

# NORTHERN TERRITORY OF AUSTRALIA

## TRANSPORT LEGISLATION AMENDMENT ACT 2019

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### Act No. 35 of 2019

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### Table of provisions

#### **Part 1 Preliminary matters**

|   |                    |   |
|---|--------------------|---|
| 1 | Short title .....  | 1 |
| 2 | Commencement ..... | 1 |

#### **Part 2 Amendment of Control of Roads Act 1953**

|   |  |   |
|---|--|---|
| 3 | Act amended .....                      | 1 |
| 4 | Section 54A inserted .....             | 2 |
|   | 54A Use of immobilising devices        |   |
| 5 | Section 62 amended (Regulations) ..... | 2 |

#### **Part 3 Amendment of Motor Vehicles Act 1949**

|    |   |   |
|----|---|---|
| 6  | Act amended .....   | 2 |
| 7  | Section 5 amended (Interpretation) .....  | 3 |
| 8  | Section 7 amended (Registrar, Deputy Registrar and other officers).....               | 3 |
| 9  | Section 11 amended (Physical or mental incapacity or unfitness to hold licence) ..... | 4 |
| 10 | Section 20A amended .....   | 5 |
| 11 | Section 95 replaced .....   | 6 |
|    | 95 Change of address  |   |
| 12 | Section 137E inserted .....   | 6 |
|    | 137E Information sharing  |   |

#### **Part 4 Amendment of Traffic Act 1987**

|    |  |   |
|----|--|---|
| 13 | Act amended .....  | 7 |
| 14 | Section 19B inserted .....   | 7 |
|    | 19B Certain persons taken to be drivers under this Part                |   |
| 15 | Section 21 amended (High range breath or blood alcohol content).....   | 7 |
| 16 | Section 22 amended (Medium range breath or blood alcohol content)..... | 8 |

---

|    |   |    |
|----|---|----|
| 17 | Section 23 amended (Low range breath or blood alcohol content).....           | 8  |
| 18 | Section 24 amended (Some drivers to be zero alcohol) .....                    | 9  |
| 19 | Section 25 amended (Driver of certain vehicles to be zero alcohol).....       | 9  |
| 20 | Section 26 amended (Driving Instructor) .....                                 | 10 |
| 21 | Section 28 amended (Driving with certain drugs in body).....                  | 10 |
| 22 | Section 29AAA amended (Driving under influence).....                          | 10 |
| 23 | Section 29AAB amended (When police can pull driver over at random) .....      | 11 |
| 24 | Section 29AAC amended (Breath test and breath analysis).....                  | 13 |
| 25 | Section 29AAE amended (Offence of failing to submit to breath analysis) ..... | 13 |
| 26 | Section 29AAF (Requirement for saliva test).....                              | 14 |
| 27 | Section 29AFA amended (Offence of failing to submit to saliva test) .....     | 14 |
| 28 | Section 29AAG amended (Requirement to give blood sample).....                 | 15 |
| 29 | Section 29AAH amended (Offence of failing to provide blood sample).....       | 15 |
| 30 | Section 30 amended .....  | 16 |
| 31 | Section 30A amended (Driving at dangerous speed) .....                        | 17 |
| 32 | Section 43B amended (Exemptions) .....  | 17 |
| 33 | Section 44AA amended (Requirements for approval of device) ....               | 18 |
| 34 | Section 53 amended (Regulations) .....  | 19 |

## **Part 5                      Amendment of Traffic Regulations 1999**

|    |   |    |
|----|---|----|
| 35 | Regulations amended.....                                      | 19 |
| 36 | Regulation 12 amended (Learners driving motor vehicles) ..... | 20 |
| 37 | Regulation 19 amended (Duties of driver after crash) .....    | 20 |

## **Part 6                      Repeal of Act**

|    |                    |    |
|----|--------------------|----|
| 38 | Repeal of Act..... | 20 |
|----|--------------------|----|



# NORTHERN TERRITORY OF AUSTRALIA

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**Act No. 35 of 2019**

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An Act to amend the *Control of Roads Act 1953*, the *Motor Vehicles Act 1949* and the *Traffic Act 1987*

[Assented to 6 November 2019]

[Introduced 7 August 2019]

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 Amendment Act 2019*.

