

*Note*

*In order to give effect to the Cross-border Justice Act, this law must be applied with the modifications mentioned in section 13 of the Cross-border Justice Act as if this law had been altered in that way.*

*For modifications of this law prescribed by regulation, see Part 3, Division 15 of the Cross-border Justice Regulations.*

**NORTHERN TERRITORY OF AUSTRALIA**

**TRAFFIC ACT**

As in force at 1 February 2016

**Table of provisions**

<b>Part I</b>	<b>Preliminary</b>	
1	Short title .....	1
2	Commencement .....	1
3	Interpretation .....	1
4	Act to bind Crown .....	6
5	Application of Act.....	6
<b>Part II</b>	<b>Administration</b>	
6	Director of transport, &c.....	7
7	Powers of Director .....	7
8	Direction of Minister .....	7
9	Appointment of inspectors, &c. ....	7
10	Delegation .....	7
<b>Part III</b>	<b>Control areas</b>	
11	Declaration of control areas.....	8
<b>Part IV</b>	<b>Erection and operation of traffic control devices</b>	
12	Erection of or interference with traffic control devices .....	9
13	Competent authority may erect traffic control devices .....	10
14	Minister may direct competent authority .....	11
15	Removal of hazardous sign, &c. ....	11
16	Court may order restitution .....	12
17	Traffic control devices deemed to be lawfully erected .....	12
18	Evidence of traffic control device .....	12

---

<b>Part V</b>	<b>Driving with alcohol in breath or blood or drug in blood</b>	
<b>Division 1</b>	<b>Preliminary matters</b>	
19	Interpretation .....	12
19A	Prohibited drug .....	15
<b>Division 2</b>	<b>Offence of driving with alcohol in breath or blood</b>	
20	Impairment not necessary .....	15
21	High range breath or blood alcohol content.....	15
22	Medium range breath or blood alcohol content.....	18
23	Low range breath or blood alcohol content.....	19
24	Some drivers to be zero alcohol .....	20
25	Driver of certain vehicles to be zero alcohol .....	22
26	Driving instructor.....	25
<b>Division 3</b>	<b>Offence of driving with drug in body</b>	
27	Impairment not necessary .....	26
27A	Evidence of drug in body .....	26
27B	Saliva sampling .....	27
28	Driving with certain drugs in body.....	27
29	Defence for certain drugs .....	28
<b>Division 4</b>	<b>Offence of driving under influence of alcohol or drug</b>	
29AAA	Driving under influence.....	28
<b>Division 5</b>	<b>Taking of samples</b>	
29AAB	When police can pull driver over at random.....	31
29AAC	Breath test and breath analysis .....	31
29AAD	Further breath analyses.....	32
29AAE	Offence of failing to submit to breath analysis .....	33
29AAF	Requirement for saliva test.....	35
29AAFA	Offence of failing to submit to saliva test .....	36
29AAG	Requirement to give blood sample .....	37
29AAH	Offence of failing to provide blood sample.....	38
29AAJ	Failure to give sample of blood in certain circumstances .....	41
29AAK	Taking of sample of blood.....	41
29AAL	Right to communicate with medical practitioner.....	42
29AALA	Application for additional analysis of saliva sample .....	43

---

<b>Division 6</b>	<b>Immediate licence suspension</b>	
29AAM	Licence suspension for up to 24 hours .....	43
29AAN	Notice of immediate licence suspension and disqualification from driving .....	44
29AAP	Offences .....	44
29AAQ	Appeal against immediate suspension notice .....	45
<b>Division 7</b>	<b>Licence cancellation on finding of guilt</b>	
29AAR	Further disqualification for certain drivers .....	45
29AAS	When court finds person guilty .....	46
<b>Division 8</b>	<b>Court and evidentiary matters</b>	
29AAT	Use of indicated BrAC or BAC in court proceedings .....	46
29AAU	Evidence by certificate .....	47
29AAV	If witness to be called .....	48
29AAW	Breath analysis instrument .....	48
29AAX	Limitation on use of certain evidence .....	49
29AAY	References to court and proceedings .....	49
<b>Division 9</b>	<b>Alcohol ignition locks</b>	
29AAYA	Object of Division .....	49
29AAYB	Application of Division .....	49
29AAYC	Effect of holding licence .....	49
29AAYD	Offences .....	50
<b>Part VA</b>	<b>Hoon behaviour</b>	
<b>Division 1</b>	<b>Preliminary matters</b>	
29AA	Object of Part .....	50
29AB	Definitions .....	51
29AC	Traffic infringement notice counted as offence .....	52
<b>Division 2</b>	<b>Impounding determination</b>	
29AD	Power of police officer to impound vehicle .....	52
29AE	Review and revocation of impounding determination .....	53
29AF	Related powers of police officer .....	54
<b>Division 3</b>	<b>Impounding orders and forfeiture orders</b>	
29AG	Application of Division .....	55
29AH	Sentencing for second offence .....	55
29AI	Sentencing for subsequent offence .....	56
29AJ	Interested parties for proceedings .....	57

29AK	Other related orders .....	58
29AL	Proceedings for order and other penalty .....	58
29AM	Application to Local Court after making of forfeiture order.....	59
29AN	Registrar's obligations .....	60

#### **Division 4 Impounded and forfeited vehicles**

29AO	Rights of credit provider.....	61
29AP	What happens at end of initial period .....	61
29AQ	Costs of impounding.....	61
29AR	Disposal of impounded vehicles .....	62
29AS	Disposal of forfeited vehicles.....	64

#### **Division 5 Related offences**

29AT	Impounding determination, impounding order and forfeiture order .....	65
29AU	Excessive noise from vehicle.....	67

#### **Division 6 Administrative matters**

29AV	Disclosure of information .....	67
29AW	Protection from liability .....	68
29AX	Review of Part .....	68

#### **Part VI Offences**

29A	Effect of suspension of licence to drive or vehicle registration.....	68
30	Dangerous driving or riding.....	68
30A	Driving at dangerous speed.....	69
31	Driving while disqualified .....	70
32	Driving while not licensed .....	70
33	Driving unregistered vehicle .....	72
33A	Driving unregistered heavy vehicle.....	74
33B	Person may be cautioned.....	78
34	Driving uninsured or improperly insured vehicle .....	78
35	Driving motor vehicle registered on conditions, &c.....	79

#### **Part VII Prosecutions of offences, penalties, &c.**

36	Laying of complaint.....	79
37	Offence due to accident.....	80
38	Proof of speed .....	80
40	Disqualification where offender not licensed.....	80
41	Cancellation of licence.....	81
42	Continuation of provisional licence .....	81
43	Appeals against findings of guilt, cancellations, &c. ....	81
43AA	Demerit points offence.....	82

---

## **Part VIII                    Miscellaneous**

43A	Special provisions for races, &c.....	83
43B	Exemptions.....	85
44	Traffic infringement detection device .....	86
44AA	Requirements for approval of device .....	86
44A	Proof of certain matters relating to use of infringement detection devices.....	87
45	Offence against regulations not to affect damages in respect of death of, or injury to, child.....	88
46	Liability at common law and by statute .....	88
46A	Breath analysis instruments at licensed premises – readings not admissible as evidence.....	88
47	Duties and powers of police, &c. ....	88
48	Liability of insurers under policies of insurance .....	89
49	Misleading information and document .....	90
51	Regulatory offences.....	91
52	General penalties .....	91
52A	Acquisition on just terms.....	91
53	Regulations.....	91
53A	Demerit points .....	94
54	Savings and transitional .....	94
55	Repeal .....	96
56	Transitional matters for <i>Transport Legislation (Hoon Behaviour) Amendment Act 2009</i> .....	96

## **Part IX                    Transitional matters for Traffic and Other Legislation Amendment Act 2011**

57	Definitions.....	97
58	Purpose of Part.....	97
59	Results of analysis.....	97
60	Person charged before commencement day .....	98

## **Schedule 2                Acts repealed**

### **ENDNOTES**



# NORTHERN TERRITORY OF AUSTRALIA

---

As in force at 1 February 2016

---

## TRAFFIC ACT

**An Act to regulate traffic, and for other purposes**

### 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:

***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.

***authorised analyst*** means a person or organisation authorised 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 breath.

**breath test** means a test of a sample of a person's breath to assess:

- (a) whether there is alcohol present in the person's breath; and
- (b) if alcohol is present, the concentration of alcohol in the person's breath.

