1) (a relevant offence) is a second or subsequent offence if the person has previously been found guilty of any of the following offences:
 - (a) driving with:
 - (i) a high range blood alcohol content; or

- (ii) a medium range blood alcohol content;
 - (b) driving under the influence of alcohol or a drug;
 - (c) failing to provide a sufficient sample of breath for a breath analysis;
 - (d) failing to give a sample of blood for analysis;
 - (e) driving with alcohol in the blood (if the person, at the time of the previous offence, was of a class mentioned in section 24(1)).
- (3) If a court finds a person guilty of a relevant offence, the person's licence to drive is automatically cancelled and the person is disqualified from obtaining a licence:
- (a) for a first offence – for a minimum period of 12 months; or
 - (b) for a second or subsequent offence – for a minimum period of 18 months.
- (4) However, if a court finds a person guilty of a relevant offence and the person has previously been found guilty of any of the following offences, committed within 3 years before committing the relevant offence:
- (a) driving with a high range blood alcohol content;
 - (b) failing to provide a sufficient sample of breath for a breath analysis;
 - (c) failing to provide a sample of blood for analysis;
- the minimum period for which the person is disqualified from obtaining a licence is 5 years.
- (5) Also, if a court finds a person guilty of a relevant offence and the person has previously been found guilty of any of the following offences, committed within 3 years before committing the relevant offence:
- (a) driving with a medium range blood alcohol content;
 - (b) driving under the influence of alcohol or a drug;
 - (c) driving with alcohol in the blood (if the person, at the time of the previous offence, was of a class mentioned in section 24(1));

and the person has also been previously found guilty at any time of committing any of the following offences:

- (d) driving with:
 - (i) a high range blood alcohol content; or
 - (ii) a medium range blood alcohol content;
- (e) driving under the influence of alcohol or a drug;
- (f) failing to provide a sufficient sample of breath for a breath analysis;
- (g) failing to provide a sample of blood for analysis;
- (h) driving with alcohol in the blood (if the person, at the time of the previous offence, was of a class mentioned in section 24(1));

the minimum period for which the person is disqualified from obtaining a licence is 5 years.

- (6) A relevant offence is an immediate suspension offence.
- (7) A person is taken to have failed to provide a sufficient sample of breath for a breath analysis if the person's actions (or inactions) in any way prevent a police officer from requiring the person to submit to a breath analysis.
- (8) It is a defence to a prosecution for a relevant offence if the defendant satisfies the court:
 - (a) it would have been detrimental to the defendant's medical condition to have submitted to a breath analysis at the time the person was required to do so; or
 - (b) the defendant had other reasonable grounds for failing to submit to a breath analysis.
- (9) It is not reasonable grounds for failing to submit to a breath analysis that the defendant had consumed alcohol after the defendant ceased to drive a motor vehicle.

29AAF Requirement for saliva test

- (1) A police officer may, in the following circumstances, require a person to submit to a saliva test to determine if the person's blood may contain a prohibited drug:
 - (a) the person is a driver required to pull over under section 29AAB(1)(b);
 - (b) the officer has reasonable cause to suspect the person:
 - (i) has committed an offence against Division 3 or 4; or
 - (ii) was the driver of a motor vehicle that was involved in a crash on a road, road-related area or public place.
- (2) The officer may only require the person to submit to a saliva test if not more than 4 hours has expired since the driver was pulled over or the offence, or crash, mentioned in subsection (1) occurred.
- (3) If a police officer requires a person to submit to a saliva test, the person must comply with the directions given by the officer or another police officer.
- (4) If a police officer requires a person to submit to a saliva test and:
 - (a) the person fails to provide a sufficient sample of saliva for the completion of the test; or
 - (b) the officer reasonably believes (whether as a result of the test or otherwise) that the person's blood may contain a prohibited drug;the officer or another police officer may arrest the person without warrant and detain the person for the purpose of having a sample of blood taken for analysis.
- (5) A police officer must not require a person to submit to a saliva test under this section if it appears to the officer that the person:
 - (a) is injured, and the officer is satisfied it may be detrimental to the person's medical condition for the person to submit to the saliva test within the time mentioned in subsection (2); or
 - (b) has a physical disability that prevents the person from providing a sufficient sample of saliva for the completion of a saliva test.

29AAG Requirement to give blood sample

- (1) Subsection (2) applies if a police officer:
 - (a) does not require a person to submit to a breath test or breath analysis for a reason mentioned in section 29AAC(6) and the officer reasonably believes that the concentration of alcohol in the person's blood is such that the person has committed an offence against this Act; or
 - (b) the officer has reasonable cause (whether or not as a result of a positive indication from a saliva test) to suspect the person's blood contains a prohibited drug.
- (2) The officer may require the person to give a sample of blood for the purpose of analysis by an authorised analyst to determine if the person's blood contains:
 - (a) alcohol in a concentration that constitutes the person having committed an offence against Division 2 or 4; or
 - (b) a prohibited drug.
- (3) If a person is required under this section to give a sample of blood, a police officer must make arrangements for the person to be taken to a hospital or health centre for a sample of the person's blood to be taken.
- (4) If the person is to be taken to a health centre, the police officer making the arrangements must ensure there is a medical practitioner, a registered nurse or a qualified person at the health centre who is available and willing to take the sample.

29AAH Offence of failing to provide blood sample

- (1) A person who is required to give a sample of blood for this Part must not fail to:
 - (a) comply with an arrangement for taking the person to a hospital or health centre for the taking of a sample of the person's blood; or
 - (b) give, in accordance with the directions of the person taking the blood sample, a sample of blood sufficient for analysis.

Maximum penalty: For a first offence – 10 penalty units or imprisonment for 12 months.

For a second or subsequent offence – 20 months.

- (2) An offence against subsection (1) (a relevant offence) is a second or subsequent offence if the person has previously been found guilty of any of the following offences:
- (a) driving with:
 - (i) a high range blood alcohol content; or
 - (ii) a medium range blood alcohol content;
 - (b) driving under the influence of alcohol or a drug;
 - (c) failing to provide a sufficient sample of breath for a breath analysis;
 - (d) failing to give a sample of blood for analysis;
 - (e) driving with alcohol in the blood (if the person, at the time of the previous offence, was of a class mentioned in section 24(1)).
- (3) If a court finds a person guilty of a relevant offence, the person's licence to drive is automatically cancelled and the person is disqualified from obtaining a licence:
- (a) for a first offence – for a minimum period of 12 months; or
 - (b) for a second or subsequent offence – for a minimum period of 18 months.
- (4) However, if a court finds a person guilty of a relevant offence and the person has previously been found guilty of any of the following offences, committed within 3 years before committing the relevant offence:
- (a) driving with a high range blood alcohol content;
 - (b) failing to provide a sufficient sample of breath for a breath analysis;
 - (c) failing to provide a sample of blood for analysis;
- the minimum period for which the person is disqualified from obtaining a licence is 5 years.
- (5) Also, if a court finds a person guilty of a relevant offence and the person has previously been found guilty of any of the following offences, committed within 3 years before committing the relevant offence:
- (a) driving with a medium range blood alcohol content;

- (b) driving under the influence of alcohol or a drug;
- (c) driving with alcohol in the blood (if the person, at the time of the previous offence, was of a class mentioned in section 24(1));

and the person has also been previously found guilty at any time of committing any of the following offences:

- (d) driving with:
 - (i) a high range blood alcohol content; or
 - (ii) a medium range blood alcohol content;
- (e) driving under the influence of alcohol or a drug;
- (f) failing to provide a sufficient sample of breath for a breath analysis;
- (g) failing to provide a sample of blood for analysis;
- (h) driving with alcohol in the blood (if the person, at the time of the previous offence, was of a class mentioned in section 24(1));

the minimum period for which the person is disqualified from obtaining a licence is 5 years.

- (6) A relevant offence is an immediate suspension offence.
- (7) It is a defence to a prosecution for a relevant offence if the defendant satisfies the court:
 - (a) it would have been detrimental to the defendant's medical condition to have given the sample of blood at the time the person was required to do so; or
 - (b) the defendant had other reasonable grounds for failing to give the sample.
- (8) It is not reasonable grounds for failing to give a blood sample that the defendant had consumed alcohol or another substance after the defendant ceased to drive a motor vehicle.

29AAJ Failure to give sample of blood in certain circumstances

- (1) This section applies if a person is found guilty of an offence against section 29AAH(1) and the court is satisfied that:
 - (a) the person was required to give the blood sample because the person entered a hospital for examination or treatment of injuries; and
 - (b) the person's injuries did not arise from a crash in which the person was driving a motor vehicle.
- (2) The court must not sentence the person to a term of imprisonment, cancel the person's licence or impose a fine greater than 1 penalty unit.
- (3) The person's licence is not cancelled by force of the finding of guilt despite section 29AAH(3).
- (4) The offence is not taken into account as a second or subsequent offence, or for determining whether another offence is a second or subsequent offence, in accordance with section 21(2)(d), 22(2)(d), 24(3)(d), 29AAA(2)(d), 29AAE(2)(d) or 29AAH(2)(d).

29AAK Taking of sample of blood

- (1) A sample of blood may be taken for this Act, from a person taken to a hospital or a health centre under section 29AAG, or from a person who has apparently attained the age of 15 years and who enters a hospital or health centre for examination or treatment of injuries which may have been received in a crash:
 - (a) at a hospital – by a medical practitioner, a registered nurse or a member of the staff of the hospital who is under the direct supervision of a medical practitioner or registered nurse; and
 - (b) at a health centre – by a medical practitioner, a registered nurse or a qualified person.
- (2) If a person is taken to a hospital under section 29AAG, the person in charge of the hospital must ensure a sample of the person's blood is taken as soon as practicable.
- (3) The Minister responsible for administering hospitals in the Territory must ensure that, for the purpose of analysis by an authorised analyst, a sample of blood is taken as soon as practicable from each person who has apparently attained the age of 15 years who enters a hospital for examination or treatment of injuries which may have been received in a crash.

- (4) For subsection (3), a medical practitioner, registered nurse or a member of the staff of a hospital who is under the direct supervision of a medical practitioner or registered nurse may:
 - (a) take a sample of blood from a person who is unconscious or apparently incapable of consenting to the taking of the sample; or
 - (b) require a person to give a sample of blood.
- (5) However, a member of the staff of a hospital or a health centre is not required to take a sample of the person's blood if the member of staff believes on reasonable grounds that:
 - (a) the concentration of alcohol in the person's blood is already known; or
 - (b) the taking of the sample would be detrimental to the person's medical condition; or
 - (c) the injuries of the person were not received in a motor vehicle accident or the motor vehicle accident happened more than 12 hours before the person entered the hospital or health centre; or
 - (d) a period of more than 4 hours has elapsed since the person entered the hospital or health centre.
- (6) A blood sample taken under this section is the property of the Commissioner.
- (7) However, the person who takes the sample may make approximately half of the sample available to the person from whom it was taken.
- (8) No action or proceedings for assault, whether in or outside the Territory, lie against a person who takes a blood sample for this Act.
- (9) This section does not obligate any person to take a sample of blood at a health centre.

