



Australian Capital Territory

# **Road Transport (General) Act 1999 No 77**

## **Republication No 7**

Republication date: 10 September 2002

Last amendment made by Act 2002 No 23

Amendments incorporated to 10 September 2002

Not all amendments are in force: see last endnote

Authorised by the ACT Parliamentary Counsel

## About this republication

### The republished law

This is a republication of the *Road Transport (General) Act 1999* (including any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes)) as in force on 10 September 2002. It also includes any amendment, repeal or expiry affecting the republished law to 10 September 2002.

The legislation history and amendment history of the republished law are set out in endnotes 3 and 4.

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- authorised republications to which the *Legislation Act 2001* applies
- unauthorised republications.

The status of this republication appears on the bottom of each page.

### Editorial changes

The *Legislation Act 2001*, part 11.3 authorises the Parliamentary Counsel to make editorial amendments and other changes of a formal nature when preparing a law for republication. Editorial changes do not change the effect of the law, but have effect as if they had been made by an Act commencing on the republication date (see *Legislation Act 2001*, s 115 and s 117). The changes are made if the Parliamentary Counsel considers they are desirable to bring the law into line, or more closely into line, with current legislative drafting practice.

This republication includes amendments made under part 11.3 (see endnote 1).

### Uncommenced provisions and amendments

If a provision of the republished law has not commenced or is affected by an uncommenced amendment, the symbol **U** appears immediately before the provision heading. The text of the uncommenced provision or amendment appears only in the last endnote.

### Modifications

If a provision of the republished law is affected by a current modification, the symbol **M** appears immediately before the provision heading. The text of the modifying provision appears in the endnotes. For the legal status of modifications, see *Legislation Act 2001*, section 95.

### Penalties

The value of a penalty unit for an offence against this republished law at the republication date is—

- (a) if the person charged is an individual—\$100; or
- (b) if the person charged is a corporation—\$500.

Amendments incorporated to  
10 September 2002



Australian Capital Territory

# Road Transport (General) Act 1999

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Amendments incorporated to  
10 September 2002



Australian Capital Territory

## Road Transport (General) Act 1999

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An Act to provide for the administration and enforcement of road transport legislation, to provide for the review of decisions made under road transport legislation, to make further provision about the use of vehicles on roads and road related areas, and for other purposes

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## Part 1 Preliminary

*Note* This Act (including the regulations) forms part of the road transport legislation. Other road transport legislation includes the *Road Transport (Alcohol and Drugs) Act 1977*, the *Road Transport (Dimensions and Mass) Act 1990*, the *Road Transport (Driver Licensing) Act 1999*, the *Road Transport (Public Passenger Services) Act 2001*, the *Road Transport (Safety and Traffic Management) Act 1999*, the *Road Transport (Vehicle Registration) Act 1999* and the regulations made under those Acts.

### 1 Name of Act

This Act is the *Road Transport (General) Act 1999*.

### 3 Objects of Act

The objects of this Act are—

- (a) to provide for—
  - (i) the administration and enforcement of the road transport legislation; and
  - (ii) the review of certain decisions made under the road transport legislation; and
  - (iii) the determining of fees, charges and other amounts payable under the road transport legislation;in a way that is consistent with the agreements scheduled to the *National Road Transport Commission Act 1991* (Cwlth); and
- (b) to make further provision about vehicles, roads and road related areas; and
- (c) to re-enact with some changes certain provisions of the *Motor Traffic Act 1936*; and
- (d) to improve road safety and transport efficiency, and reduce the costs of administering road transport.



#### 4 Dictionary (NSW s 3)

The dictionary at the end of this Act is part of this Act.

*Note 1* The dictionary defines certain words and expressions, and includes references (*signpost definitions*) to other words and expressions defined elsewhere in this Act or elsewhere in the road transport legislation.

For example, the signpost definition ‘*driver licence*—see the *Road Transport (Driver Licensing) Act 1999*, dictionary.’ means the expression ‘driver licence’ is defined in that dictionary and the definition applies to this Act.

*Note 2* A definition in the dictionary (including a signpost definition) applies to the entire Act unless the definition, or another provision of the Act, provides otherwise or the contrary intention otherwise appears (see *Legislation Act 2001*, s 155 and s 156 (1)).

#### 5 Notes (NSW s 4)

(1) A note in this Act is explanatory and is not part of this Act.

*Note* See *Legislation Act 2001*, s 127 (1), (4) and (5) for the legal status of notes.

(2) In this section:

**note** includes material enclosed in brackets in section headings.

*Note* For comparison, a number of sections of this Act contain bracketed notes in their headings drawing attention to equivalent or comparable (though not necessarily identical) provisions of other Acts. Abbreviations in the notes include the following:

- MAA: *Motor Accidents Act 1988* (NSW)
- MACA: *Motor Accidents Compensation Act 1999* (NSW)
- MTA: *Motor Traffic Act 1936*, as in force immediately before the commencement of this Act
- NSW: *Road Transport (General) Act 1999* (NSW)
- NSW(DL): *Road Transport (Driver Licensing) Act 1998* (NSW)
- NSW(VR): *Road Transport (Vehicle Registration) Act 1998* (NSW).

## **Part 2 Administration of road transport legislation**

### **Division 2.1 Road transport legislation**

#### **6 What is the road transport legislation? (NSW s 5)**

In this Act, the *road transport legislation* means the following:

- (a) this Act;
- (b) the *Road Transport (Alcohol and Drugs) Act 1977*;
- (c) the *Road Transport (Dimensions and Mass) Act 1990*;
- (d) the *Road Transport (Driver Licensing) Act 1999*;
- (e) the *Road Transport (Public Passenger Services) Act 2001*;
- (f) the *Road Transport (Safety and Traffic Management) Act 1999*;
- (g) the *Road Transport (Vehicle Registration) Act 1999*;
- (h) any other Act or any regulations prescribed under the regulations for this section.

*Note* A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including regulations (see *Legislation Act 2001*, s 104).

#### **8 Application of definitions in other road transport legislation (NSW s 3 (2))**

If a word or expression is defined in an Act (but not regulations or another publication) included in the road transport legislation, the definition applies to each use of the word or expression in other road transport legislation unless the contrary intention appears.

## **Division 2.2                      Relationship between road transport legislation and other laws**

### **9            General relationship with other laws (NSW s 6)**

- (1) The road transport legislation does not—
  - (a) affect any other Act or subordinate law, or take away powers vested in an entity under any other Act or subordinate law; or
  - (b) affect any liability of anyone at common law, except to the extent that the road transport legislation provides otherwise expressly or by necessary intention.

## **Division 2.3                      Responsible persons for vehicles under road transport legislation**

### **10          Who is a responsible person for a vehicle (NSW s 7)**

- (1) In the road transport legislation, the responsible person for a vehicle is—
  - (a) for a registered vehicle—each of the following:
    - (i) a registered operator of the vehicle, unless the vehicle has been disposed of by the operator;
    - (ii) if the vehicle has been disposed of by a previous registered operator—anyone who has acquired the vehicle from the operator;
    - (iii) anyone who has a legal right to possession of the vehicle (including anyone who has the use of the vehicle under a lease or hire-purchase agreement, but not the lessor while the vehicle is being leased under such an agreement); and
  - (b) for an unregistered vehicle to which a trader's plate is attached—each of the following:

- (i) the person to whom the trader's plate is issued under the *Road Transport (Vehicle Registration) Act 1999*;
  - (ii) anyone who has a legal right to possession of the vehicle (including anyone who has the use of the vehicle under a lease or hire-purchase agreement, but not the lessor while the vehicle is being leased under such an agreement); and
- (c) for an unregistered vehicle to which no trader's plate is attached—each of the following:
- (i) a person who was last recorded as a registered operator of the vehicle;
  - (ii) anyone who has a legal right to possession of the vehicle (including anyone who has the use of the vehicle under a lease or hire-purchase agreement, but not the lessor while the vehicle is being leased under such an agreement); and
- (d) anyone else prescribed under the regulations for this subsection.
- (2) For subsection (1) (d), the regulations may prescribe different persons for different provisions of the road transport legislation.

**11 Rights, liabilities and obligations of multiple responsible persons (NSW s 8)**

- (1) This section applies if there is more than 1 responsible person for a vehicle at any time.
- (2) In a provision of the road transport legislation, or another Act or regulations concerned with the responsible person for a vehicle, a reference to the responsible person for a vehicle includes each responsible person for the vehicle.
- (3) However, the regulations may make provision for or with respect to deciding the respective rights and liabilities of each responsible person for a vehicle under a provision of any Act or regulations.

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## **Division 2.4                      Alteration of scope of operation of road transport legislation**

### **12      Power to include or exclude areas in road transport legislation (NSW s 9)**

- (1) The Minister may, in writing, declare that the road transport legislation, or a provision of the road transport legislation—
  - (a) applies to an area that is open to or used by the public; or
  - (b) does not apply to a road or road related area.
- (2) The declaration has effect until it is revoked or, if a period is stated in the declaration, for that period.
- (3) A declaration under subsection (1) is a disallowable instrument.

*Note*      A disallowable instrument must be notified, and presented to the Legislative Assembly, under the *Legislation Act 2001*.

### **13      Power to exclude vehicles, persons or animals from road transport legislation (NSW s 10)**

- (1) The Minister may, in writing, declare that the road transport legislation, or a provision of the road transport legislation, does not apply to a vehicle, person or animal in a place or circumstance stated in the declaration.
- (2) The declaration has effect until it is revoked or, if a period is stated in the declaration, for that period.
- (3) A declaration under subsection (1) is a disallowable instrument.

*Note*      A disallowable instrument must be notified, and presented to the Legislative Assembly, under the *Legislation Act 2001*.

### **14      Application orders and emergency orders (NSW s 12)**

- (1) The Minister may, in writing, order that the operation of regulations made under the road transport legislation, or a provision of such regulations—

- (a) is suspended for a stated period; or
  - (b) is varied in the way stated in the order.
- (2) An order must be consistent with the provisions about application orders and emergency orders in the agreements scheduled to the *National Road Transport Commission Act 1991* (Cwlth).
- (3) An order may have effect for all or part of the ACT.
- (4) If the Australian Transport Council terminates an emergency order, the Minister must, in writing, declare that the order has been terminated with effect from the time when the council terminated the order.
- (5) A declaration under subsection (4) is a notifiable instrument.

*Note* A notifiable instrument must be notified under the *Legislation Act 2001*.

- (6) An order under subsection (1) is a disallowable instrument.

*Note* A disallowable instrument must be notified, and presented to the Legislative Assembly, under the *Legislation Act 2001*.

## **Division 2.5 Administration**

### **16 Road transport authority**

- (1) There is to be an Australian Capital Territory Road Transport Authority (the *road transport authority*).
- (2) The chief executive is the road transport authority.
- (3) Anything done in the name of, or for, the road transport authority by the chief executive in performing the functions of the authority is taken to have been done for, and binds, the Territory.

### **17 Delegation of road transport authority's functions**

- (1) The road transport authority may, in writing, delegate all or any of the authority's functions under the road transport legislation to—
- (a) the chief police officer; or

- (b) a public employee; or
  - (c) a person prescribed under the regulations.
- (2) The chief police officer may, in writing, delegate all or any of the functions delegated to the chief police officer under subsection (1) to—
- (a) a police officer; or
  - (b) a public employee; or
  - (c) a person prescribed under the regulations.
- (3) A person mentioned in subsection (1) (c) may, in writing, delegate all or any of the functions delegated to the person under subsection (1) to—
- (a) a public employee; or
  - (b) a person prescribed under the regulations.
- (4) However, a delegation under subsection (1) may provide that a stated function may not be delegated.

## **18 Delegation of chief police officer's functions**

The chief police officer may, in writing, delegate all or any of the chief police officer's functions under the road transport legislation to—

- (a) a police officer; or
- (b) a public employee; or
- (c) a person prescribed under the regulations.

## **19 Authorised persons**

- (1) The road transport authority may appoint, in writing, a person to be an authorised person for the road transport legislation or a provision of the road transport legislation.

- (2) The regulations may prescribe a person to be an authorised person for the road transport legislation or a provision of the road transport legislation.
- (3) A person must not be appointed under subsection (1) unless—
  - (a) the person is an Australian citizen or a permanent resident of Australia; and
  - (b) the road transport authority is satisfied that the person is a suitable person to be authorised, having regard in particular to—
    - (i) whether the person has any criminal convictions; and
    - (ii) the person’s employment record; and
  - (c) the person has satisfactorily completed adequate training to exercise the powers of an authorised person proposed to be given to the person.

## **20 Identity cards**

- (1) The road transport authority must issue an authorised person with an identity card that states the person is an authorised person for the road transport legislation, or stated provisions of the road transport legislation, and shows—
  - (a) a recent photograph of the person; and
  - (b) the name of the person or the particulars that are, under the regulations, identifying particulars for the person (or both); and
  - (c) the date of issue of the card; and
  - (d) a date of expiry for the card; and
  - (e) anything else prescribed under the regulations.



- (2) A person who ceases to be an authorised person must return his or her identity card to the road transport authority as soon as practicable, but within 21 days, after ceasing to be an authorised person.

Maximum penalty (subsection (2)): 1 penalty unit.

**21 Power not to be exercised before identity card shown**

An authorised person may exercise a power under the road transport legislation in relation to a person only if the authorised person first shows the person his or her identity card.

## **Part 3** Infringement notices for certain offences

### **Division 3.1** Preliminary

#### **22 Purpose and effect of pt 3 (MTA s 180C)**

- (1) The purpose of this part is to create a system of infringement notices for certain offences against the road transport legislation and other legislation as an alternative to prosecution.
- (2) This part does not—
  - (a) require an infringement or reminder notice to be served on a person; or
  - (b) affect the liability of a person to be prosecuted for an offence if—
    - (i) an infringement or reminder notice is not served on the person for the offence; or
    - (ii) the person does not comply with an infringement or reminder notice served on the person for the offence; or
    - (iii) an infringement notice served on the person for the offence is withdrawn; or
  - (c) prevent the service of 2 or more infringement notices on a person for an offence; or
  - (d) limit or otherwise affect the penalty that may be imposed by a court on a person for an offence.

**23 Regulations about infringement notice offences**  
(NSW s 15 (3))

- (1) The regulations may prescribe an offence, other than an offence for which a penalty of imprisonment may be imposed, for the dictionary, definition of *infringement notice offence* by—
  - (a) stating the offence; or
  - (b) referring to the provision creating the offence; or
  - (c) providing that all offences, or all offences except for stated offences, against an Act or regulations (or a chapter, part, division or subdivision of an Act or regulations) are infringement notice offences.
- (2) Subsection (1) does not limit the ways that the regulations may prescribe an offence for that definition.
- (3) The regulations may, for the dictionary, definition of *infringement notice penalty*, prescribe—
  - (a) an amount as the penalty payable by anyone for an offence if it is dealt with under this part; or
  - (b) different amounts as the penalties payable for different offences if they are dealt with under this part; or
  - (c) different amounts as the penalties payable for the same kind of offence committed by different people or in different circumstances if the offence is dealt with under this part.
- (4) However, an infringement notice penalty prescribed for a person for an offence must not exceed the maximum fine that could be imposed by a court on the person for the offence.
- (5) Subsection (3) does not limit the ways that the regulations may prescribe an amount for that definition.

## **Division 3.2 Infringement and reminder notices generally**

### **24 Service of infringement notices generally (MTA s 180D)**

- (1) If an authorised person believes, on reasonable grounds, that a person has committed an infringement notice offence, the authorised person may serve a notice (an *infringement notice*) on the person for the offence.
- (2) This section does not prevent an infringement notice being served on a person under section 36 (Service of infringement notices on responsible persons for vehicles) for an infringement notice offence involving a vehicle.

### **25 Contents of infringement notices (MTA s 180F)**

- (1) An infringement notice served on a person by an authorised person for an infringement notice offence must—
  - (a) be identified by a unique number; and
  - (b) state the date of service of the notice; and
  - (c) state—
    - (i) the full name, or surname and initials, and address of the person on whom the notice is served; or
    - (ii) the particulars that are, under the regulations, identifying particulars for the person; and
  - (d) give the short description prescribed under the regulations for the offence (or the law and provision of the law contravened by the person) and—
    - (i) if the offence took place over a period and did not involve a vehicle—the period, or approximate period, when the offence was committed; or

- (ii) in a case prescribed under the regulations—the particulars that are, under the regulations, identifying particulars for the offence; or
  - (iii) in any other case—the place where the offence was committed and the date and approximate time of the offence; and
- (e) if the offence involved a vehicle—state the particulars (if any) that are, under the regulations, identifying particulars for the vehicle; and
  - (f) if the offence involved an animal—state the particulars (if any) that are, under the regulations, identifying particulars for the animal; and
  - (g) state the infringement notice penalty payable by the person for the offence; and
  - (h) contain the information required by section 26 (Additional information in infringement notices); and
  - (i) identify the authorised person in accordance with the regulations; and
  - (j) include any other information required under the regulations and any additional information that the administering authority considers appropriate.
- (2) Subsection (1) (c) does not apply to the infringement notice if—
- (a) the notice is served in the way mentioned in section 36 (4) (which is about service of an infringement notice on the responsible person for a vehicle by placing it on the vehicle); or
  - (b) the regulations provide that it does not apply to the notice.

**26 Additional information in infringement notices**  
(MTA s 180G)

- (1) The infringement notice must also tell the person on whom it is served that—
- (a) the person may pay the infringement notice penalty for the offence or dispute liability for the offence within 28 days after the day on which the notice is served on the person (the *date of service* of the notice); and
  - (b) the person may apply to the administering authority for additional time in which to pay the penalty or dispute liability for the offence; and
  - (c) the notice may be withdrawn before or after the penalty is paid; and
  - (d) if the person pays the penalty within the 28 days (or any additional time allowed by the administering authority), then, unless the infringement notice is withdrawn and any penalty refunded—
    - (i) any liability of the person for the offence is discharged; and
    - (ii) the person will not be prosecuted in court for the offence; and
    - (iii) the person will not be taken to have been convicted of the offence; and
  - (e) if the person wishes to dispute liability for the offence, the issue may be referred to the Magistrates Court; and
  - (f) if the Magistrates Court finds against the person or the person is prosecuted in court for the offence, the person may be convicted of the offence and ordered to pay a penalty and costs, and be subject to other court orders; and
  - (g) if the person does not pay the infringement notice penalty, or dispute liability for the offence, within the 28 days (or any

additional time allowed by the administering authority), a reminder notice may be served on the person for the offence or the person may be prosecuted in court for the offence; and

- (h) if a reminder notice is served on the person, the infringement notice penalty is increased by the amount payable by the person for the cost of serving the reminder notice; and
  - (i) if the offence involved a vehicle and the person does not pay the infringement notice penalty, or dispute liability for the offence, within 28 days after the reminder notice is served on the person (or any additional time allowed by the administering authority) payment of the penalty may be enforced under division 3.4.
- (2) In addition, the infringement notice must—
- (a) explain how the person may pay the infringement notice penalty or dispute liability for the offence; and
  - (b) explain how the person may apply for additional time to pay the infringement notice penalty or dispute liability for the offence; and
  - (c) if the offence involved a vehicle—
    - (i) tell the person how many demerit points will be incurred if the person pays the infringement notice penalty or is convicted of the offence; and
    - (ii) tell the person, in general terms, about the enforcement procedures under division 3.4; and
  - (d) if the offence involved a vehicle and the infringement notice is served under section 36 (Service of infringement notices on responsible persons for vehicles)—tell the person, in general terms, about section 37 (Liability for infringement notice offences involving vehicles), and explain how the person may make and give to the administering authority the infringement notice declarations mentioned in section 37; and

- (e) if the offence is a camera-detected offence—state that the offence is a camera-detected offence, and tell the person—
  - (i) how to inspect and obtain a copy of the image taken by the approved camera detection device; and
  - (ii) that, if the person is a corporation or was not the driver of the vehicle at the time of the offence, the person must make and give an infringement notice declaration to the administering authority in accordance with this part.