**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.

**PPS Act** means the *Personal Property Securities Act 2009* (Cth).

**PPS Register** means the Personal Property Securities Register established under section 147 of the PPS Act.

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

**prohibited drug**, for Part V, see section 19A.

**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 person registered under the Health Practitioner Regulation National Law:

- (a) to practise in the nursing and midwifery profession as a nurse (other than as a student); and
- (b) in the registered nurses division of that profession.

**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.

**saliva test**, for Part V, see section 19(1).

**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.

*Note for subsection (1)*

*The Interpretation Act contains definitions and other provisions that may be relevant to this Act.*

- (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 in breath or blood or drug in blood**

## **Division 1 Preliminary matters**

### **19 Interpretation**

- (1) In this Part:

**AIL**, or **alcohol ignition lock**, means a device fitted to a motor vehicle that will prevent the starting of the vehicle unless:

- (a) a sample of a person's breath is given through the device; and
- (b) the sample indicates the person has a BrAC of less than 0.02 grams per 210 litres of exhaled breath.

**AIL licence**, see section 10(4A) of the *Motor Vehicles Act*.

**AIL period**, see sections 21(3)(b), 22(3)(b), 24(5)(b), 25(6A), 29AAA(3A)(b), 29AAE(3)(b) and 29AAH(3)(b).

**AIL vehicle**, see section 10(4A) of the *Motor Vehicles Act*.

**approved AIL**, see section 5(1) of the *Motor Vehicles Act*.

**BAC** means blood alcohol content.

**BrAC** means breath alcohol content.

**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 breath or blood alcohol content** means:

- (a) a BrAC of 0.15 grams or more of alcohol per 210 litres of exhaled breath; or
- (b) a BAC of 0.15 grams or more of alcohol per 100 millilitres of blood.

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

**low range breath or blood alcohol content** means:

- (a) a BrAC of 0.05 grams or more, but less than 0.08 grams, of alcohol per 210 litres of exhaled breath; or
- (b) a BAC of 0.05 grams or more, but less than 0.08 grams, of alcohol per 100 millilitres of blood.

**mandatory period**, see sections 21(3)(b), 22(3)(b), 24(5)(b), 25(6A), 29AAA(3A)(b), 29AAE(3)(b) and 29AAH(3)(b).

**medium range breath or blood alcohol content** means:

- (a) a BrAC of 0.08 grams or more, but less than 0.15 grams, of alcohol per 210 litres of exhaled breath; or
- (b) a BAC of 0.08 grams or more, but less than 0.15 grams, of alcohol per 100 millilitres of blood.

**prohibited drug**, see section 19A.

**road**, see *Australian Road Rules* – dictionary.

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

**saliva test** means a test of a sample of a person's saliva to ascertain whether a prohibited drug may be present in the person's body.

(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.
- (6) In this Part, a reference to a period for which a person is disqualified from obtaining a licence is a reference to such a period decided by the court ordering the disqualification.

### **19A Prohibited drug**

In this Part, a **prohibited drug** means a drug prescribed by the Regulations as either of the following:

- (a) drugs that are strictly prohibited for section 28(1) and to which the defence under section 29 does not apply;
- (b) drugs that are prohibited for section 28(1) but in relation to which the defence under section 29 may apply.

## **Division 2 Offence of driving with alcohol in breath or 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 breath or blood alcohol content**

- (1) A person who drives a motor vehicle with a high range breath or 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 breath or blood alcohol content; or
    - (ii) a medium range breath or 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 breath or 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:
- (a) for a first offence – obtaining a licence for a period that is at least 12 months; and
  - (b) for a second or subsequent offence:
    - (i) obtaining a licence for a period (**mandatory period**) that is at least 18 months; and
    - (ii) if the mandatory period is less than 5 years – obtaining a licence other than an AIL licence for an additional period (**AIL period**) immediately after the mandatory period that is at least 12 months and not more than 3 years.

*Notes*

- 1 *This means the person may be able to drive a motor vehicle fitted with an alcohol ignition lock during the AIL period after being disqualified for the mandatory period (see sections 29AAYB and 29AAYC).*
- 2 *If the mandatory period is 5 years or more, no AIL period applies to the person and the person cannot obtain an AIL licence.*

(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 breath or 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 breath or blood alcohol content;
- (b) driving under the influence of alcohol or a drug;
- (c) driving with alcohol in the breath or 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 breath or blood alcohol content; or
  - (ii) a medium range breath or 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 breath or 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 breath or blood alcohol content

- (1) A person who drives a motor vehicle with a medium range breath or 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 breath or blood alcohol content; or
  - (ii) a medium range breath or 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 breath or 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:

- (a) for a first offence – obtaining a licence for a period that is at least 6 months; and
- (b) for a second or subsequent offence:
- (i) obtaining a licence for a period (**mandatory period**) that is at least 12 months; and



- (ii) if the mandatory period is less than 5 years – obtaining a licence other than an AIL licence for an additional period (**AIL period**) immediately after the mandatory period that is at least 12 months and not more than 3 years.

*Notes*

1 *This means the person may be able to drive a motor vehicle fitted with an alcohol ignition lock during the AIL period after being disqualified for the mandatory period (see sections 29AAYB and 29AAYC).*

2 *If the mandatory period is 5 years or more, no AIL period applies to the person and the person cannot obtain an AIL licence.*

- (4) A relevant offence that is a second or subsequent offence is an immediate suspension offence.

### **23 Low range breath or blood alcohol content**

- (1) A person who drives a motor vehicle with a low range breath or 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 breath or blood alcohol content; or
  - (ii) a medium range breath or blood alcohol content; or
  - (iii) a low range breath or 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 breath or 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 breath or 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 breath or blood alcohol content; or
    - (ii) a medium range breath or blood alcohol content; or
    - (iii) a low range breath or 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 breath or 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 breath or 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:
- (a) for a first offence – obtaining a licence for a period that is at least 3 months; and
  - (b) for a second or subsequent offence:
    - (i) obtaining a licence for a period (**mandatory period**) that is at least 6 months; and

- (ii) if the mandatory period is less than 5 years – obtaining a licence other than an AIL licence for an additional period (***AIL period***) immediately after the mandatory period that is at least 6 months and not more than 3 years.

*Notes*

1 *This means the person may be able to drive a motor vehicle fitted with an alcohol ignition lock during the AIL period after being disqualified for the mandatory period (see sections 29AAYB and 29AAYC).*

2 *If the mandatory period is 5 years or more, no AIL period applies to the person and the person cannot obtain an AIL licence.*

- (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 any of the following:
  - (i) the *Dangerous Goods Act*;
  - (ii) Schedule 1 of the *Work Health and Safety (National Uniform Legislation) Act*;
  - (iii) the *Transport of Dangerous Goods by Road and Rail (National Uniform Legislation) 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 breath or 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 breath or blood alcohol content; or
  - (ii) a medium range breath or blood alcohol content; or
  - (iii) a low range breath or 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 breath or 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 breath or 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 who is not covered by subsection (2) 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.
- (6A) If a court finds a person covered by subsection (2) guilty of a relevant offence that is a second or subsequent offence, the person's licence to drive is cancelled and the person is disqualified from:
- (a) for a second offence:
    - (i) obtaining a licence for a period (**mandatory period**) that is at least 3 months; and
    - (ii) if the mandatory period is less than 5 years – obtaining a licence other than an AIL licence for an additional period (**AIL period**) immediately after the mandatory period that is at least 6 months and not more than 3 years; and
  - (b) for a subsequent offence:
    - (i) obtaining a licence for a period (**mandatory period**) that is at least 6 months; and
    - (ii) if the mandatory period is less than 5 years – obtaining a licence other than an AIL licence for an additional period (**AIL period**) immediately after the mandatory period that is at least 6 months and not more than 3 years.

*Notes*

- 1 *This means the person may be able to drive a motor vehicle fitted with an alcohol ignition lock during the AIL period after being disqualified for the mandatory period (see sections 29AAYB and 29AAYC).*
- 2 *If the mandatory period is 5 years or more, no AIL period applies to the person and the person cannot obtain an AIL licence.*

- (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 breath or 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 breath or blood alcohol content; or
  - (ii) a medium range breath or blood alcohol content; or
  - (iii) a low range breath or 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 breath or 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 breath or 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 body**

#### **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.

#### **27A      Evidence of drug in body**

It is evidence that a drug is in a person's body if the drug is detected by analysis of a sample of the person's saliva or blood.



## 27B Saliva sampling

- (1) The Commissioner may, by *Gazette* notice, approve a device that may be used to obtain a sample of a person's saliva for analysis by an authorised analyst for the giving of evidence in a court for an offence against this Act.
- (2) The Commissioner may, by *Gazette* notice, authorise a person to use a device approved under subsection (1) for this Act.
- (3) The Regulations may prescribe procedures for the proper use of a device approved under subsection (1).

