

NORTHERN TERRITORY OF AUSTRALIA  
TRANSPORT LEGISLATION (ROAD SAFETY) AMENDMENT ACT 2007

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Act No. 10 of 2007

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# NORTHERN TERRITORY OF AUSTRALIA

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Act No. 10 of 2007

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## AN ACT

to amend or repeal various legislation administered by the  
Minister for Infrastructure and Transport

[Assented to 21 June 2007]  
[Second reading 3 May 2007]

**The Legislative Assembly of the Northern Territory enacts as follows:**

### **PART 1 – PRELIMINARY MATTERS**

**1. Short title**

This Act may be cited as the *Transport Legislation (Road Safety) Amendment Act 2007*.

**2. Commencement**

This Act commences on the date fixed by the Administrator by *Gazette* notice.

### **PART 2 – AMENDMENT OF *MOTOR VEHICLES ACT***

**3. Act amended**

This Part amends the *Motor Vehicles Act*.

**4. Amendment of section 5 (Interpretation)**

Section 5(1)

*insert (in alphabetical order)*

"learner licence", see section 9;

**5. Repeal and substitution of section 9**

Section 9

*repeal, substitute*

**9. Learner licence**

(1) A learner licence permits the holder of the licence to learn to drive a vehicle of a class specified in the licence.

(2) A learner licence is valid for 2 years from the date of grant.

(3) An application for a learner licence must be accompanied by the prescribed fee.

(4) The Registrar may grant a learner licence to an applicant who has attained the age of 16 years and who satisfies the Registrar he or she understands the laws in force relating to the regulation of road traffic.

**6. Amendment of section 10 (Granting of licences)**

(1) Section 10(1)

*omit, substitute*

(1) The Registrar may, on application by a person, grant the person a licence to drive a motor vehicle (other than a commercial passenger vehicle or heavy vehicle) of the class specified in the licence if:

(a) the person has previously held, in the Territory or elsewhere, a licence to drive that class of vehicle; or

(b) the person is the holder of a learner licence and the person satisfies the Registrar that the person:

(i) is capable of driving a motor vehicle of that class with safety to the public; and

(ii) is able to understand the notices, signs and devices in use from time to time for the regulation of road traffic.

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(1A) If the learner licence was granted after the commencement of this section, the Registrar must not grant the licence under subsection (1) unless the person has held the learner licence for a continuous period of not less than 6 months immediately before the grant.

(1B) The Registrar may, from time to time, renew a licence granted under subsection (1).

(2) Section 10(2)

*omit*

any person who satisfies him that he is not less than 18 years of age,

*substitute*

a person who satisfies the Registrar that the person is not less than 18 years and 6 months of age,

(3) Section 10(4)

*omit*

(not being a permit licence)

*substitute*

(not being a learner licence)

**7. Repeal and substitution of section 10A**

Section 10A

*repeal, substitute*

**10A. Provisional period of licence**

(1) If a person:

(a) applies for a licence under section 10; and

(b) has not held, continuously for the relevant period, a licence to drive a motor vehicle;

a licence granted to the person by the Registrar under that section is provisional only until the end of the relevant period.

(2) The relevant period is as follows:

*Transport Legislation (Road Safety) Amendment Act 2007*

- (a) if the person, at the beginning of the relevant period, is below the age of 25 years – 2 years;
- (b) if the person, at the beginning of the relevant period, is 25 years of age or older – 12 months.

*Note*

*Subsections (1) and (2) apply in relation to a licence granted after the commencement of this section. A licence granted under section 10 before the commencement of this section is provisional for the period that applied at the time of grant.*

- (3) The relevant period can be comprised of any of the following:
  - (a) a period of holding a licence in the Territory;
  - (b) a period of holding a licence in another jurisdiction;
  - (c) a continuous series of periods mentioned in paragraphs (a) and (b).

(4) If, while a licence is provisional, the licence is suspended, the provisional period is extended by the period for which the licence was suspended.

(5) If, while a licence is provisional, the licence is cancelled and (after any disqualification period) the former holder of the licence applies for a new licence, the new licence is provisional for the relevant period (to be determined according to the person's age at the time of grant of the new licence).

- (6) In this section:

"licence" does not include a learner licence or the equivalent in another jurisdiction.

**8. Amendment of section 11 (Physical or mental incapacity or unfitness to hold licence or permit)**

- (1) Section 11, heading

*omit*

**or permit**

- (2) Section 11(2)

*omit, substitute*

(2) If the Registrar considers an applicant for, or the holder of, a licence to drive a motor vehicle (including a learner licence) may be:

- (a) physically or mentally incapable of driving a motor vehicle with safety to the public; or

- (b) otherwise physically or mentally unfit to be licensed;

the Registrar may require the person to be medically examined by a medical testing officer.