**27 Time for payment of infringement notice penalty**  
(MTA s 180H)

The infringement notice penalty payable by a person under an infringement notice or reminder notice is payable—

- (a) within 28 days after the date of service; or
- (b) if the person applies to the administering authority within the 28 days for additional time to pay and the additional time is allowed—within the additional time allowed by the administering authority; or
- (c) if the person applies to the administering authority within the 28 days for additional time to pay and the application is refused—within 7 days after the day the person is told of the refusal or 28 days after the date of service, whichever is later.

**28 Extension of time to pay penalty (MTA s 180I)**

- (1) The person on whom an infringement notice or reminder notice is served may apply, in writing, to the administering authority, within 28 days after the date of service, for stated additional time of not longer than 6 months to pay the infringement notice penalty.
- (2) The administering authority must—
  - (a) allow or refuse to allow the additional time; and



- (b) tell the person in writing of the decision and, if the decision is a refusal, the reasons for it.

**29 Effect of payment of infringement notice penalty**  
(MTA s 180MD)

- (1) This section applies if—
  - (a) an infringement notice has been served on a person for an infringement notice offence; and
  - (b) the person pays the infringement notice penalty for the offence in accordance with this part; and
  - (c) when the payment is made, the infringement notice had not been withdrawn and an information had not been laid in the Magistrates Court against the person for the offence.
- (2) If this section applies—
  - (a) any liability of the person for the offence is discharged; and
  - (b) the person must not be prosecuted in a court for the offence; and
  - (c) the person is not taken to have been convicted of the offence.

*Note* Section 31 provides for the withdrawal at any time of an infringement notice that has been served on a person. If s 29 applied to the infringement notice offence, it ceases to apply, and is taken never to have applied, on the withdrawal of the notice (see s 31 (4)).

- (3) If 2 or more infringement notices were served on the person for the offence, then, unless all the infringement notices have been withdrawn, subsection (2) applies to the person in relation to the offence if the person pays, in accordance with this part, the infringement notice penalty in relation to any of the notices (together with any costs and disbursements payable under this part in relation to the notice).

- (4) If the offence involved a vehicle and the person was 1 of 2 or more responsible persons for the vehicle at the time of the offence, subsection (2) also applies to each of the other responsible persons.

**30 Application for withdrawal of infringement notice**  
(MTA s 180ME)

- (1) The person on whom an infringement notice for an infringement notice offence is served may apply to the administering authority, in writing, for the withdrawal of the notice within 28 days after the day when the infringement notice, or a reminder notice for the offence, is served on the person (or any additional time allowed by the administering authority).
- (2) The administering authority must—
- (a) withdraw the notice or refuse to withdraw the notice; and
  - (b) tell the person in writing of the decision and, if the decision is a refusal, the reasons for it.
- (3) For this section, an infringement notice declaration made and given to the administering authority by the person in relation to the offence is taken to be an application made by the person to the administering authority for the withdrawal of the notice.

**31 Withdrawal of infringement notice** (MTA s 180MF)

- (1) This section applies to an infringement notice that has been served on a person for an infringement notice offence.
- (2) The administering authority may, by notice served on the person, withdraw the infringement notice, whether or not—
- (a) the person has made an application for the withdrawal of the infringement notice; or
  - (b) the infringement notice penalty (or part of it) has been paid for the offence.
- (3) The notice must—

- (a) include the infringement notice number and the date of service of the infringement notice; and
  - (b) tell the person that the infringement notice is withdrawn and, in general terms, about subsection (4).
- (4) On service of the notice—
- (a) this part ceases to apply to the infringement notice; and
  - (b) if the infringement notice penalty (or part of it) has been paid—the amount paid must be repaid by the administering authority; and
  - (c) if section 29 (Effect of payment of infringement notice penalty) applies to the offence—the section ceases to apply, and is taken never to have applied, to the offence; and
  - (d) a proceeding for the offence may be taken in a court against anyone (including the person) as if the infringement notice had not been served on the person.

### **32 Guidelines about withdrawal of infringement notices**

- (1) The Minister may, in writing, issue guidelines about the exercise of an administering authority's functions under section 30 (Application for withdrawal of infringement notice) or 31 (Withdrawal of infringement notice).
- (2) The administering authority for an infringement notice offence must comply with any guidelines applying to the offence.
- (3) A guideline under subsection (1) is a disallowable instrument.

*Note* A disallowable instrument must be notified, and presented to the Legislative Assembly, under the *Legislation Act 2001*.

### **33 Reminder notices (MTA s 180MG)**

- (1) An authorised person may serve a notice (a *reminder notice*) on a person if—

- (a) an infringement notice has been served on the person for an infringement notice offence; and
  - (b) the infringement notice has not been withdrawn; and
  - (c) the infringement notice penalty has not been paid to the administering authority within the time for payment under this part; and
  - (d) the person has not given an infringement notice declaration to the administering authority for the offence in accordance with this part; and
  - (e) written notice disputing liability has not been given to the administering authority in accordance with this part; and
  - (f) a reminder notice has not previously been served on the person for the offence.
- (2) If the infringement notice was served on the person under section 36 (Service of infringement notices on responsible persons for vehicles), section 36 (3) applies to the service of the reminder notice on the person in the same way as it applies to the service under that section of an infringement notice on the person.

### **34 Contents of reminder notices (MTA s 180MH)**

A reminder notice served on a person by an authorised person for an infringement notice offence must—

- (a) be identified by a unique number; and
- (b) include the following information:
  - (i) the short description prescribed under the regulations for the offence (or the law and provision of the law contravened by the person);
  - (ii) the number of the infringement notice served on the person for the offence;
  - (iii) the date of service of the infringement notice; and

- (c) state the date of service of the reminder notice; and
- (d) state the infringement notice penalty that is now payable by the person for the offence; and
- (e) contain the information required by section 35 (Additional information in reminder notices); and
- (f) identify the authorised person in accordance with the regulations; and
- (g) include any other information required under the regulations and any additional information that the administering authority considers appropriate.

**35 Additional information in reminder notices (MTA s 180MI)**

- (1) The reminder notice must also tell the person on whom it is served that—
  - (a) the infringement notice penalty for the offence has not been paid; and
  - (b) the infringement notice has not been withdrawn; and
  - (c) if the infringement notice offence involved a vehicle and the infringement notice was served under section 36 (Service of infringement notices on responsible persons for vehicles)—the administering authority has not received an infringement notice declaration from the person for the offence; and
  - (d) written notice disputing liability has not been received by the administering authority from the person for the offence; and
  - (e) the infringement notice penalty for the offence has been increased by the amount payable by the person for the cost of serving the reminder notice; and
  - (f) the person may pay the infringement notice penalty that is now payable by the person for the offence or dispute liability for the offence within 28 days after the day the reminder notice is served on the person (the *date of service* of the notice); and

- (g) the person may apply to the administering authority for additional time in which to pay the penalty or dispute liability for the offence; and
  - (h) the notice may be withdrawn before or after the penalty is paid; and
  - (i) if the person pays the penalty within the 28 days (or any additional time allowed by the administering authority), then, unless the infringement notice is withdrawn and any penalty refunded—
    - (i) any liability of the person for the offence is discharged; and
    - (ii) the person will not be prosecuted in court for the offence; and
    - (iii) the person will not be taken to have been convicted of the offence; and
  - (j) if the person wishes to dispute liability for the offence, the issue may be referred to the Magistrates Court; and
  - (k) if the Magistrates Court finds against the person or the person is prosecuted in court for the offence, the person may be convicted of the offence and ordered to pay a penalty and costs, and be subject to other court orders; and
  - (l) if the person does not pay the infringement notice penalty, or dispute liability for the offence, within the 28 days (or any additional time allowed by the administering authority), the person may be prosecuted in court for the offence or, if the offence involved a vehicle, payment of the penalty may be enforced under division 3.4.
- (2) In addition, the reminder notice must—
- (a) explain how the person may pay the infringement notice penalty or dispute liability for the offence; and

- (b) explain how the person may apply for additional time to pay the infringement notice penalty or dispute liability for the offence; and
- (c) if the offence involved a vehicle—
  - (i) tell the person how many demerit points will be incurred if the person pays the infringement notice penalty or is convicted of the offence; and
  - (ii) tell the person, in general terms, about the enforcement procedures under division 3.4; and
- (d) if the offence involved a vehicle and the infringement notice was served under section 36 (Service of infringement notices on responsible persons for vehicles)—tell the person, in general terms, about section 37 (Liability for infringement notice offences involving vehicles), and explain how the person may make and give to the administering authority the infringement notice declarations mentioned in section 37; and
- (e) if the offence is a camera-detected offence—state that the offence is a camera-detected offence, and tell the person how to inspect and obtain a copy of the image taken by the traffic offence detection device.

### **Division 3.3                      Additional provisions for offences involving vehicles**

#### **36      Service of infringement notices on responsible persons for vehicles (MTA s 180E)**

- (1) This section applies if an authorised person believes, on reasonable grounds, that an infringement notice offence involving a vehicle has been committed.
- (2) The authorised person may serve an infringement notice on—
  - (a) the responsible person for the vehicle at the time of the offence; or

- (b) if there is more than 1 responsible person for the vehicle at that time—each or any of them.
- (3) If the infringement notice is to be served on a person under this section by post, the notice may be addressed to the person—
  - (a) at the person’s last home or business address known to the administering authority; or
  - (b) if the vehicle is registered under a law of another jurisdiction corresponding to the *Road Transport (Vehicle Registration) Act 1999*—at the latest home or business address of the person in the registration records kept under that law.
- (4) As an alternative to the ways permitted under section 226 (Service of documents etc on people generally), an infringement notice for an offence involving a vehicle may be served under this section by securely placing or attaching the notice, addressed to the responsible person (without further description), on or to the vehicle in a conspicuous position.
- (5) If an infringement notice is served in the way mentioned in subsection (4), it is taken to have been served, on the day that it is placed on or attached to the vehicle, on—
  - (a) the responsible person for the vehicle; or
  - (b) if there is more than 1 responsible person for the vehicle at that time—each of them.
- (6) A person must not remove, deface or interfere with an infringement notice placed on, or attached to, a vehicle unless the person is the driver of the vehicle or the responsible person (or a responsible person) for the vehicle.  
Maximum penalty: 20 penalty units.
- (7) The regulations may provide that an infringement notice for an infringement notice offence may only be served on a person under this section within the prescribed period after the day the offence was committed.



- (8) This section does not prevent an infringement notice being served on a person under section 24 (Service of infringement notices generally) for an infringement notice offence involving a vehicle.

**37 Liability for infringement notice offences involving vehicles (MTA s 180J)**

- (1) If an infringement notice for an infringement notice offence is served on a person under section 36 (Service of infringement notices on responsible persons for vehicles), the person on whom the notice is served is liable for the offence, and may be convicted of and punished for the offence, even though the person who actually committed the offence (the *actual offender*) may have been someone else.
- (2) If the actual offender is not the responsible person (or a responsible person) for the vehicle at the time of the offence, subsection (1) does not affect the liability of the actual offender, but—
- (a) an additional penalty for the offence may not be recovered from or imposed on the actual offender if an infringement notice penalty for the offence has been paid by, or a penalty has been imposed on, the responsible person (or a responsible person) for the vehicle at that time; and
  - (b) an additional penalty for the offence may not be recovered from or imposed on the responsible person (or a responsible person) for the vehicle at that time if an infringement notice penalty for the offence has been paid by, or a penalty has been imposed on, the actual offender.
- (3) However, in a prosecution against a responsible person for a vehicle for an infringement notice offence involving the vehicle, it is a defence if the responsible person establishes—
- (a) that the vehicle was stolen, or illegally taken or used, at the time of the offence; or
  - (b) that the person made and gave to the administering authority a known user declaration in accordance with section 39 (Known

user declaration) for the offence and, if the person is an individual, that someone else was the driver of the vehicle at the time of the offence; or

- (c) that the vehicle (or all of the person's interest in the vehicle) had been sold or disposed of by the person before the time of the offence, and that at that time the person did not have an interest in the vehicle; or
- (d) that—
  - (i) the person was not the driver of the vehicle at the time of the offence; and
  - (ii) the person does not know, and could not with reasonable diligence have found out, the name and address of the driver of the vehicle at that time.

### **38 Illegal user declarations (MTA s 180K)**

- (1) This section applies if—
  - (a) an infringement notice for an infringement notice offence is served on a person under section 36 (Service of infringement notices on responsible persons for vehicles); and
  - (b) the person makes a statutory declaration (an *illegal user declaration*) stating that the vehicle was stolen, or illegally taken or used, at the time of the offence and providing all relevant facts supporting that statement, including details of where and when the matter was reported to the police; and
  - (c) the person gives the illegal user declaration to the administering authority within 28 days after the day when the infringement notice, or a reminder notice for the offence, is served on the person (or any additional time allowed by the administering authority).
- (2) An infringement notice for the offence may be served under section 24 (Service of infringement notices generally) on the person (if any) stated in the illegal user declaration as the person (the

*named offender*) who was illegally in charge of the vehicle at the time of the offence.

- (3) If a document (including an infringement notice or reminder notice) is to be served on the named offender under this part by post in relation to the offence, the document may be addressed to the named offender at his or her home or business address stated in the illegal user declaration.
- (4) Sections 37 (Liability for infringement notice offences involving vehicles) and 39 (Known user declarations) apply as if the named offender were the responsible person for the vehicle at the time of the offence and the infringement notice had been served on the named offender under section 36.
- (5) However, a proceeding for the offence may be brought in a court against the named offender only if a copy of the illegal user declaration has been served on the named offender by an authorised person.
- (6) In a proceeding against the named offender for the offence, the illegal user declaration is evidence that the named offender was the driver of the vehicle at the time of the offence.

### **39 Known user declarations (MTA s 180L)**

- (1) This section applies if—
  - (a) an infringement notice for an infringement notice offence is served on a person under section 36 (Service of infringement notices on responsible persons for vehicles); and
  - (b) the person makes a statutory declaration (a *known user declaration*) stating—
    - (i) if the person is an individual—
      - (A) that the person was not the driver of the vehicle at the time of the offence; and

- (B) the name and home or business address of the person (the *named offender*) who was the driver of the vehicle at that time; and
  - (C) all relevant facts supporting those statements; or
- (ii) if the person is a corporation—the name and home or business address of the person (also the *named offender*) who was the driver of the vehicle at the time of the offence and all relevant facts supporting that statement; and
- (c) the person gives the known user declaration to the administering authority within 28 days after the day when the infringement notice, or a reminder notice for the offence, is served on the person (or any additional time allowed by the administering authority).
- (2) An infringement notice for the offence may be served under section 24 (Service of infringement notices generally) on the named offender.
  - (3) If a document (including an infringement notice or reminder notice) is to be served on the named offender under this part by post in relation to the offence, the document may be addressed to the named offender at his or her home or business address stated in the known user declaration.
  - (4) Section 37 (Liability for infringement notice offences involving vehicles), this section and section 40 (Sold vehicle declarations) apply as if the named offender were the responsible person of the vehicle at the time of the offence and the infringement notice had been served on the named offender under section 36.
  - (5) However, a proceeding for the offence may be brought in a court against the named offender only if a copy of the known user declaration has been served on the named offender by an authorised person.

- (6) In a proceeding against the named offender for the offence, the known user declaration is evidence that the named offender was the driver of the vehicle at the time of the offence.

#### **40 Sold vehicle declarations (MTA s 180M)**

- (1) This section applies if—
- (a) an infringement notice for an infringement notice offence is served on a person under section 36 (Service of infringement notices on responsible persons for vehicles); and
  - (b) the person makes a statutory declaration (a ***sold vehicle declaration***) stating that the vehicle (or all of the person's interest in the vehicle) had been sold or otherwise disposed of by the person before the time of the offence and providing all relevant facts supporting that statement, including—
    - (i) the name and home or business address of the person (the ***buyer***) to whom the vehicle (or the person's interest in the vehicle) was sold or disposed of by the person; and
    - (ii) the date and, if relevant to the offence, time of the sale or disposal; and
    - (iii) if an agent made the sale or disposal for the person—the name and home or business address of the agent; and
    - (iv) whether the person had any interest in the vehicle at the time of the offence; and
  - (c) the person gives the sold vehicle declaration to the administering authority within 28 days after the day when the infringement notice, or a reminder notice for the offence, is served on the person (or any additional time allowed by the administering authority).
- (2) An infringement notice for the offence may be served under section 24 (Service of infringement notices generally) on the buyer.

- (3) If a document (including an infringement notice or reminder notice) is to be served on the buyer under this part by post in relation to the offence, the document may be addressed to the buyer at his or her home or business address stated in the sold vehicle declaration.
- (4) Sections 37 (Liability for infringement notice offences involving vehicles), 39 (Known user declarations) and this section apply as if the buyer were a responsible person for the vehicle at the time of the offence and the infringement notice had been served on the buyer under section 36.
- (5) However, a proceeding for the offence may be brought in a court against the buyer only if a copy of the sold vehicle declaration has been served on the buyer by an authorised person.
- (6) In a proceeding against the buyer for the offence, the sold vehicle declaration is evidence that the buyer was the responsible person for the vehicle at the time of the offence.

#### **41 Unknown user declarations (MTA s 180MA)**

If an infringement notice for an infringement notice offence is served on a person under section 36 (Service of infringement notices on responsible persons for vehicles), the person may—

- (a) make a statutory declaration (an *unknown user declaration*) stating—
  - (i) if—
    - (A) the person is an individual—that the person was not the driver of the vehicle at the time of the offence; or
    - (B) the person is a corporation—that the vehicle was not being used for the corporation’s purposes at the time of the offence; and
  - (ii) that the person has made inquiries to find out who was the driver of the vehicle at that time; and

- (iii) that the person does not know, and has not been able to find out, who was the driver of the vehicle at that time; and
  - (iv) the nature and extent of the inquiries made by the person; and
- (b) give the unknown user declaration to the administering authority within 28 days after the day when the infringement notice, or a reminder notice for the offence, is served on the person (or any additional time allowed by the administering authority).

**42 Obligation to provide declarations for camera-detected offences (MTA s 180MB)**

- (1) This section applies if—
- (a) an infringement notice for an infringement notice offence is served on a person under section 36 (Service of infringement notices on responsible persons for vehicles); and
  - (b) the notice states that the offence is a camera-detected offence; and
  - (c) the person was not the driver of the vehicle at the time of the offence.
- (2) The person must make and give to the administering authority—
- (a) an illegal user declaration in accordance with section 38 for the offence; or
  - (b) a known user declaration in accordance with section 39 for the offence; or
  - (c) a sold vehicle declaration in accordance with section 40 for the offence; or

- (d) an unknown user declaration in accordance with section 41 for the offence.