### **2 Commencement**

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

## **Part 2 Amendment of Control of Roads Act 1953**

### **3 Act amended**

This Part amends the *Control of Roads Act 1953*.

**4 Section 54A inserted**

After section 54

*insert*

**54A Use of immobilising devices**

- (1) The Commissioner of Police may authorise the use by police officers of a vehicle immobilising device:
  - (a) to prevent the use of a vehicle by a person for the purpose of escaping from lawful custody or avoiding lawful arrest; or
  - (b) to stop or assist in stopping a vehicle in connection with the pursuit of the vehicle by police officers.
- (2) Section 54(a) does not apply to the placing or deploying of a vehicle immobilising device by a police officer acting in the course of the officer's duties.
- (3) In this section:

**vehicle immobilising device** means a device capable of causing a vehicle to stop or preventing a vehicle from moving and includes a device designed for, or capable of, deflating tyres.

**5 Section 62 amended (Regulations)**

- (1) Section 62, before "The"

*insert*

  - (1)
- (2) Section 62, at the end

*insert*

  - (2) A regulation may prescribe fees payable under this Act for the issue of a licence or permit or the giving of an approval.

**Part 3 Amendment of Motor Vehicles Act 1949****6 Act amended**

This Part amends the *Motor Vehicles Act 1949*.

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**7 Section 5 amended (Interpretation)**

- (1) Section 5(1), definition *medical testing officer*  
*omit*
- (2) Section 5(1)  
*insert*  
**registered person**, see section 11(1A).

**8 Section 7 amended (Registrar, Deputy Registrar and other officers)**

- (1) Section 7(2)  
*omit*  
medical testing officers,
- (2) Section 7(2)  
*omit*  
he  
*insert*  
the Registrar
- (3) Section 7(3)  
*omit*  
shall be  
*insert*  
are
- (4) Section 7(4)  
*omit*  
shall have and may exercise such  
*insert*  
has the

## (5) Section 7(4)

*omit*

as the

*insert*

that the

**9 Section 11 amended (Physical or mental incapacity or  
unfitness to hold licence)**

## (1) Section 11(1)

*omit, insert*

- (1) In this section a reference to a person who is licensed to drive a motor vehicle includes a reference to a person who is licensed to drive a motor vehicle under a law of another country, a State or another Territory of the Commonwealth.

(1A) A **registered person** is:

- (a) a medical practitioner; or
- (b) a person registered under the Health Practitioner Regulation National Law (other than as a student) to practise in the occupational therapy, optometry or physiotherapy profession.

## (2) Section 11(2)

*omit*

medical testing officer

*insert*

registered person approved by the Registrar

## (3) Section 11(3)

*omit (all references)*

his or her

*insert*

the person's

- (4) Section 11(4)

*omit*

he or she

*insert*

the registered person

- (5) After section 11(4)

*insert*

- (5) A registered person who provides information or advice to the Registrar in good faith under this section is not civilly or criminally liable, or in breach of any professional code of conduct, for providing the information or advice.

## **10 Section 20A amended**

- (1) Section 20A, heading, after "**uncollected**"

*insert*

**or abandoned**

- (2) Section 20A(1)

*omit*

2004, the receiver

*insert*

2004 or as an abandoned vehicle in accordance with regulations under the *Traffic Act 1987*, the receiver or competent authority

- (3) Section 20A(3), after "2004"

*insert*

or as an abandoned vehicle in accordance with the regulations under the *Traffic Act 1987*

---

**11 Section 95 replaced**

Section 95(1) and (2)

*replace*

**95 Change of address**

- (1) A person to whom a certificate of registration, a licence or a permit has been granted must give notice of any change of the person's address to the Registrar.
- (2) Notice under subsection (1) must be given within 14 days of the change.