## 28 Driving with certain drugs in body

- (1) A person commits an offence if, while there is in the person's body 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;
  - (c) failing to submit to a saliva test.
- (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.

## **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 or saliva sample taken under this Part:
    - (i) gives no indication of any drug mentioned in section 19A(a); but
    - (ii) does indicate the presence of a drug (or drugs) mentioned in section 19A(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 breath or blood alcohol content; or
  - (ii) a medium range breath or 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;
- (ca) failing to submit to a saliva test;
- (d) failing to give a sample of blood for analysis;
- (e) driving with alcohol in the breath or 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 relating to the influence of a drug only, 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.

- (3A) If a court finds a person guilty of a relevant offence relating to the influence of alcohol, or alcohol and a drug, but not a drug only, the person's licence to drive is cancelled and the person is disqualified from:
- (a) for a first offence – obtaining a licence for a period that is at least 6 months; and
  - (b) for a second or subsequent offence:
    - (i) obtaining a licence for a period (**mandatory period**) that is at least 12 months; and
    - (ii) if the mandatory period is less than 5 years – obtaining a licence other than an AIL licence for an additional period (**AIL period**) immediately after the mandatory period that is at least 12 months and not more than 3 years.

*Notes*

- 1 *This means the person may be able to drive a motor vehicle fitted with an alcohol ignition lock during the AIL period after being disqualified for the mandatory period (see sections 29AAYB and 29AAYC).*
  - 2 *If the mandatory period is 5 years or more, no AIL period applies to the person and the person cannot obtain an AIL licence.*
- (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 breath or 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 in the person's breath or blood or of a prohibited drug in the person's body; or
  - (b) even though the evidence showed the person had:
    - (i) a BrAC of less than 0.05 grams of alcohol per 210 litres of exhaled breath; or
    - (ii) a BAC of less than 0.05 grams of alcohol per 100 millilitres of blood.

- (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 breath;
  - (b) to require the driver to submit to a saliva test to determine whether there is a prohibited drug in the driver's body.
- (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 breath 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 breath or 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 submitted to a breath analysis (whether or not the sample provided was sufficient) may be required by a police officer to submit to another 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 breath or blood alcohol content; or
  - (ii) a medium range breath or 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 breath or 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:

- (a) for a first offence – obtaining a licence for a period that is at least 12 months; and
- (b) for a second or subsequent offence:
  - (i) obtaining a licence for a period (**mandatory period**) that is at least 18 months; and

- (ii) if the mandatory period is less than 5 years – obtaining a licence other than an AIL licence for an additional period (***AIL period***) immediately after the mandatory period that is at least 12 months and not more than 3 years.

*Notes*

1 *This means the person may be able to drive a motor vehicle fitted with an alcohol ignition lock during the AIL period after being disqualified for the mandatory period (see sections 29AAYB and 29AAYC).*

2 *If the mandatory period is 5 years or more, no AIL period applies to the person and the person cannot obtain an AIL licence.*

- (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 breath or 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 breath or blood alcohol content;
- (b) driving under the influence of alcohol or a drug;
- (c) driving with alcohol in the breath or 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 breath or blood alcohol content; or
  - (ii) a medium range breath or 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 breath or 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, or more than one saliva test, for the purpose of analysis by an authorised analyst to determine whether there is a prohibited drug in the person's body:
  - (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 and any subsequent analysis; or
  - (b) the officer reasonably believes (whether as a result of the test or otherwise) that the person's body 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 or saliva 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.

#### **29AAFA Offence of failing to submit to saliva test**

- (1) A person who is required under section 29AAF to submit to a saliva test must not fail to provide a sample of saliva sufficient for the test, and any subsequent analysis, to be carried out.

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 body;
  - (c) failing to submit to a saliva test.
- (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.

### **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 breath or 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 body 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:
- (a) the person's blood contains alcohol in a concentration that constitutes the person having committed an offence against Division 2 or 4; or
  - (b) the person's body contains 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 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 breath or blood alcohol content; or
    - (ii) a medium range breath or 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;
  - (ca) failing to submit to a saliva test;
  - (d) failing to give a sample of blood for analysis;
  - (e) driving with alcohol in the breath or 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:
- (a) for a first offence – obtaining a licence for a period that is at least 12 months; and
  - (b) for a second or subsequent offence:
    - (i) obtaining a licence for a period (**mandatory period**) that is at least 18 months; and
    - (ii) if the mandatory period is less than 5 years – obtaining a licence other than an AIL licence for an additional period (**AIL period**) immediately after the mandatory period that is at least 12 months and not more than 3 years.

*Notes*

- 1 *This means the person may be able to drive a motor vehicle fitted with an alcohol ignition lock during the AIL period after being disqualified for the mandatory period (see sections 29AAYB and 29AAYC).*
- 2 *If the mandatory period is 5 years or more, no AIL period applies to the person and the person cannot obtain an AIL licence.*

- (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 breath or blood alcohol content;
  - (b) failing to provide a sufficient sample of breath for a breath analysis;
  - (ba) failing to submit to a saliva test;
  - (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 breath or blood alcohol content;
  - (b) driving under the influence of alcohol or a drug;

- (c) driving with alcohol in the breath or 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 breath or blood alcohol content; or
  - (ii) a medium range breath or 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;
- (fa) failing to submit to a saliva test.
- (g) failing to provide a sample of blood for analysis;
- (h) driving with alcohol in the breath or 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 a portion 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, saliva test or 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.

### **29AALA Application for additional analysis of saliva sample**

- (1) A person from whom a sample of saliva has been taken under this Part may request the authorised analyst to whom or which the sample has been sent to provide a portion of the sample, at the person's own expense, to a medical practitioner or laboratory nominated by the person.
- (2) A request under subsection (1) must be made within 6 months of the person being served with an infringement notice or a summons for an offence in relation to which the sample was taken.

## **Division 6 Immediate licence suspension**

### **29AAM Licence suspension for up to 24 hours**

- (1) This section applies if, for the purpose of having a sample of blood or saliva taken for analysis to determine if there is a prohibited drug in a person's body, the person is:
- (a) arrested under section 29AAF(4); or
  - (b) taken to a hospital or health centre under section 29AAG.
- (1A) Subject to the Regulations, 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 a form approved by the Commissioner 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 a form approved by the Commissioner 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 breath or blood alcohol content;
    - (iii) driving with a medium range breath or 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 BrAC or BAC 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 BrAC indicated by the analysis is taken to be the BrAC of the person at the relevant time.
  - (3) If more than one breath analysis was carried out, the lower of the BrAC indicated is taken to be the BrAC 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 BAC indicated by analysis of the sample is taken to be the BAC 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 body 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 BAC indicated by the analysis is taken to be the BAC 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 body 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
  - (aa) a person authorised by the Commissioner under section 27B to use a device for obtaining a sample of saliva 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 authorised analyst;

is prima facie evidence of the matters stated in the certificate and the facts on which they are based.

- (1A) If evidence is given by a certificate as mentioned in subsection (1), it is not necessary to prove:
- (a) the signature of the person who signed the certificate; or
  - (b) the person holds the capacity in which the person purported to act in signing the certificate.
- (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 breath.

### **29AAX Limitation on use of certain evidence**

The fact that a sample of a person's saliva or 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*.

## **Division 9 Alcohol ignition locks**

### **29AAYA Object of Division**

The object of this Division is to enable certain persons disqualified from obtaining a licence under this Part to drive an AIL vehicle after the end of a mandatory period of the disqualification.

### **29AAYB Application of Division**

This Division applies to a person who is:

- (a) disqualified from obtaining a licence because of section 21(3)(b)(ii), 22(3)(b)(ii), 24(5)(b)(ii), 25(6A)(a)(ii) or (b)(ii), 29AAA(3A)(b)(ii), 29AAE(3)(b)(ii) or 29AAH(3)(b)(ii); and
- (b) granted an AIL licence under section 10(4A) of the *Motor Vehicles Act*.

### **29AAYC Effect of holding licence**

Despite any other provisions of this Act, the person may drive an AIL vehicle at a public place or on a public street while the AIL licence has effect.

#### *Note*

*In general, the AIL licence has effect for the remains of the AIL period (see section 10(4C) and (4D) of the Motor Vehicles Act).*

## **29AAYD Offences**

- (1) While the AIL licence has effect, the person must not drive a motor vehicle at a public place or on a public street if it is not an AIL vehicle.

Maximum penalty:        Imprisonment for 12 months.