Maximum penalty: 30 penalty units.

- (3) However, in a prosecution of a person for an offence against subsection (2) in relation to a vehicle, it is a defence if the person establishes—
  - (a) that the vehicle was stolen, or illegally taken or used, at the time of the offence; or
  - (b) that the vehicle (or all of the person's interest in the vehicle) had been sold or disposed of by the person before the time of the offence, and that at that time the person did not have an interest in the vehicle; or
  - (c) that—
    - (i) the person was not the driver of the vehicle at the time of the offence; and
    - (ii) the person did not know, and could not with reasonable diligence have found out, the name and address of the driver of the vehicle at that time.

**43 Offence for falsely naming a person as the driver**  
(MTA s 180MC)

A person must not, in an infringement notice declaration, falsely name someone as the driver of a vehicle.

Maximum penalty: 50 penalty units.

**Division 3.4 Enforcement procedures**

**44 Suspension for nonpayment of infringement notice penalties** (MTA s 180MJ)

- (1) This section applies if—



- (a) an infringement notice and a reminder notice have been served on a person by an authorised person under this part for an infringement notice offence; and
  - (b) the offence involved a vehicle; and
  - (c) the infringement notice has not been withdrawn; and
  - (d) the infringement notice penalty has not been paid to the administering authority within the time for payment under this part; and
  - (e) notice disputing liability has not been given to the administering authority in accordance with this part.
- (2) If this section applies, the road transport authority must, by notice served on the person, take the action mentioned in subsection (3), (4) or (5).
- (3) If the person is the holder of a driver licence, the road transport authority must suspend the licence.
- (4) If the person is not the holder of a driver licence but the vehicle involved in the offence is registered under the *Road Transport (Vehicle Registration) Act 1999* and the person is the responsible person (or a responsible person) for the vehicle, the road transport authority must suspend the vehicle's registration.
- (5) In any other case, the road transport authority must do 1 of the following:
- (a) suspend the person's right to drive the vehicle involved in the offence in the ACT;
  - (b) suspend the person's right to drive any vehicle in the ACT;
  - (c) suspend the right of everyone to drive the vehicle involved in the offence in the ACT.

- (6) If a person's right to drive a vehicle in the ACT is suspended under subsection (5) (a), (b) or (c), the person commits an offence if the person drives the vehicle in the ACT.

Maximum penalty: 20 penalty units.

- (7) A suspension under this section takes effect on the date stated in the notice served on the person under subsection (2).
- (8) However, the date stated in the notice must not be earlier than 10 days after the notice is served on the person.

#### **45 Effect of suspension (MTA s 180MK)**

- (1) The road transport authority must not issue a driver licence to a person (or renew a driver licence issued to the person) if the person's driver licence or right to drive any vehicle in the ACT is suspended under this division.
- (2) The period for which a person's driver licence is suspended under this division is concurrent with any uncompleted period of driver licence suspension or disqualification applying to the person under another part or any other Territory law, subject to any order by a court in relation to the lastmentioned suspension or disqualification.
- (3) A person whose driver licence or right to drive any vehicle in the ACT is suspended under this division is not entitled to apply for, or be issued with, a restricted licence during the suspension period.
- (4) The road transport authority must not register a vehicle in the name of a person if the person's right to drive any vehicle in the ACT is suspended under this division.
- (5) The road transport authority must not register a vehicle if the right of everyone to drive the vehicle in the ACT is suspended under this division.

**46 Transfer of registration while suspended (MTA s 180ML)**

- (1) This section applies if a vehicle's registration is suspended under this division because of an infringement notice offence for which an infringement notice has been served on a person.
- (2) The road transport authority must revoke the suspension if the vehicle's registration is transferred under the *Road Transport (Vehicle Registration) Act 1999* to someone else and the person no longer has any interest in the vehicle.

**47 Revocation of suspension (MTA s 180MM)**

- (1) This section applies if—
  - (a) a suspension is in force under this division because of an infringement notice offence for which an infringement notice has been served on a person; and
  - (b) the infringement notice penalty payable by the person for the offence is paid to the administering authority.
- (2) If this section applies, the road transport authority must revoke the suspension and tell the person, in writing, that the suspension has been revoked.
- (3) However, the road transport authority must not revoke the suspension if the authority would then be required to take action under this division in relation to the person for another infringement notice offence and the action would or could result in a suspension having the same effect.

**48 Revocation of suspension on court order (MTA s 180MN)**

- (1) This section applies if—
  - (a) a suspension is in force under this division because of an infringement notice offence for which an infringement notice has been served on a person; or
  - (b) a notice has been served on a person under this division because of an infringement notice offence, but the suspension made by the notice is not yet in force; or
  - (c) the road transport authority would be required to take action under this division because of an infringement notice offence if a suspension were not in force under this division in relation to the person.
- (2) If this section applies, the person may apply to the Magistrates Court for a declaration that—
  - (a) the person did not actually commit the offence; and
  - (b) if the offence involved a vehicle—the person is not liable for the offence under section 37 (Liability for infringement notice offences involving vehicles).
- (3) If relevant to the proceeding, the administering authority has the onus of proving—
  - (a) that the person actually committed the offence; and
  - (b) that an infringement notice for the offence was served on the person under section 36 (Service of infringement notices on responsible persons for vehicles).
- (4) The court may make or refuse to make the declaration.
- (5) If the court makes the declaration, the road transport authority must revoke the suspension (or, if the suspension is not yet in force, the notice) and tell the person, in writing, of the action taken under this subsection.

- (6) However, the road transport authority must not take action under subsection (5) if—
- (a) for a suspension of a driver licence or vehicle registration—the authority is satisfied on reasonable grounds that another ground exists on which the authority may suspend or cancel the licence or registration; or
  - (b) for a suspension of the right to drive in the ACT—the authority is satisfied on reasonable grounds that another ground exists on which the authority may suspend the right to drive.
- (7) If the road transport authority decides not to take action under subsection (5), the authority must immediately tell the person, in writing, of the decision and the reasons for the decision.

**49 Effect of revocation of suspension on court order**  
(MTA s 180MO)

- (1) This section applies if the road transport authority revokes a suspension in force under this division because of a declaration made by the Magistrates Court.
- (2) The revoked suspension is taken not to have happened.

**50 Failure to revoke suspension on court order**  
(MTA s 180MP)

- (1) This section applies if—
  - (a) the Magistrates Court makes a declaration under section 48 (Revocation of suspension on court order) in relation to a person and an infringement notice offence; and
  - (b) the road transport authority decides not to take action under section 48 (5) in relation to the person.
- (2) The person may apply to the Magistrates Court under the *Magistrates Court (Civil Jurisdiction) Act 1982*, section 22 (2) for an order setting aside the road transport authority's decision.

- (3) The road transport authority is the respondent to the application.
- (4) The road transport authority has the onus of establishing that a ground existed for the authority to decide not to take action under section 48 (5) in relation to the person.

## **Division 3.5 Disputing liability**

### **51 Disputing liability for infringement notice offence (MTA s 180MQ)**

- (1) A person on whom an infringement notice or reminder notice has been served for an infringement notice offence may dispute liability for the offence by written notice given to the administering authority.
- (2) The notice must set out the grounds on which the person relies.
- (3) The notice must be given to the administering authority—
  - (a) within 28 days after the date of service of the infringement notice or reminder notice; or
  - (b) if the person applies to the administering authority within the 28 days for additional time to dispute liability for the offence and the additional time is allowed—within the additional time allowed by the administering authority; or
  - (c) if the person applies to the administering authority within the 28 days for additional time to dispute liability for the offence and the application is refused—within 7 days after the day the person is told of the refusal or 28 days after the date of service, whichever is later.

### **52 Extension of time to dispute liability (MTA s 180MR)**

- (1) The person on whom an infringement notice or reminder notice is served may apply, in writing, to the administering authority, within 28 days after the date of service of the notice, for stated additional time to dispute liability for the offence.

- (2) The administering authority must—
  - (a) allow or refuse to allow the additional time; and
  - (b) tell the person in writing of the decision and, if the decision is a refusal, the reasons for it.

**53 Procedure if liability disputed (MTA s 180MS)**

- (1) This section applies if a person disputes liability for an infringement notice offence by giving the administering authority a notice in accordance with section 51 (Disputing liability for infringement notice offence).
- (2) The administering authority may lay an information in the Magistrates Court against the person for the offence within 60 days after being given the notice.
- (3) The administering authority must discontinue a proceeding brought against the person for the offence if, before the hearing of the proceeding, the person pays the total of—
  - (a) the infringement notice penalty; and
  - (b) the costs (if any) prescribed under the regulations for beginning the proceeding; and
  - (c) the disbursements (if any) incurred by the administering authority up to the day payment is made.
- (4) If subsection (3) applies, section 29 (Effect of payment of infringement notice penalty) also applies to the person in relation to the offence, even though the person paid the infringement notice penalty for the offence after an information had been laid in the Magistrates Court against the person for the offence.
- (5) If the administering authority does not lay an information in the Magistrates Court against the person for the offence within 60 days after being given the notice, the administering authority must—
  - (a) tell the person, in writing, that no further action will be taken against the person for the offence; and

- (b) take no further action against the person for the offence.

## **Division 3.6 Miscellaneous**

### **54 Delegation of administering authority's functions** (MTA s 180MT)

- (1) The administering authority for an infringement notice offence may delegate, in writing, all or any of the administering authority's functions under this part to—
- (a) the road transport authority; or
  - (b) a person prescribed under the regulations; or
  - (c) an authorised person.
- (2) A person mentioned in subsection (1) (a) or (b) may delegate, in writing, all or any of the functions delegated to the person under that subsection to anyone else.

### **55 Declarations by corporations** (MTA s 180MU)

A statutory declaration is made by a corporation for this part only if the statutory declaration is made by an executive officer of the corporation.

### **56 Evidentiary certificates** (MTA s 180MV)

- (1) This section applies to a proceeding for an infringement notice offence.
- (2) A certificate that appears to be signed by or on behalf of the administering authority, and states any matter relevant to anything done or not done under this part in relation to the offence, is evidence of the matter.
- (3) Without limiting subsection (2), a certificate given under that subsection may state any of the following:



- (a) a stated infringement notice or reminder notice was served by a stated authorised person in a stated way on a stated person on a stated date for a stated infringement notice offence;
- (b) the administering authority did not allow additional time, or allowed stated additional time, for payment of the infringement notice penalty or to dispute liability for the offence;
- (c) the infringement notice penalty was not paid within the time in which it was required to be paid under this part;
- (d) the infringement notice has not been withdrawn or was withdrawn on a stated date;
- (e) the offence involved a stated vehicle or animal;
- (f) a stated person was the responsible person (or a responsible person) for a vehicle, or the owner (or an owner) of an animal, on a stated date (and, if relevant, at a stated time on that date);
- (g) a stated address was, on a stated date, the last home or business address of a stated person known to the administering authority;
- (h) a stated address was, on a stated date, the latest home or business address of a stated person in the record kept under a law of another jurisdiction corresponding to the *Road Transport (Vehicle Registration) Act 1999*;
- (i) a stated person has not given the administering authority an illegal user declaration, a known user declaration, a sold vehicle declaration or an unknown user declaration;
- (j) a stated person gave the administering authority a stated statutory declaration mentioned in paragraph (i) on a stated date;
- (k) a copy of a stated statutory declaration mentioned in paragraph (i) was served by a stated authorised person in a stated way on a stated person on a stated date;

- (1) an infringement notice penalty has not been paid by, or a penalty has not been imposed on, a stated person or anyone for the offence.
- (4) A court must accept a certificate given under this section as proof of the matters stated in it if there is no evidence to the contrary.
- (5) This section is additional to, and does not limit, section 72 (Certificate evidence and other evidentiary provisions).

**57 Costs of application for declaration (MTA s 180MW)**

- (1) If the Magistrates Court makes a declaration under section 48 (Revocation of suspension on court order) in relation to a person, the road transport authority must pay the person's costs and disbursements in the proceeding.
- (2) If the court refuses to make a declaration under section 48 in relation to a person, the person must pay the road transport authority's costs and disbursements in the proceeding.
- (3) If the court makes an order under section 50 (Failure to revoke suspension on court order) setting aside the road transport authority's decision not to take action under section 48 (5) in relation to a person, the authority must pay the person's costs and disbursements in the proceeding.
- (4) If the court refuses to make an order under section 50 setting aside the road transport authority's decision not to take action under section 48 (5) in relation to a person, the person must pay the authority's costs and disbursements in the proceeding.
- (5) This section has effect subject to any order made by the court.

## **Part 4**                      **Enforcement of road transport legislation**

### **Division 4.1**              **Production of licences and identification of people**

#### **58**      **Police officer or authorised person may require driver's name, address and driver licence (NSW s 19, MTA s 172)**

- (1) A police officer or authorised person may, in the execution of any of his or her functions under the road transport legislation, require the driver of a vehicle, or the rider of an animal, to do any or all of the following:
- (a) for the driver of a motor vehicle—produce his or her Australian driver licence or external driver licence;
  - (b) state his or her name;
  - (c) state his or her home address.
- (2) A person must not—
- (a) fail to produce his or her Australian driver licence or external driver licence when required to do so under subsection (1); or
  - (b) without reasonable excuse, fail to state his or her name or home address when required to do so under that subsection; or
  - (c) state a false name or home address in purported compliance with a requirement under that subsection.

Maximum penalty: 20 penalty units.

- (3) It is a defence to an offence against subsection (2) (a) if—
- (a) the defendant has a reasonable excuse for failing to produce his or her Australian driver licence or external driver licence when required to do so; and

- (b) within 3 days after being required to produce the licence, the defendant produces his or her licence at a place prescribed under the regulations for this subsection or as directed by the police officer or authorised person.

**59 Seizure of licences (NSW(DL) s 24)**

- (1) A police officer or authorised person may, with no authority other than this section, seize an Australian driver licence or external driver licence, or anything resembling an Australian driver licence or external driver licence, if—
  - (a) it is produced to the police officer or authorised person by someone representing it to be the person's Australian driver licence or external driver licence; and
  - (b) the police officer or authorised person suspects on reasonable grounds—
    - (i) that it has been obtained in contravention of the *Road Transport (Driver Licensing) Act 1999*, section 29 (Obtaining licence by false statements etc), a corresponding law (within the meaning of that Act) or the law of an external Territory or foreign country; or
    - (ii) that it is unlawfully in the person's possession.
- (2) If a person produces an Australian driver licence or external driver licence, or anything resembling an Australian driver licence or external driver licence, to a police officer or authorised person and represents it to be the person's Australian driver licence or external driver licence, the police officer or authorised person may provide the person with adequate writing materials and require the person to provide a specimen of his or her signature on the form approved under section 225 (Approved forms) for this subsection or in a way prescribed under the regulations.

- (3) A person must not, without reasonable excuse, fail to comply with a request under subsection (2).

Maximum penalty: 20 penalty units.

- (4) The grounds on which a suspicion, sufficient to authorise the seizure of an Australian driver licence or external driver licence or anything else (the *licence or article*) under this section, may be formed include (but are not limited to) any 1 or more of the following:

- (a) a lack of resemblance between the person shown in a photograph attached to or forming part of the licence or article, purporting to be a photograph of the holder, and the person who produced it;
- (b) a lack of resemblance between a signature on the licence or article, purporting to be the signature of the holder, and a specimen signature provided by the person who produced the licence or article;
- (c) a refusal by the person, after producing the licence or article, to comply with a requirement under subsection (2).

- (5) An Australian driver licence, external driver licence or anything else seized under this section must immediately be given to the road transport authority.
- (6) If the road transport authority is satisfied that an Australian driver licence or external driver licence given to the authority was lawfully in the possession of the person who produced it, the authority must return it to the person.
- (7) The road transport authority may deal with anything else given to the authority under this section in the way the authority considers appropriate.

**60 Police officer or authorised person may require people to disclose identity of driver (NSW s 21, MTA s 174)**

- (1) If the driver of a motor vehicle is alleged to have committed an offence against the road transport legislation—

- (a) the responsible person for the vehicle, or the person in possession of the vehicle, must, when required to do so by a police officer or authorised person, give information (which must, if so required, be given in the form of a written statement signed by the person) about the name and home address of the driver at the time of the offence; and
- (b) anyone else must, when required to do so by a police officer or authorised person, give any information that the person can give that may lead to the identification of the driver.

Maximum penalty: 20 penalty units.

- (2) It is a defence to a prosecution for an offence against subsection (1) (a) if the defendant establishes that he or she did not know and could not with reasonable diligence have found out the driver's name and home address.
- (3) If—
  - (a) a written statement purporting to be given under subsection (1) (a) is produced in court in a prosecution of the person named in the statement as the driver of a vehicle at the time of an alleged offence against the road transport legislation; and
  - (b) the person does not appear before the court; and
  - (c) a copy of the statement was served on the person before the proceeding was begun;

the statement is evidence without proof of signature that the named person was the driver of the vehicle at that time.

**61 Production of driver licence to court (NSW s 22, MTA s 180)**

- (1) A person who is the holder of a driver licence and is charged with an offence against the road transport legislation must produce his or her driver licence to the court at the hearing of the charge.

- (2) A person must not, without reasonable excuse, fail to comply with subsection (1).

Maximum penalty: 20 penalty units.

## **Division 4.2                      Licence disqualification and related matters**

### **62      Automatic disqualification for culpable driving (MTA s 191B)**

- (1) If a court convicts a person of an offence of culpable driving, the person is automatically disqualified from holding or obtaining a driver licence—
- (a) for a first offender—for 6 months or, if the court orders a longer period, the longer period; or
  - (b) for a repeat offender—for 24 months or, if the court orders a longer period, the longer period.
- (2) If the Magistrates Court commits the person to the Supreme Court for sentence under the *Magistrates Court Act 1930*, section 92A, subsection (1) applies as if the Supreme Court had convicted the person.
- (3) If the person is already disqualified from holding or obtaining a driver licence, or the person's driver licence is suspended, the disqualification under this section takes effect at the end of the existing disqualification or suspension.
- (4) A disqualification under this section is in addition to any penalty imposed for the offence.
- (5) For this section—
- (a) a person who is convicted of an offence of culpable driving (the ***current offence***) is a ***repeat offender*** in relation to the current offence if the person has been convicted, or found guilty, of an offence of culpable driving, or an offence to

which section 63 applies, within 5 years before being convicted of the current offence; and

- (b) a person who is convicted of an offence of culpable driving is a **first offender** in relation to the offence if the person is not a repeat offender in relation to the offence.