**9. Amendment of section 14 (Form of registration certificate or licence)**

Section 14(3) and (4)

*omit, substitute*

(3) A licence to drive a motor vehicle (including a learner licence) must be in an approved form.

**10. Amendment of section 103 (Duration of certificates and licences)**

- (1) Section 103, heading

*omit*

**certificates**

*substitute*

**registration**

- (2) Section 103(1)

*omit*

(except a permit licence, a licence under section 10 or a licence under section 137)

- (3) Section 103(1A), (1B) and (1D)

*omit*

- (4) Section 103(5)

*omit*

(other than a licence to drive a motor vehicle)

- (5) After section 103(5)

*insert*

- (6) In this section:

"licence" does not include a learner licence, a licence under section 10 or a licence under section 137.

**11. New section 104**

After section 103

*insert*

**104. Duration of licences may be shorter**

(1) An applicant for a licence or renewal of a licence under section 10 may request that the licence be granted or renewed for the prescribed period or a shorter period (being not less than 12 months).

(2) If the Registrar grants or renews a licence under section 10, the Registrar must endorse the licence to the effect that it is in force for:

- (a) the prescribed period or a shorter period specified in the application; or
- (b) a period the Registrar considers appropriate, having regard to:
  - (i) the applicant's age; and
  - (ii) any mental or physical condition, disorder or disability of the applicant; and
  - (iii) the applicant's driving record, including any previous offences relating to the use of a motor vehicle; and
  - (iv) any other matter which, in the opinion of the Registrar, may assist in determining the suitability of the applicant to drive a motor vehicle.

(3) A licence endorsed under subsection (2), unless cancelled or suspended, is in force for the period specified in the endorsement.

**PART 3 – AMENDMENT OF *TRAFFIC ACT***

**12. Act amended**

This Part amends the *Traffic Act*.

**13. Amendment of section 3 (Interpretation)**

Section 3(1)

*insert (in alphabetical order)*

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



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

**14. Amendment of section 20A (Immediate suspension offence)**

(1) Section 20A(1)(a)

*omit*

(1) or (2)

(2) After section 20A(1)

*insert*

(1A) For determining under subsection (1)(a) whether an offence is a second or subsequent offence against section 19:

- (a) all previous offences against section 19(1) or (2) will be taken into account; and
- (b) a previous offence against another provision of section 19 will be taken into account if:
  - (i) it was committed after the commencement of this subsection; and
  - (ii) it was committed within 3 years before the offence in question; and
- (c) an offence is taken to have been committed if an infringement notice has been issued in relation to the alleged offence and not withdrawn.

**15. Amendment of section 22 (Results of breath analysis or blood test)**

(1) Section 22(1)

*omit*

2 hours

*substitute*

4 hours

- (2) Section 22(2)

*omit*

hospital

*substitute*

hospital or health centre

- (3) Section 22(2)(b)

*omit*

section 25(1),

*substitute*

section 26(2);

**16. Amendment of section 23 (Requirement to submit to breath test)**

Section 23(11)(a)(i) and (b)

*omit*

2 hours

*substitute*

4 hours

**17. Amendment of section 24 (Right to communicate with medical practitioner)**

Section 24(1)(b)

*omit*

blood.

*substitute*

blood or arrange for a sample of the person's blood to be taken by another medical practitioner, a registered nurse or a qualified person.

**18. Repeal and substitution of sections 25 and 26**

Sections 25 and 26

*repeal, substitute*

**25. Police may require person to give sample of blood**

(1) This section applies if a police officer does not require a person to submit to a breath test or breath analysis for a reason mentioned in section 23(11)(a).

(2) If the officer reasonably believes that the concentration of alcohol in the person's blood is such that the person has committed an offence against this Act, the officer or another police officer may require the person to give a sample of blood for the purposes of having a blood test carried out by an authorised analyst.

(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.

**26. Taking of sample**

(1) A sample of blood may be taken for this Act, from a person taken to a hospital or a health centre under section 25(3), 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 motor vehicle accident:

- (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 25, 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 having a blood test carried out 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 motor vehicle accident.

(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 the blood of a person who is unconscious or apparently incapable of consenting to the giving of the sample; or
- (b) require a person to give a sample of blood.

(5) However, a member of the staff of a hospital or a health centre is not required to take a sample of the person's blood if the member of staff believes on reasonable grounds that:

- (a) the concentration of alcohol in the person's blood is already known; or
- (b) the taking of the sample would be detrimental to the person's medical condition; or
- (c) the injuries of the person were not received in a motor vehicle accident or the motor vehicle accident happened more than 12 hours before the person entered the hospital or health centre; or
- (d) a period of more than 4 hours has elapsed since the person entered the hospital or health centre.

