

Serial 70
Traffic Amendment Bill (No. 3) 2009
Mr Giles

A Bill for an Act to amend the *Traffic Act*

NORTHERN TERRITORY OF AUSTRALIA

TRAFFIC AMENDMENT ACT (NO. 3) 2009

Act No. [] of 2009

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NORTHERN TERRITORY OF AUSTRALIA

Act No. [] of 2009

An Act to amend the *Traffic Act*

[Assented to [] 2009]
[Second reading [] 2009]

The Legislative Assembly of the Northern Territory enacts as follows:

Part 1 Preliminary matters

1 Short title

This Act may be cited as the *Traffic Amendment Act (No. 3) 2009*.

2 Commencement

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

Part 2 Amendment of Traffic Act

3 Act amended

This Part amends the *Traffic Act*.

4 Amendment of section 29AB

(1) Section 29AB

insert (in alphabetical order)

Class C prescribed driving offence, see definition ***prescribed driving offence*** in this section.

- (2) Section 29AB, definition **prescribed driving offence**, after paragraph (c)

insert

(d) a Class C prescribed driving offence.

- (3) Section 29AB, definition **subsequent offence**, paragraph (b)

omit

section 29AG(2)(a).

substitute

section 29AG(2)(a); or

- (4) Section 29AB, definition **subsequent offence**, after paragraph (b)

insert

(c) a Class C subsequent offence mentioned in section 29AG(3)(b).

5 Amendment of section 29AD (Power of police officer to impound vehicle)

Section 29AD(1), after "Class A prescribed driving offence"

insert

or a Class C prescribed driving offence

6 Amendment of section 29AG (Application of division)

After section 29AG(2)

insert

- (3) This Division also applies if, within 5 years after a person (the **offender**) being found guilty of a Class C prescribed driving offence (the **first Class C offence**):

(a) the offender is found guilty of another Class C prescribed driving offence (the **second Class C offence**); or

(b) the offender is found guilty of one or more further Class C prescribed driving offences (each of which is a **Class C subsequent offence**) after being found guilty of the second Class C offence.

7 Amendment of section 29AH (Sentencing for second offence)

(1) Section 29AH, heading

omit

second Class A offence

substitute

second Class A or Class C offence

(2) Section 29AH(1)

omit

the second Class A offence

substitute

either the second Class A offence or the second Class C offence

(3) Section 29AH(2), after "second Class A offence"

insert

or the second Class C offence (as the case may be)

(4) Section 29AH(3), (5)(a) and (b) and (8)

omit (all references)

second Class A offence

substitute

second Class A offence or the second Class C offence

8 Amendment of section 29AI (Sentencing for subsequent offence)

Section 29AI(1)

omit, substitute

(1) This section applies after a court finds the offender guilty of:

(a) a Class A subsequent offence; or

(b) a Class C subsequent offence committed within 5 years after the first Class C offence.

9 Amendment of section 29AT (Impounding determination, impounding order and forfeiture order)

(1) After section 29AT(1)

insert

(1A) 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 one or more Class C prescribed driving offences within 5 years immediately before that time; and
- (b) the person knows that:
 - (i) the driver has been found guilty of one or more of the offences within the 5 years; and
 - (ii) an impounding determination has been made for the vehicle.

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

(2) After section 29AT(2)

insert

(2A) 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 Class C prescribed driving offence (the **relevant offence**); and
- (b) the driver was found guilty of a single Class C prescribed driving offence during the 5 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) Section 29AT(3)

omit

Subsections (1) and (2)

substitute

Subsections (1), (1A), (2) and (2A)

(4) After section 29AT(4A)

insert

- (4B) 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 Class C prescribed driving offence (the **relevant offence**); and
- (b) the driver was found guilty of 2 or more Class C prescribed driving offences during the 5 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.

10 Amendment of section 33 (Driving unregistered vehicle)

After section 33(3)(b)

insert

(ba) a motor vehicle being driven by the shortest practicable route to a storage place, within the meaning of section 29AB, under an impounding determination or impounding order;

11 Amendment of section 33A (Driving unregistered heavy vehicle)

After section 33A(6)(a)

insert

(aa) a heavy vehicle being driven by the shortest practicable route to a storage place, within the meaning of section 29AB, under an impounding determination or impounding order;

12 Amendment of section 51 (Regulatory offences)

Section 51

omit

29AT(1), (2), (4) (4A) and (5)

substitute

29AT(1), (1A), (2), (2A), (4), (4A), (4B) and (5)

13 New section 58

After section 57

insert

58 Transitional matters for *Traffic Amendment Act (No. 3) 2009*

The Amendments to this Act made by the *Traffic Amendment Act (No. 3) 2009*, providing for impounding and forfeiture of vehicles for Class C prescribed driving offences, apply only in relation to Class C prescribed driving offences committed after the commencement of this section.

Part 3 Amendment of Traffic Regulations**14 Regulations amended**

This Part amends the *Traffic Regulations*.

15 Amendment of regulation 91A (Certain driving offences prescribed for section 29AB of Act)**(1) Regulation 91A(c)(v)**

omit

Act.

substitute

Act; and

(2) After regulation 91A(c)

insert

(d) an offence against any of the following provisions is a ***Class C prescribed driving offence***:

- (i) section 33(1)(a) of the Act;
- (ii) section 33A(1)(a) of the Act.