**63 Automatic disqualification for certain other driving offences (MTA s 191C)**

- (1) This section applies to the following offences:
- (a) an offence against the *Road Transport (Safety and Traffic Management) Act 1999*, section 5A (1) or (5) (which are about races, attempts on speed records, speed trials etc);
  - (b) an offence against the *Road Transport (Safety and Traffic Management) Act 1999*, section 5B (2) or (4) (which are about burnouts and other prohibited conduct);
  - (c) an offence against the *Road Transport (Safety and Traffic Management) Act 1999*, section 6 (1) (which is about negligent driving) that occasions death or grievous bodily harm (within the meaning of that section);
  - (d) an offence against the *Road Transport (Safety and Traffic Management) Act 1999*, section 7 (1) (which is about furious, reckless or dangerous driving);
  - (e) an offence against the *Road Transport (Safety and Traffic Management) Act 1999*, section 8 (1) or (2) (which are about menacing driving).
- (2) If a court convicts a person of an offence to which this section applies, the person is automatically disqualified from holding or obtaining a driver licence—
- (a) for a first offender—for 3 months or, if the court orders a longer period, the longer period; or



- (b) for a repeat offender—for 12 months or, if the court orders a longer period, the longer period.
- (3) If the person is already disqualified from holding or obtaining a driver licence, or the person's driver licence is suspended, the disqualification under this section takes effect at the end of the existing disqualification or suspension.
- (4) A disqualification under this section is in addition to any penalty imposed for the offence.
- (5) For this section—
  - (a) a person who is convicted of an offence to which this section applies (the *current offence*) is a *repeat offender* in relation to the current offence if the person has been convicted, or found guilty, of an offence to which this section applies, or an offence of culpable driving, within 5 years before being convicted of the current offence; and
  - (b) a person who is convicted of an offence to which this section applies is a *first offender* in relation to the offence if the person is not a repeat offender in relation to the offence.

**64 Court may order disqualification for other offences**  
(NSW s 24 (1)-(3), MTA s 191D)

- (1) A court that convicts a person, or finds a person guilty, of an offence against the road transport legislation may disqualify the person from holding or obtaining a driver licence for the period the court considers appropriate.
- (2) Subsection (1) is subject to—
  - (a) section 62 (Automatic disqualification for culpable driving); and
  - (b) section 63 (Automatic disqualification for certain other driving offences); and

- (c) the *Road Transport (Alcohol and Drugs) Act 1977*, section 32 (which is about automatic disqualification of first offender drivers for exceeding the prescribed blood alcohol concentration); and
  - (d) the *Road Transport (Alcohol and Drugs) Act 1977*, section 33 (which is about automatic disqualification of repeat offender drivers for exceeding the prescribed blood alcohol concentration); and
  - (e) the *Road Transport (Alcohol and Drugs) Act 1977*, section 34 (which is about automatic disqualification for other offences against that Act); and
  - (f) the *Road Transport (Driver Licensing) Act 1999*, section 31 (3) (which is about automatic disqualification for repeat offenders for driving while not holding (and never having held) an Australian driver licence); and
  - (g) the *Road Transport (Driver Licensing) Act 1999*, section 32 (6) (which is about automatic disqualification for an offence of driving or fraudulently applying for a driver licence while disqualified, or after licence suspension, cancellation or refusal).
- (3) If the court disqualifies the person, the person is disqualified from holding or obtaining a driver licence for the period ordered by the court.
- (4) A disqualification under this section is in addition to any penalty imposed for the offence.

## **65 Disqualification until court order (MTA s 191K)**

- (1) This section applies if—
- (a) a person is disqualified (whether or not by court order) from holding or obtaining a driver licence because of being convicted, or found guilty, of an offence, or offences, against the road transport legislation or any other Territory law; and

- (b) the total period of disqualification (the *compulsory disqualification period*) is 12 months or more.
- (2) If the court that convicts the person, or finds the person guilty, of an offence mentioned in subsection (1) is satisfied, after considering the matters mentioned in subsection (7) and any other matters the court considers relevant, that it is necessary in the public interest to do so, the court may disqualify the person from holding or obtaining a driver licence from the end of the compulsory disqualification period until the disqualification is set aside under subsection (3).
- (3) If a court is satisfied, on application by a person who is disqualified under subsection (2) and after considering the matters mentioned in subsection (7) and any other matters the court considers relevant, that the disqualification is no longer necessary in the public interest, it may set the disqualification aside.
- (4) An application under subsection (3) must be given to the registrar of the court with an affidavit of the applicant setting out the grounds of the application.
- (5) The respondents to an application are the road transport authority and the chief police officer.
- (6) If the Magistrates Court commits a person mentioned in subsection (1) to the Supreme Court for sentence under the *Magistrates Court Act 1930*, section 92A, subsection (2) applies as if the Supreme Court had convicted the person.
- (7) For subsection (2) or (3), the court must consider the following matters:
- (a) the total period for which the person concerned is, or has been, disqualified from holding or obtaining a driver licence;
  - (b) the person's history of offences (including offences for which infringement notices were served on the person)—
    - (i) against the road transport legislation or a law of another jurisdiction corresponding to it (or to part of it); or

- (ii) against another law of any jurisdiction in relation to the use of motor vehicles;
  - (c) any relevant rehabilitation or remedial action undertaken, or to be undertaken, by the person;
  - (d) the risk to the safety of other road users.
- (8) In this section:

*infringement notice* includes a notice (however described) served on a person under the law of another jurisdiction that gives the person the option of paying an amount for an offence instead of being charged with the offence.

**66 Effect of disqualification (NSW s 26, MTA s 191F)**

- (1) If a person is disqualified (whether or not by court order) from holding or obtaining a driver licence because of being convicted, or found guilty, by a court of an offence against a Territory law, the disqualification operates to cancel any driver licence held by the person at the time of his or her disqualification.
- (2) The cancellation takes effect at the same time as the disqualification.
- (3) If a person is disqualified from holding or obtaining an Australian driver licence in another jurisdiction because of being convicted, or found guilty, by a court of that jurisdiction for an offence against the law of that jurisdiction, the disqualification has effect in the ACT as if it were a disqualification from holding or obtaining a driver licence made under a Territory law because the person had been convicted by an ACT court of an offence against a Territory law.
- (4) If the holder of a driver licence is disqualified as mentioned in subsection (1) or (3), the person must surrender the licence—
  - (a) if the person is present at the court, the court is an ACT court and the person is in possession of his or her driver licence—to the court immediately after being disqualified; or

- (b) in any other case—to the road transport authority as soon as practicable (but within 14 days) after being disqualified.

Maximum penalty: 20 penalty units.

- (5) If a driver licence is surrendered to a court, the licence must be given to the road transport authority.
- (6) If a person is disqualified from holding or obtaining a driver licence, the person is not eligible to apply for, or be issued with, another driver licence, other than a restricted licence, during the period of disqualification.
- (7) However, the person is not eligible to apply for, or be issued with, a restricted licence if section 67 (Limitations on issue etc of restricted licences) applies or the person is disqualified from holding or obtaining an Australian driver licence in another jurisdiction.

**67 Limitations on issue etc of restricted licences**  
(MTA s 191J)

- (1) In this section:

*special disqualification provision* means a provision of the road transport legislation mentioned in section 64 (2), other than the *Road Transport (Alcohol and Drugs) Act 1977*, section 32.

- (2) If a person is disqualified from holding or obtaining a driver licence under a special disqualification provision because being convicted of an offence, the person is not eligible to apply for, or be issued with, a restricted licence during the period that is the relevant period under subsection (3).
- (3) For subsection (2), the *relevant period* is—
- (a) if the person is a first offender for the special disqualification provision in relation to the offence—the minimum period of disqualification applying to the person under the provision in relation to the offence (whether or not the period is expressed to be such a minimum period); or

- (b) if the person is a repeat offender for the special disqualification provision in relation to the offence—the period for which the person is disqualified for the offence.

**Examples of minimum period disqualification**

- 1 For section 62, the minimum period of disqualification is 6 months (see s 62 (1) (a)).
- 2 For the *Road Transport (Alcohol and Drugs) Act 1977*, section 34, the minimum period of disqualification is 6 months (see that Act, s 34 (1) (b)).
- 3 For the *Road Transport (Driver Licensing) Act 1999*, section 32 (1), (2) or (3), the minimum period of disqualification is 12 months (see that Act, s 32 (6) (a) and s 32 (9)).

*Note 1* The *Road Transport (Alcohol and Drugs) Act 1977*, s 33 applies only to repeat offenders. That Act, section 32 applies to first offenders, but is not a special disqualification provision.

*Note 2* An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see *Legislation Act 2001*, s 126 and s 132).

- (4) If a person is disqualified by order under section 65 (Disqualification until court order) from holding or obtaining a driver licence, the person is not eligible to apply for, or be issued with, a restricted licence.
- (5) If a person who is the holder of a restricted licence is disqualified (whether or not by court order) from holding or obtaining a driver licence because of being convicted or found guilty by a court in Australia of an offence against the law of any jurisdiction, the person is disqualified from applying for, or being issued with, another restricted licence for the remainder of the period for which the person was originally disqualified from holding or obtaining a driver licence.

*Note* The following provisions of the road transport legislation also contain limitations on the issue of restricted licences—

- s 45 (3) (which is about suspension for nonpayment of an infringement notice)
- s 66 (7) (which is about the effect of a person being disqualified from holding or obtaining a driver licence for 12 months or more)

- s 88 (4) (which is about suspension or disqualification for default in payment of an outstanding fine)
- the *Road Transport (Driver Licensing) Act 1999*, s 18 (4), s 19 (7), s 20 (3) and s 21 (7) (which are about suspension or licence ineligibility under the demerit points system)
- the *Road Transport (Driver Licensing) Act 1999*, s 33 (5) (which is about cancellation of a restricted licence because of contravention of its conditions)
- the regulations made under the *Road Transport (Driver Licensing) Act 1999*.

**68 When licence disqualification takes effect (MTA s 191E)**

If a person is disqualified (whether or not by court order) from holding or obtaining a driver licence because of being convicted or found guilty by a court in Australia of an offence against the law of any jurisdiction, the disqualification takes effect from the time of the conviction or finding or, if the court orders a later date, on the later date.

**69 Multiple disqualifications cumulative unless court orders otherwise (MTA s 191G)**

If—

- (a) a person is disqualified (whether or not by court order) from holding or obtaining an Australian driver licence because of being convicted or found guilty by a court in Australia of an offence against the law of any jurisdiction; and
- (b) before the period of disqualification has ended, the person is again so disqualified;

the periods of disqualification are cumulative unless a court in Australia orders otherwise.

**70 Additional powers of court (MTA s 191L)**

The powers of a court under this division are additional to the other powers of the court.

**71 Effect on disqualification of quashing of conviction etc**  
(MTA s 191N)

- (1) This section applies if—
  - (a) a person is disqualified (whether or not by court order) from holding or obtaining a driver licence because of being convicted or found guilty by a court in Australia of an offence against the law of any jurisdiction; and
  - (b) the conviction or finding is quashed or set aside.
- (2) The disqualification ceases to have effect, and any driver licence cancelled because of the disqualification is taken not to have been so cancelled.

**Division 4.3 Evidentiary provisions in relation to road transport legislation**

**72 Certificate evidence and other evidentiary provisions**  
(NSW s 46)

- (1) A certificate that appears to be signed by or on behalf of the road transport authority, and states any of the following matters, is evidence of:
  - (a) a matter that appears in or can be worked out from the demerit points register or driver licence register kept under the *Road Transport (Driver Licensing) Act 1999*;
  - (b) a matter that appears in or can be worked out from (or does not appear in or cannot be worked out from) the registrable vehicles register kept under the *Road Transport (Vehicle Registration) Act 1999*;
  - (c) a matter that appears in or can be worked out from any other record kept by the authority under the road transport legislation.
- (2) A certificate mentioned in subsection (1) may state a matter by reference to a date or period.



- (3) A certificate that appears to be signed by or on behalf of the road transport authority, and states any matter prescribed under the regulations for this section, is evidence of the matter.
- (4) A court may admit as evidence a document issued under the law of another jurisdiction, an external Territory or foreign country that relates to—
- (a) whether a person has or does not have an Australian driver licence or external driver licence, the extent of the authority given by such a licence and any conditions of such a licence; or
  - (b) whether a person is or was disqualified from holding or obtaining an Australian driver licence or external driver licence and the circumstances of any such disqualification; or
  - (c) any offence against a law of that other jurisdiction corresponding to the road transport legislation (or a provision of it), or against another law of that jurisdiction in relation to the use of a motor vehicle or driver licensing, of which a person has been convicted or found guilty, or for which an infringement notice has been served on a person, including any penalty imposed or other order made in relation to the offence and any disqualification from holding or obtaining an Australian driver licence applying to the person because of the offence; or
  - (d) demerit points incurred by a person; or
  - (e) anything else prescribed under the regulations.
- (5) A court may admit as evidence a document that is issued under a law of another jurisdiction corresponding to this section and that relates to—
- (a) the registration or non-registration of a registrable vehicle; or
  - (b) a person recorded on a register of registrable vehicles, kept under the law of that jurisdiction that corresponds to the *Road Transport (Vehicle Registration) Act 1999*, as a registered operator of a registrable vehicle; or

- (c) the GCM, GVM, load capacity or identification of a motor vehicle; or
  - (d) anything else about the use of registrable vehicles on roads or road related areas.
- (6) A court must accept a certificate or other document mentioned in this section as proof of the matters stated in it if there is no evidence to the contrary.
- (7) A court may or must admit into evidence other documents prescribed under the regulations in the circumstances prescribed under the regulations.
- (8) In a proceeding in a court, proof that a registrable vehicle does not have a numberplate on it issued under the *Road Transport (Vehicle Registration) Act 1999* is evidence that the vehicle is not registered if there is no evidence to the contrary.

- (9) In this section:

**GCM**—see the *Road Transport (Vehicle Registration) Act 1999*, dictionary.

**GVM**—see the *Road Transport (Vehicle Registration) Act 1999*, dictionary.

***infringement notice*** means a notice (however described) served on a person under the law of another jurisdiction that gives the person the option of paying an amount for an offence instead of being charged with the offence.

### **73 Acts and omissions of representatives**

- (1) In this section:

***representative*** means—

- (a) for a corporation—an executive officer, employee or agent of the corporation; or
- (b) for an individual—an employee or agent of the individual.

*state of mind*, of a person, includes—

- (a) the person's knowledge, intention, opinion, belief or purpose;  
and
  - (b) the person's reasons for the intention, opinion, belief or purpose.
- (2) This section applies to a prosecution for any offence against the road transport legislation.
- (3) If it is relevant to prove a person's state of mind about an act or omission, it is enough to show—
- (a) the act was done or omission made by a representative of the person within the scope of the representative's actual or apparent authority; and
  - (b) the representative had the state of mind.
- (4) An act done or omitted to be done on behalf of a person by a representative of the person within the scope of the representative's actual or apparent authority is taken to have been done or omitted to be done also by the person, unless the person establishes that reasonable precautions were taken and appropriate diligence was exercised to avoid the act or omission.
- (5) An individual who is convicted of an offence cannot be punished by imprisonment for the offence if the individual would not have been convicted of the offence without subsection (3) or (4).

## **Division 4.4                      Proceedings for offences under road transport legislation**

### **74      Proceedings for offences (NSW s 47, MTA s 192 (2))**

An offence against the road transport legislation may be prosecuted summarily before the Magistrates Court.

## 75 Short descriptions of offences

- (1) An offence against the road transport legislation is sufficiently stated or described in an information, summons, warrant, notice, order or other document, if it is stated or described using—
  - (a) the short description prescribed under the regulations for the offence; or
  - (b) an expression substantially the same as the short description.
- (2) This section does not affect any other way of stating or describing an offence.

## Division 4.5 Miscellaneous

### 76 Speed inhibitor conditions (NSW s 24 (4), (7), MTA s 191D)

- (1) The regulations may—
  - (a) provide that any driver licence held by a person who has been convicted, or found guilty, of an offence against the *Road Transport (Safety and Traffic Management) Act 1999* prescribed under the regulations for this section is automatically subject, or may be ordered by a court to be subject, to a speed inhibitor condition; and
  - (b) provide a penalty for breach of a speed inhibitor condition; and
  - (c) prescribe any matter necessary or convenient to be prescribed in relation to devices mentioned in subsection (2), definition of *speed inhibitor condition*.
- (2) In this section:

*speed inhibitor condition* means a condition limiting a driver licence to the driving of a motor vehicle to which is fitted a sealed device preventing the engine from propelling the vehicle at more than the speed prescribed under the regulations for this definition.

**77 Compensation for loss of time etc (NSW s 38, MTA s 196 (2))**

- (1) If an information is laid by anyone (except a police officer, an authorised person or the road transport authority) for an offence against the road transport legislation and the proceeding is dismissed or withdrawn, the court may order the person to pay to the defendant, as well as any costs or disbursements, compensation for loss of time or anything else.
- (2) Subsection (1) extends to a court hearing an appeal in the proceeding.

**78 Effect on certain cancellations of quashing of conviction etc**

- (1) This section applies if—
  - (a) a person's driver licence is cancelled (whether or not by court order) because the person is convicted or found guilty by a court in Australia of an offence against a law of any jurisdiction; and
  - (b) the conviction or finding is quashed or set aside; and
  - (c) section 71 (Effect on disqualification of quashing of conviction etc) does not apply to the cancellation.
- (2) From the time the conviction or finding is quashed or set aside, the driver licence is taken not to have been so cancelled.

**79 Courts to provide particulars of convictions, orders etc (NSW s 24 (5), MTA s 191M)**

If a court convicts a person, or finds a person guilty, of an offence against the road transport legislation or an offence of culpable driving, or makes an order against a person under the road transport legislation, the court must give particulars of the conviction, finding or order to the road transport authority.

## **Part 5**                      **Further provisions about vehicles, roads and road related areas**

### **Division 5.1**              **Police powers**

#### **80**      **Power of entry for tracing stolen motor vehicles or trailers or their parts (NSW s 50)**

A police officer authorised by the chief police officer may—

- (a) at any reasonable time, enter any premises or place where the business of carrying out repairs, resulting from accidents, to damaged motor vehicles or trailers is ordinarily carried on; and
- (b) inspect any motor vehicle or trailer, or part of a motor vehicle or trailer, in or on the premises or place to find out whether it is a stolen motor vehicle, trailer or part.

#### **81**      **Use of tyre deflation devices (NSW s 51)**

- (1) The chief police officer may authorise police officers to use tyre deflation devices.
- (2) Subsection (1) applies despite any other Territory law that would prohibit or restrict the use of tyre deflation devices by police officers.
- (3) In this section:

*tyre deflation devices* means any device or substance designed to cause the deflation of vehicle tyres.

## **Division 5.2                      Unauthorised use of vehicles**

### **82      Motor vehicles or trailers not to be used without owner's consent (NSW s 52)**

- (1) A person must not use a motor vehicle or trailer without the owner's consent and without a reasonable excuse.

Maximum penalty: 20 penalty units.

- (2) This section does not apply to—
- (a) a police officer acting in the exercise of his or her functions under a Territory law; or
  - (b) anyone else acting with the authority, or under the direction of, a police officer acting in the exercise of his or her functions under a Territory law.

### **83      Procuring use or hire of motor vehicle or trailer by fraud etc (NSW s 53, MTA s 179)**

A person must not procure the use or hire of a motor vehicle or trailer by fraud or misrepresentation.

Maximum penalty: 20 penalty units.

## **U Division 5.3                      Written-off vehicles register**

## Part 6                      Fine defaulters

### 84      **Suspension of driver licence, registration etc** (MTA s 191NA)

If the road transport authority is notified under the *Magistrates Court Act 1930*, section 153 (1) that a person has defaulted in payment of an outstanding fine, the road transport authority must—

- (a) suspend the person's driver licence; or
- (b) if the person is not the holder of a driver licence but is the sole registered operator of—
  - (i) 1 motor vehicle—suspend the registration of the vehicle; or
  - (ii) 2 or more motor vehicles—suspend the registration of 1 vehicle for each outstanding fine, starting with the vehicle with the shortest period of registration left; or
- (c) if the person is not the holder of a driver licence and is not the sole registered operator of a motor vehicle—disqualify the person from obtaining a driver licence.