29AAL Right to communicate with medical practitioner

- (1) A person who is in custody after undergoing a breath analysis or after giving a sample of blood under this Act may ask to communicate with a medical practitioner for the purpose of requesting the medical practitioner to do any of the following:
 - (a) examine the person;

- (b) take a sample of the person's blood;
 - (c) arrange for a sample of the person's blood to be taken by another medical practitioner, a registered nurse or a qualified person.
- (2) If a request is made under subsection (1), a police officer must make arrangements that are reasonable in the circumstances for the person to communicate with a medical practitioner.

Division 6 Immediate licence suspension

29AAM Licence suspension for up to 24 hours

- (1) Subject to the Regulations, if a person is:
- (a) arrested under section 29AAF(4); or
 - (b) taken to a hospital or a health centre under section 29AAG;
- for the purpose of having a sample of blood taken for analysis to determine if the person's blood contains a prohibited drug, a police officer may, before the person is released from custody or departs the hospital or health centre, give the person a notice under this section.
- (2) The notice must be in an approved form and:
- (a) has the effect that the person's licence is suspended immediately the person is given the notice; and
 - (b) must inform the person that he or she is disqualified from driving;
- for the period, not exceeding 24 hours, specified in the notice.
- (3) A notice under this section cannot be challenged or reviewed in any court.
- (4) A police officer who gives a person a notice under this section must provide details of the notice, and the person to whom it was given, to the Registrar without delay.

29AAN Notice of immediate licence suspension and disqualification from driving

- (1) If a person is charged with an immediate suspension offence, a police officer may give the person a notice under this section.

- (2) For subsection (1), a person is charged with the offence when given a copy of the charge, signed by a police officer.
- (3) The notice must be in an approved form and:
 - (a) has the effect that the person's licence is suspended immediately the person is given the notice; and
 - (b) must inform the person that he or she is disqualified from driving until the charge is determined by a court; and
 - (c) must require the person to surrender to police any licence document the person holds; and
 - (d) must include a statement of the person's right to appeal to the Local Court against the suspension and disqualification.
- (4) A police officer who gives a person a notice under this section must provide details of the notice, and the person to whom it was given, to the Registrar without delay.

29AAP Offences

- (1) A person who is given a notice under section 29AAN must not, without reasonable excuse, refuse or fail to surrender any licence document held by the person.

Maximum penalty: 20 penalty units or imprisonment for 12 months.

Note

The onus is on the person to establish there was reasonable excuse for a failure to surrender a licence document.

- (2) A person who is given a notice under section 29AAN must not, while disqualified from driving, apply for a licence in the Territory or elsewhere.

Maximum penalty: 20 penalty units or imprisonment for 12 months.

29AAQ Appeal against immediate suspension notice

- (1) A person given a notice under section 29AAN may appeal to the Local Court against the licence suspension and disqualification from driving as a result of the notice.
- (2) The appellant:
 - (a) must give 14 days written notice of the appeal to the Registrar and to the Local Court; and

- (b) must set out particulars of exceptional circumstances the appellant relies upon to justify the setting aside of the notice.
- (3) In determining the appeal, the Local Court must hear:
 - (a) any evidence tendered by the appellant; and
 - (b) any evidence tendered by or on behalf of the Registrar; and
 - (c) any evidence required by the Court from a medical practitioner.
- (4) The Court may, by order:
 - (a) uphold the notice; or
 - (b) if satisfied of exceptional circumstances that justify it – set aside the notice.
- (5) An order under subsection (4) is final and cannot be appealed against or reviewed by the Court or any other court.

Division 7 Licence cancellation on finding of guilt

29AAR Further disqualification for certain drivers

- (1) This section applies if:
 - (a) a court finds a person guilty of any of the following offences:
 - (i) driving under the influence of alcohol or a drug;
 - (ii) driving with a high range blood alcohol content;
 - (iii) driving with a medium range blood alcohol content;
 - (iv) refusing or failing to provide a sufficient sample of breath for a breath analysis;
 - (v) refusing or failing to provide a sample of blood; and
 - (b) at the time of committing the offence the person was driving:
 - (i) a vehicle with a GVM of 15 t or more; or
 - (ii) a commercial passenger vehicle.

- (2) The person is disqualified from obtaining a licence to drive a vehicle with a GVM of 15 t or more or a commercial passenger vehicle for a minimum period of 5 years.

Note

The person's licence to drive a motor vehicle is cancelled, and the person is also disqualified from obtaining a licence to drive any vehicle, for the period specified in the relevant section.

29AAS When court finds person guilty

- (1) If a court finds a person guilty of an offence under this Part, the person's licence is cancelled and the person is disqualified from obtaining another licence for the minimum period specified in relation to the offence, taking into account whether the offence is a first, second or subsequent offence.
- (2) For subsection (1), a court which finds a person guilty of an offence under this Part must specifically find whether the offence is the person's first, second or subsequent offence.
- (3) The cancellation and disqualification occur automatically by operation of this Part, but take effect from the date of the finding of guilt.
- (4) The court may order that the person be disqualified from obtaining a licence for a period longer than any minimum period specified in this Part, as the court considers fit.
- (5) The period of disqualification is reduced by any period of licence suspension imposed under section 29AAN in relation to the same offence.

Division 8 Court and evidentiary matters

29AAT Use of indicated blood alcohol content in court proceedings

- (1) This section applies:
 - (a) in any proceedings in a court; and
 - (b) even if evidence is given that the person consumed alcohol after the time of the alleged commission of the offence (the relevant time) and before the breath analysis was carried out or the sample of blood was taken.
- (2) If a breath analysis is carried out on a person in accordance with section 29AAC or 29AAD, the blood alcohol content indicated by the analysis is taken to be the blood alcohol content of the person at the relevant time.

- (3) If more than one breath analysis was carried out, the lower of the blood alcohol contents indicated is taken to be the blood alcohol content of the person at the relevant time.
- (4) If a sample of a person's blood is taken in accordance with section 29AAK:
 - (a) the blood alcohol content indicated by analysis of the sample is taken to be the blood alcohol content of the person at the relevant time; and
 - (b) any prohibited drug detected in the person's blood is taken to have been present in the person's blood at the relevant time.
- (5) If the person's blood is analysed because the person was taken to a hospital or health centre with injuries that may have been caused in a crash:
 - (a) the indicated blood alcohol content mentioned in subsection (2) or (4) is taken to be the blood alcohol content of the person at the time of the crash; and
 - (b) any prohibited drug detected in the person's blood is taken to have been present in the person's blood at the time of the crash.

29AAU Evidence by certificate

- (1) In any proceedings in a court, a certificate in the relevant prescribed form purporting to be signed by:
 - (a) a person authorised by the Commissioner under this Act to use a prescribed breath analysis instrument for this Act; or
 - (b) a member of the staff of a hospital or health centre; or
 - (c) an authorised analyst or a person employed by an organisation authorised as an analyst;is prima facie evidence of the matters stated in the certificate and the facts on which they are based.
- (2) For subsection (1), the Regulations may prescribe forms of certificate to be used by different persons on different occasions.
- (3) If the Regulations do not prescribe a form for a specific situation, the Registrar may approve a form for use in that situation.

29AAV If witness to be called

In any proceedings in a court, if a party intends to call as a witness a person whose evidence may be received by way of certificate under section 29AAU, that party must:

- (a) give not less than 14 days notice in writing of that intention to the other party; and
- (b) call the person in accordance with the procedures of the relevant court to give the person's evidence.

29AAW Breath analysis instrument

- (1) The Regulations may provide:
 - (a) that a device for the carrying out of a breath analysis is a prescribed breath analysis instrument; and
 - (b) for the proper use of a prescribed breath analysis instrument; for this Act.
- (2) A court must not receive evidence that a prescribed breath analysis instrument, when it is in good working order and used in accordance with the Regulations relating to its use, does not give a true and correct assessment of the concentration of alcohol in a person's blood.

29AAX Limitation on use of certain evidence

The fact that a sample of a person's blood, when analysed for this Act, indicated the presence of a prohibited drug cannot be used in evidence in any proceedings in a court under the *Misuse of Drugs Act*.

29AAY References to court and proceedings

In this Part:

- (a) a reference to proceedings in a court includes a reference to a preliminary examination under Part V of the *Justices Act*; and
- (b) a reference to a court includes a reference to a Justice conducting a preliminary examination under Part V of the *Justices Act*.

Part VA Impounding and forfeiture of motor vehicles for certain offences

Division 1 Preliminary

29AB Definitions

In this Part, unless the contrary intention appears:

forfeiture order means an order made under section 29AG(1)(c)(ii).

impounding order means an order made under section 29AG(1)(a), 29AG(1)(b) or 29AG(1)(c)(i).

last offence has the meaning in section 29AE.

offender has the meaning in section 29AE.

police officer means a member of the Police Force.

prescribed driving offence means an offence against a prescribed provision of this Act by the driver of a motor vehicle.

storage premises, for a motor vehicle, means the premises where the vehicle is kept under an impounding order.

29AC Traffic infringement notice counted as first offence

For this Division, an offender has been found guilty of a prescribed driving offence on the first of 2 or more occasions if:

- (a) a traffic infringement notice has been issued, and not withdrawn, under the Regulations to the offender for the offence; or
- (b) the person has been found guilty of the offence.

29AD Effect of impounding and forfeiture orders

- (1) An impounding order for a motor vehicle does not affect the rights of a credit provider to repossess the vehicle under the Consumer Credit (Northern Territory) Code and sell it.
- (2) The making of an impounding order or forfeiture order for a motor vehicle arising out of the commission of a prescribed driving offence is in addition to any other penalty that may be imposed for the offence.

Division 2 Impounding and forfeiture orders

29AE Application of Division

This Division applies if the driver of a motor vehicle (the offender) is found guilty of a prescribed driving offence (the last offence) within 2 years after having previously been found guilty of a prescribed driving offence.

