

Serial 106
Transport Legislation (Demerit Points) Amendment Bill 2007
Ms Lawrie

**A BILL
for
AN ACT**

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

NORTHERN TERRITORY OF AUSTRALIA
TRANSPORT LEGISLATION (DEMERIT POINTS) AMENDMENT
ACT 2007

Act No. [] of 2007

TABLE OF PROVISIONS

Section

PART 1 – PRELIMINARY MATTERS

1. Short title
2. Commencement

PART 2 – AMENDMENT OF *MOTOR VEHICLES ACT*

3. Act amended
4. New Part III

PART III – DEMERIT POINTS SCHEME

Division 1 – Preliminary matters

26. Definition
27. Minister may give directions
28. Active demerit points

Division 2 – Incurring demerit points

29. Demerit points only to natural persons
30. When demerit points are incurred

Division 3 – Demerit points register

31. Demerit points register
32. Demerit points for offence committed in the Territory
33. Demerit points incurred in another jurisdiction
- 33A. Recording demerit points from other jurisdiction for person taking up residence in Territory

Division 4 – When demerit points reach suspension threshold

- 33B. When is suspension threshold reached?

Division 5 – Consequences of reaching suspension threshold

- 33C. Suspension notice issued when suspension threshold reached
- 33D. Effect of suspension
- 33E. Suspension period
- 33F. Early start to suspension period

Division 6 – Undertaking to be of good driving behaviour

- 33G. Undertaking to be of good driving behaviour
- 33H. Eligibility to undertake good driving behaviour
- 33J. Person may apply for extension of time for undertaking

- 33K. Person may apply to give undertaking by other means
- 33L. Breach of undertaking

Division 7 – Administrative matters

- 33M. Advising other jurisdiction of offences committed in Territory
- 33N. When Registrar advises other jurisdiction
- 33P. Registrar to provide details of active demerit points
- 33Q. Demerit points no longer active once taken into account for notice of suspension or breach of undertaking
- 33R. Demerit points incurred but not taken into account for notice of suspension
- 33S. Demerit points deleted from register
- 33T. Withdrawal of suspension notice
- 33U. Releasing information from register

Division 8 – Other matters

- 33V. Appeal against decision of Registrar
- 33W. Court not take demerit points into account
- 33X. Demerit points not affected by licence suspension under another law
- 33Y. Immunity from liability
- 33Z. Offence by body corporate

5. Amendment of section 138 (Regulations)

PART 3 – AMENDMENT OF *TRAFFIC ACT*

- 6. Act amended
- 7. Amendment of section 3 (Interpretation)
- 8. Amendment of section 30A (Driving at dangerous speed)
- 9. Amendment of section 33B (Person may be cautioned)
- 10. New section 43AA
 - 43AA. Demerit points offence
- 11. New section 53A
 - 53A. Demerit points

PART 4 – AMENDMENT OF *TRAFFIC REGULATIONS*

- 12. Regulations amended
- 13. Amendment of regulation 42 (Particulars to be shown on traffic infringement notice)
- 14. Amendment of regulation 43 (Withdrawal of infringement notice)
- 15. Amendment of regulation 45 (Payment of penalty within specified period)
- 16. New Part 3A

PART 3A – DEMERIT POINTS

- 54A. Demerit points for certain offences
- 17. New Schedule 1A

SCHEDULE 1A



NORTHERN TERRITORY OF AUSTRALIA

Act No. [] of 2007

AN ACT

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

[Assented to [] 2007]
[Second reading [] 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 (Demerit Points) Amendment Act 2007*.

2. Commencement

This Act commences on 1 September 2007.

PART 2 – AMENDMENT OF *MOTOR VEHICLES ACT*

3. Act amended

This Part amends the *Motor Vehicles Act*.