### 85      **Duration of suspension of driver licence, registration etc** (MTA s 191NB)

- (1) A suspension or disqualification under this part takes effect when written notice of the action is given to the person by the road transport authority.
- (2) A suspension of a driver licence under this part remains in force until:
  - (a) the suspension is revoked under this part; or
  - (b) the licence expires or is cancelled under the road transport legislation.



- (3) A suspension of a motor vehicle registration under this part remains in force until—
  - (a) the suspension is revoked under this part; or
  - (b) the registration expires or is cancelled under the *Road Transport (Vehicle Registration) Act 1999*.
- (4) The disqualification of a person from obtaining a driver licence under this part remains in force until revoked under this part.

**86 Revocation of suspension of driver licence, registration etc (MTA s 191NC)**

- (1) In this part:

*revocation notice* means a notice:

- (a) under the *Magistrates Court Act 1930*, section 153 (2) that an arrangement for the payment of an outstanding fine has been approved; or
  - (b) under the *Magistrates Court Act 1930*, section 153 (3) that—
    - (i) an outstanding fine has been paid; or
    - (ii) a fine has been remitted; or
    - (iii) a person has completed serving a period of imprisonment in relation to an outstanding fine; or
    - (iv) the conviction or order that gave rise to a person's liability to pay a fine has been quashed or set aside.
- (2) If the road transport authority is given a revocation notice for a person, the road transport authority must revoke the relevant suspension or disqualification under this part and give the person written notice of the revocation.
  - (3) The revocation does not affect—
    - (a) a suspension of a driver licence; or
    - (b) a suspension of a motor vehicle registration; or

(c) a disqualification from holding or obtaining a driver licence; in relation to the person under another part or any other Territory law.

**87 Revocation of suspension on transfer of registration**  
(MTA s 191ND)

The road transport authority must revoke the suspension under this part of a motor vehicle registration if the registration is transferred under the *Road Transport (Vehicle Registration) Act 1999* and the fine defaulter is no longer the registered operator (or a registered operator) of the vehicle.

**88 Renewal etc of driver licence or registration prohibited**  
(MTA s 191NE)

- (1) If a person's driver licence is suspended under this part, the road transport authority may renew the licence, or issue another driver licence to the person, only if the road transport authority has been given a revocation notice for the person.
- (2) If a motor vehicle registration in a person's name is suspended under this part, the road transport authority may renew the registration of the vehicle in the person's name only if the road transport authority has been given a revocation notice for the person.
- (3) If a person is disqualified from obtaining a driver licence under this part, the road transport authority may issue a driver licence to the person, or register a motor vehicle in the person's name, only if the road transport authority has been given a revocation notice for the person.
- (4) A person who is not entitled to the renewal or issue of a driver licence because of subsection (1) or (3) is not entitled to apply for, or be issued with, a restricted licence.

**89 Suspension to be concurrent (MTA s 191NF)**

- (1) The period for which a person's driver licence is suspended under this part is concurrent with any uncompleted period of a driver licence suspension applying to the person under another part or any other Territory law, subject to any order by a court in relation to the lastmentioned suspension.
- (2) The period for which a motor vehicle registration is suspended under this part is concurrent with any uncompleted period for which the motor vehicle registration is suspended under another part or any other Territory law, subject to any order by a court in relation to the lastmentioned suspension.
- (3) The period for which a person is disqualified from obtaining a driver licence under this part is concurrent with any uncompleted period for which the person is so disqualified under another part or any other Territory law, subject to any order by a court in relation to the lastmentioned disqualification.



- (c) about the options available under other ACT laws to have the decision reviewed by a court or the ombudsman.

## **92 Who may apply for internal review of decisions**

- (1) A person whose interests are affected by a reviewable decision may apply in writing to the decision-maker for internal review of the decision.
- (2) The decision-maker must arrange for someone else (the *internal reviewer*) to review the decision.
- (3) However, this section does not apply to a reviewable decision—
  - (a) made personally by the Minister, chief executive or chief police officer; or
  - (b) included in a class of decisions prescribed under the regulations as exempt from internal review.

*Note* Section 95 (b) provides for AAT review of decisions exempt from internal review.

## **93 Applications for internal review**

- (1) An application for internal review of a reviewable decision must be made within—
  - (a) 28 days after the day when the applicant is told about the decision by the decision-maker; or
  - (b) any longer period allowed by the internal reviewer, either before or after the end of the 28 days.
- (2) The application must set out the grounds on which internal review of the decision is sought.
- (3) The making of the application for internal review of the decision does not affect the operation of the decision.

**94 Internal review**

- (1) The internal reviewer must review the reviewable decision, and confirm, vary or revoke the decision, within 28 days after the decision-maker receives the application for internal review of the decision.
- (2) If the decision is not varied or revoked within the 28 days, the decision is taken to have been confirmed by the internal reviewer.
- (3) As soon as practicable after reviewing the decision, the internal reviewer must give written notice of the decision on the internal review to the applicant.
- (4) The notice must be in accordance with the requirements of the code of practice in force under the *Administrative Appeals Tribunal Act 1989*, section 25B (1).

**95 Review by administrative appeals tribunal of certain decisions (NSW s 48, MTA s 217D)**

A person may apply in writing to the administrative appeals tribunal for review of—

- (a) a decision made by an internal reviewer; or
- (b) a reviewable decision that is exempt from internal review.

## Part 8                      Fees, charges and other amounts payable under road transport legislation

### 96      Determination of fees, charges and other amounts (MTA s 217A)

- (1) The Minister may, in writing, determine fees, charges and other amounts payable under the road transport legislation.

*Note*      The *Legislation Act 2001* contains provisions about the making of determinations and regulations relating to fees (see pt 6.3)

- (2) Without limiting subsection (1), a fee, charge or other amount may be determined for or with respect to—
- (a) a service or facility provided under the road transport legislation; or
  - (b) any other service or facility provided for road users or particular road users, including, for example, a service or facility for, or to improve, road safety or transport efficiency; or
  - (c) the grant, issue, revocation, renewal or variation of, or the doing of anything else in relation to, an approval, authority, certificate, exemption, licence, permission, permit or registration or anything else under the road transport legislation.

- (3) A determination is a disallowable instrument.

*Note*      A disallowable instrument must be notified, and presented to the Legislative Assembly, under the *Legislation Act 2001*.

- (4) A reference in this part to a fee, charge or other amount includes a reference to a fee, charge or other amount that is a tax.

## Part 9                      Public vehicles

### Division 9.1              Definitions

#### 100    Definitions for pt 9 (MTA s 4 (1))

In this part:

*private hire car* means a motor vehicle (other than a public bus restricted hire vehicle or taxi) that—

- (a) does not ply for hire on a road for the transport of passengers; and
- (b) is used, or is intended to be used, for the transport of passengers under a contract that gives the hirer the exclusive use of the vehicle.

*private hire car operator's licence*—see section 120 (1).

*public vehicle* means a private hire car or restricted hire vehicle.

*restricted hire vehicle* means a motor vehicle (other than a public bus or taxi) that—

- (a) does not ply for hire on a road for the transport of passengers; and
- (b) is used, or is intended to be used, for the transport of passengers under a contract that gives the hirer the exclusive use of the vehicle; and
- (c) a person is licensed to use as a restricted hire vehicle.

*restricted hire vehicle operator's licence*—see section 126 (1).

*sightseeing vehicle operator's licence*—see section 135 (1).

*taxi*—see the *Road Transport (Public Passenger Services) Act 2001*, section 45 (Meaning of *taxi*).



## **Division 9.3                  Private hire cars**

### **119    Use of motor vehicles as private hire cars (MTA s 168 (a))**

A person must not use a motor vehicle as a private hire car on a road or road related area other than in accordance with a private hire car operator's licence.

Maximum penalty: 50 penalty units.

### **120    Private hire car operator's licences (MTA s 28 (1)-(2A), s 31A (1))**

- (1) The road transport authority may issue a licence to a person to use a motor vehicle as a private hire car (a *private hire car operator's licence*) on payment of the amount decided by the Minister.
- (2) The road transport authority must not issue a private hire car operator's licence to a person who holds—
  - (a) a taxi licence under the *Road Transport (Public Passenger Services) Act 2001*; or
  - (b) 2 private hire car operator's licences.
- (3) The road transport authority must not issue a private hire car operator's licence if the number of private hire car operator's licences would exceed 22 or, if a higher number of private hire car operator's licences is determined by the Minister under subsection (4), that higher number.
- (4) The Minister may, in writing, determine the maximum number (more than 22) of private hire car operator's licences that may be issued.
- (5) A determination under subsection (4) is a notifiable instrument.

*Note*     A notifiable instrument must be notified under the *Legislation Act 2001*.
- (6) A private hire car operator's licence must state the maximum number of passengers the private hire car may carry.

- (7) The road transport authority may renew a private hire car operator's licence.

**121 Transfer of private hire car operator's licence**  
(MTA s 28 (2), (6)-(8))

- (1) The holder of a private hire car operator's licence may apply, in writing, to the road transport authority for the licence to be transferred to a stated person.
- (2) The road transport authority may transfer the licence to the stated person by endorsement on the licence if the authority approves the person.
- (3) The road transport authority must not transfer a private hire car operator's licence to a person who holds—
- (a) a taxi licence under the *Road Transport (Public Passenger Services) Act 2001*; or
  - (b) 2 private hire car operator's licences.
- (4) The road transport authority may transfer a private hire car operator's licence held by a person for less than 3 years only if—
- (a) the person dies; or
  - (b) a doctor appointed by the authority certifies to the authority that transfer of the licence is advisable because of the person's physical or mental condition; or
  - (c) there are exceptional circumstances.

**122 Suspension or cancellation of private hire car operator's licence** (MTA s 30)

The road transport authority may suspend or cancel a private hire car operator's licence if—

- (a) satisfied the private hire car has been used for an illegal purpose; or

- (b) the licence, or any transfer of the licence, was obtained by a false statement or misrepresentation; or
- (c) the vehicle is not an insured motor vehicle for part 10 (Compulsory vehicle insurance); or
- (d) the licence holder has not maintained a public vehicle policy for the vehicle.

**123 Offence to carry more than licensed number of passengers in private hire car (MTA s 31A (2), (4))**

The driver of a private hire car must not, without reasonable excuse, carry more passengers in the vehicle than the maximum number stated in the private hire car operator's licence.

Maximum penalty: 5 penalty units.

**124 Offence to park private hire cars on road for longer than 30 minutes (MTA s 154 (3), (4))**

- (1) The driver of a private hire car must not park the vehicle on a road for longer than 30 minutes.

Maximum penalty: 20 penalty units.

- (2) The driver does not contravene subsection (1) if—
  - (a) the vehicle was hired throughout the period when it was parked; or
  - (b) the driver of the private hire car was, during the period when the vehicle was parked, waiting to pick up a person who had hired it before the beginning of that period; or
  - (c) the vehicle was parked at the direction, or with the agreement, of a police officer or authorised person.

## **Division 9.4                    Restricted hire vehicles**

### **125    Use of motor vehicles as restricted hire vehicles** (MTA s 168 (a))

A person must not use a motor vehicle as a restricted hire vehicle on a road or road related area other than in accordance with a restricted hire vehicle operator's licence.

Maximum penalty: 50 penalty units.

### **126    Restricted hire vehicle operator's licences** (MTA s 28A, s 31A (1))

- (1) The road transport authority may issue a licence to a person to use a motor vehicle as a restricted hire vehicle (a *restricted hire vehicle operator's licence*) after considering whether a private hire car could provide the services proposed to be provided by the proposed restricted hire vehicle.
- (2) A restricted hire vehicle operator's licence may include conditions, including conditions about—
  - (a) the hours when the licence holder may use the vehicle as a restricted hire vehicle; and
  - (b) the routes, or the areas, where the licence holder may use the vehicle as a restricted hire vehicle; and
  - (c) the kinds of functions or events for which the vehicle may be used as a restricted hire vehicle.
- (3) A restricted hire vehicle operator's licence must state the maximum number of passengers the restricted hire vehicle may carry.
- (4) The road transport authority may renew a restricted hire vehicle operator's licence.
- (5) A restricted hire vehicle operator's licence is not transferable.

- (6) Unless sooner cancelled or suspended, a restricted hire vehicle operator's licence remains in force for the period stated in the licence.

**127 Offence to contravene condition of restricted hire vehicle operator's licence (MTA s 28A (7))**

The holder of a restricted hire vehicle operator's licence must not, without reasonable excuse, contravene a condition of the licence.

Maximum penalty: 50 penalty units.

**128 Variation of restricted hire vehicle operator's licence initiated by licence holder (MTA s 28B, s 26T (3))**

- (1) The holder of a restricted hire vehicle operator's licence may apply, in writing, to the road transport authority for the authority to—
- (a) vary or revoke a condition of the licence; or
  - (b) impose a new condition on the licence.
- (2) The road transport authority must consider the following matters in deciding the application:
- (a) whether there has been, or is likely to be, a change of use of the vehicle;
  - (b) the likelihood of danger to the public;
  - (c) inconvenience to the public;
  - (d) the extent of any adverse competitive effect on private hire cars and taxis.
- (3) The road transport authority may also consider any other matter the authority considers relevant.
- (4) The road transport authority must, after considering the matters mentioned in subsections (2) and (3)—
- (a) vary, revoke or impose the condition; or

- (b) refuse to vary, revoke or impose the condition.
- (5) A variation may be effective for a stated period or for the unexpired period of the licence.

**129 Variation of restricted hire vehicle operator's licences initiated by road transport authority (MTA s 28C, s 26T (3))**

- (1) If, after considering the required criteria and any other matters the road transport authority considers relevant, the authority has reasonable grounds for believing it is necessary to—
  - (a) vary or revoke a condition of a restricted hire vehicle operator's licence; or
  - (b) impose a new condition on a restricted hire vehicle operator's licence;

the authority must give the licence holder written notice under this subsection.

- (2) The written notice must—
  - (a) state the required criteria and any other matters considered by the road transport authority; and
  - (b) state the grounds for the authority's belief; and
  - (c) state the proposed variation, revocation or new condition; and
  - (d) invite the licence holder to make representations, within a stated period, why the licence should not be varied as proposed.
- (3) If the road transport authority is satisfied that the licence should be varied as proposed, after considering—
  - (a) any representation made by the licence holder under subsection (2) (d); and
  - (b) the required criteria; and
  - (c) any other matters the authority considers relevant;

the authority must, by written notice, require the licence holder to give the licence to the authority within 14 days after the notice is given to the licence holder.

- (4) The licence holder must not, without reasonable excuse, contravene a requirement made under subsection (3).

Maximum penalty: 5 penalty units.

- (5) On receiving the licence, the road transport authority must—
- (a) vary the licence as proposed; and
  - (b) return it to the licence holder.
- (6) A variation may be effective for a stated period or for the unexpired period of the licence.
- (7) For this section, the *required criteria* are the following:
- (a) whether there has been, or is likely to be, a change in the use of the restricted hire vehicle;
  - (b) the likelihood of danger to the public;
  - (c) inconvenience to the public;
  - (d) the extent of any adverse competitive effect on private hire cars and taxis.

**130 Restricted hire vehicles used as private hire cars**  
(MTA s 28D)

- (1) The road transport authority may, if satisfied there are insufficient private hire cars to meet an actual or predicted demand for private hire cars, publish in a daily newspaper published and circulating in the ACT a notice stating that restricted hire vehicles may be operated as a private hire car for the period stated in the notice.
- (2) A restricted hire vehicle operating as a private hire car under this section—
- (a) is taken not to be a private hire car for this part; but

- (b) is taken to be a private hire car for provisions dealing with fares in regulations made under this Act.
- (3) A person must not, without reasonable excuse, operate a restricted hire vehicle as a private hire car other than in accordance with a notice under this section.

Maximum penalty: 20 penalty units.

**131 Display of restricted hire vehicle operator's licence**  
(MTA s 28E)

The holder of a restricted hire vehicle operator's licence, while using the restricted hire vehicle (whether or not as a private hire car), must not, without reasonable excuse, fail to display in the vehicle—

- (a) the licence; and
- (b) any notification of variation of a condition that is not marked on the licence.

Maximum penalty: 5 penalty units.

**132 Suspension or cancellation of restricted hire vehicle operator's licence** (MTA s 30)

The road transport authority may suspend or cancel a restricted hire vehicle operator's licence if—

- (a) satisfied the restricted hire vehicle has been used for an illegal purpose; or
- (b) the licence, or any transfer of the licence, was obtained by a false statement or misrepresentation; or
- (c) the vehicle is not an insured motor vehicle for part 10 (Compulsory vehicle insurance); or
- (d) the licence holder has not maintained a public vehicle policy for the vehicle.



**133 Offence to carry more than licensed number of passengers in restricted hire vehicle (MTA s 31A (2), (4))**

The driver of a restricted hire vehicle must not, without reasonable excuse, carry more passengers in the vehicle than the maximum number stated in the restricted hire vehicle operator's licence.

Maximum penalty: 5 penalty units.

**134 Offence to park restricted hire vehicles on road for longer than 30 minutes (MTA s 154 (3), (4))**

- (1) The driver of a restricted hire vehicle must not park the vehicle on a road for longer than 30 minutes.

Maximum penalty: 20 penalty units.

- (2) The driver does not contravene subsection (1) if—
- (a) the vehicle was hired throughout the period when it was parked; or
  - (b) the driver was, throughout the period when the vehicle was parked, waiting to pick up a person who had hired it before the beginning of that period; or
  - (c) the vehicle was parked at the direction, or with the agreement, of a police officer or authorised person.

**Division 9.5 Sightseeing vehicles**

**135 Sightseeing vehicle operator's licences (MTA s 29 (1))**

- (1) The road transport authority may issue a licence to a person to use a taxi or private hire car to carry sightseers on sightseeing tours at separate fares (a *sightseeing vehicle operator's licence*).
- (2) A sightseeing vehicle operator's licence is subject to the conditions decided, in writing, by the Minister for this section.
- (3) The road transport authority may renew a sightseeing vehicle operator's licence.

**136 Sightseeing vehicle must only carry sightseers**  
(MTA s 29 (4))

The holder of a sightseeing vehicle operator's licence must not use the licensed vehicle to carry at separate fares anyone other than sightseers on a sightseeing tour.

Maximum penalty: 20 penalty units.

**Division 9.9 Certain people to have use, control and management of vehicles**

**152 Certain people to have use, control and management of vehicles** (MTA s 31)

- (1) The road transport authority may cancel or suspend a private hire car operator's licence or restricted hire vehicle operator's licence if not satisfied that at least 1 of the people prescribed under subsection (3) has the use, control and management of the private hire car or restricted hire vehicle.
- (2) The road transport authority may refuse an application by a person for a licence, or for the renewal of a licence, for a private hire car or restricted hire vehicle if not satisfied that at least 1 of the people who has or will have use, control and management of the vehicle is or will be a person prescribed under subsection (3).
- (3) For subsections (1) and (2), the following people are prescribed:
  - (a) the licence holder;
  - (b) a person in relation to whom the road transport authority has been given a notice in accordance with subsection (4);
  - (c) an employee of a person mentioned in paragraph (a) or (b).
- (4) A notice is given in accordance with this subsection if it is signed by the person who is, or will be, the relevant licence holder and by the person to whom the notice relates.