29AF Application for impounding or forfeiture order

- (1) Within 28 days after the offender is found guilty of the last offence, a police officer may apply to the Local Court for an impounding order or forfeiture order for the vehicle driven by the offender when the last offence was committed.
- (2) However, subsection (1) does not apply if the vehicle was being unlawfully used, had been stolen or was a rental vehicle.

29AG Making of order

- (1) On hearing the application, the Local Court may:
 - (a) if the offender has been found guilty on 2 occasions of a prescribed driving offence, order that the vehicle be impounded for 48 hours;
 - (b) if the offender has been found guilty on 3 occasions of a prescribed driving offence, order that the vehicle be impounded for a stated period of not more than 3 months; or
 - (c) if the offender has been found guilty on 4 or more occasions of a prescribed driving offence, order that the vehicle:
 - (i) be impounded for a stated period of not more than 3 months; or
 - (ii) be forfeited to the Territory.
- (2) However, the Court must not make an impounding order or forfeiture order if it is satisfied impounding or forfeiting the vehicle will cause severe financial or physical hardship to the owner or usual driver of the vehicle.
- (3) In addition, the Court must not make an impounding order or forfeiture order if the owner of the vehicle raises the defence mentioned in subsection (4) and the Court is satisfied the defence has been made out.

- (4) It is a defence for an owner of the vehicle to prove the prescribed driving offence happened without the knowledge and consent of the owner.
- (5) The Court may, in an impounding order or forfeiture order for the vehicle:
 - (a) order the owner to deliver the vehicle to a police officer by a stated time at a stated place; or
 - (b) authorise a police officer, without warrant, to enter any place the police officer reasonably suspects is a place where the vehicle may be found and search for, seize and remove it.

29AH Costs of impounding

- (1) The offender is liable to pay the costs of removing and keeping the vehicle under an impounding order or forfeiture order.
- (2) For subsection (1), the owner of the storage premises for the vehicle is taken to be a warehouseman under the *Warehousemen's Liens Act* and that Act (other than section 7) applies to the vehicle.
- (3) If, after the end of the period of impounding of the vehicle under an impounding order, the owner of the vehicle does not recover it, Part 2 of the *Uncollected Goods Act* applies to the sale or disposal of the vehicle by the owner of the storage premises.

29AI Return of vehicle after impounding

- (1) When the period of impounding of the vehicle ends, the owner of the vehicle is entitled to recover it from the owner of the storage premises for the vehicle.
- (2) The owner of the storage premises must return the vehicle to its owner on request.
- (3) However, subsection (2) does not apply if the costs of removing and keeping the vehicle have not been paid.

29AJ Effect of forfeiture order

On the making of a forfeiture order for the vehicle:

- (a) the vehicle becomes the property of the Territory; and
- (b) a right of a person to enforce any security interest against another person by taking possession of the vehicle is extinguished.

Division 3 Provisions about forfeiture

29AK Disposal of forfeited vehicle

The Commissioner of Police may dispose of a motor vehicle forfeited to the Territory under a forfeiture order in the way the Commissioner considers appropriate, including by selling it.

29AL Application of proceeds of sale

If, under section 29AK, the Commissioner of Police sells the vehicle, the proceeds of the sale must be paid as follows:

- (a) first – in payment of the expenses of the sale;
- (b) second – in payment of the cost of removing and keeping the vehicle;
- (c) third – if there is an amount owing to a person under a security interest registered for the vehicle under the Registration of Interests in *Motor Vehicles and Other Goods Act* or a corresponding law of another jurisdiction – in payment of the amount owing to the registered holder of the interest;
- (d) fourth – to the Central Holding Authority.

29AM Third party protection from forfeiture order

- (1) A person, other than the offender, who did not appear at the hearing of an application for a forfeiture order and has an interest in a motor vehicle forfeited to the Territory under the order may apply to the Local Court for an order under subsection (5).
- (2) Unless the Court gives leave, the application must be made before the end of the period of 6 months starting on the day the forfeiture order was made.
- (3) The Court may give leave for a later application if it is satisfied the delay in applying was not because of the applicant's neglect.
- (4) Unless the Court gives leave, a person who was given notice of the application for the forfeiture order cannot apply to the Court for an order under subsection (5).
- (5) On an application, the Court may make an order:
 - (a) declaring the nature, extent and, if necessary for the order, the value (when the declaration is made) of the applicant's interest in the vehicle; and

- (b) directing the Territory:
 - (i) if the vehicle is still vested in the Territory – to transfer it to the applicant; or
 - (ii) if the vehicle is no longer vested in the Territory – to pay to the applicant the value of the applicant's interest in the vehicle after taking into account any amount paid under section 29AL(c) to the holder of a security interest.
- (6) The Court must, and may only, make the order if it is satisfied:
 - (a) the applicant would, apart from the forfeiture, have a genuine interest in the vehicle; and
 - (b) the prescribed driving offence for which the forfeiture order was made happened without the knowledge and consent of the applicant.
- (7) For all applications, including applications for leave to apply:
 - (a) the applicant must give notice of the making of the application to the Commissioner of Police; and
 - (b) the Commissioner is a party to the application.

Division 4 Miscellaneous provisions

29AN Offence to remove or interfere with impounded vehicle

- (1) A person must not:
 - (a) unlawfully remove an impounded motor vehicle from its storage premises; or
 - (b) interfere with an impounded motor vehicle held on its storage premises.

Penalty: 20 penalty units.

- (2) In this section:

impounded motor vehicle means a motor vehicle impounded under an impounding order, and includes anything fitted or attached to the vehicle, including for example, an accessory, body kit or stereo system.

29AO Review of Part

There is to be a review of the first 5 years of operation of this Part.

Part VI Offences**29A Effect of suspension of licence to drive or vehicle registration**

- (1) If a person's licence to drive is suspended under this Act or another Act, the person is to be taken not to hold a licence to drive during the period of suspension.
- (2) If the registration of a vehicle is suspended under the *Motor Vehicles Act*, the vehicle is to be taken to not be registered during the period of suspension.

30 Dangerous driving or riding

- (1) A person shall not, on a public street or public place, drive or ride a vehicle negligently or recklessly or at a speed or in a manner dangerous to the public.

Penalty: 20 penalty units or imprisonment for 2 years.

- (2) In considering whether an offence has been committed under this section, the court shall have regard to all the circumstances of the case, including the nature, condition and use of the public street or public place on which the offence is alleged to have been committed, and the amount of traffic which was, or might reasonably have been expected to have been, on that public street or public place at the time.
- (3) Where a person is found guilty of an offence against subsection (1) by reason of driving a motor vehicle on a public street or public place recklessly or at a speed or in a manner dangerous to the public, the person's licence shall, by force of the finding of guilt, be cancelled and that person shall be disqualified from holding a licence:
 - (a) for a first offence – for a period of 6 months; and
 - (b) for a second or subsequent offence – for a period of 12 months,or such longer period as the court thinks fit.
- (4) Subsection (1) in so far as it relates to the driving of a motor vehicle at a speed dangerous to the public does not apply to the driver of a motor vehicle which is:
 - (a) being driven or used by a member of the Police Force in the execution of that member's duty;

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- (b) being driven by a member of the Northern Territory Fire and Rescue Service, within the meaning of the *Fire and Emergency Act*, to a place in answer to a call for the services of the Northern Territory Fire and Rescue Service, or whilst it is in use at a fire or other emergency; or
 - (c) an ambulance.

30A Driving at dangerous speed

- (1) A person must not drive a vehicle at a speed that is 45 km/h or more faster than the prescribed speed limit for the length of road.

Penalty: 20 penalty units or imprisonment for 2 years.

- (2) Where a person is found guilty of an offence against subsection (1), the person's licence is, by force of the finding of guilt, cancelled and the person is disqualified from holding a licence:

- (a) for a first offence – for a period of 3 months; or
- (b) for a second offence or subsequent offence – for a period of 6 months,

or for such longer period as the Court thinks fit.

- (3) Subsection (1) does not apply to the driver of a motor vehicle that is:

- (a) being driven or used by a member of the Police Force in the execution of that member's duty;
- (b) being driven by a member of the Northern Territory Fire and Rescue Service, within the meaning of the *Fire and Emergency Act*, to a place in answer to a call for the services of the Northern Territory Fire and Rescue Service, or whilst it is in use at a fire or other emergency; or
- (c) an ambulance.

31 Driving while disqualified

- (1) Where a person is disqualified from holding a licence for a period, that person shall not during that period:

- (a) obtain a licence; or
- (b) drive a motor vehicle on a public street or public place.

Penalty: Imprisonment for 12 months.

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- (2) Where a person is found guilty of an offence against subsection (1) the court may disqualify that person from holding a licence for such further period as it thinks fit.

32 Driving while not licensed

- (1) A person shall not drive a motor vehicle on a public street or public place:

- (a) unless that person:

- (i) holds a licence;
- (ii) is temporarily in the Territory and holds a licence or permit to drive a motor vehicle granted in:
 - (A) the country or a State or other Territory of the Commonwealth in which that person usually resides; and
 - (B) when required, holds a current international driving permit granted in accordance with the terms of the 1949 United Nations Convention on Road Traffic;
- (iii) holds a learner's licence; or
- (iv) is temporarily in the Territory and holds a licence or permit (however referred to) granted in the country or the State or other Territory of the Commonwealth in which that person usually resides which permits the person to drive a motor vehicle to gain experience for the purpose of obtaining a licence to drive a motor vehicle,

and is driving in accordance with the conditions, if any, of the licence or permit, and the motor vehicle is one which the person is permitted by the licence or permit to drive; or

- (b) if:

- (i) that person is disqualified from holding a licence in a State or another Territory of the Commonwealth, during the period that the disqualification is in force; or
- (ii) the Registrar has revoked or suspended the person's entitlement to drive a motor vehicle under section 101B of the *Motor Vehicles Act*, during the period that the revocation or suspension is in force.

- (2) A person shall not employ, permit or suffer a person to drive a motor vehicle on a public street or public place if that person is not, by virtue of subsection (1), permitted to drive that motor vehicle.
- (3) For the purposes of subsection (1)(a) or (2), a person who is a resident of the Territory shall be deemed not to hold a licence to drive a motor vehicle unless that person is, under section 8A(3) of the *Motor Vehicles Act*, exempted from the requirement to be licensed, notwithstanding that that person is the holder of a licence to drive that motor vehicle granted under a law of a country or of a State or another Territory of the Commonwealth relating to the licensing of persons to drive motor vehicles.
- (4) In a prosecution for an offence against subsection (1)(a) or (2) relating to a person who is deemed not to hold a licence to drive a motor vehicle by virtue of subsection (3), an averment in the complaint that the person is a resident of the Territory is prima facie evidence of that fact.