- (2) While the AIL licence has effect, the person must not drive an AIL vehicle at a public place or on a public street if:

- (a) the AIL fitted to the vehicle is not functioning properly; and  
(b) the person knows the AIL is not functioning properly.

Maximum penalty:        Imprisonment for 12 months.

- (3) While the AIL licence has effect, the person must not drive an AIL vehicle at a public place or on a public street:

- (a) if the AIL fitted to the vehicle is disengaged; or  
(b) in a way that would hamper the proper functioning of the AIL.

Maximum penalty:        Imprisonment for 12 months.

- (4) The person must not contravene a condition of the AIL licence.

Maximum penalty:        20 penalty units.

- (5) If a court finds a person guilty of an offence against subsection (1), (2) or (3):

- (a) the AIL licence is cancelled; and  
(b) the person is disqualified from obtaining a licence for the rest of the AIL period.

- (6) An offence against subsection (1), (2) or (3) is an immediate suspension offence.

## **Part VA            Hoon behaviour**

### **Division 1        Preliminary matters**

#### **29AA        Object of Part**

The object of this Part is to discourage hoon driving and related anti-social behaviour.



## **29AB    Definitions**

In this Part:

**alleged offence**, see section 29AD(1).

**Consumer Credit Code** means Schedule 1 to the *National Consumer Credit Protection Act 2009* (Cth).

**costs**, of impounding a motor vehicle as a result of an impounding determination or impounding order, means all the costs related to the following as a result of the determination or order (whether or not the initial period has passed):

- (a) removing and keeping the vehicle;
- (b) if the determination or order specifies that the vehicle be immobilised – immobilising, and removing the immobilisation of, the vehicle.

**forfeiture order**, see section 29AI(2).

**impound**, for a motor vehicle and in relation to an impounding determination or impounding order, means 1 or both of the following as specified in the determination or order:

- (a) keeping the vehicle at a specified place (including, for example, a place under the control of a tow truck operator);
- (b) immobilising the vehicle by using wheel clamps or other devices.

**impounding determination**, see section 29AD(1).

**impounding order**, see sections 29AH(2) and 29AI(8).

**initial period** means:

- (a) for an impounding determination – see section 29AD(6); or
- (b) for an impounding order – see sections 29AH(4) and 29AI(8).

**offender**, see section 29AG.

**prescribed driving offence** means an offence committed by the driver of a motor vehicle against a provision of this Act prescribed by regulation for this definition.

**registered operator**, of a motor vehicle, means the person who is nominated under section 92A of the *Motor Vehicles Act* to be the operator of the vehicle.

**registered owner**, of a motor vehicle, means the person who is the owner of the vehicle as defined in section 5(1) of the *Motor Vehicles Act*.

**senior police officer** means a police officer of the rank of superintendent or above.

**storage place**, for an impounding determination or impounding order relating to a motor vehicle, means the place at which the vehicle is kept because of the impounding determination or impounding order.

**traffic infringement notice** means a traffic infringement notice issued under the regulations.

### **29AC    Traffic infringement notice counted as offence**

If a traffic infringement notice for a prescribed driving offence has been issued to a person and the notice is not withdrawn, the person is taken to have been found guilty of the offence for this Part.

## **Division 2            Impounding determination**

### **29AD    Power of police officer to impound vehicle**

- (1) A police officer who reasonably believes a motor vehicle was used in committing a prescribed driving offence (the **alleged offence**) may determine in writing (the **impounding determination**) that the vehicle be impounded.
- (2) Without limiting subsection (1), the police officer may form the belief on the basis of a statement made on oath by a complainant in relation to the commission of the alleged offence.
- (3) The police officer may make the impounding determination only within 14 days of the alleged offence.
- (4) The police officer must, as far as reasonably practicable after making the impounding determination, give a copy of it to the following:
  - (a) the person who was the driver of the motor vehicle at the time of the alleged offence;
  - (b) if the vehicle is registered and the driver is not the registered owner or registered operator of the vehicle – the registered owner and registered operator of the vehicle;
  - (c) if the police officer knows the identity of the owner of the vehicle (whether or not the vehicle is registered) – that owner;

- (d) if the driver was found guilty of 1 or more prescribed driving offences within 2 years immediately before the date of the alleged offence – the Registrar.
- (5) The impounding determination:
  - (a) must include information about the impounding determination and its effect (including, for example, the storage place and liability for the costs of impounding the vehicle); and
  - (b) may include other information relating to impounding the vehicle.
- (6) The impounding determination has effect during the period (the **initial period**):
  - (a) starting when a police officer takes control of the motor vehicle for the determination; and
  - (b) ending 48 hours later or at an earlier time if the determination is revoked at the earlier time.

#### **29AE    Review and revocation of impounding determination**

- (1) As soon as practicable after the police officer has made the impounding determination, the police officer must give a copy of it to a senior police officer to review the determination.
- (2) The senior police officer must review the impounding determination as soon as practicable and no later than 24 hours after the copy is given to him or her.
- (3) At any time before an impounding determination ceases to have effect:
  - (a) the police officer or senior police officer must revoke the determination if the police officer or senior police officer is satisfied that, at the time of the alleged offence, the motor vehicle was a rental vehicle, or was stolen or otherwise used without the authority of its owner; or
  - (b) the senior police officer must revoke the determination if the senior police officer is not satisfied the vehicle was used in committing the alleged offence.

**29AF      Related powers of police officer**

- (1) A police officer may, for the purposes of the impounding determination:
  - (a) require a person who was the driver of the motor vehicle at the time of the alleged offence to give to the officer the names and addresses of the registered owner, registered operator or anyone who is otherwise the owner of the vehicle; and
  - (b) by the impounding determination or another written notice – require a person having the control of the vehicle to deliver the vehicle to the officer by a specified time at a specified place; and
  - (c) without a warrant, enter a place where the officer reasonably suspects the vehicle may be found; and
  - (d) without a warrant, search for, seize and remove the vehicle.
- (2) A police officer's power to seize the motor vehicle under subsection (1)(d) may be exercised only within 14 days after the day on which the impounding determination is made.
- (3) A police officer may use any reasonable force and assistance in exercising a power under this section.
- (4) A person required by a police officer to give information as mentioned in subsection (1)(a) must comply with the requirement.

Maximum penalty:      20 penalty units.
- (5) A person required by a police officer to deliver the vehicle as mentioned in subsection (1)(b) must comply with the requirement.

Maximum penalty:      100 penalty units.
- (6) It is a defence to a prosecution for an offence against subsection (4) or (5) if the defendant establishes a reasonable excuse.

## **Division 3            Impounding orders and forfeiture orders**

### **29AG        Application of Division**

This Division applies if, within 2 years after a person (the **offender**) being found guilty of a prescribed driving offence (the **first offence**):

- (a) the offender is found guilty of another prescribed driving offence (the **second offence**); or
- (b) the offender is found guilty of 1 or more further prescribed driving offences (each of which is a **subsequent offence**) after being found guilty of the second offence.

### **29AH        Sentencing for second offence**

- (1) This section applies after a court has found the offender guilty of the second offence.
- (2) Before the offender is sentenced for the second offence, the Commissioner of Police may apply to the court for an order (an **impounding order**) to impound the motor vehicle used in committing the offence.
- (3) However, the Commissioner of Police may not do so if, at the time of the second offence, the motor vehicle was a rental vehicle, or was stolen or otherwise used without the permission of its owner.
- (4) The court may order the impounding of the motor vehicle for a specified period (the **initial period**) that is at least 3 months and not more than 6 months if the court is satisfied:
  - (a) each person with an interest in the vehicle had the opportunity to be heard in the proceedings for the application; and
  - (b) impounding the vehicle will not cause severe financial or physical hardship to a person mentioned in paragraph (a) who was heard in the proceedings.
- (5) The court must not make the impounding order if the court is satisfied:
  - (a) the offender was not the owner of the motor vehicle at the time of the second offence; and
  - (b) the second offence happened without the knowledge and consent of the owner of the vehicle.

- (6) The impounding order must specify the storage place and may specify other matters relating to impounding the motor vehicle as decided by the court.
- (7) The impounding order takes effect as specified in the order at the earlier of the following:
  - (a) the expiration of the period for instituting an appeal in relation to the offence or sentence if no appeal is instituted;
  - (b) the end of the proceedings for an appeal by the offender if the appeal is unsuccessful.
- (8) The impounding order may be made whether or not the motor vehicle was previously impounded under section 29AD because of the second offence.