4. New Part III

After section 25H

insert

PART III – DEMERIT POINTS SCHEME

Division 1 – Preliminary matters

26. Definitions

In this Part:

"another jurisdiction" means a State or another Territory of the Commonwealth;

"demerit points" means:

- (a) the points incurred under this Part by a person who commits a demerit points offence; or
- (b) the points incurred under a law of another jurisdiction by a person who commits a traffic offence in the other jurisdiction;

"demerit points offence" means:

- (a) an offence specified in Schedule 1A to the *Traffic Regulations* for which demerit points are prescribed; or
- (b) a traffic offence committed in another jurisdiction, that attracts demerit points under the law of that jurisdiction;

"Fines Recovery Unit" has the meaning in the *Fines and Penalties (Recovery) Act*;

"good driving period" means the period (which may be discontinuous) for which an undertaking to be of good driving behaviour is effective;

"licence" means:

- (a) a licence or permit to drive a motor vehicle (including a learner licence); and
- (b) for a visiting driver – the right to drive in the Territory;

"licensing authority", of another jurisdiction, means the Agency or office of the other jurisdiction responsible for administration of the scheme for licensing of drivers in that jurisdiction;

"suspension" includes disqualification from holding or obtaining a licence;

"suspension notice" means a notice under section 33C;

"suspension period" means the period (which may be discontinuous) for which the suspension is effective;

"suspension threshold" means the point at which a person becomes liable to suspension because of demerit points incurred by the person;

"traffic offence" means an offence under an Act of the Territory or another jurisdiction that regulates road use or use of road-related areas;

"visiting driver" means a person who is not a resident of the Territory but who is entitled to drive in the Territory under section 32 of the *Traffic Act*.

27. Minister may give directions

(1) The Minister may give directions to the Registrar in relation to the general administration of the demerit points scheme under this Part.

(2) Subsection (1) does not authorise the giving, or following, of directions that relate to the impact of the scheme on a particular person.

Example

If a traffic infringement detection device is found to be defective, the Minister might direct the Registrar to delete from the register all demerit points incurred for offences detected by the device for the period the device was faulty. Even if only one person's records in the register were affected, such a direction would not offend subsection (2) because of the direction's general nature.

28. Active demerit points

(1) For this Part, demerit points are "active demerit points" if they are capable of being taken into account as the basis of a suspension notice.

(2) Demerit points cease to be active if:

(a) they are taken into account as the basis of a suspension notice; or

(b) the demerit points, together with any further points incurred in the ensuing 12 month period, or 3 year period (as the case may be), do not result in the suspension threshold being reached.

Note

Because substantial delay is possible between the date points are incurred and the date they are entered in the register, some points can remain active for more than 3 years.

Division 2 – Incurring demerit points

29. Demerit points only to natural persons

Demerit points can only be incurred by natural persons.

30. When demerit points are incurred

(1) Demerit points for a demerit points offence are incurred by the offender on the day the offence is committed.

(2) Demerit points are to be recorded in the register as incurred on the date the demerit points offence was committed.

(3) This section applies although the demerit points are not recorded in the register until a later time.

Division 3 – Demerit points register

31. Demerit points register

(1) The Registrar must maintain a register of demerit points.

(2) The register is to be a record of:

(a) demerit points incurred for demerit points offences committed in the Territory; and

(b) certain demerit points incurred by residents of the Territory for demerit points offences committed in other jurisdictions.

Note

Section 33 deals with which demerit points incurred in another jurisdiction will be recorded in the register.

32. Demerit points for offence committed in the Territory

(1) The Registrar must enter in the register, against the name of a person, the relevant number of demerit points for a demerit points offence committed in the Territory if:

(a) the person is found guilty of the offence and:

(i) the time for lodging an appeal has passed and no appeal has been lodged; or

(ii) an appeal has been lodged and the appeal has been determined, withdrawn or discontinued; or

(b) the person is served with an infringement notice for the offence and:

- (i) the infringement notice penalty is paid in full or in part; or
- (ii) the Fines Recovery Unit enters into a scheme with the person allowing further time to pay, or payment by instalments; or
- (iii) the period for payment of the infringement notice penalty expires without the person electing to have the matter heard by a court.

(2) The relevant number of demerit points for a demerit points offence is the number prescribed by regulation for the offence plus any additional points imposed for the offence under a Ministerial declaration.

33. Demerit points incurred in another jurisdiction

- (1) If:
 - (a) the Registrar is advised by the licensing authority of another jurisdiction that demerit points have been incurred in that jurisdiction by a person who is a resident of the Territory; and
 - (b) the offence for which the demerit points were incurred corresponds to a demerit points offence under Territory law;

the Registrar must record against the name of the person in the Territory register the number of demerit points incurred in the other jurisdiction for the offence.