33 Driving unregistered vehicle

- (1) A person shall not:
 - (a) drive; or
 - (b) employ, permit or suffer a person to drive,on a public street or public place a motor vehicle which is not registered.

Penalty: 20 penalty units or imprisonment for 12 months.
- (2) An inspector or a member of the Police Force who has reason to believe that a motor vehicle is not registered may remove a number plate which is attached to that vehicle.
- (3) For the purposes of this section:
 - (a) a visiting motor vehicle in relation to which there is in force a policy of insurance complying with the provisions of a law in force in a State or another Territory of the Commonwealth requiring the owner or driver of a motor vehicle to be insured against liability in respect of the death of or bodily injury to a person caused by or arising out of the use of the motor vehicle;

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- (aa) a motor vehicle being driven by the shortest practicable route to a repair workshop:
- (i) that is located within a reasonable distance in the circumstances;
 - (ii) that has the services of an inspector appointed under the *Motor Vehicles Act*; and
 - (iii) where arrangements for the presentation of the vehicle have been made in advance,
- for the purpose of the vehicle being inspected or repaired in order for it to be registered;
- (b) a motor vehicle being driven by the shortest practicable route to the nearest office of the Registrar or police station, for the purpose of registering that vehicle;
- (c) a motor vehicle being removed or operated in pursuance of a licence granted under section 137 of the *Motor Vehicles Act* or a licence or other document, granted under a provision of an Act of a State or another Territory of the Commonwealth, which permits the driving of a vehicle not registered under such an Act;
- (d) a motor vehicle being driven in pursuance of, and in accordance with, a pastoral vehicle permit granted under section 137B of the *Motor Vehicles Act*;
- (da) a motor vehicle being towed, moved or driven under section 47(4);
- (e) a vehicle which is the property of the Commonwealth or an authority of the Commonwealth; and
- (f) a motor vehicle registered under the *Interstate Road Transport Act* of the Commonwealth,

shall be deemed to be registered.

- (4) A person shall not drive a visiting motor vehicle on a public street or public place unless that person complies with the conditions, restrictions or limitations (if any) imposed in respect of its registration in the country, State or Territory of the Commonwealth where it is registered and:
- (a) that person can establish, to the satisfaction of the Registrar, that within the period of 3 months immediately preceding that day, it had been outside the Territory; or

- (b) the vehicle is, under section 8A(1) of the *Motor Vehicles Act*, exempted from the requirement for registration.
- (4A) For the purposes of subsection (1), a motor vehicle is to be deemed to be not registered, notwithstanding that it is registered under a law of another country or of a State or another Territory of the Commonwealth relating to the registration of motor vehicles, where it is being driven in contravention of a condition, restriction or limitation imposed in respect of its registration in that country, State or Territory.
- (5) For the purposes of subsection (1), a motor vehicle shall be deemed to be not registered, notwithstanding that it is registered under a law of another country or of a State or another Territory of the Commonwealth relating to the registration of motor vehicles, where it is being driven by a person who is:
- (a) a resident of the Territory; and
 - (b) the owner of the vehicle,
- and the vehicle has been in the Territory continuously for:
- (c) more than 28 days; or
 - (d) where the Registrar has, under section 8A(1) of the *Motor Vehicles Act*, exempted the vehicle from the requirement for registration for a period, for more than that period.
- (6) For the purposes of subsection (5)(b), but without limiting that subsection, a person shall be deemed to be the owner of a motor vehicle if it is registered under a law of another country or of a State or another Territory of the Commonwealth in the name of that person or in the name of a spouse, de facto partner, dependant or parent, who is a resident of the Territory, of that person.
- (7) In a prosecution for an offence against subsection (1) in respect of a motor vehicle which is deemed not to be registered by virtue of subsection (5), an averment in the complaint that:
- (a) a person is a resident of the Territory; or
 - (b) the vehicle in respect of which an alleged offence was committed had been in the Territory continuously for a specified period,
- is prima facie evidence of the matters averred.
- (8) This section does not apply to a vehicle to which section 33A applies.

33A Driving unregistered heavy vehicle

(1) A person shall not:

(a) drive; or

(b) employ, permit or suffer a person to drive,

on a public street or public place a heavy vehicle which is not registered.

Penalty: In the case of a natural person – 20 penalty units or imprisonment for 12 months.

In the case of a body corporate – 100 penalty units.

(2) Where a heavy vehicle that is a visiting motor vehicle:

(a) is registered in the configuration in which the vehicle was driven at the time of the alleged offence under a law of another country or of a State or another Territory of the Commonwealth relating to the registration of motor vehicles and the registration is not void outside of, or of effect only within, the State or Territory in which registration occurred; or

(b) was, at the time of the alleged offence, driven in a configuration specified in a permit issued under section 107B of the *Motor Vehicles Act* in relation to the vehicle,

and there is in force in relation to the vehicle a policy of insurance complying with the provisions of a law in force in a State or another Territory of the Commonwealth requiring the owner or driver of a motor vehicle to be insured against liability in respect of the death of or bodily injury to a person caused by or arising out of the use of the motor vehicle and the policy is not void outside of, or of effect only within, the State or Territory in which registration occurred, the heavy vehicle shall be deemed to be registered.

(3) Subject to subsection (4), where an owner of a vehicle is found guilty of an offence against subsection (1) in relation to the vehicle, the owner shall, in addition to the penalty, if any, imposed under subsection (1), pay to the Registrar an amount equal to the amount, at the time at which the offence occurred, payable under section 13 of the *Motor Vehicles Act* for 12 months registration of the vehicle in the configuration in which the vehicle was driven at the time of the offence.

- (4) The Regulations may prescribe that the penalty specified in subsection (3) does not apply to certain specified classes of offences against that subsection and that penalty shall accordingly not apply to those offences.
- (5) An inspector or a member of the Police Force who has reason to believe that a heavy vehicle is not registered may remove a number plate which is attached to that vehicle.
- (6) For the purposes of this section:
- (a) a heavy vehicle being driven by the shortest practicable route to the nearest office of the Registrar or police station, for the purpose of registering that vehicle;
 - (b) a heavy vehicle being removed or operated in pursuance of a licence granted under section 137 of the *Motor Vehicles Act* or a licence, granted under a law of a State or another Territory of the Commonwealth, which permits the driving of a vehicle not registered under such an Act;
 - (c) a heavy vehicle being driven in pursuance of, and in accordance with, a pastoral vehicle permit granted under section 137B of the *Motor Vehicles Act*;
 - (d) a heavy vehicle being towed, moved or driven under section 47(4);
 - (e) a heavy vehicle which is the property of the Commonwealth or an authority of the Commonwealth; and
 - (f) a heavy vehicle registered under the *Interstate Road Transport Act* of the Commonwealth,
- shall be deemed to be registered.
- (7) A person shall not, on a public street or public place, drive a heavy vehicle that is a visiting motor vehicle, unless that person is driving the heavy vehicle in compliance with the conditions, restrictions or limitations (if any) imposed in respect of its registration in the country, State or Territory of the Commonwealth where it is registered and:
- (a) that person can establish, to the satisfaction of the Registrar, that within the period of 3 months immediately preceding that day, it had been outside the Territory; or
 - (b) the vehicle is, under section 8A(1) of the *Motor Vehicles Act*, exempted from the requirement for registration.

- (7A) For the purposes of subsection (1), a heavy vehicle that is a visiting motor vehicle is to be deemed to be not registered, notwithstanding that it is registered under a law of another country or of a State or another Territory of the Commonwealth relating to the registration of heavy vehicles, where it is being driven in contravention of a condition, restriction or limitation imposed in respect of its registration in that country, State or Territory.
- (8) For the purposes of subsection (1), a heavy vehicle shall be deemed to be not registered, notwithstanding that it is registered under a law of another country or of a State or another Territory of the Commonwealth relating to the registration of motor vehicles, where it is being driven by a person who is:
- (a) a resident of the Territory; and
 - (b) the owner of the vehicle,
- and the vehicle has been in the Territory continuously:
- (c) for more than 28 days; or
 - (d) where the Registrar has, under section 8A(1) of the *Motor Vehicles Act*, exempted the vehicle from the requirement for registration for a period, for more than that period.
- (9) For the purposes of subsection (8)(b), but without limiting that subsection, a person shall be deemed to be the owner of a heavy vehicle if it is registered under a law of another country or of a State or another Territory of the Commonwealth in the name of that person or in the name of a spouse, de facto partner, dependant or parent, who is a resident of the Territory, of that person.
- (10) In a prosecution for an offence against subsection (1) in respect of a heavy vehicle which is deemed not to be registered by virtue of subsection (9), an averment in the complaint that:
- (a) a person is a resident of the Territory; or
 - (b) the vehicle in respect of which an alleged offence was committed had been in the Territory continuously for a specified period,
- is prima facie evidence of the matters averred.
- (11) For the purposes of this section:

configuration has the meaning it has in the *Motor Vehicles Act*.

heavy vehicle means a vehicle to which, if the vehicle were

required to be registered in the Territory, the Road Transport Charges Laws of the Territory as defined in the *Road Transport Charges (Northern Territory) Act* would apply.

33B Person may be cautioned

- (1) This section applies if a person:
 - (a) contravenes section 32, 33 or 33A because the person's licence to drive or the registration of the vehicle is suspended because the person (or the owner of the vehicle) is a fine defaulter; or
 - (b) contravenes section 32 because the person is subject to a suspension period under Part III of the *Motor Vehicles Act*.
- (1A) A member of the Police Force may, if satisfied that the person was unaware of the suspension, caution the person and (if necessary) permit the person to continue to drive the vehicle to a nominated place instead of charging the person with an offence.
- (1B) The Registrar may also, if satisfied that the person was unaware of the suspension, caution the person and (if necessary) permit the person to drive the vehicle to a nominated place.
- (2) A person who has been previously cautioned under this section for contravening section 32, 33 or 33A is not entitled to be cautioned again on another occasion in respect of the same suspension.
- (3) It is a defence to a charge of contravening section 32, 33 or 33A if the person charged proves that he or she was given permission to drive under subsection (1A) or (1B).

34 Driving uninsured or improperly insured vehicle

- (1) Subject to subsection (4), a person shall not drive or permit to be driven on a public street or public place a motor vehicle in respect of which a current compensation contribution has not been paid under Part V of the *Motor Vehicles Act*.

Penalty: If the offender is a natural person – 100 penalty units.

If the offender is a body corporate – 500 penalty units.