(6) A blood sample taken under this section is the property of the Commissioner.

(7) However, the person who takes the sample may make approximately half of the sample available to the person from whom it was taken.

(8) No action or proceedings for assault, whether in or outside the Territory, lie against a person who takes a blood sample for this Act.

(9) This section does not obligate any person to take a sample of blood at a health centre.

**19. Amendment of section 27 (Evidence by certificate)**

Section 27(1)(b)

*omit*

hospital

*substitute*

hospital or health centre

**20. Amendment of section 38 (Proof of speed)**

Section 38(3)

*omit*

prima facie

*substitute*

prima facie evidence

**21. Amendment of section 39 (Cancellation of licence)**

(1) After section 39(1)

*insert*

(1A) If a court finds a person guilty of an offence against section 19(6) committed within 3 years of an earlier offence against section 19(1), (2) or (6), the person's licence is, by force of the finding of guilt, cancelled and the person is disqualified from holding a licence:

- (a) if the offence is the person's second offence within 3 years – for 3 months: or
- (b) if the offence is a subsequent offence by the person within 3 years – for 6 months.

(1B) The court may impose a longer period of disqualification if the court considers it appropriate.

(1C) For subsection (1A):

- (a) an earlier offence means any of the following:
  - (i) an offence against section 19(1) or (2);
  - (ii) an offence against section 19(6) committed after the commencement of this subsection; and
- (b) an earlier offence is taken to have been committed if an infringement notice has been issued in relation to the alleged offence and not withdrawn.

(1D) A period of disqualification under subsection (1A) is reduced by a period of licence suspension under section 20A imposed in relation to the same offence.

(2) Section 39(3)

*omit*

subsection (1)(a) or (b)

*substitute*

subsection (1)(a), (1)(b) or (1A)

(3) Section 39(4)

*omit*

subsection (1)

*substitute*

subsection (1) or (1A)

## **22. Repeal and substitution of section 42**

Section 42

*repeal, substitute*

## **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.

**23. Repeal and substitution of section 44**

Section 44

*repeal, substitute*

**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.

**24. Amendment of section 44A (Proof of certain matters relating to use of infringement detection devices)**

- (1) Section 44A(b) and (b)(ii)

*omit*

section 44(2)

*substitute*

section 44(3)

- (2) Section 44A(c)

*omit*

all words after "prosecution"

*substitute*

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

- (3) Section 44A(d)

*omit*

all words from "prosecution" to "both images"



*substitute*

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

**PART 4 – AMENDMENT OF *MOTOR VEHICLES REGULATIONS***

**25. Regulations amended**

This Part amends the *Motor Vehicles Regulations*.

**26. Amendment of regulation 4AA (Classification of licences)**

Regulation 4AA(5)

*omit*

or (3)

**27. Repeal of regulation 5**

Regulation 5

*repeal*

**28. Amendment of regulation 8 (Prescribed period of licence)**

Regulation 8

*omit*

section 103(1A)

*substitute*

section 104(1)

**PART 5 – AMENDMENT OF *TRAFFIC REGULATIONS***

**29. Regulations amended**

This Part amends the *Traffic Regulations*.

**30. Amendment of regulation 11 (Definitions)**

Regulation 11, definitions "learner" and "licence holder"

*omit*

permit licence

*substitute*

learner licence

**31. Amendment of regulation 12 (Learners driving motor vehicles)**

Regulation 12(9)

*omit*

permit licence

*substitute*

learner licence

**32. Amendment of regulation 13 (Learners riding motor cycles)**

Regulation 13(1)

*omit*

permit licence

*substitute*

learner licence

**33. New regulation 15A**

After regulation 15, in Part 2, Division 3

*insert*

**15A. Prohibition on mobile phone usage**

A learner or a provisional driver, while driving a motor vehicle, must not use a mobile phone while the vehicle is moving, or is stationary but not parked.

*Note*

*The prohibition under this regulation extends to any use of a mobile phone, including the use of hands-free devices.*

**34. Amendment of Schedule 1**

Item 23, after heading

*insert*

Drive while using mobile phone (learner or provisional driver) 60

**PART 6 – REPEAL OF ROAD SAFETY COUNCIL ACT**

**35. Repeal**

The Ordinance and Acts specified in the Schedule are repealed.

**36. Expiry of Part**

This Part expires on the day after it commences.

**SCHEDULE**

Section 35

**REPEALED ORDINANCE AND ACTS**

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<i>Road Safety Council Ordinance 1978</i>	Ordinance No. 4 of 1978
<i>Road Safety Council Amendment Act 1981</i>	Act No. 55 of 1981
<i>Road Safety Council Amendment Act 1998</i>	Act No. 101 of 1998

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