**29AI        Sentencing for subsequent offence**

- (1) This section applies after a court finds the offender guilty of a subsequent offence.
- (2) Before the offender is sentenced for the subsequent offence, the Commissioner of Police may apply to the court for an order (a **forfeiture order**) to forfeit the motor vehicle used in committing the offence.
- (3) However, the Commissioner of Police may not do so if, at the time of the subsequent offence, the motor vehicle was a rental vehicle, or was stolen or otherwise used without the permission of its owner.
- (4) The court may make the forfeiture order only if the court is satisfied:
  - (a) each person with an interest in the motor vehicle had the opportunity to be heard in the proceedings for the application; and
  - (b) forfeiting the vehicle will not cause severe financial or physical hardship to a person mentioned in paragraph (a) who was heard in the proceedings.
- (5) The court must not make the forfeiture order if the court is satisfied:
  - (a) the offender was not the owner of the motor vehicle at the time of the subsequent offence; and

- (b) the subsequent offence happened without the knowledge and consent of the owner of the vehicle.
- (6) The forfeiture order takes effect as specified in the order at the earlier of the following:
  - (a) the expiration of the period for instituting an appeal in relation to the offence or sentence if no appeal is instituted;
  - (b) the end of the proceedings for an appeal by the offender if the appeal is unsuccessful.
- (7) When the forfeiture order takes effect:
  - (a) the vehicle becomes the property of the Territory; and
  - (b) any rights in the vehicle existing before the forfeiture are extinguished.
- (8) Instead of making a forfeiture order, the court may make an order (an **impounding order**) to impound the vehicle for a specified period (the **initial period**) that is at least 3 months and not more than 6 months, if the court:
  - (a) would, apart from subsection (4)(b), make the forfeiture order; and
  - (b) is satisfied that impounding the vehicle for the initial period will remove or reduce the hardship as mentioned in that subsection.
- (9) The court may make the impounding order on its own initiative or on the application of the Commissioner of Police, and whether or not the motor vehicle was previously impounded under section 29AD because of the subsequent offence.
- (10) The impounding order must specify the storage place and may specify other matters relating to impounding the vehicle as the court decides.

#### **29AJ      Interested parties for proceedings**

- (1) This section applies if, in relation to an offender, the Commissioner of Police intends to apply for an impounding order or forfeiture order.

- (2) The Commissioner of Police must, before the offender is sentenced for the offence to which the proposed order relates, give written notice of that intention to the following:
- (a) the Registrar;
  - (b) if the vehicle is registered – the registered owner and registered operator of the motor vehicle;
  - (c) if the Commissioner knows the identity of the owner of the vehicle (whether or not the vehicle is registered) – that owner;
  - (d) if the Commissioner knows the identity of a person who is the spouse or de facto partner of a person mentioned in paragraph (b) or (c) – that person;
  - (e) for an application for a forfeiture order – anyone whose interest in the vehicle is recorded in the PPS Register.
- (3) A person notified under subsection (2), or anyone else claiming to have an interest in the motor vehicle, has a right to be heard in the proceedings for the application.

#### **29AK    Other related orders**

- (1) The court making an impounding order or forfeiture order may:
- (a) order the owner of the motor vehicle to which the order relates to deliver the vehicle to a police officer by a specified time at a specified place; or
  - (b) authorise a police officer, without warrant, to:
    - (i) enter a place the officer reasonably suspects the vehicle may be found; and
    - (ii) search for, seize and remove the vehicle.
- (2) A police officer may use any reasonable force and assistance in exercising a power under the order.

#### **29AL    Proceedings for order and other penalty**

To avoid doubt:

- (a) the proceedings for the application of an impounding order or forfeiture order in relation to a prescribed driving offence are part of the proceedings for sentencing the offender in relation to the offence; and



- (b) the making of an impounding order or forfeiture order is in addition to, and does not limit the court's power to impose, any other penalty for the offence.

### **29AM    Application to Local Court after making of forfeiture order**

- (1) This section applies to a person if:
  - (a) the person had an interest in a motor vehicle before it was forfeited under a forfeiture order; and
  - (b) the person:
    - (i) was not notified of the application for that order under section 29AJ and did not appear as a party in the proceedings for that application; or
    - (ii) is allowed by the Local Court to make an application for an order under this section; and
  - (c) the vehicle:
    - (i) is still vested in the Territory; or
    - (ii) has been sold under section 29AS and part of the proceeds has been paid to the Central Holding Authority (the **CHA amount**).
- (2) The person (the **applicant**) may, within 60 days after the forfeiture of the motor vehicle, apply to the Local Court for an order:
  - (a) declaring the nature, extent and value of the interest; and
  - (b) directing the Territory:
    - (i) if the vehicle is still vested in the Territory – to transfer it to the applicant; or
    - (ii) otherwise – to pay to the applicant an amount worked out under subsection (3).
- (3) The amount must be:
  - (a) equal to the value of the interest if that value is less than so much of the CHA amount as is reduced by any amount already paid under this section to another person who also had an interest in the vehicle (the **reduced CHA amount**); or
  - (b) otherwise – equal to the reduced CHA amount.

- (4) The Local Court may allow the application to be made more than 60 days after the forfeiture of the vehicle if it is satisfied the delay in making the application was not caused by the applicant's neglect.
- (5) The applicant must notify the Commissioner of Police of the application at least 3 days before the Local Court hears the application.
- (6) The Commissioner of Police:
  - (a) is a party to the proceedings for the application; and
  - (b) if the vehicle is vested in the Territory – must not dispose of the vehicle after being notified of the application and before the end of the proceedings.
- (7) The Local Court must grant the application by making an order it considers appropriate if it is satisfied:
  - (a) the applicant would, apart from the forfeiture order, have a genuine interest in the vehicle; and
  - (b) if the vehicle was forfeited under a forfeiture order – the prescribed driving offence to which the order relates happened without the knowledge and consent of the applicant.

**29AN    Registrar's obligations**

- (1) The Registrar must, on request of a police officer, give the officer all information held by the Registrar about a motor vehicle to which any of the following relates:
  - (a) an impounding determination, impounding order or forfeiture order;
  - (b) an application that has been made for an impounding order or forfeiture order.
- (2) In addition, the Registrar must not cancel or change the registration of the motor vehicle during the following periods:
  - (a) if the Registrar is given a copy of the impounding determination under section 29AD(4) for the vehicle – the period of 28 days starting from the date of the notice;
  - (b) if the Commissioner of Police has made an application for an impounding order or forfeiture order for the vehicle – the period starting on the day the Registrar is given a notice under section 29AJ(2) in relation to the application and ending on the day the application is decided by a court.

- (3) This section does not prevent the Registrar from:
- (a) renewing the registration of the motor vehicle without changing the registration of the ownership of the vehicle; or
  - (b) changing the registration of the motor vehicle because it is repossessed or sold by a credit provider as mentioned in section 29AO.

## **Division 4      Impounded and forfeited vehicles**

### **29AO      Rights of credit provider**

An impounding determination or impounding order for a motor vehicle does not affect the rights of a credit provider to repossess and sell the vehicle under the Consumer Credit Code.

### **29AP      What happens at end of initial period**

- (1) The owner of a motor vehicle to which an impounding determination or impounding order relates is entitled to collect the vehicle at the end of the initial period on payment of the costs of impounding the vehicle.
- (2) The Commissioner of Police must notify the following about any change of the arrangement for impounding the vehicle after the initial period:
  - (a) the person who was the driver of the vehicle at the time of the alleged offence;
  - (b) if the vehicle is registered and that driver is not the registered owner or registered operator of the vehicle – the registered owner and registered operator;
  - (c) if the Commissioner knows the identity of the owner of the vehicle (whether or not the vehicle is registered) – that owner.

### **29AQ      Costs of impounding**

- (1) The driver of a motor vehicle (the **driver**) at the time of the alleged offence or offence to which an impounding determination or impounding order relates is liable to pay the costs of impounding the vehicle as a result of the determination or order.

- (2) However, a person is entitled to be reimbursed the amount of those costs that is attributable to the initial period and the 2 days immediately following the initial period (the **initial costs**) if:
- (a) the person incurs the initial costs when the owner of the vehicle collects the vehicle after the initial period; and
  - (b) for a vehicle impounded under an impounding determination – any of the following applies:
    - (i) the determination is revoked;
    - (ii) the driver is found not guilty of the alleged offence;
    - (iii) the driver is not charged with, or issued with a traffic infringement notice or summons for, the alleged offence within 6 months after the determination is made; and
  - (c) for a vehicle impounded under an impounding order – the order is overturned on an appeal against the decision to make the order.
- (3) The Territory is responsible for the initial costs if subsection (2) applies.
- (4) If the Territory incurs an amount of costs of impounding the vehicle (other than the initial costs for which the Territory is responsible under subsection (3)), the amount is a debt due to the Territory by the driver.
- (5) Despite subsections (3) and (4), the regulations may provide for the release of the vehicle to a person on payment of an amount by the person.
- (6) This section does not prevent the owner of the vehicle to recover from the driver an amount of the costs of impounding the vehicle paid by the owner under section 29AP(1).