## **Division 9.10      Other matters**

### **153    Fire extinguisher to be carried (MTA s 32, s 26T (2))**

- (1) The holder of a licence under this part for a public vehicle commits an offence if the vehicle is not equipped with a fire extinguisher.

Maximum penalty: 20 penalty units.

- (2) In this section:

*holder of a licence under this part* includes a person mentioned in section 152 (3) (b) (a person in relation to whom the road transport authority has been given a notice in accordance with section 152 (4)).

### **154    Dangerous or offensive articles (MTA s 39)**

A person must not bring an offensive or dangerous article into a public vehicle.

Maximum penalty: 20 penalty units.

### **155    Unauthorised use of motor vehicles (MTA s 168 (b)-(d))**

- (1) A person must not, other than in accordance with a licence issued under this Act, use a motor vehicle on a road or road related area to carry people for monetary or other consideration if the amount of monetary or other consideration is more than the actual cost of operating the vehicle to carry the people.

- (2) This section does not apply to a public bus or taxi.

Maximum penalty: 50 penalty units.

### **156    Refusal, cancellation or suspension of licences or registration etc (MTA s 104 (2) (da), (e), (5) (c))**

- (1) The road transport authority may cancel or suspend, for a period the authority considers appropriate, a restricted hire vehicle operator's

licence if the authority believes on reasonable grounds the licence holder has contravened a condition of the licence.

- (2) The road transport authority may cancel or suspend, for a period the authority considers appropriate, bus operator's licence, private hire car operator's licence or restricted hire vehicle operator's licence if the authority believes on reasonable grounds the vehicle is not being used, or is not in a fit condition to be used, as a public vehicle.
- (3) The road transport authority may take the action the authority considers appropriate—
  - (a) to decide whether a licence for a public vehicle should be cancelled or suspended; and
  - (b) to prevent a vehicle being used on a road as a public vehicle that is not in a fit condition to be used as a public vehicle.

## **157 Regulations about public vehicles**

(MTA s 218 (f)-(i), (n), (q)-(t))

The regulations may make provision for or with respect to public vehicles and licensing of public vehicles, including, for example, provision about any of the following matters:

- (a) badges to be worn by drivers or conductors of public vehicles and the form, description, issue, wearing, and return of those badges;
- (b) the form, construction and equipment of public vehicles;
- (c) additional numberplates for public vehicles;
- (d) the amount of luggage and weight of goods to be carried in or on a public vehicle;
- (e) the payment fares for public vehicles;
- (f) the speed at which public vehicles hired by time may travel;
- (g) misconduct by drivers and conductors of public vehicles;

- (h) prohibiting touting, or otherwise soliciting, anyone to hire or use a public vehicle;
- (i) the rights and liabilities of—
  - (i) the holders of licences for public vehicles; and
  - (ii) drivers and conductors of public vehicles; and
  - (iii) people hiring or using public vehicles;
- (j) the form, issue, use and replacement of licences under this part;
- (k) the production of licences issued under this part to the road transport authority, a police officer or an authorised person.

## Part 10 Compulsory vehicle insurance

### Division 10.1 Preliminary

#### 158 Definitions for pt 10

(MTA s 49, s 52 (4), s 79, MAA s 3 (1), MACA s 3)

In this part:

*accident*—see *motor accident*.

*authorised insurer* means—

- (a) a corporation that is approved as an authorised insurer under this part; or
- (b) in relation to the death of, or bodily injury to, a person caused by, or arising out of the use of, an uninsured or unidentified motor vehicle on a road or road related area—the nominal defendant.

*certificate of insurance* means a certificate of insurance mentioned in section 164 (1) or (2) (Issue of certificates of third-party insurance).

*claim* means a claim for damages in relation to the death of, or bodily injury to, a person caused by, or arising out of the use of, a motor vehicle.

*Commonwealth authority* means a body, whether or not incorporated, established under a Commonwealth Act.

*hospital treatment* means treatment at a hospital, and includes—

- (a) maintenance of a person as a patient at the hospital; and
- (b) the provision by the hospital of nursing attendance, medicines, medical and surgical supplies or curative apparatus; and
- (c) any other ancillary service.

***insured motor vehicle*** means a motor vehicle (including a trailer) for which a third-party policy is in force.

***insured person***, for a third-party policy, means a person insured under the policy.

***issue***, of a third-party policy, includes the issue of a renewal of the policy.

***medical and surgical treatment*** includes—

- (a) an examination, test or analysis, conducted by or under the direction, or at the request, of a doctor; and
- (b) dental treatment by a dentist or dental prosthetist; and
- (c) chiropractic treatment by a chiropractor; and
- (d) treatment by a psychologist; and
- (e) therapeutic treatment by a masseur, osteopath, physiotherapist, remedial kinesiologist or speech therapist; and
- (f) therapeutic treatment (including treatment by a psychologist) given on referral by a doctor or dentist; and
- (g) the provision, repair or replacement of contact lenses, crutches, prostheses, spectacles or other artificial aids; and
- (h) the provision otherwise than by a hospital of nursing attendance, medicines, medical and surgical supplies or curative apparatus; and
- (i) any consultation, examination, therapeutic treatment or other service reasonably rendered in connection with any treatment mentioned in paragraph (b), (c), (e) or (f); and
- (j) ambulance transport to a hospital.

***motor accident*** (or ***accident***) means an accident or other incident in which the death of, or bodily injury to, a person is caused by, or arises out of the use of, a motor vehicle.

***nominal defendant*** means the person who is the nominal defendant under this part.

***owner***, of a motor vehicle, means a person who is the owner of the vehicle under section 159 (Meaning of ***owner*** for pt 10) or section 160 (Application of pt 10 to motor vehicles with trader's plate).

***public vehicle*** means a private hire car, public bus, restricted hire vehicle or taxi.

***public vehicle policy***—see section 218.

***registration***, of a motor vehicle, means—

- (a) registration of the vehicle under the *Road Transport (Vehicle Registration) Act 1999*; or
- (b) the issue of an unregistered vehicle permit for the vehicle under the *Road Transport (Vehicle Registration) Act 1999*; or
- (c) registration of the vehicle in the ACT under the *Interstate Road Transport Act 1985* (Cwlth).

***third-party policy*** means—

- (a) a policy of insurance mentioned in section 163 (Third-party policies); or
- (b) for a motor vehicle with trader's plate attached—see section 160 (Application of pt 10 to motor vehicles with trader's plate).

***unidentified motor vehicle*** means a motor vehicle mentioned in section 180 (1) (Action against nominal defendant if vehicle not identified).

***uninsured motor vehicle*** means a motor vehicle (including a trailer) that is not an insured motor vehicle, other than a motor vehicle that is exempt from section 162 (Third-party insurance compulsory).



**159 Meaning of *owner* for pt 10 (MAA s 3 (3)-(4), MACA s 4 (1)-(2))**

- (1) For this part, the *owner* of a motor vehicle is—
  - (a) if the vehicle is registered—each of the following:
    - (i) a registered operator of the vehicle, unless the operator has sold the vehicle, or the person's interest in the vehicle, or ceased to have possession of it;
    - (ii) anyone else who is a sole or joint owner of the vehicle, unless the person has sold the vehicle, or the person's interest in the vehicle, or ceased to have possession of it;
    - (iii) if a registered operator or sole or joint owner of the vehicle has sold the vehicle, or the person's interest in the vehicle, or ceased to have possession of it—anyone who solely or jointly, or in common with anyone else, is entitled to immediate possession of the vehicle; or
  - (b) if the vehicle is unregistered—each person who solely or jointly, or in common with anyone else, is entitled to immediate possession of the vehicle; or
  - (c) if the motor vehicle has a trader's plate attached—the person (or each person) to whom the trader's plate was issued.
- (2) For subsection (1), a person is taken not to have ceased to have possession (or not to have acquired possession) of a motor vehicle if a change in possession happens by way of—
  - (a) any hiring (other than a hiring under a hire-purchase agreement) or lending of the vehicle for not longer than 3 months; or
  - (b) the passing of possession of the vehicle to a bailee—
    - (i) for sale or disposal; or

- (ii) for alteration, repair, renovation, storing, or a similar purpose not involving the use of the vehicle for the bailee's benefit.

**160 Application of pt 10 to motor vehicles with trader's plate**  
(MAA s 3 (5), MACA s 4 (3))

In the application of this part to a motor vehicle with a trader's plate attached (whether or not the plate was attached with the authority of the person to whom the plate was issued (the *trader*))—

- (a) a reference to the *owner* is a reference to the trader; and
- (b) a reference to the *third-party policy* for the vehicle is a reference to the third-party policy for motor vehicles to which the trader's plate is attached (whether or not with the trader's authority).

**161 Application of pt 10 to Territory and Commonwealth motor vehicles** (MTA s 50)

- (1) A third-party policy or a public vehicle policy is not required for a motor vehicle owned by the Territory, the Commonwealth or a Territory or Commonwealth authority.
- (2) However, the Territory, the Commonwealth or a Territory or Commonwealth authority is—
  - (a) in relation to a motor vehicle for which a third-party policy is not in force—under the same liabilities, and has the same rights, as an authorised insurer would be under, or have, if the insurer had issued a third-party policy for the vehicle; and
  - (b) in relation to a public vehicle for which a public vehicle policy is not in force—under the same liabilities, and has the same rights, as an insurer would be under, or have, if the insurer had issued a public vehicle policy for the vehicle.

## **Division 10.2          Compulsory insurance**

### **162    Third-party insurance compulsory (MTA s 51, s 93, MAA s 8, MACA s 8, 9)**

- (1) A person who uses a motor vehicle that is not an insured motor vehicle on a road or road related area commits an offence.

Maximum penalty: 50 penalty units.

- (2) If a person is convicted, or found guilty, of an offence against subsection (1) in relation to a motor vehicle, the court may order that—

- (a) the registration of the vehicle be cancelled; and
- (b) the person is not entitled to have the motor vehicle re-registered for 12 months.

- (3) An order under subsection (2) is in addition to any penalty imposed under subsection (1).

- (4) It is a defence to a prosecution for an offence against subsection (1) if the defendant establishes that, when the motor vehicle was used on the road or road related area, the defendant had reasonable grounds for believing, and did in fact believe, that the vehicle was an insured motor vehicle.

- (5) This section does not apply to a person who uses a motor vehicle on a road or road related area if—

- (a) the vehicle may lawfully be used on the road or road related area although not registered; or
- (b) the vehicle is owned by the Territory, the Commonwealth or a Territory or Commonwealth authority; or
- (c) the vehicle is exempt from this section under the regulations.

### **163    Third-party policies (MTA s 54 (1), MAA s 9, MACA s 10)**

A third-party policy is a policy that—

- (a) insures the owner of the motor vehicle to which the policy relates, and anyone else who drives the vehicle (whether or not with the owner's authority), against liability in relation to the death of, or bodily injury to, a person caused by, or arising out of the use of, the vehicle anywhere in Australia (whether or not on a road or road related area); and
- (b) is in the terms prescribed under the regulations.

### **Division 10.3 Taking out and duration of third-party insurance**

#### **164 Issue of certificates of third-party insurance (MTA s 53, s 57 (1), MAA s 10, MACA s 11)**

- (1) If an authorised insurer accepts a premium for the insurance of a motor vehicle under a third-party policy, the authorised insurer must immediately issue a certificate of insurance to the owner of the vehicle.
- (2) If an authorised insurer accepts a premium for the insurance, under a third-party policy, of motor vehicles to which a trader's plate is or is to be attached, the authorised insurer must immediately issue a certificate of insurance to the person to whom the plate has been issued.
- (3) An authorised insurer who issues a certificate of insurance is taken to have issued a third-party policy for the motor vehicle or motor vehicles to which the certificate relates.
- (4) If 2 or more authorised insurers issue certificates of insurance that (apart from this subsection) could have effect at the same time in relation to the same motor vehicle, a third-party policy is taken to have been issued only by the authorised insurer recorded by the road transport authority in relation to the registration or renewal of registration of the vehicle, or issue of trader's plate, as being the authorised insurer.

**165 Third-party insurance required for registration of motor vehicle** (MTA s 52 (1)-(1D), MAA s 11, MACA s 12)

- (1) The road transport authority may register (or renew the registration of) a motor vehicle for a period (the *registration period*) only if subsection (2) or (3) applies.
- (2) The road transport authority may register (or renew the registration of) the motor vehicle under this subsection if the owner of the vehicle gives to the authority a certificate of insurance for the vehicle that covers at least the registration period.
- (3) The road transport authority may register (or renew the registration of) the motor vehicle under this subsection if the owner of the vehicle—
  - (a) gives to the authority a written nomination of an approved authorised insurer; and
  - (b) pays to the authority the correct insurance premium for the vehicle for the registration period.
- (4) If the road transport authority registers (or renews the registration of) the motor vehicle under subsection (3), the nominated approved authorised insurer is taken to have issued—
  - (a) a certificate of insurance for the vehicle; and
  - (b) a third-party policy for the vehicle that is expressed to begin on the date the registration begins and ends on the date the registration expires.
- (5) For this section and section 166, an *approved authorised insurer* is an authorised insurer that—
  - (a) has asked the Minister, in writing, to approve the authorised insurer for this section; and
  - (b) is approved by the Minister for this section.

**166 Third-party insurance required for issue of trader's plate**  
(MTA s 52 (2)-(3), MAA s 11, MACA s 12)

- (1) The road transport authority may issue a trader's plate to a person for a period (the *issue period*) only if subsection (2), (3) or (4) applies.
- (2) The road transport authority may issue a trader's plate to the person under this subsection if the person gives the authority a certificate of insurance for motor vehicles to which the plate is to be attached that covers at least the issue period.
- (3) The road transport authority may issue a trader's plate to the person under this subsection if the person—
  - (a) gives to the authority a written nomination of an approved authorised insurer; and
  - (b) pays to the authority the correct insurance premium in relation to the plate for the issue period.
- (4) The road transport authority may issue a trader's plate to the person under this subsection if the plate (the *replacement plate*) is issued in place of another trader's plate (the *original plate*) issued to the person before the end of the third-party policy for the original plate.
- (5) The third-party policy for the original plate applies to motor vehicles to which the replacement plate is attached instead of motor vehicles to which the original plate is attached.
- (6) If the road transport authority issues a trader's plate under subsection (3), the nominated approved authorised insurer is taken to have issued—
  - (a) a certificate of insurance for motor vehicles to which the plate is to be attached; and
  - (b) a third-party policy for those vehicles that is expressed to begin on the date of issue of the plate and end on the date the issue of the plate expires.

(7) In this section:

*approved authorised insurer*—see section 165 (1) (Third-party insurance required for registration of motor vehicle).

**167 Beginning and duration of third-party policy**  
(MTA s 54 (5)-(7))

- (1) A third-party policy issued for a motor vehicle by an authorised insurer—
- (a) begins on the date it is expressed to begin; and
  - (b) unless it is sooner cancelled under this part, continues in force—
    - (i) if another third-party policy issued for the vehicle by the same or another authorised insurer begins within 15 days after the date the first policy is expressed to end—until the beginning of the other policy; and
    - (ii) in any other case—until 15 days after the date it is expressed to end.
- (2) If an authorised insurer renews a third-party policy for a motor vehicle for a period expressed to end on the expiry of a renewal of the registration of the vehicle—
- (a) the insurance premium for the policy is payable as if the renewal of the policy were expressed to begin from the date of the beginning of the renewal of the registration, whether or not the renewal of the policy is so expressed; and
  - (b) the authorised insurer is not liable under the renewal of the policy in relation to the death of, or bodily injury to, a person caused by, or arising out of the use of, the vehicle during the period (if any) between the date from which the renewal of the policy is expressed to begin and the date of payment of the insurance premium for the renewal of the policy; and

- (c) the policy is taken not to be in force during the period (if any) mentioned in paragraph (b).

**168 Cancellation of third-party policies etc** (MTA s 57 (2),  
MAA s 13, MACA s 14)

- (1) An authorised insurer has no power to cancel a third-party policy.
- (2) A third-party policy may only be cancelled in accordance with this section.
- (3) A third-party policy is automatically cancelled on the cancellation of the registration of the motor vehicle to which it applies.
- (4) If all or any part of the premium payable for a third-party policy is paid by cheque or credit card and the cheque is not met on presentation or the credit card transaction is not honoured, the authorised insurer may ask the road transport authority to suspend the registration of the motor vehicle to which the policy applies in the way, and for the period (the *suspension period*), provided under the *Road Transport (Vehicle Registration) Act 1999*.
- (5) Before asking the road transport authority to suspend the registration of the motor vehicle, the authorised insurer must tell the owner of the vehicle that—
  - (a) the insurer intends asking the authority to suspend the registration; and
  - (b) the registration and third-party policy will be cancelled at the end of the suspension period if the amount outstanding has not been paid before the end of that period.
- (6) Unless the authorised insurer tells the road transport authority that the premium has been paid before the end of the suspension period, the authority must cancel the registration of the motor vehicle at the end of the suspension period, and, on the cancellation of the registration, the third-party policy is automatically cancelled.
- (7) If the registration of a motor vehicle is cancelled (except under subsection (6)), but restored before the date for renewal of the



registration, the third-party policy cancelled is taken to have remained in force during the period of cancellation.

## **Division 10.4 Indemnity under third-party policy**

### **169 Indemnification of insured persons** (MTA s 54 (3)-(4), s 61 (6)-(7), MAA s 17, MACA s 16)

- (1) An authorised insurer is, despite any other Territory law, liable to indemnify the insured persons under a third-party policy of the insurer in relation to any liability that the policy purports to cover.
- (2) Without limiting subsection (1), it is not a defence to an action against an authorised insurer for the insurer to claim that the insurer is not liable under a third-party policy because of any act or omission of the owner or any driver of the motor vehicle insured under the policy.

#### **Examples**

- 1 The insurer cannot claim that the policy was obtained by a false statement or misrepresentation or nondisclosure, whether fraudulent, material or otherwise.
- 2 The insurer cannot claim that the owner committed a breach of, or failed to comply with, the policy.
- 3 The insurer cannot claim that the owner or driver committed an offence against the road transport legislation or any other law.

*Note* An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see *Legislation Act 2001*, s 126 and s 132).

- (3) Without also limiting subsection (1), the fact that a third-party policy contains a term, condition or warranty not in the terms prescribed under the regulations does not affect the validity or operation of the policy, but the term, condition or warranty is void.
- (4) An authorised insurer must not, on a proposal for a third-party policy, issue a policy of insurance or indemnity that—
  - (a) is not a third-party policy; or

- (b) has a term, condition or warranty not in the terms prescribed under the regulations.

Maximum penalty (subsection (4)): 20 penalty units.