(2) The demerit points recorded under subsection (1)(b) must not include points incurred before the commencement of this Part.

33A. Recording demerit points from other jurisdiction for person taking up residence in Territory

(1) If a person applies for a Territory licence after a period of residence in another jurisdiction, the Registrar must:

- (a) enquire of the licensing authority of the other jurisdiction about active demerit points recorded against the person in that jurisdiction; and
- (b) record those demerit points against the person in the register for the dates on which the points were incurred.

(2) The demerit points recorded under subsection (1)(b) must not include:

- (a) points incurred before the commencement of this Part; or

Transport Legislation (Demerit Points) Amendment Act 2007

- (b) points for an offence where the register already contains a record of the same offence.

Note

Demerit points brought across from a previous jurisdiction under this section may include points for offences not recognised as demerit points offences in the Territory.

Division 4 – When demerit points reach suspension threshold

33B. When is suspension threshold reached?

- (1) A person reaches the suspension threshold if the person incurs 12 or more demerit points within a period of 3 years or less.
- (2) A person also reaches the suspension threshold if:
 - (a) the person is:
 - (i) the holder of a learner licence or a licence that is provisional; or
 - (ii) the holder of a licence or permit from another jurisdiction that is equivalent to a licence mentioned in subparagraph (i); or
 - (iii) a visiting driver; and
 - (b) the person incurs 5 or more demerit points within a period of 12 months or less.

Note

Whenever demerit points are entered against a person's name in the Register, a computer check will be carried out to determine whether the aggregate active demerit points incurred by the person over any relevant period result in the suspension threshold being reached.

Division 5 – Consequences of reaching suspension threshold

33C. Suspension notice issued when suspension threshold reached

- (1) If it appears from the register that a person has reached the suspension threshold, the Registrar must serve a suspension notice on the person.
- (2) The notice must include the following:
 - (a) the date of the notice;
 - (b) the date on which the suspension is to take effect (the "effective date");
 - (c) details of the person's licence (if any);

- (d) particulars of the relevant offences, including the date of each offence and the demerit points incurred in respect of each offence;
 - (e) the period for which:
 - (i) the licence is suspended; or
 - (ii) for a visiting driver – the right to drive in the Territory is suspended; or
 - (iii) if the person is unlicensed – the person is disqualified from obtaining a licence;
 - (f) details of the person's right to elect for the effective date to be brought forward;
 - (g) details of the person's right (if eligible) to undertake to be of good driving behaviour and the consequences of exercising or failing to exercise that right;
 - (h) further information as prescribed.
- (3) Subject to section 33F, the effective date is 28 days after the date of the notice.
- (4) The notice may be served personally or by post.
- (5) Postal service may be effected by sending the notice by ordinary post to the postal address (including a Post Office Box) last notified to the Registrar, the Northern Territory Police Force or the Fines Recovery Unit by the person.

33D. Effect of suspension

- (1) The suspension notice has the following effect:
 - (a) if the person is the holder of a Territory licence – the licence is suspended and the person is disqualified from obtaining another licence;
 - (b) if the person is a visiting driver – the person's right to drive in the Territory is suspended;
 - (c) if the person is not licensed – the person is disqualified from obtaining a licence.
- (2) If the person holds a Territory licence and the licence expires during the suspension period, the Registrar must not renew the licence until the

suspension period (and any other period of suspension or disqualification) expires.

33E. Suspension period

(1) When a suspension notice is issued, demerit points must be taken into account for the notice if:

- (a) they were incurred within the relevant period; and
- (b) they were recorded in the register as active points on the date of issue of the notice.

(2) For a suspension threshold of 5 demerit points within a period of 12 months or less, the suspension period is fixed as follows:

- (a) if 5 to 8 points have been taken into account for the notice of suspension – 3 months;
- (b) if 9 to 12 points have been taken into account for the notice of suspension – 4 months;
- (c) if more than 12 points have been taken into account for the notice of suspension – 5 months.

(3) For a suspension threshold of 12 demerit points within a period of 3 years or less, the suspension period is fixed as follows:

- (a) if 12 to 15 points have been taken into account for the notice of suspension – 3 months;
- (b) if 16 to 19 points have been taken into account for the notice of suspension – 4 months;
- (c) if more than 19 points have been taken into account for the notice of suspension – 5 months.