#### **29AR    Disposal of impounded vehicles**

- (1) This section applies if the owner of a motor vehicle to which an impounding determination or impounding order relates does not collect the vehicle:
- (a) for an impounding determination – within 28 days after a copy of the impounding determination is given to a person under section 29AD(4); or
  - (b) for an impounding order – within 28 days after the order expires.

- (2) The Commissioner of Police may dispose of the vehicle in any way the Commissioner considers appropriate (including, for example, sale or destruction) if:
- (a) all proceedings for the alleged offence or offence to which the determination or order relates have ended, the period for appeal has expired and, for an impounding order, the order is not overturned; and
  - (b) at least 28 days before the proposed disposal of the vehicle – the Commissioner has notified each of the following of the proposed disposal:
    - (i) the person who was the driver of the vehicle at the time of the alleged offence or offence;
    - (ii) if the vehicle is registered and that driver is not the registered owner or registered operator of the vehicle – the registered owner and registered operator;
    - (iii) if the Commissioner knows the identity of the owner of the vehicle (whether or not the vehicle is registered) – that owner;
    - (iv) anyone else whom the Commissioner knows to have an interest in the vehicle; and
  - (c) at least 28 days before the proposed disposal – the Commissioner has, by *Gazette* notice, publicised the proposed disposal; and
  - (d) at least 28 days before the proposed disposal – the Commissioner has notified the Registrar about the proposed disposal; and
  - (e) the Commissioner has obtained a written search result of the PPS Register in the appropriate form in relation to the vehicle under the PPS Act.
- (3) The Commissioner of Police is required to notify a person mentioned in subsection (2)(b) only to the extent to which it is reasonably practicable to do so.
- (4) The owner of the vehicle is entitled to collect the vehicle at anytime before the proposed disposal on payment of the costs of impounding the vehicle as mentioned in section 29AQ.
- (5) If the motor vehicle is disposed of by sale to a person, the purchaser holds title to the vehicle free of any interest existing in it before the disposal.

- (6) If the Commissioner of Police sells the vehicle under this section, 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 costs incurred by the Territory for any impounding determination or impounding order for the vehicle;
  - (c) third – in payment of the costs incurred by the Territory for giving notice to a person about the proposed disposal;
  - (d) fourth – in payment of the amount owing to the holder of a security interest in the vehicle that is registered in the PPS Register;
  - (e) fifth – to the owner of the vehicle.
- (7) If, after making reasonable attempts to locate the owner, the Commissioner has not done so, the amount payable to the owner under subsection (6) must be paid to the Central Holding Authority.

**29AS      Disposal of forfeited vehicles**

- (1) The Commissioner of Police may dispose of a motor vehicle forfeited under a forfeiture order in any way the Commissioner considers appropriate (including, for example, sale or destruction).
- (2) If the Commissioner of Police sells the vehicle under this section, 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 costs incurred by the Territory for removing and keeping the vehicle for the forfeiture order;
  - (c) third – in payment of the costs incurred by the Territory for any impounding determination or impounding order for the vehicle;
  - (d) fourth – in payment of the amount owing to the holder of a security interest in the vehicle that is registered in the PPS Register;
  - (e) fifth – to the Central Holding Authority.

## Division 5      Related offences

### 29AT      Impounding determination, impounding order and forfeiture order

- (1) A person must not enter into a transaction relating to a motor vehicle, or remove anything fitted or attached to the vehicle, within 28 days after an impounding determination has been made for the vehicle if:
- (a) the driver of the vehicle at the time of the alleged offence to which the determination relates was found guilty of 1 or more prescribed driving offences within 2 years immediately before that time; and
  - (b) the person knows that:
    - (i) the driver has been found guilty of 1 or more of the offences within the 2 years; and
    - (ii) an impounding determination has been made for the vehicle.

Maximum penalty:      200 penalty units or imprisonment not exceeding 1 year.

- (2) A person must not enter into a transaction relating to a motor vehicle, or remove anything fitted or attached to the vehicle, if:
- (a) a driver of the vehicle has been charged with, or issued with a summons for, a prescribed driving offence (the **relevant offence**); and
  - (b) the driver was found guilty of a single prescribed driving offence during the 2 years immediately before being charged with the relevant offence; and
  - (c) the person knows about the matters mentioned in paragraphs (a) and (b); and
  - (d) the person has been notified under section 29AJ(2) of the intention of the Commissioner of Police to apply for an impounding order for the relevant offence.

Maximum penalty:      200 penalty units or imprisonment not exceeding 1 year.

- (3) Subsections (1) and (2) do not apply to any transaction entered into by a credit provider who repossesses or sells the vehicle as mentioned in section 29AO.

- (4) A person must not enter into a transaction relating to a motor vehicle, or unlawfully remove anything fitted or attached to the vehicle, if:
- (a) a driver of the vehicle is charged with, or issued with a summons for, a prescribed driving offence (the **relevant offence**); and
  - (b) the driver was found guilty of 2 or more prescribed driving offences during the 2 years immediately before being charged with the relevant offence; and
  - (c) the person knows about the matters mentioned in paragraphs (a) and (b); and
  - (d) the person has been notified under section 29AJ(2) of the intention of the Commissioner of Police to apply for a forfeiture order for the relevant offence.

Maximum penalty:      400 penalty units or imprisonment not exceeding 2 years.

- (5) If a motor vehicle is impounded under an impounding determination or impounding order, a person must not:
- (a) unlawfully remove the vehicle or anything fitted or attached to the vehicle from the storage place where the vehicle is kept; or
  - (b) interfere with the vehicle while it is kept at the storage place; or
  - (c) remove or tamper with any device used to immobilise the vehicle while it is kept at the storage place.

Maximum penalty:      100 penalty units.

- (6) Subsection (5) does not apply to any of the following:
- (a) a credit provider repossessing or selling the vehicle as mentioned in section 29AO;
  - (b) a person maintaining the vehicle (including, for example, periodically starting the engine of the vehicle);
  - (c) a person removing personal possessions (other than a thing that is fitted or attached to the vehicle) from the vehicle.



(7) In this section:

**transaction**, relating to a vehicle, includes but is not limited to:

- (a) a sale of all or part of the vehicle; and
- (b) the creation of a mortgage or charge in relation to the vehicle.

#### **29AU Excessive noise from vehicle**

(1) If a police officer reasonably believes excessive noise is generated by or from a motor vehicle that is at a public place or on a public street, the officer may direct a person having control of the vehicle to reduce or stop the noise.

(2) A person given the direction must comply with it.

Maximum penalty:        20 penalty units.

(3) It is a defence to a prosecution for an offence against subsection (2) if the defendant establishes a reasonable excuse.

### **Division 6            Administrative matters**

#### **29AV Disclosure of information**

(1) This section applies to a motor vehicle if:

- (a) an impounding determination has been made for the vehicle;  
or
- (b) an application for an impounding order or forfeiture order for the vehicle has been made and is pending; or
- (c) an impounding order or forfeiture order is in force for the vehicle.

(2) A police officer may give any information held by the officer about the vehicle to another person (including, for example, a tow truck operator) for the purposes of this Part.

(3) A person who obtains the information because of subsection (2) (whether directly or indirectly) must not disclose the information to anyone except as authorised under, or for the purposes of, this Part.

Maximum penalty:        200 penalty units or imprisonment  
for 1 year.

**29AW Protection from liability**

- (1) A person is not civilly or criminally liable for an act done or omitted to be done by the person in good faith in the exercise of a power or performance of a function under this Part as any of the following:
  - (a) the Commissioner of Police;
  - (b) a police officer;
  - (c) a person assisting a police officer.
- (2) Subsection (1) does not affect any liability the Territory would, apart from that subsection, have for the act or omission.
- (3) In this section:

**exercise**, of a power, includes the purported exercise of the power.

**performance**, of a function, includes the purported performance of the function.

**29AX Review of Part**

The Chief Executive Officer is to conduct a review of the first 7 years of the operation of this Part after the commencement of this section.