In both cases, the minimum penalty is:

- (a) for a first offence – 5 penalty units; and
- (b) for a second or subsequent offence – 10 penalty units.

- (2) Subject to subsection (4), the owner of a motor vehicle shall not use or permit it to be used for a purpose which, under Part V of the *Motor Vehicles Act*, requires a compensation contribution to be paid greater than that paid for that vehicle at the time it was registered.

Penalty: If the offender is a natural person – 100 penalty units.

If the offender is a body corporate – 500 penalty units.

In both cases, the minimum penalty is:

- (a) for a first offence – 5 penalty units; and
- (b) for a second or subsequent offence – 10 penalty units.
- (3) Subsections (1) and (2) do not apply to or in relation to a motor vehicle which is deemed under section 33(3) or section 33A(2) or (6) to be registered.
- (4) Notwithstanding that a minimum penalty is prescribed for an offence against subsections (1) and (2) the Regulations may provide that the minimum penalty shall not apply to certain classes of offences against those subsections and that minimum penalty shall accordingly not apply to those offences.

35 Driving motor vehicle registered on conditions, &c.

- (1) If the Registrar has under the *Motor Vehicles Act* registered or renewed the registration of a motor vehicle subject to conditions, a person driving the motor vehicle must comply with those conditions.
- (2) If the Registrar has under section 102A of the *Motor Vehicles Act* endorsed on a certificate of registration a direction that the motor vehicle is not to be driven except between the times specified in the endorsement, a person driving the motor vehicle must comply with the direction.

Part VII Prosecutions of offences, penalties, &c.

36 Laying of complaint

- (1) A complaint for an offence against this Act may be made by any person.
- (2) Where a complaint is made by a person (other than the Director, an inspector, a member of the Police Force or a person authorized by a statutory corporation to make complaints on its behalf under this Act) and the proceedings are dismissed or the complaint is

withdrawn, the court may, if it thinks fit, order that person to pay to the defendant, in addition to any costs, such compensation as it thinks reasonable.

37 Offence to due to accident

- (1) A person is not liable to be found guilty of an offence against this Act if that person proves, to the satisfaction of the court hearing the case, that the offence could not have been avoided by any reasonable efforts on that person's part.
- (2) It is a defence to a prosecution for an offence against this Act if the defendant satisfies the court that the action the defendant took was reasonable in the circumstances and intended to evade a dangerous situation which had arisen through no fault or negligence on the defendant's part.

38 Proof of speed

- (1) A person shall not be found guilty of an offence of or relating to exceeding a prescribed speed limit solely on the evidence of one witness to the effect that, in the opinion of the witness, the person was driving the vehicle at a speed faster than that permitted for that vehicle.
- (2) A complaint for an offence of or relating to driving a vehicle at a speed exceeding a prescribed speed limit shall specify the speed at which, or faster than which, it is alleged the defendant drove the vehicle.
- (3) Evidence may be given in any proceedings in a court for the purpose of showing the speed at which a vehicle was travelling at a particular time by reference to the calculation of the speed of that vehicle as shown on a traffic infringement detection device and, where evidence is so given, it shall be prima facie evidence that the vehicle was travelling at the speed so calculated at that time.

40 Disqualification where offender not licensed

Where a person who does not hold a licence is found guilty of an offence against this Act, where, by force of the being found guilty the person's licence would or may, if the person held one, be cancelled, that person shall be disqualified from holding a licence for the period provided by the section to which the offence relates, or as otherwise ordered by the court in accordance with that section.

41 Cancellation of licence

- (1) Subject to this Act, where a person is found guilty of an offence against this Act, the court may cancel the person's licence and disqualify the person from holding another licence for such period as the court thinks fit.
- (2) The cancellation of a licence and disqualification from holding another licence in respect of an offence against this Act is in addition to any other penalty imposed by the court for the offence.
- (3) A reference to the cancellation of a person's licence in this section or any other section of this Act shall be read as a reference to the cancellation of that person's licence to drive any motor vehicle.

42 Continuation of provisional licence

If:

- (a) a court finds a person guilty of an offence against this Act or the *Motor Vehicles Act*; and
- (b) the person's licence to drive a motor vehicle is provisional at the time of the finding of guilt;

the court may, in addition to imposing any other penalty, order that the provisional period be extended by not less than 3 months and not more than 12 months.

43 Appeals against findings of guilt, cancellations, &c.

- (1) Where:
 - (a) a person has been found guilty of an offence against this Act;
orand as a consequence of the being found guilty or the finding:
 - (ba) the person's licence is cancelled; or
 - (bb) the person is disqualified from holding a licence for a period;and:
 - (bc) the person has duly instituted an appeal to the Supreme Court from the conviction, order or finding in respect of the offence,then on and from the date when the court by which the order or conviction was made is satisfied that an appeal has been duly instituted and until the determination of the appeal, this Act does not apply to or in relation to that person being found guilty in so far

as it would, but for this section:

- (c) cause that person to cease to be licensed or be deemed to be licensed;
 - (d) require the delivery of that person's licence to the Registrar for cancellation; or
 - (e) cause that person to be disqualified from being granted a licence or from holding a licence.
- (2) Unless the Supreme Court on the hearing of an appeal quashes conviction, order or finding sets aside the finding:
- (a) the period, if any, during which the appellant is disqualified from being granted or holding a licence to drive a motor vehicle ends, subject to any order the Supreme Court makes on the hearing of the appeal, on the date which is as many days after the date on which it would have ended if there had been no appeal as there are days in the period between the institution and the determination of the appeal; and
 - (b) subject to any order the Supreme Court makes on the hearing of the appeal, the appellant is not licensed or shall not be deemed to be licensed during the period commencing on the determination of the appeal and ending on the date which is as many days after the determination as there are days in the period between the institution and the determination of the appeal.
- (3) A person may appeal to the Supreme Court against a finding of the court under section 4(1)(b) of the *Criminal Law (Conditional Release of Offenders) Act* that a charge for an offence against this Act is proved, and the finding shall be taken to be an adjudication of the court for the purposes of Division 2 of Part VI of the *Justices Act*.

43AA Demerit points offence

- (1) If a demerit points offence is detected by a traffic infringement detection device and:
- (a) an infringement notice is issued to a body corporate that is the registered owner of the vehicle; and
 - (b) the registered owner does not, within the time allowed by the notice, return a statutory declaration:
 - (i) identifying a natural person as the driver of the vehicle at the time the offence was committed; or

- (ii) identifying another body corporate that, at the time the offence was committed, had control of the vehicle under a hire or lease agreement;

the body corporate is liable to an infringement notice penalty equal to 5 times the infringement notice penalty amount prescribed for the offence.

- (2) If a demerit points offence is detected by a traffic infringement detection device and:
 - (a) an infringement notice is issued to a body corporate that, at the relevant time, had control of the vehicle under a hire or lease agreement; and
 - (b) the body corporate does not, within the time allowed by the notice, return a statutory declaration identifying a natural person as the driver of the vehicle at the time the offence was committed;

the body corporate is liable to an infringement notice penalty equal to 5 times the infringement notice penalty amount prescribed for the offence.

- (3) In this section:

body corporate includes an Agency and, so far as the legislative power of the Legislative Assembly permits, an agency of the Commonwealth or another jurisdiction.

registered owner is taken to include a nominated operator under section 92A of the *Motor Vehicles Act*.

Part VIII Miscellaneous

43A Special provisions for races, &c.

- (1) On the application of a person, the Minister may, in writing, declare that an event that is to be held on a public street or public place is an event to which this section applies and may order that:
 - (a) a public street or public place on which the event is to be held and any adjacent or adjoining public street or public place is closed to traffic for a specified period; and
 - (b) a person taking part in the event is exempted, in relation to a public street or public place on which the event is to be held, from the duty to observe an Act, regulation, or by-law, prescribing a rule to be observed on public streets or public

places by pedestrians or the drivers of vehicles.

- (2) An order under this section shall only be made:
 - (a) with the consent of the competent authority of a public street or public place that is to be closed;
 - (b) after the Minister responsible for the administration of the *Territory Insurance Office Act* has notified the Minister that satisfactory arrangements are in place to protect the Territory from any liability, and the Territory Insurance Office from any liability under the *Motor Accidents (Compensation) Act*, that may arise out of the holding of the event; and
 - (c) after the Minister is satisfied that the organisers of the event have arranged a level of insurance that is adequate, in the Minister's opinion, to meet any liability that may arise out of the holding of the event.
- (3) An applicant under this section shall give public notice of the event, by such means as the Minister requires, not less than 7 days prior to the date of the event.
- (4) An order under this section may be subject to such conditions as the Minister thinks fit to impose.
- (5) Where the Minister is satisfied that a condition to which an order is subject has not or is not being complied with, the Minister may vary, cancel, or suspend for such period as the Minister thinks fit, the order.
- (6) An order under this section renders lawful anything done in accordance with the order.
- (7) An order under this section may apply to the whole or a part of a public street or public place.
- (8) For the purposes of an event to which this section applies, the Director may appoint such persons as he or she thinks fit to be officials.
- (9) A person appointed as an official under subsection (8) shall be provided with an identification card by the Director, and the person shall, at all times when exercising his or her powers under subsection (10), display the identification card.
- (10) A person appointed as an official under subsection (8) may give such reasonable directions to a person on a public street or public place, other than a member of the Police Force, as are, in the person's opinion, necessary for the safe and efficient conduct of an

event to which this section applies.

- (11) In addition to any other power to regulate traffic given by this or any other Act, a member of the Police Force may give such reasonable directions to a person on a public street or public place, including a person appointed as an official under subsection (8), as are, in the member's opinion, necessary for the safe and efficient conduct of an event to which this section applies.
- (12) A direction under subsection (10) or (11) may include clearing vehicles or persons from a public street or public place or part of a public street or public place or temporarily closing a public street or public place or part of a public street or public place.
- (13) A person shall not contravene or fail to comply with a condition to which an order under this section is subject.
- (14) A person to whom a direction under subsection (10) or (11) is given shall not contravene or fail to comply with the direction.
- (15) In this section, event means an organised sporting, recreational or other similar activity, whether the persons taking part are in competition with other persons or not, and includes a race and practice for a race.
- (16) No action or proceeding shall lie against the Minister or the Minister responsible for the administration of the *Territory Insurance Office Act* in respect of anything done or omitted to be done by him or her in good faith and purporting to be for the purposes of this section.

