

NORTHERN TERRITORY OF AUSTRALIA

TRAFFIC AMENDMENT ACT 1994

No. 8 of 1994

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NORTHERN TERRITORY OF AUSTRALIA

No. 8 of 1994

AN ACT

to amend the *Traffic Act*

[Assented to 16 March 1994]

BE 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 1994*.

2. COMMENCEMENT

The provisions of this Act shall come into operation on such day or days as is or are, respectively, fixed by the Administrator by notice in the *Gazette*.

3. PRINCIPAL ACT

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

4. NEW SECTION

The Principal Act is amended by inserting after section 20 the following:

"20A. IMMEDIATE SUSPENSION OFFENCES

"(1) In this section, 'immediate suspension offence' means -

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- (a) a second or subsequent offence against section 19(1);
- (b) an offence against section 19(3) other than section 19(3)(a)(i); or
- (c) an offence against section 20.

"(2) If a person is charged with an immediate suspension offence, any member of the Police Force may, after charging the person but before the charge is determined by a court, give to the person a notice in the form approved by the Director informing the person that he or she is disqualified from driving a motor vehicle until the charge is determined and requiring the person to surrender immediately to the member giving the notice any licence document held by the person.

"(3) For the purposes of this section a person is charged with an immediate suspension offence when a copy of the charge signed by a member of the Police Force is given to the person.

"(4) Immediately on the giving of the notice under subsection (2) the accused person is by force of this section disqualified from driving a motor vehicle and any licence held by the person is suspended until the charge is determined by a court.

"(5) A member of the Police Force who gives a notice under subsection (2) shall cause notice of that fact to be sent immediately to the Registrar.

"(6) A person who, without just cause or excuse (the onus of proving which lies on the person), refuses or fails to surrender a licence document as required by a notice under subsection (2) is guilty of an offence.

"(7) If a person is disqualified under this section from driving a motor vehicle, the person is, during the period of disqualification, disqualified from holding or obtaining a further licence.

"(8) A person shall not, while he or she is disqualified from obtaining a licence, apply for a licence.

"(9) A person to whom a notice is given under subsection (2) may appeal against the notice to the Local Court.

"(10) A person who appeals under subsection (9) shall give 14 days written notice of the appeal to the Registrar and to the clerk of the Local Court setting out the particulars of the alleged exceptional circumstances justifying the cancellation of the notice.

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"(11) In determining the appeal the Local Court shall hear any relevant evidence tendered by the applicant and by or on behalf of the Registrar and any evidence of a medical practitioner required by the court.

"(12) On an appeal under subsection (9) the Local Court may make an order -

- (a) confirming the notice; or
- (b) cancelling the notice.

"(13) The Local Court shall not make an order under subsection (12) (b) unless it is satisfied that exceptional circumstances exist which justify the making of the order.

"(14) An order of a Local Court under subsection (12) is final and conclusive and has effect accordingly.

"(15) If on the hearing of the complaint relating to the immediate suspension offence the accused person is convicted of the offence or the court makes a finding that the offence is proved but, under section 4(1) of the *Criminal Law (Conditional Release of Offenders) Act* it -

- (a) dismisses the charge; or
- (b) without proceeding to conviction, makes an order relating to the good behaviour of the person,

and the person is disqualified from driving and from obtaining a licence for a specified time, the court shall, in fixing the period of disqualification, take into account the period of disqualification, if any, under this section."

5. REQUIREMENT TO SUBMIT TO BREATH TEST

Section 23 of the Principal Act is amended by omitting from subsection (7) (a) (i) "19(5)" and substituting "19(5), (7) or (9)".

6. CANCELLATION OF LICENCE

Section 39(1) of the Principal Act is amended by omitting "fit" and substituting "fit but if the conviction or finding relates to -

- (e) an offence in which the concentration of alcohol in the person's blood is equal to or more than 150 mg of alcohol per 100 ml of blood committed within 3 years after committing an offence against section 19(3) (a) (ii) or (b), the person's licence is, by force of the conviction or finding, cancelled for such period, being not less than 5 years, as is fixed by the court and the person is disqualified from holding a licence for that period; or

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- (f) an offence against section 19(1) or (3) or 20(1) committed by a person referred to in section 19(9)(b)(i) or (iii), the person's licence is, by force of the conviction or finding, cancelled for such period as is prescribed in Schedule 1 in relation to an offence of that kind or such longer period as the court thinks fit, and the person is by force of this section disqualified from obtaining a licence to drive a vehicle referred to in section 19(9)(b)(i) or (iii) for a period of 5 years.
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