**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;
  - (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.

- (1A) If a person is disqualified from obtaining a licence other than an AIL licence for an AIL period, the person must not apply for a licence other than an AIL licence during that period.
- (1B) In addition, the person must not, during that period, drive a motor vehicle at a public place or on a public street except under an AIL licence.

Maximum penalty: Imprisonment for 12 months.

- (2) Where a person is found guilty of an offence against subsection (1) or (1B), 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;

- (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 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 *Motor Accidents (Compensation) Commission Act* has notified the Minister that satisfactory arrangements are in place to protect the Territory from any liability, and the Motor Accidents (Compensation) Commission 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 *Motor Accidents (Compensation) Commission 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

- (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 Part V (other than

---

section 29AAA(1)) 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.

#### **49 Misleading information and document**

- (1) A person must not knowingly give misleading information to a police officer or inspector who is exercising a power or performing a function under this Act.

Maximum penalty: 100 penalty units or imprisonment  
6 months.

- (2) A person must not knowingly give a document containing misleading information to a police officer or inspector who is exercising a power or performing a function under this Act.

Maximum penalty: 100 penalty units or imprisonment  
6 months.

- (3) Subsection (2) does not apply if the person, when giving the document:
  - (a) draws the misleading aspect of the document to the attention of the police officer or inspector; and
  - (b) to the extent to which the person can reasonably do so – gives the police officer or inspector the information necessary to remedy the misleading aspect of the document.



(4) In this section:

***misleading information*** means information that is misleading in a material particular because it:

- (a) does not include relevant information; or
- (b) includes false information.

## **51 Regulatory offences**

An offence against or a contravention or failure to comply with this Act (other than sections 29AAYD(2), 29AF(4) and (5), 29AT(1), (2), (4) and (5), 29AU(2), 30(1), 30A(1), 31(1) and 49(1) and (2)) 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.

## **52A Acquisition on just terms**

If the operation of this Act would, apart from this section, result in an acquisition of property from a person otherwise than on just terms:

- (a) the person is entitled to receive from the Territory the compensation necessary to ensure the acquisition is on just terms; and
- (b) a court of competent jurisdiction may decide the amount of compensation or make the orders it considers necessary to ensure the acquisition is on just terms.

## **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 any of the following:
- (a) an exemption from the application of all or part of the Regulations of:
    - (i) certain persons or classes of persons; or
    - (ii) persons in respect of a specified class of motor vehicle;
  - (b) the erection and operation of, and obedience to, traffic control devices;
  - (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; and
    - (ii) the overtaking or passing of vehicles; and
    - (iii) giving way to vehicles; and
    - (iv) the parking or standing of vehicles or leaving vehicles unattended; and
    - (v) the turning, starting and stopping of vehicles; and
    - (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 authorisation of persons carrying out breath analyses, or of persons or organisations carrying out blood tests;
  - (ma) the authorisation of persons or organisations carrying out saliva 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;
  - (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; or

- (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*. (Endnote 5)

## **56 Transitional matters for *Transport Legislation (Hoon Behaviour) Amendment Act 2009***

- (1) Part VA, as inserted by the *Transport Legislation (Hoon Behaviour) Amendment Act 2009*, applies as provided in this section.
- (2) A police officer may make an impounding determination under Part VA only in relation to a vehicle that is used, or alleged to have been used, in committing a prescribed driving offence that occurs on or after the commencement.
- (3) An impounding order or forfeiture order may be made under Part VA only in relation to a vehicle used in committing a prescribed driving offence that occurs on or after the commencement.
- (4) If, before the commencement, a person was found guilty of an offence that is a prescribed driving offence, that offence may be taken into account for sections 29AD(4)(d), 29AG and 29AT(1), (2) and (4).

### *Example*

*A person was found guilty of a prescribed driving offence 10 months before the commencement. The person is again found guilty of a prescribed driving offence 2 months after the commencement. The Commissioner of Police may therefore apply for an impounding order in relation to the vehicle used in committing the second offence.*

- (5) In this section:

**commencement** means the commencement of this section.

## **Part IX                      Transitional matters for Traffic and Other Legislation Amendment Act 2011**

### **57                      Definitions**

In this Part:

***amendment Act*** means the *Traffic and Other Legislation Amendment Act 2011*.

***commencement day*** means the day on which this section commences.

***pre-commencement Act*** means the Act as in force immediately before the commencement day.

### **58                      Purpose of Part**

The purpose of this Part is to provide for the transition over time from prescribed breath analysis instruments which express the result of a breath analysis in terms of BAC to the same or similar instruments which express the same result in terms of BrAC in accordance with the *National Measurement Regulations 2009* (Cth).

### **59                      Results of analysis**

- (1) On and after the commencement day:
  - (a) the result of a breath analysis is expressed as BrAC; and
  - (b) the result of a blood test is expressed as BAC.
- (2) However, if a prescribed breath analysis instrument gives a result expressed as BAC, or as a percentage, the result is taken to be expressed as BrAC of the same numerical value as the result expressed as BAC, or percentage, as shown by the examples in the following table:

Table

Column 1 Grams per 210 litres of exhaled breath (BrAC)	Column 2 Grams per 100ml of blood (BAC)	Column 3 Analysis result expressed as %
0.05	0.05	0.05%
0.08	0.08	0.08%
0.15	0.15	0.15%

*Note for subsection (2) table*

*The results indicated in Column 1 are identical to the results indicated opposite in Columns 2 and 3. The only difference is the unit of measurement by which the result is expressed.*

## **60 Person charged before commencement day**

- (1) This section applies if, before the commencement day, a person has been charged with an offence of driving with alcohol in the blood, or of driving with a blood alcohol content expressed as a percent.
- (2) The pre-commencement Act continues to apply to the person in all proceedings in relation to the offence.

*Examples for subsection (2)*

- 1 *Interlocutory proceedings.*
- 2 *A Magistrate conducting a preliminary examination under the Justices Act.*
- 3 *An appeal to the Supreme Court.*



---

**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

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

**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)

**Transport Legislation (Alcohol Ignition Locks) Amendment Act 2008 (Act No. 32, 2008)**

Assent date 21 November 2008  
 Commenced 9 April 2009 (Gaz S15, 9 April 2009)

**Transport Legislation (Hoon Behaviour) Amendment Act 2009 (Act No. 7, 2009)**

Assent date 15 May 2009  
 Commenced 30 June 2009 (Gaz G24, 17 June 2009, p 5)

---

**Consumer Credit (National Uniform Legislation) Implementation Act 2010 (Act No. 14, 2010)**

Assent date 20 May 2010  
 Commenced 1 April 2010 (s 2 and s 2 *National Consumer Credit Protection Act 2009* (Cth Act No. 134, 2009))

**Health Practitioner (National Uniform Legislation) Implementation Act 2010 (Act No. 18, 2010)**

Assent date 20 May 2010  
 Commenced 1 July 2010 (s 2)

**Statute Law Revision Act 2010 (Act No. 29, 2010)**

Assent date 9 September 2010  
 Commenced 13 October 2010 (*Gaz* G41, 13 October 2010, p 2)

**Personal Property Securities (National Uniform Legislation) Implementation Act 2010 (Act No. 30, 2010)**

Assent date 9 September 2010  
 Commenced ss 58 to 60: 30 January 2012 (*Gaz*, S2, 24 January 2012);  
 rem: 25 November 2011 (*Gaz*, S68, 25 November 2011)

**Oaths, Affidavits and Declarations (Consequential Amendments) Act 2010 (Act No. 40, 2010)**

Assent date 18 November 2010  
 Commenced 1 March 2011 (s 2, s 2 *Oaths, Affidavits and Declarations Act 2010* (Act No. 39, 2010) and *Gaz* G7, 16 February 2011, p 4)

**Traffic and Other Legislation Amendment Act 2011 (Act No. 22, 2011)**

Assent date 22 August 2011  
 Commenced 1 September 2011 (*Gaz* G35, 31 August 2011, p 9)

**Work Health and Safety (National Uniform Legislation) Implementation Act 2011 (Act No. 38, 2011)**

Assent date 14 December 2011  
 Commenced 1 January 2012 (*Gaz* S78, 30 December 2011)

**Territory Insurance Office (Sale) Act 2014 (Act No. 41, 2014)**

Assent date 28 November 2014  
 Commenced pt 6, divs 1 and 2: nc (exp without commencing);  
 pt 6, div 3: 00:01hrs 1 January 2015 (*Gaz* S131,  
 19 December 2014, p 8); rem: 28 November 2014 (s 2)

**Traffic and Other Legislation Amendment Act 2015 (Act No. 35, 2015)**

Assent date 17 December 2015  
 Commenced 1 February 2016 (*Gaz* G3, 20 January 2016, p 10)