43B Exemptions

- (1) The Registrar may, by notice in the *Gazette*, exempt a motor vehicle of a class specified in the notice, subject to such conditions, if any, as the Registrar thinks fit, from the application of some or all of the provisions of this Act.
- (2) In determining whether to exempt a motor vehicle under subsection (1), the Registrar shall have regard to:
 - (a) the speed capacity;
 - (b) the likelihood of infrequent use on public streets or public places; and
 - (c) such other special considerations or characteristics of the vehicle as the Registrar thinks fit,

of a vehicle of the relevant class.

44 Traffic infringement detection device

- (1) The Commissioner may, by *Gazette* notice, approve a device of a kind specified in the notice as a traffic infringement detection device.
- (2) In the notice, the Commissioner:
 - (a) must specify the manner in which, and the frequency with which, testing of the accuracy of the device must be carried out by an approved person; and
 - (b) may impose any other conditions the Commissioner thinks fit on the approval.
- (3) The Commissioner may, by *Gazette* notice, approve a person as a person qualified to test the accuracy of a traffic infringement detection device.
- (4) A traffic infringement detection device must not be used for or in relation to the detection of an offence unless it has been tested in accordance with the procedure specified under subsection (2).

44AA Requirements for approval of device

- (1) The Commissioner must not approve as a traffic infringement detection device a device that produces a photographic image or an electronic image in respect of the commission of an offence unless:
 - (a) the image shows the vehicle involved in the alleged commission of the offence, including the number plate area (front or rear) of the vehicle; and
 - (b) the device also records the following information:
 - (i) a code identifying the device that recorded the image;
 - (ii) a code identifying the location at which the device recorded the image;
 - (iii) the date and the time when the image was recorded;
 - (iv) the relevant information mentioned in subsections (2) and (3);
 - (v) other information as prescribed.
- (2) For an offence of exceeding a prescribed speed limit, the device must also record the following information:
 - (a) the prescribed speed limit at the location;

- (b) the speed at which the device calculated the vehicle was travelling at the time the image was recorded.
- (3) For an offence of failing to obey a traffic control signal by proceeding while a red traffic light or red traffic arrow is displayed, the device must also record the number of seconds between the time the light or arrow was displayed and the time the driver proceeded beyond the stop line or the traffic control signal.
- (4) The image and other information must be held in an electronic file in an unalterable format and be transferable to a printed form that contains the unaltered image and information.

44A Proof of certain matters relating to use of infringement detection devices

In proceedings for an offence against this Act:

- (a) evidence may be given by a member of the Police Force or an officer of the use by the member or officer of a traffic infringement detection device in relation to the detection of the offence, and the evidence is prima facie evidence of the offence;
- (b) a certificate purporting to be signed by a person approved under section 44(3), or a copy of the certificate, produced by the prosecution and purporting to certify that the traffic infringement detection device specified in the certificate:
 - (i) is a traffic infringement detection device within the meaning of this Act; and
 - (ii) was tested by a person approved under section 44(3) in accordance with the notice approving the devices under section 44(1) on a specified day in respect of a specified period, and was shown by the test to be accurate to the extent indicated in the certificate,

is, without proof of the signature, evidence of the facts certified and that the device was accurate to that extent;

- (c) where the offence is one of driving a vehicle at a speed that is faster than a prescribed speed limit, the production by the prosecution of a form that contains an image recorded by a traffic infringement detection device and the information specified in section 44AA is evidence that at the time and place indicated on the form the motor vehicle appearing in the image was driven at the speed indicated on the form; and

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- (d) where the offence is one of contravening or failing to comply with a traffic control signal by proceeding on a public street beyond a stop line or a part of the signal while a light that is a red circle or a red arrow is displayed facing a driver, the production by the prosecution of a form that contains an image recorded by a traffic infringement detection device and the information specified in section 44AA is evidence that at the time and place indicated on the form the driver of the vehicle appearing in the image proceeded beyond the stop line or the part of the signal while a light that was a red circle or red arrow was facing the driver.

45 Offence against regulations not to affect damages in respect of death of, or injury to, child

Notwithstanding any other law of the Territory, in civil proceedings in respect of injury to a child or young person arising out of the use of a motor vehicle, damages recoverable by the child or young person shall not be reduced by reason only that an act or omission by a person constituted an offence under this Act relating to the obligations of a driver of a motor vehicle to children and young persons in a motor vehicle.

46 Liability at common law and by statute

Nothing in this Act affects the liability of a person by virtue of any other law (including the common law) in force in the Territory.

46A Breath analysis instruments at licensed premises – readings not admissible as evidence

- (1) Evidence of the taking of a test indicating the presence or concentration of alcohol in the blood of a person by a breath analysis instrument installed in premises licensed under the *Liquor Act*, or of the results of such a test, is not admissible in any court or tribunal in any proceedings, whether civil or criminal.
- (2) A licensee in respect of premises licensed under the *Liquor Act* shall not install a breath analysis instrument on the premises unless the instrument complies with the Australian Standard relating to such instruments.

47 Duties and powers of police, &c.

- (1) A member of the Police Force shall do all things in that member's power to ensure that this Act is duly observed.
- (2) For the purposes of subsection (1), a member of the Police Force may drive, use, ride on or be carried or drawn by, any vehicle or animal the driver of which has been given a direction or order under

this Act and that member shall not be liable for the payment of any fare ordinarily chargeable for such use, hire or carriage.

- (3) Where a driver or person in charge of a vehicle is arrested or otherwise lawfully detained by a member of the Police Force and that driver or person is unwilling or unable, for whatever reason, to move or secure the vehicle, the member may:
- (a) park and secure the vehicle at or near the place where the driver or person is arrested or detained; or
 - (b) arrange for it to be towed, moved or, where considered by the member to be safe to do so, driven to a police station or other place,

without liability for any damage or loss which may occur to the vehicle or to anything in it.

- (4) Where a vehicle is not registered, a member of the Police Force may take charge of the vehicle and may arrange for it to be towed, moved or, where considered by the member to be safe to do so, driven, to a police station or other place without liability for any damage or loss which may occur to the vehicle or to anything in it.
- (5) Where a vehicle is, under subsection (3) or (4), towed, moved or driven to a police station or other place, the vehicle may be kept at that station or place until the costs of towing or moving it and of detaining it are paid to the Territory.
- (6) Where, at the expiration of 3 months after a vehicle has been taken charge of under subsection (3) or (4), the costs referred to in subsection (5) have not been paid, the Commissioner may, by public auction, dispose of the vehicle and the money, if any, obtained from the sale of the vehicle shall, after payment of the costs referred to in subsection (5), be paid into the Public Account, within the meaning of the *Financial Management Act*, in accordance with the requirements of that Act.
- (7) A sale in accordance with subsection (6) shall be valid as against all persons.

48 Liability of insurers under policies of insurance

- (1) The fact that a person has undergone a breath test, submitted to a breath analysis or given a sample of blood for a blood test, the result of a breath test, breath analysis or blood test or the fact that a person has been convicted of an offence under section 19 (other than subsection (1)) or 20 is not, for the purposes of a contract of insurance, admissible as evidence of the fact that that person was at any time under the influence of or in any way affected by

intoxicating liquor or incapable of driving or of exercising effective control over a motor vehicle, but nothing in this subsection precludes the admission of any other evidence to show any such fact.

- (2) A reference in a contract of insurance to a concentration of alcohol equal to or exceeding that prohibited by a law applicable in a State or Territory, or words to that effect, shall be construed, for the purposes of the contract of insurance, as a reference to the concentration specified in section 19(2).
- (3) Subsections (1) and (2) have effect notwithstanding anything contained in a contract of insurance and a covenant, term, condition or provision of a contract of insurance, to the extent that the operation of this section is excluded, limited, modified or restricted, is void.

51 Regulatory offences

An offence against or a contravention or failure to comply with this Act (other than sections 29AN(1), 30, 30A and 31) is a regulatory offence.

52 General penalties

A person who contravenes or fails to comply with a provision of this Act in respect of which no penalty, other than by this section, is provided, is guilty of an offence.

Penalty: 20 penalty units or imprisonment for 12 months.

53 Regulations

- (1) The Administrator may make regulations, not inconsistent with this Act, prescribing all matters:
 - (a) required or permitted by this Act to be prescribed; or
 - (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.
- (2) Without limiting the generality of subsection (1), the Regulations may provide for:
 - (a) the exemption of certain persons from the application of all or part of the Regulations;
 - (b) the erection and operation of, and obedience to, traffic control devices;

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- (c) the regulation or prohibition of persons driving vehicles including:
 - (i) driving on the left, in reverse, at intersections or on beaches, footways, reservations and traffic islands;
 - (ii) the overtaking or passing of vehicles;
 - (iii) giving way to vehicles;
 - (iv) the parking or standing of vehicles or leaving vehicles unattended;
 - (v) the turning, starting and stopping of vehicles;
 - (vi) the towing of vehicles; and
 - (vii) the number of hours which a person may drive a vehicle;
 - (d) the regulation of pedestrians on public streets and public places;
 - (e) the regulation of persons on or near railway level crossings;
 - (f) the prescribing or determining by the Registrar of speed restrictions and the use of traffic infringement detection devices including the testing and operation of such devices;
 - (g) the lights, warning signs and equipment to be fitted to vehicles and the use of such lights, warning signs and equipment;
 - (h) the regulation of the use of bicycles and toy vehicles on public streets or public places;
 - (j) freeways, bus lanes, bicycle ways, truck lanes, truck priority lanes and transit lanes;
 - (k) the safety of persons in or on vehicles;
 - (m) the authorization of persons carrying out breath analyses;
 - (n) the securing of loads on vehicles and the measures to be taken in the event of the loss of material from vehicles;
 - (p) the regulation or prohibition of persons obstructing public streets or public places;
 - (q) the regulation or prohibition of persons holding:
 - (i) processions, parades or other events; or

- (ii) vehicle trials, speed tests or races,
on public streets or public places;
 - (r) the control of animals on public streets or public places;
 - (s) the payment of a prescribed amount in lieu of a penalty which may otherwise be imposed for an offence against this Act or the *Motor Vehicles Act* or the Regulations made under that Act;
 - (t) the service of notices on persons alleged to have infringed this Act or the *Motor Vehicles Act* or the Regulations made under that Act and particulars to be included in such notices;
 - (u) the proof of ownership of a vehicle and other evidentiary matters in respect of offences committed against the Regulations;
 - (w) the sale or disposal of abandoned vehicles;
 - (y) penalties not exceeding 20 penalty units or imprisonment for 6 months, or both, for offences against the Regulations; and
 - (z) the forfeiture of goods on conviction for an offence against the Regulations.
- (3) The Regulations may incorporate or adopt by reference the provisions of any document, standard, rule, specification or method formulated, issued, prescribed or published by any authority or body whether:
- (a) wholly or partly, or as amended by the Regulations;
 - (b) as formulated, issued, prescribed or published at the time the Regulations are made or at any time before then; or
 - (c) as amended after the making of the Regulations, but only where the Director has published in the *Gazette* a notice that the particular amendment is to be incorporated in the Regulations.
- (4) The Regulations may prescribe different penalties for different classes of offender for an offence against the Regulations.
- (5) The Regulations may:
- (a) make different provision in relation to:
 - (i) different persons or matters; or

- (ii) different classes of persons or matters; or
- (b) apply differently by reference to stated exceptions or factors.

