



# NORTHERN TERRITORY OF AUSTRALIA

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No. 112 of 1981

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## AN ACT

To amend the Traffic Act

[Assented to 24 December 1981]

**B**E it enacted by the Legislative Assembly of the Northern Territory of Australia, with the assent as provided by the *Northern Territory (Self-Government) Act 1978* of the Commonwealth, as follows:

### 1. SHORT TITLE

This Act may be cited as the Traffic Amendment Act (No. 3) 1981.

### 2. COMMENCEMENT

This Act shall come into operation on the commencement of the Motor Vehicles Amendment Act (No. 2) 1981.

### 3. PRINCIPAL ACT

The Traffic Act is in this Act referred to as the Principal Act.

### 4. INTERPRETATION

Section 5(1) of the Principal Act is amended -

- (a) by inserting after the definition of "articulated vehicle" the following:

"'Australian Standard' means a standard approved for publication on behalf of the Council of the Standards Association of Australia, being the association of that name incorporated by Royal Charter;";

- (b) by inserting after the definition of "carriageway" the following:

"'child' means a person who has attained the age of one year but has not attained the age of 8 years;

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'child restraint' means a device for restraining a child travelling in a motor vehicle and which is -

(a) marked -

(i) with the letters and numbers 'AS 1754'; or

(ii) with the certification trade mark registered in Part C of the Register under the Trade Marks Act 1955 of the Commonwealth in respect of child restraints and Australian Standard 1754-1975 as applicable on 1 August 1979,

and which is, within the meaning of Australian Standard 1754-1975 as applicable on 1 August 1979, suitable for use by a child of the age, size and mass of that child; or

(b) approved under section 33B by the Registrar and which is suitable for use by a child of the age, size and mass of that child;";

(c) by inserting after the definition of "parking notice" the following:

"'passenger', in relation to a motor vehicle, does not include the driver of the motor vehicle;"; and

(d) by adding at the end thereof the following:

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

#### 5. REPEAL

Section 11 of the Principal Act is repealed.

#### 6. MOTOR CYCLE DRIVERS AND PILLION RIDERS

Section 31 of the Principal Act is amended -

(a) by omitting sub-section (2) and substituting the following:

"(2) A person driving and a person being carried on a motor cycle or in a side-car attached to a motor cycle shall wear a protective helmet -

(a) securely fastened to his head;

(b) of a prescribed type; and

(c) the shape, material or construction of which has not deteriorated to such an extent that, within the meaning of section 31A(2), the protection from injury afforded by the protective helmet has been substantially impaired."; and

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(b) by adding at the end of sub-section (3) the following:

"Penalty: \$200."

7. NEW SECTIONS

The Principal Act is amended by inserting after section 31 the following:

"31A. INSPECTION OF PROTECTIVE HELMET

"(1) For the purposes of section 31(2)(c), an inspector or a member of the Police Force may request a person referred to in section 31(2) to remove a protective helmet worn by the person and that person shall comply with such a request forthwith.

"(2) For the purposes of section 31(2)(c), the protection from injury afforded by a protective helmet shall be considered to be substantially impaired where visual inspection shows that -

- (a) the shell of the protective helmet is damaged;
- (b) the lining or padding of the protective helmet is not intact;
- (c) the webbing of the protective helmet is not capable of keeping that protective helmet securely fastened on the head of the user;
- (d) the protective helmet has been altered or used in a fashion contrary to the manufacturer's recommendations; or
- (e) the protective helmet does not comply with such other requirements in respect of protective helmets as are prescribed.

"31B. FORFEITURE OF PROTECTIVE HELMET

"(1) A protective helmet used in contravention of section 31(2)(b) or (c) may, on the offence being proved, be forfeited to the Crown by order of the court.

"(2) A protective helmet forfeited under sub-section (1) may be disposed of as the Registrar thinks fit."

8. NEW PART

The Principal Act is amended by inserting after Part II the following:

"PART IIA - SEAT BELTS

"33A. INTERPRETATION

"(1) In this Part, unless the contrary intention appears -

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'appropriately adjusted', in respect of a seat belt, means a seat belt which is fastened in such a manner that the protection from injury afforded by the seat belt is adequate;

'motor vehicle' means a motor vehicle within the meaning of section 106B and, where applicable, section 106C, of the Motor Vehicles Act;

'seat belt' means a seat belt of any kind, whether or not it complies with an Australian Design Rule referred to in section 106B or 106C of the Motor Vehicles Act.

"(2) For the purposes of this Part, a seat belt fitted in accordance with the requirements of the Motor Vehicles Act in a motor vehicle shall be taken to be suitable for use by a child.

"33B. APPLICATION OF FUTURE AUSTRALIAN STANDARDS IN RESPECT OF CHILD RESTRAINTS

"The Registrar may, by notice in the Gazette, approve a child restraint for use in motor vehicles.

"33C. DRIVER OF MOTOR VEHICLE

"Subject to section 33G, where a motor vehicle, the driving seat of which is fitted with a seat belt, is being driven forward on a public street or in a public place and the person occupying the driving seat of the motor vehicle does not have that seat belt securely fastened around him or, having it fastened around him, does not have it appropriately adjusted, that person is guilty of an offence.

Penalty: \$200.

"33D. ADULT PASSENGERS IN MOTOR VEHICLES

"(1) This section applies to a passenger who has attained the age of 14 years.