**170 Extension of indemnity provided (MTA s 54 (9)-(10), MAA s 24, MACA s 22)**

- (1) A third-party policy extends to indemnify, to the extent of the insurance effected by the policy—
  - (a) if the insured person is dead—the insured person’s estate against—
    - (i) liability arising under a cause of action that survives against the estate because of the *Law Reform (Miscellaneous Provisions) Act 1955*, section 4 (which is about the survival of certain existing or vested causes of action); and
    - (ii) liability arising because of that Act, section 7 (which is the survival of certain causes of action where the person liable dies before or at the time of damage); and
  - (b) the insured person or, if the insured person is dead, his or her estate against—
    - (i) liability arising where the insured person or his or her estate has been joined as an alternative defendant in an action; and
    - (ii) liability arising where the insured person or his or her estate has served or been served with a third-party notice; and
    - (iii) liability arising where the insured person or his or her estate claims contribution from someone as a joint tortfeasor or has a claim made against him or her or the estate as a joint tortfeasor.

- (2) In this section:

***insured person*** means a person who is insured or indemnified against liability in relation to the death of, or bodily injury to, a person caused by, or arising out of the use of, a motor vehicle if the person is insured or indemnified under—

- (a) a third-party policy; or
- (b) a policy of insurance complying with the provisions of a law in force in any part of Australia (except a Territory law) that requires the owner or driver of a motor vehicle to be insured against any such liability; or
- (c) the provisions of any other law in force in any part of Australia (except a Territory law) that indemnify the owner or driver of a motor vehicle against any such liability.

**171 Risks not insured under third-party policies** (MTA s 54 (2), MAA s 16, MACA s 15)

A third-party policy does not insure the owner or driver of a motor vehicle against—

- (a) a liability to pay compensation under the *Workers Compensation Act 1951* (or any corresponding law of another jurisdiction) to a worker employed by the owner or driver; or
- (b) a liability that may be incurred by the owner or driver under an agreement unless the liability is a liability that would have arisen without the agreement.

**172 Effect of nonpayment of correct premium**  
(MTA s 89, MAA s 18, MACA s 17)

- (1) A person must not use an insured motor vehicle on a road or road related area if the correct insurance premium has not been paid for the third-party policy applying to the vehicle.

Maximum penalty: 20 penalty units.

- (2) It is a defence to a prosecution for an offence against subsection (1) if the defendant establishes that, when the motor vehicle was used

on a road or road related area, the defendant had reasonable grounds for believing, and did in fact believe—

- (a) if the defendant is the owner (or an owner) of the vehicle—that the correct insurance premium had been paid for the third-party policy; or
  - (b) in any other case—that the vehicle was an insured motor vehicle.
- (3) The fact that the correct insurance premium has not been paid for a third-party policy does not affect the validity or operation of the policy.
- (4) An authorised insurer to whom an incorrect insurance premium has been paid may recover any unpaid amount of the premium from the person liable to pay it as a debt in a court of competent jurisdiction.

## **Division 10.5 Other matters relating to third-party policies**

### **173 Effect of change of ownership of motor vehicle or trader's business** (MTA s 71, s 72, MAA s 19, MACA s 18)

- (1) While a third-party policy is in force for a motor vehicle, the third-party policy has effect in relation to the owner for the time being of the vehicle (and any driver of the vehicle) despite a change in the ownership of the vehicle.
- (2) While a third-party policy is in force for motor vehicles to which a trader's plate issued in relation to any business is attached, the third-party policy has effect in relation to the person who is for the time being carrying on the business (and any driver of any such vehicle) despite a change in the ownership of the business.

**174 Notice of change of registered particulars about motor vehicles etc** (MAA s 19A, MACA s 19)

- (1) If the road transport authority becomes aware of a change in the registered particulars of an insured motor vehicle, the authority must tell the authorised insurer for the vehicle about the change.
- (2) If, because of a change in ownership of a motor vehicle, a change in the place where the motor vehicle is usually garaged or any other change, a higher premium would be payable for the vehicle than the premium paid or payable under the third-party policy in force for the vehicle before the change happened, the authorised insurer that issued the policy may recover the difference from the owner of the vehicle as a debt in a court of competent jurisdiction.

**175 Rights of authorised insurer against unauthorised drivers** (MTA s 67, MAA s 22, MACA s 20)

- (1) This section applies if—
  - (a) a person uses an insured motor vehicle without the owner's authority and without reasonable grounds for believing the person has the owner's authority; and
  - (b) an authorised insurer pays any amount or incurs any costs under the third-party policy applying to the vehicle in relation to the death of, or bodily injury to, a person caused by, or arising out of that use of, the vehicle.
- (2) The authorised insurer may recover the amount paid or the costs incurred from the person as a debt in a court of competent jurisdiction.

**176 Trader's policy to apply to insured motor vehicles** (MTA s 56)

If the death of, or bodily injury to, a person is caused by, or arises out of the use of, an insured motor vehicle while a trader's plate is attached to the vehicle, the third-party policy for motor vehicles to which the plate is attached is (to the exclusion of any other third-

party policy for the particular vehicle) the policy under which anyone whom the policy purports to insure is insured in relation to the death or bodily injury.

**177 Obtaining third-party policy by false statements**  
(MTA s 52 (5))

A person must not, in or in relation to a proposal for a third-party policy—

- (a) make a statement or representation that the person knows is false or misleading in a material particular; or
- (b) omit from a statement or representation anything without which the statement or representation is, to the person's knowledge, misleading in a material particular; or
- (c) fail to disclose a material fact of which the person has knowledge.

Maximum penalty: 20 penalty units.

**Division 10.6 Nominal defendant scheme for uninsured and unidentified motor vehicles**

**178 Proceedings by or against nominal defendant**  
(MTA s 84 (3), MAA s 26 (2), MACA s 32 (2))

- (1) Any action or other proceedings by or against the nominal defendant is to be taken in the name of the 'Nominal Defendant'.
- (2) An action or other proceeding that has been started by or against the nominal defendant is not affected by—
  - (a) the death or resignation of the person holding office as nominal defendant; or
  - (b) the revocation of the person's appointment; or
  - (c) a vacancy in the office; or

- (d) a change in the holder of the office.

**179 Action against nominal defendant if vehicle uninsured**  
(MTA s 85 (1)-(2), MAA s 27, MACA s 33)

- (1) An action to enforce a claim for the recovery of damages in relation to the death of, or bodily injury to, a person caused by, or arising out of the use of, an uninsured motor vehicle on a road or road related area in the ACT may be brought against the nominal defendant.
- (2) The action may be brought even though the owner or driver of the motor vehicle is dead or cannot be found.
- (3) In relation to the action, the nominal defendant is liable as if the nominal defendant were the owner or driver of the motor vehicle.
- (4) This section does not apply—
  - (a) if the uninsured motor vehicle is owned by the Territory, the Commonwealth or a Territory or Commonwealth authority; or
  - (b) in the circumstances prescribed under the regulations for this subsection.
- (5) In this section:

*motor vehicle* means a motor vehicle—

- (a) that is exempt from registration; or
- (b) that is not exempt from registration and that—
  - (i) is required to be registered to be used lawfully on a road or road related area in the ACT; and
  - (ii) immediately before the motor accident, could (or could after the repair of minor defects) have been registered.

**180 Action against nominal defendant if vehicle not identified**  
(MTA s 85 (3)-(4), MAA s 28, MACA s 34)

- (1) This section applies to an action to enforce a claim for the recovery of damages in relation to the death of, or bodily injury to, a person

caused by, or arising out of the use of, a motor vehicle on a road or road related area in the ACT if the identity of the vehicle cannot be established after appropriate inquiry and search.

- (2) The action may be brought against the nominal defendant.
- (3) The inquiry or search may be proved orally or by affidavit of the person who made the inquiry or search.
- (4) In relation to the action, the nominal defendant is liable as if the nominal defendant were the owner or driver of the motor vehicle.

**181 Notice of claims against nominal defendant**  
(MTA s 61 (4)-(4A), s 85 (5)-(7))

- (1) An action to enforce a claim against the nominal defendant may be taken only if the claimant gives written notice of intention to make a claim to the nominal defendant within 3 months after the motor accident.
- (2) However, the time for giving the notice may be extended by—
  - (a) the nominal defendant; or
  - (b) if the nominal defendant refuses to extend the time—the court in which the action is proposed to be brought.
- (3) This section does not apply to a claim for the costs of medical and surgical treatment, or hospital treatment, to which section 186 (Liability of authorised insurer and nominal defendant for costs of treatment) applies.

**182 Nominal defendant not personally liable** (MTA s 86 (1),  
MAA s 29, MACA s 37)

- (1) The nominal defendant is not personally liable to pay an amount payable in satisfaction of any claim made or judgment obtained against the nominal defendant or the amount of any costs or expenses of the nominal defendant in relation to such a claim or judgment.



- (2) Any such amount is to be paid by the nominal defendant out of the amounts provided by the Territory, the Commonwealth and authorised insurers.

**183 Payments of amounts for nominal defendant**  
(MTA s 86 (2)-(9))

- (1) This section applies to—
- (a) an amount payable in satisfaction of a claim made or judgment obtained against the nominal defendant; or
  - (b) an amount of costs or expenses of the nominal defendant in relation to such a claim or judgment; or
  - (c) an amount of other costs or expenses of the nominal defendant in exercising his or her functions.
- (2) An amount mentioned in subsection (1) (a) or (b) is to be provided by the Territory, the Commonwealth and the corporations that were authorised insurers when the motor accident that gave rise to the claim happened, in the proportions decided by the road transport authority.
- (3) An amount mentioned in subsection (1) (c) is to be provided by the Territory, the Commonwealth and the corporations that are authorised insurers, in the proportions decided by the road transport authority.
- (4) In making a decision under subsection (2) or (3), the road transport authority must, as far as practicable, have regard to—
- (a) for authorised insurers—the premium income received by each authorised insurer in relation to third-party policies during a period adopted by the authority for the purpose; and
  - (b) for the Territory and the Commonwealth—the premiums that would have been payable for motor vehicles owned by the Territory, the Commonwealth and Territory and Commonwealth authorities, and ordinarily used in the ACT,

during that period if the vehicles had been insured under third-party policies.

- (5) The road transport authority must give written notice of a decision under this section to the Territory, the Commonwealth and each authorised insurer concerned.
- (6) The notice must state—
  - (a) the amount payable by the Territory, Commonwealth or authorised insurer; and
  - (b) the time within which the amount must be paid to the nominal defendant.
- (7) The road transport authority may amend or revoke a notice given under this section.
- (8) An authorised insurer commits an offence if the insurer fails to pay an amount payable by the insurer to the nominal defendant within the time in which it is payable under a notice under subsection (5).

Maximum penalty: 20 penalty units.
- (9) If the Magistrates Court convicts an authorised insurer, or finds an authorised insurer guilty, of an offence against subsection (8), the court may order the insurer to pay any unpaid amount to the nominal defendant.
- (10) The order under subsection (9) is in addition to any penalty imposed for the offence.
- (11) For the enforcement of payment of the order and the calculation of interest in relation to a judgment, the order is taken to be a final judgment of the Magistrates Court for the amount stated in the order.

**184 Recovery by nominal defendant from owner or driver**  
(MTA s 87 (1)-(3), MAA s 31, MACA s 39)

- (1) An amount paid by the nominal defendant in satisfaction of a claim made or judgment obtained against the nominal defendant, and an

amount of costs or expenses of the nominal defendant in relation to such a claim or judgment, may be recovered by the nominal defendant as a debt—

- (a) from the person who, at the time of the motor accident that gave rise to the claim or in relation to which the judgment was obtained, was the owner of the motor vehicle; or
  - (b) if at the time of the accident someone else was driving the vehicle—from the owner and driver, or from either of them.
- (2) It is a defence to an action under this section against the owner (whether jointly or severally with the driver) if the owner proves that, at the time of the motor accident, someone else was driving the motor vehicle without the owner's authority.
- (3) It is a defence to an action under this section against the driver of an uninsured motor vehicle (whether jointly or severally with the owner) if the driver proves that, at the time of the motor accident—
- (a) the driver was driving the vehicle with the owner's authority or had reasonable grounds for believing, and did in fact believe, that he or she had the owner's authority; and
  - (b) the driver had reasonable grounds for believing, and did in fact believe, that the vehicle was an insured motor vehicle.
- (4) The nominal defendant is not entitled to recover an amount under this section from the owner or driver if, at the time of the motor accident—
- (a) the motor vehicle was not required to be registered or was exempt from registration; or
  - (b) if required to be registered—the vehicle was not required to be insured under a third-party policy.

**185 Payment of recovered amounts by nominal defendant**  
(MTA s 87 (4)-(5))

- (1) If the nominal defendant recovers an amount from the owner or driver of a motor vehicle, the amount must be paid to the Territory, the Commonwealth and the authorised insurers that provided the amount paid (and recovered) by the nominal defendant, in the proportions decided by the road transport authority.
- (2) In making the decision, the road transport authority must, as far as practicable, have regard to the proportion of the amount paid to the nominal defendant by the Territory, the Commonwealth and each authorised insurer.

**Division 10.7 Costs of medical, surgical and hospital treatment**

**186 Liability of authorised insurer and nominal defendant for costs of treatment** (MTA s 74-76)

- (1) The section applies if an authorised insurer makes a payment (whether or not with an admission of liability) under a third-party policy, or the nominal defendant makes a payment, in relation to a person (the *injured person*) who received a bodily injury (including a fatal injury) caused by, or arising out of the use of, a motor vehicle.
- (2) The authorised insurer or nominal defendant must pay to a person or hospital that provided medical and surgical treatment or hospital treatment to the injured person the reasonable costs of the treatment if the treatment is necessary and written notice of intention to make a claim for the costs is given to the insurer or nominal defendant within 1 month after the motor accident.
- (3) However, the time for giving the notice may be extended by—
  - (a) the authorised insurer or nominal defendant; or

- (b) if the authorised insurer or nominal defendant refuses to extend the time—the court in which an action to recover the costs of the treatment is proposed to be brought.

**187 Apportionment of costs of treatment (MTA s 77)**

If 2 or more authorised insurers make payments under third-party policies in relation to a person who received a bodily injury (including a fatal injury) caused by, or arising out of the use of, 2 or more motor vehicles, each insurer must meet an equal share of any payment required to be made under section 186 in relation to the injury.

**188 Reduction of liability for treatment (MTA s 78, s 80, MAA s 39D)**

- (1) A payment by an authorised insurer or the nominal defendant under this division in relation to the costs of medical and surgical treatment or hospital treatment of a person discharges, to the extent of payment, the liability of anyone in relation to the costs of the treatment.
- (2) This section is subject to section 184 (Recovery by nominal defendant from owner or driver).

**Division 10.8 Third-party claims**

**189 Notice of accidents (MTA s 70 (1)-(4), (8)-(9))**

- (1) If a motor accident happens, the driver must, as soon as practicable after the accident, give written notice of the accident in accordance with subsection (3) to—
- (a) if the vehicle is an insured motor vehicle—the authorised insurer for the vehicle; or
- (b) if the vehicle is an uninsured motor vehicle—the nominal defendant.

Maximum penalty: 20 penalty units.

- (2) If the driver was not the owner of the motor vehicle at the time of the motor accident, the driver must, as soon as practicable after the accident, also give written notice of the accident in accordance with subsection (3) to the owner.

Maximum penalty: 20 penalty units.

- (3) A notice under subsection (1) or (2) must contain at least the following information:
- (a) the time and date when, and the place where, the motor accident happened;
  - (b) the circumstances of the accident;
  - (c) the name and address of anyone killed or injured in the accident;
  - (d) the name and address of any witness to the accident.
- (4) The driver or owner of the motor vehicle must give any additional information, and must take any steps, in relation to the motor accident that the authorised insurer or nominal defendant reasonably requires, even if a claim has not been made in relation to the accident.
- (5) If the driver or owner fails, without reasonable excuse, to comply with a requirement made under subsection (4), the driver or owner commits an offence.

Maximum penalty: 20 penalty units.

- (6) This section does not apply if—
- (a) the only person who died, or suffered bodily injury, in the motor accident was the owner of the motor vehicle; and
  - (b) the vehicle was being driven by the owner at the time of the accident.

**190 Notice of claims against authorised insurer**  
(MTA s 61 (4)-(4A))

- (1) Action to enforce a claim against an authorised insurer may be taken only if the claimant gives written notice of intention to make a claim to the insurer within 3 months after the motor accident.
- (2) However, the time for giving the notice may be extended by—
  - (a) the authorised insurer; or
  - (b) if the insurer refuses to extend the time—the court in which the action is proposed to be brought.
- (3) This section does not apply to a claim for the costs of medical and surgical treatment, or hospital treatment, to which section 186 (Liability of authorised insurer and nominal defendant for costs of treatment) applies.

**191 Admission of liability by owner or driver etc** (MTA s 70 (5))

If the owner or driver of a motor vehicle involved in a motor accident makes an offer, promise, payment, settlement, or an admission of liability, in relation to death, or bodily injury, caused by, or arising out of the use of, the vehicle, the fact that the offer, promise, payment, settlement or admission has been made is not admissible in evidence in an action or other proceeding against the authorised insurer for the vehicle or the nominal defendant.

**192 Owner and driver to notify authorised insurer of claims etc** (MTA s 70 (6)-(9))

- (1) If—
  - (a) the owner or driver of a motor vehicle involved in a motor accident is given notice of intention to make a claim in relation to death, or bodily injury, caused by, or arising out of the use of, the vehicle; or
  - (b) such a claim is made on the owner or driver; or

- (c) an action in relation to such a claim is brought against the owner or driver;

the owner or driver must immediately give written notice of the notice, claim or action to the authorised insurer for the vehicle.

Maximum penalty: 20 penalty units.

- (2) If the owner of the motor vehicle becomes aware—

- (a) that the driver has been given a notice of intention mentioned in subsection (1); or
- (b) that a claim mentioned in that subsection has been made against the driver; or
- (c) that an action mentioned in that subsection has been brought against the driver;

the owner must immediately give written notice of that fact to the authorised insurer for the vehicle.

Maximum penalty: 20 penalty units.

- (3) The owner or driver of the motor vehicle must not, without the authorised insurer's written consent, begin, or incur any expense in relation to, court proceedings in relation to the death or bodily injury.

Maximum penalty: 20 penalty units.

- (4) This section does not apply if—

- (a) the only person who died, or suffered bodily injury, in the motor accident was the owner of the motor vehicle; and
- (b) the vehicle was being driven by the owner at the time of the accident.



**193 Copy of originating process to be served on authorised insurer (MTA s 55 (1))**

- (1) If a person begins an action in a court against the owner or driver of an insured motor vehicle involved in a motor accident for damages in relation to death, or bodily injury, caused by, or arising out of the use of, the vehicle, the person must serve a copy of the originating process in the action on the authorised insurer for the vehicle.
- (2) Before taking any further step in the action, the person must file in the court an affidavit of service of the process on the authorised insurer.

**194 Failure to allow examination by doctor (MTA s 55 (2))**

The court in which an action for damages is begun in relation to bodily injury to a person caused by, or arising out of the use of, a motor vehicle may stay the action if the person fails, without reasonable excuse, to allow a doctor nominated by the owner, driver or authorised insurer for the vehicle to examine the person to find out the nature and extent of the bodily injury.

**195 Power of authorised insurer to act for insured person (MTA s 68, MAA s 47, MACA s 78)**

- (1) The authorised insurer that issued a third-party policy—
  - (a) may conduct and control negotiations in relation to any claim against a person in relation to a liability against which the person is insured under the policy; and
  - (b) may conduct, or take over the conduct of, any action or other proceeding in relation to the claim, and may conduct the proceeding in the name and on behalf of the person; and
  - (c) may, at any stage of the negotiations or proceeding, compromise or settle the claim.