**12 Section 137E inserted**

After section 137D

*insert*

**137E Information sharing**

- (1) The Registrar may share the following information with any registered person who is assisting the Registrar to assess an applicant's capacity or fitness to hold a licence in accordance with section 11:
  - (a) medical information received from a licensed driver or an applicant for a licence;
  - (b) any driving history of a licensed driver or an applicant for a licence.
- (2) A person who receives information shared by the Registrar under subsection (1) must not intentionally disclose that information to any other person, unless:
  - (a) the Registrar requires or authorises the disclosure; or
  - (b) the licensed driver or applicant authorises the disclosure; or
  - (c) the disclosure is authorised or required by law; or
  - (d) the information is public knowledge.

Maximum penalty: 200 penalty units or imprisonment for 2 years.



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## Part 4                      Amendment of Traffic Act 1987

### 13                      Act amended

This Part amends the *Traffic Act 1987*.

### 14                      Section 19B inserted

After section 19A, in Part V, Division 1

*insert*

#### 19B                      Certain persons taken to be drivers under this Part

- (1) Subject to subsection (2), a person is taken to be a driver for this Part despite not driving or being in control of a vehicle if:
  - (a) the person:
    - (i) holds a licence, other than a learner's licence or a provisional licence; and
    - (ii) is occupying the front passenger seat of the vehicle; and
  - (b) the vehicle is being driven by a learner driver.
- (2) A person is not taken under subsection (1) to be a driver for this Part if the person is a driving instructor.

### 15                      Section 21 amended (High range breath or blood alcohol content)

- (1) Section 21(2)(e)

*omit*

section 24(1)).

*insert*

section 24(1));
- (2) After section 21(2)(e)

*insert*

  - (f) failing to comply with a direction from a police officer to pull over for a breath test or a saliva test (or both).

- (3) After section 21(4)(c)

*insert*

- (d) failing to comply with a direction from a police officer to pull over for a breath test or a saliva test (or both);

- (4) After section 21(5)(c)

*insert*

- (ca) failing to comply with a direction from a police officer to pull over for a breath test or a saliva test (or both);

**16 Section 22 amended (Medium range breath or blood alcohol content)**

- (1) Section 22(2)(e)

*omit*

section 24(1)).

*insert*

section 24(1));

- (2) After section 22(2)(e)

*insert*

- (f) failing to comply with a direction from a police officer to pull over for a breath test or a saliva test (or both).

**17 Section 23 amended (Low range breath or blood alcohol content)**

- (1) Section 23(2)(e)

*omit*

section 24(1)).

*insert*

section 24(1));

- (2) After section 23(2)(e)

*insert*

- (f) failing to comply with a direction from a police officer to pull over for a breath test or a saliva test (or both).

**18 Section 24 amended (Some drivers to be zero alcohol)**

- (1) Section 24(3)(f)

*omit*

offence).

*insert*

offence);

- (2) After section 24(3)(f)

*insert*

- (g) failing to comply with a direction from a police officer to pull over for a breath test or a saliva test (or both).

**19 Section 25 amended (Driver of certain vehicles to be zero alcohol)**

- (1) Section 25(4)(f)

*omit*

offence).

*insert*

offence);

- (2) After section 25(4)(f)

*insert*

- (g) failing to comply with a direction from a police officer to pull over for a breath test or a saliva test (or both).

---

**20 Section 26 amended (Driving Instructor)**

After section 26(2)(f)

*insert*

(fa) failing to comply with a direction from a police officer to pull over for a breath test or a saliva test (or both);

**21 Section 28 amended (Driving with certain drugs in body)**

(1) Section 28(2)(c)

*omit*

test.

*insert*

test;

(2) After section 28(2)(c)

*insert*

(d) failing to comply with a direction from a police officer to pull over for a breath test or a saliva test (or both).

**22 Section 29AAA amended (Driving under influence)**

(1) Section 29AAA(2)(e)

*omit*

section 24(1)).

*insert*

section 24(1));

(2) After section 29AAA(2)(e)

*insert*

(f) failing to comply with a direction from a police officer to pull over for a breath test or a saliva test (or both).

---

**23      Section 29AAB amended (When police can pull driver over at random)**

Section 29AAB(2)

*omit, insert*

- (2) The driver must comply with the direction.