53A Demerit points

- (1) The Administrator may also make regulations:
 - (a) specifying offences under this Act or another Act regulating road use or use of road-related areas as offences that attract demerit points; and
 - (b) specifying the number of demerit points to be allocated in respect of the offences.
- (2) The Minister may, by *Gazette* notice and published in a newspaper circulating throughout the Territory, declare that during a period specified in the notice additional demerit points will apply to demerit points offences.
- (3) The additional points declared by the Minister must not result in the total number of demerit points applying in relation to an offence exceeding double the points specified by the Administrator under subsection (1)(b).

54 Savings and transitional

- (1) In this section a reference to:
 - (a) the former Act is a reference to the *Traffic Act* as in force immediately before the commencement of this Act; and
 - (b) the commencement of this Act is a reference to the commencement of this Act other than sections 1 and 2.
- (2) Notwithstanding the commencement of this Act, the provisions of the former Act and the Regulations made under that Act shall apply to and in relation to a prosecution or legal proceeding for an offence against that Act which continues or is commenced after that commencement as if this Act had not come into operation.
- (3) Where, immediately before the commencement of this Act, a person was an authorized analyst under the former Act, that person shall, on the commencement of this Act, be deemed to be an authorized analyst appointed under this Act.
- (4) Where, immediately before the commencement of this Act, a member of the Police Force was authorized under section 8M of the former Act to use a prescribed instrument, that member shall, on the commencement of this Act, be deemed to be authorized to use

a prescribed instrument under this Act.

- (5) Where, before the commencement of this Act:
- (a) a sign, signal, flag, notice, beacon or other device was erected, placed or displayed; or
 - (b) a road marking on a carriageway or kerb was made,
- for the purposes of the former Act, that sign, flag, notice, beacon, device or road marking shall, on the commencement of this Act, be deemed to be a traffic control device placed, erected or displayed by the competent authority in accordance with, and for the purposes of, this Act.
- (6) Where, immediately before the commencement of this Act, an apparatus was a traffic speed analyser approved under the former Act, that apparatus shall, on the commencement of this Act, be deemed to be a traffic infringement detection device approved under this Act and a test required to be carried out on the apparatus under the former Act shall be deemed to be a test carried out under this Act until such time as a test is carried out, or is required to be carried out, under this Act.
- (7) Where, immediately before the commencement of this Act, a person was approved under section 56AB(2) of the former Act as a person qualified to test the accuracy of a traffic speed analyser, that person shall, on the commencement of this Act, be deemed to be a person qualified to test the accuracy of a traffic infringement detection device appointed under this Act.
- (8) Where, before the commencement of this Act, a person referred to in section 55AA(1) of the former Act instituted an appeal to the Supreme Court and that appeal has not been determined at the time of the commencement of this Act, section 43 shall, on that commencement, apply to and in relation to that appeal as if it were an appeal against a conviction under this Act and the court in which the order or conviction was made shall be deemed to be satisfied an appeal has been duly instituted.

55 Repeal

- (1) Subject to subsection (2), the Ordinances and Acts listed in Schedule 2 are repealed.
- (2) Notwithstanding the repeals effected by subsection (1), Part IV of the *Traffic Act*, as in force immediately before the commencement of this Act (other than sections 1 and 2 of this Act), shall, by virtue of this subsection, continue in force after that commencement and shall be deemed to form part of this Act until repealed by the

Minister by notice in the *Gazette*.

Schedule 2 Acts repealed

section 55

Ordinance, Act	Number and year
<i>Traffic Ordinance 1949</i>	No. 8, 1949
<i>Traffic Ordinance 1952</i>	No. 14, 1952
<i>Traffic Ordinance 1954</i>	No. 12, 1954
<i>Traffic Ordinance 1956</i>	No. 27, 1956
<i>Traffic Ordinance 1957</i>	No. 37, 1957
<i>Traffic Ordinance 1958</i>	No. 5, 1958
<i>Traffic Ordinance 1959</i>	No. 15, 1959
<i>Traffic Ordinance 1960</i>	No. 8, 1961
<i>Traffic Ordinance 1961</i>	No. 28, 1961
<i>Traffic Ordinance 1962</i>	No. 46, 1962
<i>Traffic Ordinance (No. 2) 1966</i>	No. 31, 1966
<i>Traffic Ordinance 1966</i>	No. 10, 1967
<i>Traffic Ordinance 1968</i>	No. 41, 1968
<i>Traffic Ordinance (No. 2) 1968</i>	No. 42, 1968
<i>Traffic Ordinance (No. 3) 1968</i>	No. 69, 1968
<i>Traffic Ordinance 1969</i>	No. 5, 1970
<i>Traffic Ordinance 1970</i>	No. 64, 1970
<i>Traffic Ordinance 1971</i>	No. 13, 1971
<i>Traffic Ordinance (No. 2) 1971</i>	No. 35, 1971
<i>Traffic Ordinance (No. 3) 1971</i>	No. 48, 1971
<i>Traffic Ordinance 1972</i>	No. 23, 1972
<i>Traffic Ordinance (No. 2) 1972</i>	No. 51, 1972
<i>Traffic Ordinance (No. 3) 1972</i>	No. 71, 1972
<i>Traffic Ordinance 1973</i>	No. 47, 1973
<i>Traffic Ordinance (No. 2) 1973</i>	No. 48, 1973
<i>Traffic Ordinance (No. 3) 1973</i>	No. 80, 1973
<i>Traffic Ordinance (No. 4) 1973</i>	No. 84, 1973
<i>Traffic Ordinance 1974</i>	No. 10, 1974
<i>Traffic Ordinance (No. 2) 1974</i>	No. 11, 1974
<i>Traffic Ordinance (No. 3) 1974</i>	No. 31, 1974
<i>Traffic Ordinance 1975</i>	No. 5, 1975
<i>Traffic Ordinance 1976</i>	No. 24, 1976
<i>Traffic Ordinance (No. 2) 1976</i>	No. 56, 1976
<i>Traffic Ordinance (No. 3) 1976</i>	No. 7, 1977
<i>Traffic Ordinance 1977</i>	No. 33, 1977
<i>Traffic Ordinance 1978</i>	No. 17, 1978
<i>Traffic Act (No. 2) 1978</i>	No. 131, 1978
<i>Traffic Act (No. 3) 1978</i>	No. 132, 1978
<i>Traffic Act 1979</i>	No. 106, 1979
<i>Traffic Act (No. 2) 1979</i>	No. 134, 1979
<i>Traffic Act (No. 4) 1979</i>	No. 139, 1979

<i>Traffic Act (No. 3) 1979</i>	No. 161, 1979
<i>Traffic Amendment Act 1981</i>	No. 20, 1981
<i>Traffic Amendment Act (No. 2) 1981</i>	No. 83, 1981
<i>Traffic Amendment Act (No. 3) 1981</i>	No. 112, 1981
<i>Traffic Amendment Act (No. 4) 1981</i>	No. 113, 1981
<i>Traffic Amendment Act 1982</i>	No. 81, 1982
<i>Traffic Amendment Act (No. 2) 1982</i>	No. 82, 1982
<i>Traffic Amendment Act 1983</i>	No. 16, 1983
<i>Traffic Amendment Act 1984</i>	No. 13, 1984
<i>Traffic Amendment Act 1986</i>	No. 23, 1986
<i>Traffic Amendment Act 1987</i>	No. 16, 1987

ENDNOTES
1 KEY

Key to abbreviations

amd = amended	od = order
app = appendix	om = omitted
bl = by-law	pt = Part
ch = Chapter	r = regulation/rule
cl = clause	rem = remainder
div = Division	renum = renumbered
exp = expires/expired	rep = repealed
f = forms	s = section
Gaz = Gazette	sch = Schedule
hdg = heading	sdiv = Subdivision
ins = inserted	SL = Subordinate Legislation
lt = long title	sub = substituted
nc = not commenced	

2 LIST OF LEGISLATION***Traffic Act 1987 (Act No. 44, 1987)***

Assent date	21 October 1987
Commenced	20 June 1988 (<i>Gaz S30, 15 June 1988</i>)

Traffic Amendment Act 1988 (Act No. 13, 1988)

Assent date	3 June 1988
Commenced	20 June 1988 (s 2, s 2 <i>Traffic Act 1987 (Act No. 44, 1987)</i> and <i>Gaz S30, 15 June 1988</i>)

Statute Law Revision Act 1988 (Act No. 66, 1988)

Assent date	22 December 1988
Commenced	22 December 1988

Traffic Amendment Act 1989 (Act No. 25, 1989)

Assent date	15 June 1989
Commenced	15 June 1989

Traffic Amendment Act (No. 2) 1989 (Act No. 64, 1989)

Assent date	7 November 1989
Commenced	7 November 1989

Traffic Amendment Act 1992 (Act No. 32, 1992)

Assent date	2 June 1992
Commenced	1 January 1994 (<i>Gaz G51, 22 December 1993, p 4</i>)

Amending Legislation***Traffic Amendment Act 1992 Amendment Act 1993 (Act No. 52, 1993)***

Assent date	29 September 1993
Commenced	29 September 1993

Public Sector Employment and Management (Consequential Amendments) Act 1993 (Act No. 28, 1993)

Assent date 30 June 1993
Commenced 1 July 1993 (s 2, s 2 *Public Sector Employment and Management Act 1993* (Act No. 11, 1993) and Gaz S53, 29 June 1993)

Traffic Amendment Act 1993 (Act No. 61, 1993)

Assent date 5 October 1993
Commenced 5 October 1993

Traffic Amendment Act 1994 (Act No. 8, 1994)

Assent date 16 March 1994
Commenced 1 November 1994 (Gaz S54, 28 October 1994)

Amending Legislation**Statute Law Revision Act 1994 (Act No. 50, 1994)**

Assent date 20 September 1994
Commenced 20 September 1994

Traffic Amendment Act (No. 2) 1994 (Act No. 63, 1994)