33F. Early start to suspension period

(1) A person subject to a suspension notice may elect to begin the suspension period earlier than the effective date in the notice.

- (2) To make the election, the person must:
 - (a) complete the approved form for making the election; and
 - (b) lodge the election form, in person, at any office of the Registrar within 21 days after the date of the notice.

(3) The effective date for the beginning of the suspension period becomes the day after the election form is lodged.

(4) In this section:

"office of the Registrar" includes a police station that functions as an office of the Registrar.

Division 6 – Undertaking to be of good driving behaviour

33G. Undertaking to be of good driving behaviour

(1) A person subject to a suspension notice may (if eligible) undertake, as an alternative to undergoing the suspension notified in the notice, to be of good driving behaviour for 12 months.

Note

Section 33H deals with a person's eligibility to undertake to be of good driving behaviour.

(2) To undertake to be of good driving behaviour, the person must:

- (a) complete the approved form for giving the undertaking; and
- (b) lodge the undertaking, in person, at any office of the Registrar within 21 days after the date of the notice.

(3) The effective date for the beginning of the good driving period becomes the day after the undertaking is lodged.

(4) The good driving period ceases to run (or does not begin to run, as the case may be) during a period of licence suspension or disqualification under another law, and whatever period of good driving behaviour has not been served begins to run immediately the period of suspension or disqualification ends.

(5) In this section:

"office of the Registrar" includes a police station that functions as an office of the Registrar.

33H. Eligibility to undertake good driving behaviour

(1) A person subject to a suspension notice is eligible to undertake to be of good driving behaviour if:

- (a) the person is the holder of a Territory licence; or
- (b) the person becomes the holder of such a licence before the period of disqualification to obtain a licence commences.

(2) However, a person is not eligible to undertake to be of good driving behaviour if the suspension notice is issued under section 33L because the person has breached a previous undertaking to be of good driving behaviour.

33J. Person may apply for extension of time for undertaking

(1) A person may apply to the Registrar for an extension of time to undertake to be of good driving behaviour.

(2) If the Registrar is satisfied:

(a) the person has not received the suspension notice in sufficient time to give the undertaking (for a reason other than wilful avoidance);
or

(b) the circumstances are exceptional and warrant extending the time for the person to give the undertaking;

the Registrar may allow additional time (and may, if necessary, defer the date of commencement of the suspension period) for the person to give the undertaking.

(3) A person can make only one application under subsection (1), but nothing prevents the Registrar, on the Registrar's own initiative, granting a further extension if satisfied the circumstances warrant it.

33K. Person may apply to give undertaking by other means

(1) The Registrar may, on application by a person, dispense with the requirement that the applicant attend in person at an office of the Registrar to give an undertaking to be of good driving behaviour.

(2) The Registrar will only give the dispensation if satisfied:

(a) as to the identity of the applicant; and

(b) that in the circumstances it would be unduly onerous to require personal attendance.

33L. Breach of undertaking

(1) This section applies if a person:

(a) undertakes to be of good driving behaviour; and

(b) incurs 2 or more demerit points during the good driving period.

(2) The Registrar must serve on the person a further suspension notice specifying a suspension period that is double the period that was specified in the earlier notice of suspension that gave rise to the undertaking.

Division 7 – Administrative matters

33M. Advising other jurisdiction of offences committed in Territory

(1) If a resident of another jurisdiction commits a demerit points offence in the Territory, the Registrar must advise the licensing authority of the other jurisdiction of the details of the offence and the number of demerit points prescribed for the offence.

(2) The Registrar may also advise the licensing authority of another jurisdiction of the details of a traffic offence committed by a resident of the other jurisdiction, although the offence is not a demerit points offence in the Territory.

33N. When Registrar advises other jurisdiction

The details are not to be advised to the licensing authority of the other jurisdiction until:

- (a) the person is found guilty of the offence and:
 - (i) the time for lodging an appeal has passed and no appeal has been lodged; or
 - (ii) an appeal has been lodged and the appeal has been determined, withdrawn or discontinued; or
- (b) the person is served with an infringement notice for the offence and:
 - (i) the infringement notice penalty is paid in full or in part; or
 - (ii) the Fines Recovery Unit enters into a scheme with the person allowing further time to pay, or payment by instalments; or
 - (iii) the period for payment of the infringement notice penalty expires without the person electing to have the matter heard by a court.