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.

- (3) 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 submit to a saliva test;

- (e) failing to give a sample of blood for analysis;

- (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 24(1));

- (g) failing to comply with a direction from a police officer to pull over for a breath test or a saliva test (or both).

- (4) 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 for subsection (4)*

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.

- (5) However, a person is disqualified from obtaining a licence for a minimum period of 5 years if a court finds the 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 submit to a saliva test;
- (d) failing to provide a sample of blood for analysis;
- (e) failing to comply with a direction from a police officer to pull over for a breath test or a saliva test (or both).

- (6) 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));
- (d) failing to comply with a direction from a police officer to pull over for a breath test or a saliva test (or both);

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

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

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

**24 Section 29AAC amended (Breath test and breath analysis)**

- (1) After section 29AAC(1)(a)

*insert*

- (ab) the person is a driver who the officer has reasonable cause to suspect has committed an offence under this Act or the *Motor Vehicles Act 1949*;

- (2) Section 29AAC(1)(b)(i)

*omit*

**25 Section 29AAE amended (Offence of failing to submit to breath analysis)**

- (1) Section 29AAE(2)(e)

*omit*

section 24(1)).

*insert*

section 24(1));

- (2) After section 29AAE(2)(e)

*insert*

- (f) failing to comply with a direction from a police officer to pull over for a breath test or a saliva test (or both).

- (3) After section 29AAE(4)(c)

*insert*

- (d) failing to comply with a direction from a police officer to pull over for a breath test or a saliva test (or both);

- (4) After section 29AAE(5)(c)

*insert*

- (ca) failing to comply with a direction from a police officer to pull over for a breath test or a saliva test (or both);

## **26 Section 29AAF (Requirement for saliva test)**

- (1) After section 29AAF(1)(a)

*insert*

- (ab) the person is a driver who the officer has reasonable cause to suspect has committed an offence under this Act or the *Motor Vehicles Act 1949*;

- (2) Section 29AAF(1)(b)

*omit, insert*

- (b) the officer has reasonable cause to suspect the person was the driver of a motor vehicle that was involved in a crash on a road, road-related area or public place.

## **27 Section 29AAFA amended (Offence of failing to submit to saliva test)**

- (1) Section 29AAFA(2)(c)

*omit*

test.



---

*insert*

test;

- (2) After section 29AAFA(2)(c)

*insert*

- (d) failing to comply with a direction from a police officer to pull over for a breath test or a saliva test (or both).

**28 Section 29AAG amended (Requirement to give blood sample)**

After section 29AAG(1)(a)

*insert*

- (ab) has required the person to submit to a breath analysis under section 29AAC but the breath analysis instrument has failed to provide a result because of one of the following reasons:

- (i) the breath analysis instrument is malfunctioning;
- (ii) the person's BrAC is too high for the breath analysis instrument to measure; or

**29 Section 29AAH amended (Offence of failing to provide blood sample)**

- (1) Section 29AAH(2)(e)

*omit*

section 24(1)).

*insert*

section 24(1));

- (2) After section 29AAH(2)(e)

*insert*

- (f) failing to comply with a direction from a police officer to pull over for a breath test or a saliva test (or both).

- (3) After section 29AAH(4)(c)

*insert*

- (d) failing to comply with a direction from a police officer to pull over for a breath test or a saliva test (or both);

- (4) After section 21AAH(5)(c)

*insert*

- (ca) failing to comply with a direction from a police officer to pull over for a breath test or a saliva test (or both);

**30 Section 30 amended**

- (1) Section 30, heading

*omit*

**or riding**

- (2) Section 30(1)

*omit*

or ride

- (3) Section 30(4)(a)

*omit*

- (4) After section 30(4)

*insert*

- (5) A police officer does not commit an offence against subsection (1) if the police officer drives a vehicle in a manner that would otherwise contravene that subsection, but, in the circumstances:

- (a) the police officer is acting in the execution of the police officer's duties; and

- (b) the manner of driving is in accordance with any general orders as defined in the *Police Administration Act 1978*; and

- (c) the police officer reasonably believes that:

- (i) the manner of driving is necessary to prevent a serious risk to public safety; and

- 
- (ii) the necessity for the manner of driving outweighs the risk to public safety posed by the manner of driving.