### 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**

It	sub No. 7, 2009, s 4
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; No. 18, 2010, s 89; No. 29, 2010, s 7; No. 22, 2011, s 4; No. 30, 2010, s 52; No. 35, 2015, s 8
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 amd No. 22, 2011, 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 amd No. 32, 2008, s 10; No. 22, 2011, s 6; No. 35, 2015, s 9
s 19A	ins No. 35, 2015, s 10
pt V div 2 hdg	ins No. 7, 2008, s 5 amd No. 22, 2011, s 7
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 5
s 21	amd No. 32, 1992, s 5 sub No. 7, 2008, s 5 amd No. 32, 2008, s 11; No. 22, 2011, s 8
s 22	amd No. 10, 2007, s 15 sub No. 7, 2008, s 5 amd No. 32, 2008, s 12; No. 22, 2011, s 9
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 amd No. 22, 2011, s 10
s 24	amd No. 10, 2007, s 17 sub No. 7, 2008, s 5 amd No. 32, 2008, s 13; No. 22, 2011, s 11
s 25	sub No. 10, 2007, s 18; No. 7, 2008, s 5 amd No. 32, 2008, s 14; No. 22, 2011, s 12; No. 38, 2011, s 31
s 26	sub No. 10, 2007, s 18; No. 7, 2008, s 5 amd No. 22, 2011, s 13
pt V div 3 hdg	ins No. 7, 2008, s 5 amd No. 35, 2015, s 11
s 27	amd No. 54, 2003, s 6; No. 10, 2007, s 19 sub No. 7, 2008, s 5
ss 27A – 27B	ins No. 35, 2015, s 12

## ENDNOTES

---

s 28	amd No. 54, 2003, s 7 sub No. 7, 2008, s 5 amd No. 35, 2015, s 13
s 29	sub No. 7, 2008, s 5 amd No. 35, 2015, s 14
pt V div 4 hdg s 29AAA	ins No. 7, 2008, s 5 ins No. 7, 2008, s 5 amd No. 32, 2008, s 15; No. 22, 2011, s 14; No. 35, 2015, s 15
pt V div 5 hdg s 29AAB	ins No. 7, 2008, s 5 ins No. 7, 2008, s 5 amd No. 22, 2011, s 15; No. 35, 2015, s 16
s 29AAC	ins No. 7, 2008, s 5 amd No. 22, 2011, s 16
s 29AAD	ins No. 7, 2008, s 5 amd No. 22, 2011, s 17
s 29AAE	ins No. 7, 2008, s 5 amd No. 32, 2008, s 16; No. 22, 2011, s 18
s 29AAF	ins No. 7, 2008, s 5 amd No. 35, 2015, s 17
s 29AAFA s 29AAG	ins No. 35, 2015, s 18 ins No. 7, 2008, s 5 amd No. 22, 2011, s 19; No. 35, 2015, s 19
s 29AAH	ins No. 7, 2008, s 5 amd No. 32, 2008, s 17; No. 22, 2011, s 20; No. 35, 2015, s 20
ss 29AAI – 29AAJ	ins No. 7, 2008, s 5
s 29AAK	ins No. 7, 2008, s 5 amd No. 35, 2015, s 21
s 29AAL	ins No. 7, 2008, s 5 amd No. 35, 2015, s 22
s 29AALA pt V	ins No. 35, 2015, s 23
div 6 hdg s 29AAM	ins No. 7, 2008, s 5 ins No. 7, 2008, s 5 amd No. 22, 2011, s 21; No. 35, 2015, s 24
s 29AAN	ins No. 7, 2008, s 5 amd No. 22, 2011, s 22
s 29AAQ pt V	ins No. 7, 2008, s 5
div 7 hdg s 29AAR	ins No. 7, 2008, s 5 ins No. 7, 2008, s 5 amd No. 22, 2011, s 23
s 29AAS pt V	ins No. 7, 2008, s 5
div 8 hdg s 29AAT	ins No. 7, 2008, s 5 ins No. 7, 2008, s 5 amd No. 22, 2011, s 24; No. 35, 2015, s 25
s 29AAU	ins No. 7, 2008, s 5 amd No. 22, 2011, s 25; No. 35, 2015, s 26
s 29AAV s 29AAW	ins No. 7, 2008, s 5 ins No. 7, 2008, s 5 amd No. 22, 2011, s 26
s 29AAX	ins No. 7, 2008, s 5 amd No. 35, 2015, s 27
s 29AAZ	ins No. 7, 2008, s 5



## ENDNOTES

---

s 29AA	ins No. 54, 2003, s 8 rep No. 7, 2008, s 5
pt V	
div 9 hdg	ins No. 32, 2008, s 18
ss 29AAYA – 29AAYD	ins No. 32, 2008, s 18
pt VA hdg	ins No. 30, 2004, s 4 sub No. 7, 2009, s 5
pt VA	
div 1hdg	ins No. 30, 2004, s 4 sub No. 7, 2009, s 5
s 29AA	ins No. 7, 2009, s 5
s 29AB	sub No. 7, 2009, s 5 amd No. 14, 2010, s 9
s 29AC	sub No. 7, 2009, s 5
s 29AD	ins No. 30, 2004, s 4 rep No. 7, 2009, s 5
pt VA	
div 2 hdg	ins No. 30, 2004, s 4
s 29AD	ins No. 7, 2009, s 5 amd No. 40, 2010, s 118
ss 29AE – 29AF	ins No. 30, 2004, s 4 sub No. 7, 2009, s 5
pt VA	
div 3 hdg	ins No. 7, 2009, s 5
s 29AG	ins No. 30, 2004, s 4 amd No. 4, 2007, s 7 sub No. 7, 2009, s 5
s 29AH	ins No. 30, 2004, s 4 amd No. 44, 2005, s 35 sub No. 7, 2009, s 5
s 29AI	ins No. 30, 2004, s 4 sub No. 7, 2009, s 5
s 29AJ	ins No. 30, 2004, s 4 sub No. 7, 2009, s 5 amd No. 30, 2010, s 52
pt VA	
div 3 hdg	ins No. 30, 2004, s 4 rep No. 7, 2009, s 5
s 29AK	ins No. 30, 2004, s 4 sub No. 7, 2009, s 5
s 29AL	ins No. 30, 2004, s 4 amd No. 4, 2007, s 7 sub No. 7, 2009, s 5
s 29AM	ins No. 30, 2004, s 4 sub No. 7, 2009, s 5
s 29AN	ins No. 7, 2009, s 5
pt VA	
div 4 hdg	ins No. 30, 2004, s 4
s 29AN	rep No. 7, 2009, s 5
s 29AO	ins No. 30, 2004, s 4 sub No. 7, 2009, s 5 amd No. 14, 2010, s 10
ss 29AP – 29AQ	ins No. 7, 2009, s 5
s 29AR	ins No. 7, 2009, s 5 amd No. 30, 2010, s 52

## ENDNOTES

---

s 29AS	ins No. 7, 2009, s 5 amd No. 30, 2010, s 52
pt VA	
div 5 hdg	ins No. 7, 2009, s 5
ss 29AT –	
29AU	ins No. 7, 2009, s 5
pt VA	
div 6 hdg	ins No. 7, 2009, s 5
ss 29AV –	
29AX	ins No. 7, 2009, s 5
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; No. 32, 2008, s 19
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; No. 29, 2010, s 7
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
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 amd No. 41, 2014, s 53
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 amd No. 22, 2011, s 27
s 49	amd No. 17, 1996, ss 4 and 6 rep No. 7, 2008, s 6 ins No. 7, 2009, s 6
s 50	rep No. 7, 2008, s 6
s 51	amd No. 30, 2004, s 5; No. 32, 2008, s 20; No. 7, 2009, s 7
s 52	amd No. 66, 1988, s 6; No. 54, 2003, s 11
s 52A	ins No. 7, 2009, s 8
s 53	amd No. 32, 1992, s 9; No. 54, 2003, s 11; No. 30, 2004, s 6; No. 22, 2011, s 28; No. 35, 2015, s 28
s 53A	ins No. 13, 2007, s 11
s 56	ins No. 7, 2009, s 9

## ENDNOTES

---

pt IX hdg	ins No. 22, 2011, s 29
ss 57 – 60	ins No. 22, 2011, s 29
s 61	ins No. 22, 2011, s 29
	exp No. 22, 2011, s 61(5)
s 62	ins No. 22, 2011, s 29
	exp No. 22, 2011, s 62(5)
sch 1	rep No. 7, 2008, s 7