"(2) Subject to section 33G, where a motor vehicle is being driven on a public street or in a public place and -

- (a) a passenger to whom this section applies is occupying a seat in the motor vehicle, being a seat that is equipped with a seat belt, and that seat belt is not securely fastened around him or, being fastened around him, is not appropriately adjusted; or
- (b) a passenger to whom this section applies is occupying a seat in the motor vehicle, being a seat that -
  - (i) is not equipped with a seat belt; and

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- (ii) there is another seat in that motor vehicle that is so equipped and is not occupied,

that passenger is guilty of an offence.

Penalty: \$200.

"33E. CHILDREN AND YOUNG PERSONS IN MOTOR VEHICLES

"(1) Subject to section 33G, where a motor vehicle is being driven on a public street or in a public place and -

- (a) a young person is occupying a seat in the motor vehicle, being a seat that is equipped with a seat belt, and that seat belt is not securely fastened around him or, being fastened around him, is not appropriately adjusted; or
- (b) a young person is occupying a seat in the motor vehicle, being a seat that -
  - (i) is not equipped with a seat belt; and
  - (ii) there is another seat in that motor vehicle that is so equipped and is not occupied,

the driver of that motor vehicle is guilty of an offence.

Penalty: \$200.

"(2) Subject to section 33G, where a motor vehicle is being driven on a public street or in a public place and -

- (a) a child is occupying a seat in the motor vehicle, being a seat that is equipped with a seat belt or child restraint suitable for use by that child, and -
  - (i) in the case of a seat fitted with a seat belt - that seat belt is not securely fastened around the child or, being fastened around him, is not appropriately adjusted; or
  - (ii) in the case of a seat fitted with a child restraint - the child is not restrained by that child restraint; or
- (b) a child is occupying a seat in the motor vehicle, being a seat that -
  - (i) is not equipped with a seat belt or child restraint suitable for use by that child; and
  - (ii) there is another seat in that motor vehicle that is equipped with a seat belt or child restraint suitable for use by that child and is not occupied,

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the driver of that motor vehicle is guilty of an offence.

Penalty: \$200.

"33F. NUMBER OF PERSONS IN FRONT SEATING POSITIONS

"Where a motor vehicle has front and rear seating positions and is required under the Motor Vehicles Act to be fitted with seat belts, the number of passengers, children or young persons occupying the front seating positions of the motor vehicle while that motor vehicle is being driven on a public street or in a public place shall not exceed the number of seat belts or child restraints available for use by passengers, children or young persons, as the case may be, in the front seating positions of that motor vehicle.

Penalty: \$200.

"33G. DEFENCES

"(1) It is a defence to a prosecution for an offence against section 33C where the defendant proves that -

- (a) the Registrar has certified in writing that it is impracticable, by reason of the physical characteristics of that defendant, for that defendant to drive with safety a motor vehicle, or a motor vehicle of a kind specified in the certificate, if that defendant is wearing a seat belt;
- (b) where the certificate is given in relation to motor vehicles of the kind or kinds specified in the certificate - the motor vehicle in which the offence is alleged to have been committed is a motor vehicle of a kind specified in the certificate; and
- (c) at the time at which the offence is alleged to have been committed, that certificate had not been revoked or, if that certificate was expressed to have effect for a specified period, that period had not expired.

"(2) It is a defence to a prosecution for an offence against section 33C or 33D where -

- (a) subject to sub-section (3), the Registrar has issued to the defendant a certificate in writing that, in the opinion of the Registrar, it is undesirable -
  - (i) on medical grounds; or
  - (ii) by reason of the physical characteristics of the defendant,

for the defendant to wear a seat belt, being a certificate that was effective at the time at which the offence is alleged to have been committed; or

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- (b) if, at the time at which the offence is alleged to have been committed, the motor vehicle in which the offence is alleged to have been committed had been in a State or another Territory the defendant, by reason of being the holder of a certificate or other document issued under or for the purposes of a law of that State or other Territory that corresponds generally with this Part, would not have been guilty of an offence against that law.

"(3) A certificate is effective for the purposes of sub-section (2)(a) -

- (a) if it is expressed to have effect for a period specified in it - until the expiration of that period; and
- (b) in any other case - until it is revoked.

"(4) Sub-section (2) applies to, and in relation to, a prosecution for an offence against section 33E(1) or (2) as if -

- (a) a reference to the defendant were a reference to the child or young person in relation to whom the offence is alleged to have been committed; and
- (b) in the case of a prosecution for an offence against section 33E(2), a reference to a seat belt were a reference to a seat belt or child restraint.

"(5) Where a motor vehicle referred to in section 33E(1) or (2) is -

- (a) a public hire car; or
- (b) a private hire car,

within the meaning of the Motor Vehicles Act, it is a defence to a prosecution for an offence against section 33E(1) or (2) that, in addition to the defendant, there was a passenger in the motor vehicle who was -

- (c) a parent of; or
- (d) a person in loco parentis to,

the child or young person in respect of whom the offence is alleged to have been committed and that passenger is liable for an offence against section 33E(1) or (2), as the case may be.

"33H. OFFENCE AGAINST THIS PART 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

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young person shall not be reduced by reason only that an act or omission by a person constituted an offence against section 33E."

9. REGULATIONS

Section 57 of the Principal Act is amended -

(a) by omitting from paragraph (h) "and"; and

(b) by inserting after paragraph (i) the following:

"(ia) the type, including construction and material, of footwear which may be worn by motor cycle drivers and pillion riders; and".

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