### **31 Section 30A amended (Driving at dangerous speed)**

- (1) Section 30A(3)(a)  
*omit*
- (2) After section 30A(3)  
*insert*
- (4) A police officer does not commit an offence against subsection (1) if the police officer drives a vehicle at a speed that is 45km/h or more faster than the prescribed speed for the length of road, but, in the circumstances:
  - (a) the police officer is acting in the execution of the police officer's duties; and
  - (b) the speed of the vehicle is in accordance with any general orders as defined in the *Police Administration Act 1978*; and
  - (c) the police officer reasonably believes that:
    - (i) the speed of the vehicle is necessary to prevent a serious risk to public safety; and
    - (ii) the necessity for the speed of the vehicle outweighs the risk to public safety posed by the speed of the vehicle.

### **32 Section 43B amended (Exemptions)**

- (1) Section 43B(1), after "exempt"  
*insert*  
a person in relation to a particular motor vehicle or
- (2) Section 43B(2)  
*omit*  
exempt a motor vehicle  
*insert*  
grant an exemption

- (3) Section 43B(2)  
*omit*  
shall have regard to  
*insert*  
must have regard to the following in relation to the particular motor vehicle or class of motor vehicle
- (4) Section 43B(2)(b)  
*omit*  
and
- (5) Section 43B(2)(c)  
*omit*  
fit,  
*insert*  
fit.
- (6) Section 43B(2)  
*omit*  
of a vehicle of the relevant class.

**33 Section 44AA amended (Requirements for approval of device)**

Section 44AA(4)

*omit, insert*

- (4) The image and other information referred to in subsection (1) must be held in an electronic file that:
- (a) complies with subsection (5); and
  - (b) is transferable to a printed form that contains the image and other information.
- (5) The electronic file must meet either or both of the following requirements:
- (a) the file is of a type that is unalterable;

- (b) the file is protected by any means that:
  - (i) detects whether the image or other information held on the file is altered or the file is tampered with; and
  - (ii) prevents the image or other information held on the file from being used if the image or other information is altered or the file tampered with.

#### **34 Section 53 amended (Regulations)**

- (1) Section 53(2)(z)

*omit*

Regulations.

*insert*

Regulations;

- (2) After section 53(2)(z)

*insert*

- (za) the liability of a licence holder, other than a learner's licence holder or provisional licence holder, occupying the front seat of a motor vehicle that is being driven by the holder of a learner licence for an offence committed against the Regulations by the learner;
- (zb) the liability of the owner of a vehicle for an offence committed, in the vehicle, against the Regulations by an unidentifiable driver;
- (zc) the prescribing of fees payable under this Act;
- (zd) the approval by the Commissioner of a process for reporting a crash to a police officer where a report is required under the Regulations.

## **Part 5 Amendment of Traffic Regulations 1999**

### **35 Regulations amended**

This Part amends the *Traffic Regulations 1999*.

---

**36 Regulation 12 amended (Learners driving motor vehicles)**

Regulation 12(10) amended

*omit, insert*

- (10) A licence holder who is occupying a front seat of a vehicle that is being driven by a learner driver is liable for an offence against these Regulations that is committed by the driver as if the licence holder was the driver of the vehicle.
- (11) It is a defence for a licence holder who is liable for an offence because of subregulation (10) if the licence holder proves that the licence holder took reasonable steps to prevent the learner from committing the offence.

**37 Regulation 19 amended (Duties of driver after crash)**

Regulation 19(2)

*omit, insert*

- (2) In addition to subregulation (1), the driver must, as soon as practicable and not later than 24 hours after the crash, report the crash and provide the driver's name to:
  - (a) if the crash has resulted in injury to a person – a police officer at the nearest practicable police station; or
  - (b) in any other case – a police officer using a method approved by the Commissioner.

**Part 6 Repeal of Act****38 Repeal of Act**

This Act is repealed on the day after it commences.