Assent date 24 October 1994
Commenced 1 November 1994 (s 2, s 2 *Traffic Amendment Act 1994* (Act No. 8, 1994) and Gaz S54, 28 October 1994)

Statute Law Revision Act 1994 (Act No. 50, 1994)

Assent date 20 September 1994
Commenced 20 September 1994

Traffic Amendment Act (No. 2) 1994 (Act No. 1, 1995)

Assent date 9 February 1995
Commenced 9 February 1995

Fire and Emergency (Consequential Amendments) Act 1996 (Act No. 15, 1996)

Assent date 19 April 1996
Commenced 1 May 1996 (s 2, s 2 *Fire and Emergency Act 1996* (Act No. 14, 1996) and Gaz S10, 1 May 1996)

Sentencing (Consequential Amendments) Act 1996 (Act No. 17, 1996)

Assent date 19 April 1996
Commenced 1 July 1996 (s 2, s 2 *Sentencing Act 1995* (Act No. 39, 1995) and Gaz S15, 13 June 1996)

Traffic Amendment Act 1996 (Act No. 25, 1996)

Assent date 25 June 1996
Commenced 25 June 1996

Traffic Amendment Act 1998 (Act No. 2, 1998)

Assent date 25 March 1998
Commenced 25 March 1998

Traffic Amendment Act (No. 2) 1998 (Act No. 99, 1998)

Assent date 29 December 1998
 Commenced 9 February 1999 (s 2, s 2 *Motor Vehicles Amendment Act (No. 2) 1998* (Act No. 98, 1998) and Gaz S4, 9 February 1999)

Statute Law Revision Act 1999 (Act No. 27, 1999)

Assent date 18 June 1999
 Commenced 18 June 1999

Fines and Penalties (Recovery) (Consequential Amendments) Act 2001 (Act No. 60, 2001)

Assent date 11 December 2001
 Commenced 1 January 2002 (s 2, s 2 *Fines and Penalties (Recovery) Act 2001* (Act No. 59, 2001) and Gaz G50, 19 December 2001, p 3)

Traffic Amendment Act 2003 (Act No. 54, 2003)

Assent date 18 September 2003
 Commenced 29 October 2003 (Gaz G43, 29 October 2003, p 4)

Law Reform (Gender, Sexuality and De Facto Relationships) Act 2003 (Act No. 1, 2004)

Assent date 7 January 2004
 Commenced 17 March 2004 (Gaz G11, 17 March 2004, p 8)

Traffic Amendment Act 2004 (Act No. 30, 2004)

Assent date 4 June 2004
 Commenced s 6: 4 June 2004; rem: 1 November 2004 (s 2 and Gaz S34, 28 October 2004)

Statute Law Revision Act 2005 (Act No. 44, 2005)

Assent date 14 December 2005
 Commenced 14 December 2005

Statute Law Revision Act 2007 (Act No. 4, 2007)

Assent date 8 March 2007
 Commenced 8 March 2007

Transport Legislation (Road Safety) Amendment Act 2007 (Act No. 10, 2007)

Assent date 21 June 2007
 Commenced 1 July 2007 (Gaz S16, 27 June 2007)

Transport Legislation (Demerit Points) Amendment Act 2007 (Act No. 13, 2007)

Assent date 28 August 2007
 Commenced 1 September 2007 (s 2)

Transport Legislation (Drug Driving) Amendment Act 2008 (Act No. 7, 2008)

Assent date 11 March 2008
 Commenced 1 July 2008 (Gaz G25, 25 June 2008, p 4)

3 SAVINGS AND TRANSITIONAL PROVISIONS

s 9 *Traffic Amendment Act 1996* (Act No. 25, 1996)

4 SECTION 19(6) – SPECIFIED DATE

Pursuant to section 19(6), the date specified by the Minister was 1 December 1994 (*Gaz* G45, 9 November 1994, p 4).

5 SECTION 55 – TRAFFIC ACT 1987 (Act No. 44, 1987)

Despite the repeals effected by section 55(1) of the *Traffic Act 1987* (No. 44, 1987), pursuant to section 55(2) of that Act, Part IV of the *Traffic Act 1949-1987* continued to be in force and was deemed to form part of that Act until repealed by *Gaz* S7, 30 April 2003.

6 LIST OF AMENDMENTS

s 3	amd No. 15, 1996, s 4; No. 25, 1996, s 4; No. 54, 2003, s 4; No. 10, 2007, s 13; No. 13, 2007, s 7; No. 7, 2008, s 4
s 6	amd No. 28, 1993, s 3
s 9	amd No. 2, 1998, s 3
s 11	amd No. 50, 1994, s 16; No. 17, 1996, s 6; No. 54, 2003, s 11
s 16	amd No. 17, 1996, s 6
pt V hdg	sub No. 7, 2008, s 5
pt V	
div 1 hdg	ins No. 7, 2008, s 5
s 19	amd No. 32, 1992, s 4; No. 17, 1996, s 6; No. 54, 2003, s 11 sub No. 7, 2008, s 5
pt V	
div 2 hdg	ins No. 7, 2008, s 5
s 20	amd No. 17, 1996, ss 4 and 6; No. 54, 2003, s 11 sub No. 7, 2008, s 5
s 20A	ins No. 8, 1994, s 4 amd No. 17, 1996, s 4; No. 2, 1998, s 4; No. 10, 2007, s 14 rep No. 7, 2008, s 4
s 21	amd No. 32, 1992, s 5 sub No. 7, 2008, s 5
s 22	amd No. 10, 2007, s 15 sub No. 7, 2008, s 5
s 23	amd No. 32, 1992, s 6; No. 8, 1994, s 5; No. 54, 2003, s 5; No. 10, 2007, s 16 sub No. 7, 2008, s 5
s 24	amd No. 10, 2007, s 17 sub No. 7, 2008, s 5
ss 25 – 26	sub No. 10, 2007, s 18; No. 7, 2008, s 5
pt V	
div 3 hdg	ins No. 7, 2008, s 5
s 27	amd No. 54, 2003, s 6; No. 10, 2007, s 19 sub No. 7, 2008, s 5
s 28	amd No. 54, 2003, s 7 sub No. 7, 2008, s 5
s 29	sub No. 7, 2008, s 5
pt V	
div 4 hdg	ins No. 7, 2008, s 5
s 29AAA	ins No. 7, 2008, s 5
pt V	
div 5 hdg	ins No. 7, 2008, s 5
ss 29AAB – 29AAL	ins No. 7, 2008, s 5

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pt V	
div 6 hdg	ins No. 7, 2008, s 5
ss 29AAM –	
29AAQ	ins No. 7, 2008, s 5
pt V	
div 7 hdg	ins No. 7, 2008, s 5
ss 29AAR –	
29AAS	ins No. 7, 2008, s 5
pt V	
div 8 hdg	ins No. 7, 2008, s 5
ss 29AAT –	
29AAY	ins No. 7, 2008, s 5
s 29AA	ins No. 54, 2003, s 8 rep No. 7, 2008, s 5
pt VA hdg	ins No. 30, 2004, s 4
pt VA	
div 1hdg	ins No. 30, 2004, s 4
s 29AD	ins No. 30, 2004, s 4
pt VA	
div 2 hdg	ins No. 30, 2004, s 4
ss 29AE –	
29AF	ins No. 30, 2004, s 4
s 29AG	ins No. 30, 2004, s 4 amd No. 4, 2007, s 7
s 29AH	ins No. 30, 2004, s 4 amd No. 44, 2005, s 35
ss 29AI –	
29AJ	ins No. 30, 2004, s 4
pt VA	
div 3 hdg	ins No. 30, 2004, s 4
s 29AK	ins No. 30, 2004, s 4
s 29AL	ins No. 30, 2004, s 4 amd No. 4, 2007, s 7
s 29AM	ins No. 30, 2004, s 4
pt VA	
div 4 hdg	ins No. 30, 2004, s 4
s 29AO	ins No. 30, 2004, s 4
s 29A	ins No. 60, 2001, s 17
s 30	amd No. 15, 1996, s 4; No. 17, 1996, s 6; No. 2, 1998, s 5; No. 54, 2003, s 11
s 30A	ins No. 2, 1998, s 6 amd No. 54, 2003, s 11; No. 13, 2007, s 8
s 31	amd No. 64, 1989, s 2; No. 17, 1996, s 6;
s 32	amd No. 32, 1992, s 7; No. 99, 1998, s 4
s 33	amd No. 13, 1988, s 3; No. 25, 1996, s 5; No. 99, 1998, s 5; No. 54, 2003, ss 9 and 11; No. 1, 2004, s 62
s 33A	ins No. 25, 1996, s 6 amd No. 99, 1998, s 6; No. 54, 2003, s 11; No. 1, 2004, s 62
s 33B	ins No. 60, 2001, s 17 amd No. 13, 2007, s 9
s 34	amd No. 25, 1996, s 7; No. 54, 2003, s 10
s 35	sub No. 99, 1998, s 7
s 37	amd No. 17, 1996, s 6
s 38	amd No. 17, 1996, s 6; No. 10, 2007, s 20
s 39	amd No. 25, 1989, s 2; No. 8, 1994, s 6 No. 17, 1996, ss 4 and 6; No. 2, 1998, s 7; No. 27, 1999, s 15; No. 10, 2007, s 21 rep No. 7, 2008, s 6
ss 40 – 41	amd No. 17, 1996, s 6

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s 42	amd No. 17, 1996, s 6 sub No. 10, 2007, s 22
s 43	amd No. 25, 1989, s 3; No. 17, 1996, s 6
s 43AA	ins No. 13, 2007, s 10
s 43A	ins No. 61, 1993, s 2
s 43B	ins No. 25, 1996, s 8
s 44	amd No. 2, 1998, s 8 sub No. 10, 2007, s 23
s 44AA	ins No. 10, 2007, s 23
s 44A	ins No. 2, 1998, s 9 amd No. 10, 2007, s 24
s 46A	ins No. 1, 1995, s 2
s 47	amd No. 27, 1999, s 15
s 48	rep No. 13, 1988, s 4 ins No. 32, 1992, s 8
s 49	amd No. 17, 1996, ss 4 and 6 rep No. 7, 2008, s 6
s 50	rep No. 7, 2008, s 6
s 51	amd No. 30, 2004, s 5
s 52	amd No. 66, 1988, s 6; No. 54, 2003, s 11
s 53	amd No. 32, 1992, s 9; No. 54, 2003, s 11; No. 30, 2004, s 6
s 53A	ins No. 13, 2007, s 11
sch 1	rep No. 7, 2008, s 7