33P. Registrar to provide details of active demerit points

(1) This section applies if the Registrar is advised by the licensing authority of another jurisdiction that a person who holds a Territory licence has applied for a licence in the other jurisdiction.

(2) The Registrar must provide the licensing authority with details from the register of the person's active demerit points.

(3) The Registrar must also advise the licensing authority of the details of any demerit points suspension period or good driving period applicable to the person.

33Q. Demerit points no longer active once taken into account for notice of suspension or breach of undertaking

(1) Subject to subsection (4), demerit points for a particular offence can be taken into account only once as the basis of a suspension notice.

(2) Subsection (1) applies whether the suspension notice is issued because:

- (a) the person's active demerit points have reached a suspension threshold: or
- (b) the person has breached an undertaking to be of good driving behaviour.

(3) Subsection (1) also applies whether the suspension notice is issued under this Act or under the law of another jurisdiction.

(4) However, if the suspension notice is withdrawn, the points may again be taken into account as the basis of a later suspension notice.

33R. Demerit points incurred but not taken into account for notice of suspension

Demerit points that had not been entered in the register before the date of a suspension notice are not affected by the notice (although they may have been incurred before the date of the notice) and can be taken into account as the basis of a later suspension notice.

33S. Demerit points deleted from register

(1) The Registrar must, if satisfied the entry of demerit points in the Register was made in error, delete the demerit points from the register.

(2) The Registrar may make any further consequential adjustments to the register to ensure the records are correct.

- (3) If:
 - (a) active demerit points are recorded in the register in relation to an offence; and
 - (b) the Fines Recovery Unit annuls an enforcement order that relates to a penalty for the offence;

the Registrar must delete the demerit points but must re-instate the points if the offence is referred to the Court of Summary Jurisdiction and the court finds the offence proved.

- (4) If:
 - (a) active demerit points are recorded in the register for an offence; and
 - (b) a court grants leave to appeal out of time against a finding of guilt in relation to the offence;

the Registrar must delete the demerit points but must re-instate the points if the appeal is unsuccessful.

33T. Withdrawal of suspension notice

(1) The Registrar must withdraw a suspension notice if it later appears that the notice:

- (a) was issued in error; or
- (b) would not have issued, or would have specified a shorter suspension period but for taking into account demerit points since deleted.

(2) A notice of withdrawal may be served in the same manner as a notice of suspension.

(3) The withdrawal of a suspension notice does not prevent the issue of a fresh notice:

- (a) specifying an amended suspension period (taking into account any period of suspension that had already run under the original notice); or
- (b) taking into account demerit points that had been deleted but which were later re-instated.

33U. Releasing information from register

(1) The Registrar may, for statistical purposes, retain in the register records of demerit points that are no longer active.

(2) However, information and details of demerit points must not be published, except as aggregated data for statistical purposes where the information does not permit any particular person to be identified.

(3) The Registrar may make available to a person the information in the register relating to the person's active demerit points.

Division 8 – Other matters

33V. Appeal against decision of Registrar

(1) An appeal against a decision of the Registrar under this Part may be made to the Local Court.

(2) The court may uphold, vary or quash the Registrar's decision and may substitute its own decision for that of the Registrar.

(3) However, a suspension under this Part occurs by force of this Part and cannot be appealed or reviewed in any court.

(4) If a person lodges an appeal against a refusal by the Registrar to allow additional time for the person to give an undertaking to be of good driving behaviour, the suspension does not take effect until the court rejects the appeal or the appeal is withdrawn or discontinued.

33W. Court not take demerit points into account

When sentencing a person for a traffic offence, a court must not take into account that demerit points may be incurred by the person in relation to the offence.

33X. Demerit points not affected by licence suspension under another law

(1) A suspension period under this Part is in addition to any period of licence suspension or disqualification otherwise imposed under a law in force in the Territory.

(2) Demerit points recorded in the register against a person are not affected by a period of licence suspension or disqualification imposed by a court in Australia or any other Territory law.

(3) If multiple periods of suspension or disqualification apply in relation to a person under different laws, the order in which the periods run is as follows:

- (a) first – suspension or disqualification by a court or under another law (except fine default within the meaning of the *Fines and Penalties (Recovery) Act*);
- (b) secondly – demerit points suspension under this Part, concurrently with any fine default suspension under the *Fines and Penalties (Recovery) Act*.

(4) Demerit points suspension under this Part ceases to run (or does not begin to run, as the case may be) during a period of licence suspension or disqualification under another law, and whatever portion of the demerit points

suspension has not been served begins to run immediately the other period of suspension or disqualification ends.

33Y. Immunity from liability

A person is not civilly or criminally liable for an act done or omitted to be done by the person in good faith in the exercise or purported exercise of a power, or the performance or purported performance of a function, under this Part.

33Z. Offence by body corporate

(1) A body corporate that facilitates the avoidance of demerit points by natural persons commits an offence.

Maximum penalty: 20 penalty units.

(2) A body corporate facilitates the avoidance of demerit points by natural persons if the body fails, more than twice in a 3 year period, to identify the driver of a vehicle, under the control of the body corporate, involved in the commission of a demerit points offence detected by a traffic infringement detection device.

(3) It is a defence to a prosecution for an offence against subsection (1) if the body corporate establishes that:

- (a) it had taken all reasonable steps to ensure it would be in a position to identify the driver of a vehicle under its control should a demerit points offence be committed; and
- (b) it failed to identify the driver in the relevant instance because of exceptional circumstances.

5. Amendment of section 138 (Regulations)

Before section 138(1)(g)

insert

- (a) the demerit points scheme set out in Part III;

PART 3 – AMENDMENT OF *TRAFFIC ACT*

6. Act amended

This Part amends the *Traffic Act*.

7. Amendment of section 3 (Interpretation)

After section 3(4)

insert

(5) In this Act:

"demerit points" means the points incurred by a natural person in relation to a demerit points offence;

"demerit points offence" means an offence specified in Schedule 1A to the *Traffic Regulations* for which demerit points are prescribed.

Note

The administration of the demerit points scheme is under the Motor Vehicles Act.

8. Amendment of section 30A (Driving at dangerous speed)

Section 30A(1)

omit

speed limit specified in the Regulations

substitute

prescribed speed limit for the length of road

9. Amendment of section 33B (Person may be cautioned)

(1) Section 33B(1)

omit, substitute

(1) This section applies if a person:

(a) contravenes section 32, 33 or 33A because the person's licence to drive or the registration of the vehicle is suspended because the person (or the owner of the vehicle) is a fine defaulter; or

(b) contravenes section 32 because the person is subject to a suspension period under Part III of the *Motor Vehicles Act*.

(1A) A member of the Police Force may, if satisfied that the person was unaware of the suspension, caution the person and (if necessary) permit the person to continue to drive the vehicle to a nominated place instead of charging the person with an offence.

(1B) The Registrar may also, if satisfied that the person was unaware of the suspension, caution the person and (if necessary) permit the person to drive the vehicle to a nominated place.

(2) Section 33B(3)

omit

subsection (1)

substitute

subsection (1A) or (1B)

10. New section 43AA

After section 43, in Part VII

insert

43AA. Demerit points offence

(1) If a demerit points offence is detected by a traffic infringement detection device and:

- (a) an infringement notice is issued to a body corporate that is the registered owner of the vehicle; and
- (b) the registered owner does not, within the time allowed by the notice, return a statutory declaration:
 - (i) identifying a natural person as the driver of the vehicle at the time the offence was committed; or
 - (ii) identifying another body corporate that, at the time the offence was committed, had control of the vehicle under a hire or lease agreement;

the body corporate is liable to an infringement notice penalty equal to 5 times the infringement notice penalty amount prescribed for the offence.

(2) If a demerit points offence is detected by a traffic infringement detection device and:

- (a) an infringement notice is issued to a body corporate that, at the relevant time, had control of the vehicle under a hire or lease agreement; and

- (b) the body corporate does not, within the time allowed by the notice, return a statutory declaration identifying a natural person as the driver of the vehicle at the time the offence was committed;

the body corporate is liable to an infringement notice penalty equal to 5 times the infringement notice penalty amount prescribed for the offence.

- (3) In this section:

"body corporate" includes an Agency and, so far as the legislative power of the Legislative Assembly permits, an agency of the Commonwealth or another jurisdiction;

"registered owner" is taken to include a nominated operator under section 92A of the *Motor Vehicles Act*.

11. New section 53A

After section 53

insert

53A. Demerit points

- (1) The Administrator may also make regulations:
 - (a) specifying offences under this Act or another Act regulating road use or use of road-related areas as offences that attract demerit points; and
 - (b) specifying the number of demerit points to be allocated in respect of the offences.

(2) The Minister may, by *Gazette* notice and published in a newspaper circulating throughout the Territory, declare that during a period specified in the notice additional demerit points will apply to demerit points offences.

(3) The additional points declared by the Minister must not result in the total number of demerit points applying in relation to an offence exceeding double the points specified by the Administrator under subsection (1)(b).

PART 4 – AMENDMENT OF *TRAFFIC REGULATIONS*

12. Regulations amended

This Part amends the *Traffic Regulations*.

13. Amendment of regulation 42 (Particulars to be shown on traffic infringement notice)

Regulation 42(f), after "no further action"

insert

(other than allocation of demerit points for a demerit points offence)

14. Amendment of regulation 43 (Withdrawal of infringement notice)

After regulation 43(1)

insert

(1A) A traffic infringement notice may be withdrawn, by a person authorised under subregulation (3), at a later time if the person withdrawing the notice is satisfied that the person to whom the notice was issued was not the offender.

(1B) If an infringement notice is withdrawn under subregulation (1A), a courtesy letter issued under the *Fines and Penalties (Recovery) Act* may be withdrawn also, although the due date for payment specified in the letter may have passed.

15. Amendment of regulation 45 (Payment of penalty within specified period)

After regulation 45(1)

insert

(1A) Subregulation (1) does not prevent the allocation of demerit points in relation to an appropriate offence, even though the offence is expiated.

16. New Part 3A

After regulation 54

insert

PART 3A – DEMERIT POINTS

54A. Demerit points for certain offences

The demerit points for a demerit point offence against the Act or these Regulations are as specified in Column 3 of the table in Schedule 1A opposite the offence described in short form in Column 1 of the table.

17. New Schedule 1A

After Schedule 1

insert

SCHEDULE 1A

Regulation 54A

| Column 1 Offence | Column 2 Offence provision | Column 3 Demerit points |
|---|---|-------------------------------|
| Exceed speed limit by more than 45 km/h | <i>Traffic Act</i> section 30A ARR 20 | 6 |
| Exceed speed limit – more than 30 km/h up to 45 km/h | ARR 20 | 4 |
| Exceed speed limit – more than 15 km/h up to 30 km/h | ARR 20 | 3 |
| Exceed speed limit – up to 15 km/h | ARR 20 | 1 |
| Disobey red traffic signal | ARR 56(1), 56(2), 59(1), 60, 66(1) | 3 |
| Disobey traffic control device at level crossing | ARR 121, 122, 123 | 3 |
| Drive with unrestrained passengers under the age of 16 years | <i>Traffic Regulations</i> regulation 5, 6(1) ARR 266(1) | 3 |
| Drive without seatbelt fastened | ARR 264(1) | 3 |
| Drive with alcohol in blood contrary to section 19(7) or (8) <i>Traffic Act</i> | <i>Traffic Act</i> section 19(7), 19(8) | 3 |
| Drive with alcohol in blood contrary to section 19(6) <i>Traffic Act</i> | <i>Traffic Act</i> section 19(6) | 3 |
| Drive using hand-held mobile phone | ARR 300(1) | 3 |
| Drive using any mobile phone – learner or provisional driver | <i>Traffic Regulations</i> regulation 15A | 3 |

Transport Legislation (Demerit Points) Amendment Act 2007

| | | |
|--|--|---|
| Drive without L or P plate when required | <i>Traffic Regulations</i> regulation 12(4), 13(2), 14(2), 15(1) | 2 |
| Take part in event (speed trial) on road or public place | <i>Traffic Regulations</i> regulation 37(1A) | 3 |
| Drive vehicle causing smoke on road or public place (burnouts) | <i>Traffic Regulations</i> regulation 37A(1) | 3 |
| Drive vehicle causing damage to road or public place | <i>Traffic Regulations</i> regulation 37B(1) | 3 |

Note

In the table, ARR stands for Australian Road Rule.