- (2) The authorised insurer must indemnify the person against all costs and expenses of, or incidental to, the proceeding that arise while the authorised insurer is conducting the proceeding.
- (3) The person must sign any warrant, authority or other document necessary to give effect to this section.
- (4) If the person fails to do so or is absent or cannot be found, the authorised insurer may sign on behalf of the person.
- (5) Anything said or done by the authorised insurer under this section in relation to the settlement of the claim, or the conduct of the proceeding, is not to be regarded as an admission of liability in relation to, and is not to prejudice, any other claim or proceeding arising out of the same motor accident.

**196 Presumption of agency (MTA s 66, MAA s 53, MACA s 112)**

- (1) This section applies if, at the time of a motor accident, someone other than the owner is driving the motor vehicle involved in the accident, whether or not the person is driving with the owner's authority.
- (2) The driver is taken to be the owner's agent acting within the scope of his or her authority for—
  - (a) an action or other proceeding against the owner, whether jointly or severally with the driver, arising out of the accident for damages in relation to the death of, or bodily injury to, a person caused by, or arising out of the use of, the vehicle; and
  - (b) if the vehicle is an insured motor vehicle—the third-party policy applying to the vehicle.
- (3) This section does not imply any ratification by the owner of the acts of the driver.
- (4) The presumption of agency under this section applies not only in relation to an action or other proceeding taken against the owner (whether jointly or severally with the driver), but also in relation to an action or other proceeding—

- (a) if the owner or driver is dead—against the owner or driver’s estate under the *Law Reform (Miscellaneous Provisions) Act 1955*, part 2; and
- (b) if the owner or driver is dead or cannot be served with process—
  - (i) against the authorised insurer of the vehicle under section 197 or the nominal defendant; or
  - (ii) in which the owner or driver, the owner or driver’s estate, the insurer or the nominal defendant is—
    - (A) an alternative defendant; or
    - (B) served with a third-party notice; or
    - (C) made a party to the proceeding for the recovery of contribution under the *Law Reform (Miscellaneous Provisions) Act 1955*, part 4.

**197 Action against authorised insurer if insured dead or unable to be served** (MTA s 61 (3), MAA s 54, MACA s 113)

- (1) If a person against whom a claim can be made is dead or cannot be served with process, the claimant, and anyone claiming contribution or indemnity between joint tortfeasors, may—
  - (a) bring an action in relation to the claim against the person’s authorised insurer; and
  - (b) recover in the action an amount for which the claimant, or the person claiming contribution or indemnity, could have obtained a judgment against the insured person.
- (2) The fact that a person cannot be served with process can be regarded as proved only if it is established that reasonable inquiries have been made in an effort to serve process.

**198 Proof of inability to serve process etc**  
(MTA s 61 (5), MAA s 55, MACA s 114)

The fact that a person cannot be served with process or given notice of a claim may be proved orally or by the affidavit of the person who endeavoured to service the process or claim.

**199 Recovery by authorised insurer from owner or driver**  
(MTA s 62-64)

- (1) This section applies to—
  - (a) an amount paid by an authorised insurer in satisfaction of a claim made or judgment obtained against the authorised insurer, or the owner or driver of an insured motor vehicle, in relation to a motor accident; or
  - (b) an amount of costs or expenses of an authorised insurer in relation to such a claim or judgment.
- (2) The authorised insurer may recover an amount to which this section applies—
  - (a) from the owner of the motor vehicle if the owner contravened a term, condition or warranty of the third-party policy, or a provision of the road transport legislation, in relation to the motor accident; or
  - (b) from the driver if the driver contravened a provision of the road transport legislation in relation to the accident.
- (3) However, the authorised insurer may recover the amount from the owner only if the court is satisfied that—
  - (a) the owner contravened a term, condition or warranty of the third-party policy, or a provision of the road transport legislation, in relation to the motor accident; and
  - (b) the contravention contributed in a material degree to the circumstances in which the insurer agreed to pay, became liable to pay or incurred the amount sought to be recovered.

- (4) Also, the authorised insurer may recover the amount from the driver only if the court is satisfied that—
  - (a) the driver contravened a provision of the road transport legislation in relation to the motor accident; and
  - (b) the contravention contributed in a material degree to the circumstances in which the insurer agreed to pay, became liable to pay or incurred the amount sought to be recovered.
- (5) An authorised insurer is not entitled to recover an amount under this section from both the owner and the driver of the motor vehicle in relation to the same act or omission.
- (6) If a motor vehicle is owned by 2 or more persons, each of them is jointly and severally liable in an action under this section.
- (7) The rights of an authorised insurer under this section are in addition to any other rights or remedy of the insurer.

**200 Entry of judgment against authorised insurer**  
(MTA s 61 (1)-(2A), MAA s 25, MACA s 23)

- (1) If a judgment obtained in a court in relation to the death of, or bodily injury to, a person caused by, or arising out of the use of, an insured motor vehicle is not satisfied in full within 30 days after judgment is entered, the court must, on the judgment creditor's application, direct that judgment be entered against the authorised insurer for the vehicle.
- (2) If execution on the judgment is stayed pending appeal, the time during which execution is stayed is excluded in working out the 30-day period.
- (3) Notice of intention to make the application must be served on the authorised insurer at least 7 days before the hearing of the application.
- (4) If the court directs that judgment be entered against the authorised insurer, the judgment may be enforced as a judgment against the

authorised insurer to the extent to which it was not satisfied when it was entered.

**201 Effect of payment by authorised insurer (MTA s 65)**

A payment made by an authorised insurer in satisfaction of a judgment entered against the insurer under section 200 discharges, to the extent of the payment—

- (a) the liability of the judgment debtor to the judgment creditor or of the insured person; and
- (b) the liability (if any) of the authorised insurer to the judgment debtor or the insured person.

**Division 10.9 Other matters relating to third-party claims**

**202 Actions to be tried without jury (MTA s 81)**

An action brought against the owner or driver of a motor vehicle, or against the nominal defendant, in relation to a motor accident must be tried without a jury.

**203 Court to apportion damages (MTA s 91)**

If judgment is obtained for payment of damages in relation to the death of, or bodily injury to, anyone caused by, or arising out of the use of, an insured motor vehicle as well as for damages in relation to anything else, the court must, as part of its judgment—

- (a) state the part of the amount awarded by the judgment that is in relation to the death or bodily injury; and
- (b) apportion any costs awarded.

**204 Conviction etc not to affect civil remedy (MTA s 92)**

A proceeding, finding of guilt or conviction for an act or omission that is an offence against the road transport legislation does not

affect any remedy that anyone aggrieved or injured by the act or omission may be entitled to at law or in equity against the person who committed the act or was responsible for the omission.

## **Division 10.10 Authorised insurers**

### **205 Offence—unapproved insurer (MAA s 100, MACA s 157)**

- (1) A person other than an authorised insurer must not issue a certificate or policy of insurance under section 164 (Issue of certificates of third-party insurance).

Maximum penalty: 100 penalty units.

- (2) If a certificate or policy of insurance is issued by a person in contravention of this section—
  - (a) the policy of insurance or indemnity issued by the person is not annulled or affected by the contravention; and
  - (b) the person is liable to anyone who would be an insured person if the certificate or policy had been issued by an authorised insurer.

### **206 Application for approval as authorised insurer (MTA s 59 (1), MAA s 101, MACA s 158)**

- (1) A corporation that is authorised under the *Insurance Act 1973* (Cwlth) to carry on insurance business may apply to the road transport authority for approval as an authorised insurer.
- (2) The road transport authority may require the applicant to provide any information or documents necessary for the Minister to decide the application.

### **207 Decision on application for approval (MTA s 59 (2)-(3), MAA s 102, MACA s 159)**

- (1) The Minister must consider an application for approval of a corporation as an authorised insurer and may—

- (a) approve the corporation subject to the conditions (if any) prescribed under the regulations; or
  - (b) refuse to approve the corporation.
- (2) An approval takes effect on the date stated in the approval.

**208 Duration of approval (MAA s 104, MACA s 160)**

An approval of a corporation as an authorised insurer continues in force until it is cancelled.

**209 Cancellation of approval (MTA s 59 (4)-(6), MAA s 107, MACA s 167)**

- (1) The Minister may, by written notice served on an authorised insurer, cancel the insurer's approval as an authorised insurer with effect on the date stated in the notice.
- (2) The Minister may cancel the approval for any reason the Minister considers appropriate.
- (3) Without limiting subsection (2), the Minister may cancel the approval if the insurer has, in the insurer's capacity as an authorised insurer, been convicted, or found guilty, of an offence against this Act.
- (4) The Minister must, as far as practicable, give an authorised insurer whose approval the Minister proposes to cancel an opportunity to make representations about the matter.

**210 Surrender of approval (MTA s 59 (7)-(8))**

- (1) An authorised insurer may, by written notice served on the Minister, surrender its approval.
- (2) The surrender does not take effect until the date fixed by the Minister by written notice served on the authorised insurer.
- (3) On the date fixed by the Minister, the approval of the insurer as an authorised insurer is cancelled.



**211 Effect of cancellation of approval on existing policies etc**  
(MTA s 59 (9)-(10))

- (1) Cancellation of the approval of a corporation as an authorised insurer does not affect—
  - (a) a third-party policy issued by the corporation that is in force immediately before the cancellation; or
  - (b) any liability as an authorised insurer, whether under a third-party policy, this Act or any other Territory law, that accrued or was incurred—
    - (i) before the cancellation; or
    - (ii) under a third-party policy mentioned in paragraph (a).
- (2) For a third-party policy mentioned in subsection (1) (a) or a liability mentioned in subsection (1) (b), this Act and any other Territory law applies to the corporation as if it were an authorised insurer.

**212 Information to be supplied by authorised insurers**  
(MTA s 73)

- (1) The regulations may require an authorised insurer to provide returns to the road transport authority about—
  - (a) premiums received for insurance under third-party policies; and
  - (b) claims paid in relation to third-party policies; and
  - (c) the persons insured under third-party policies; and
  - (d) any other matters relevant to third-party policies or this part.
- (2) An authorised insurer must provide any information that the Minister reasonably requires about the matters mentioned in subsection (1) (a) to (d) within the reasonable time set by the Minister.

Maximum penalty (subsection (2)): 20 penalty units.

**213 Guidelines about Minister's powers under div 10.10**

- (1) The Minister may, in writing, issue guidelines about the exercise of the Minister's power under this division.
- (2) The Minister must comply with any guidelines applying to the exercise of a power under this division.
- (3) A guideline under subsection (1) is a disallowable instrument.

*Note* A disallowable instrument must be notified, and presented to the Legislative Assembly, under the *Legislation Act 2001*.

**214 Maximum rates of premiums that may be charged**  
(MTA s 88)

- (1) An authorised insurer must not charge, request or accept as the premium for a third-party policy more than the maximum premium prescribed under the regulations for the policy.

Maximum penalty: 20 penalty units.

- (2) The regulations may prescribe different maximum rates of premium for—
  - (a) different kinds of motor vehicles; or
  - (b) motor vehicles used—
    - (i) for different purposes; or
    - (ii) mainly used or usually garaged in different areas or circumstances; or
  - (c) third-party policies issued or effective for different periods.

**Division 10.11 Nominal defendant**

**215 Appointment of nominal defendant (MTA s 84 (1)-(2))**

- (1) The Minister may appoint a resident of the ACT as the nominal defendant.

- (2) The Minister may appoint a person as the nominal defendant only if the authorised insurers, or a majority of them, have nominated the person for appointment.
- (3) However, if the authorised insurers, or a majority of them, do not make a nomination when asked to do so by the Minister, the Minister may appoint a person chosen by the Minister.

**216 Annual report (MTA s 84 (4))**

As soon as practicable after the end of each calendar year, the nominal defendant must prepare and give to the Minister a report on the nominal defendant's operations during the year.

**Division 10.12 Additional insurance for public vehicles**

**217 Public vehicle insurance compulsory (MTA s 83 (1), (3))**

The owner of a public vehicle must, at all times, maintain for the vehicle a public vehicle policy for at least \$5 000 000.

Maximum penalty: 50 penalty units.

*Note* The Territory, the Commonwealth or a Territory or Commonwealth authority is not required to hold a public vehicle policy (see s 161 (1)).

**218 Public vehicle policies (MTA s 83 (1), (1A))**

- (1) A public vehicle policy is a policy—
  - (a) that is issued (or renewed) by a corporation authorised under the *Insurance Act 1973* (Cwlth); and
  - (b) that insures the owner of the public vehicle to which the policy applies against liability in relation to damage to property caused by, or arising out of the use of, the vehicle anywhere in Australia (whether or not on a road or road related area).
- (2) It is irrelevant that the policy also insures the owner against other risks.

## **Division 10.13 Miscellaneous**

### **222 No contracting out of pt 10** (MTA s 69, MAA s 132, MACA s 216)

This part applies despite any contract to the contrary.

### **223 Certificate evidence** (MTA s 90A, MAA s 132A, MACA s 221)

- (1) A certificate that appears to be signed by or on behalf of the road transport authority, and states that a stated authorised insurer issued a third-party policy for a stated period for—
  - (a) a stated motor vehicle; or
  - (b) motor vehicles to which a stated trader's plate is attached;is evidence of the matters stated in the certificate.
- (2) A certificate that appears to be signed by or on behalf of the road transport authority, and states that a third-party policy was not in force on a stated date or during a stated period for—
  - (a) a stated motor vehicle; or
  - (b) motor vehicles to which a stated trader's plate is attached;is evidence of the matters stated in the certificate.
- (3) A court must accept a certificate given under this section as proof of the matters stated in it if there is no evidence to the contrary.
- (4) This section is additional to, and does not limit, section 72 (Certificate evidence and other evidentiary provisions).

### **224 Police officer or authorised person may require evidence of insurance** (MTA s 90)

- (1) A police officer or authorised person may require the owner of a motor vehicle to produce evidence—
  - (a) that a third-party policy is in force for the vehicle; and

- (b) if the vehicle is a public vehicle—that a public vehicle policy is in force for the vehicle.
- (2) The owner must not fail to produce the evidence when required to do so.

Maximum penalty: 20 penalty units.

- (3) It is a defence to an offence against subsection (2) if—
  - (a) the owner has a reasonable excuse for failing to produce the evidence when required to do so; and
  - (b) within 3 days after being required to produce the evidence, produces the evidence at a place prescribed under the regulations or as directed by the police officer or authorised person.



- (b) by letter addressed to the corporation and sent by prepaid post, fax, email, or any other means prescribed under the regulations, to the address of any of its registered offices or any other business address of the corporation; or
  - (c) by letter addressed to the corporation and left at the address of any of the corporation's registered offices or any other business address of the corporation with someone who appears to be at least 16 years old and to be employed at the address.
- (3) A document or anything else served under subsection (1) (b) or (2) (b) by post is taken to be served at the time when the letter concerned would have been delivered in the ordinary course of post.
- (4) However, subsection (3) does not affect the operation of the *Evidence Act 1995* (Cwlth), section 160.
- Note* The *Evidence Act 1995* (Cwlth), s 160 provides a rebuttable presumption that a postal article sent by prepaid post addressed to a person at an address in Australia or an external Territory was received on the 4th working day after posting.
- (5) A document or anything else served under subsection (1) (c) or (2) (c) is taken to be served on the day when it is left as mentioned in the paragraph.
- (6) Despite subsections (1) to (5), the regulations may—
- (a) provide for additional ways of serving (however described) documents or anything else; and
  - (b) provide that a document, or anything else, of a kind prescribed under the regulations may be served (however described) only in the way prescribed under the regulations; and
  - (c) provide for the date (or date and time) when service (however described) of a document or anything else is taken to have been made.
- (7) This section does not apply to the service of a document or anything else on the Minister, the road transport authority, the chief police officer, an authorised insurer or the nominal defendant.

- (8) This section does not affect—
- (a) the operation of any other law that authorises or requires service of a document or anything else otherwise than as provided under this section; or
  - (b) the power of a court or tribunal to authorise or require service of a document or anything else otherwise than as provided under this section.

- (9) In this section:

*address* includes a fax number, email address, and anything else prescribed under the regulations.

*business address*, of an individual or a corporation, includes the latest business address, or address for service of notices, of the person (if any) recorded in a register or other records kept by the road transport authority under the road transport legislation.

*home address*, of an individual, includes the latest home address of the person (if any) recorded in a register or other records kept by the road transport authority under the road transport legislation.

## **227    Serving documents etc on road transport authority** (NSW s 45)

- (1) A notice or other document, or anything else, that is authorised or required under the road transport legislation to be served on the road transport authority (whether the word ‘serve’, ‘file’, ‘give’, ‘notify’, ‘send’ or ‘tell’ or any other word is used) may be served—
- (a) by letter addressed to the authority and sent by prepaid post to the address of any office of the authority; or
  - (b) by letter addressed to the authority and left at the address of any office of the authority with someone who appears to be employed in the office; or



- (c) by letter addressed to the authority and sent by fax to a fax number, or sent by email to an email address, prescribed under the regulations.
- (2) A document or anything else served under subsection (1) (a) is taken to be served at the time when the letter concerned would have been delivered in the ordinary course of post.
- (3) However, subsection (2) does not affect the operation of the *Evidence Act 1995* (Cwlth), section 160.
- Note* The *Evidence Act 1995* (Cwlth), s 160 provides a rebuttable presumption that a postal article sent by prepaid post addressed to a person at an address in Australia or an external Territory was received on the 4th working day after posting.
- (4) A document or anything else served under subsection (1) (b) is taken to be served on the day when it is left as mentioned in the paragraph.
- (5) Despite subsections (1) to (4), the regulations may—
- (a) provide for additional ways of serving (however described) documents or anything else on the road transport authority; and
  - (b) provide that a document, or anything else, of a kind prescribed under the regulations may be served (however described) only in the way prescribed under the regulations; and
  - (c) provide for the date (or date and time) when service (however described) of a document or anything else is taken to be made.
- (6) This section does not affect—
- (a) the operation of any other law that authorises or requires service of a document or anything else otherwise than as provided under this section; or
  - (b) the power of a court or tribunal to authorise or require service of a document or anything else otherwise than as provided under this section.

**228 False, misleading or incomplete documents**

- (1) A person must not give the road transport authority, or the administering authority for an infringement notice offence, a document containing information that the person knows is false, misleading or incomplete in a material particular.

Maximum penalty: 20 penalty units.

- (2) Subsection (1) does not apply to a person if the person, when giving the document to the road transport authority or administering authority—
- (a) tells the authority, to the best of the person's ability, how it is false, misleading or incomplete; or
  - (b) if the person has, or can reasonably obtain, the correct information—gives the correct information to the authority.

**229 Regulations may apply certain documents etc**  
(MTA s 218)

- (1) The regulations—
- (a) may apply, adopt or incorporate, entirely or in part and with or without changes, publications of the National Road Transport Commission approved, or of matters approved, by the Australian Transport Council or any other publication (including an Act or regulation of another jurisdiction), as in force at a stated time or from time to time; and
  - (b) may apply to a provision of the regulations, entirely or in part and with or without changes, the provisions of the Criminal Code set out in the *Criminal Code Act 1995* (Cwlth), schedule.
- (2) For the regulations, the regulations may define a word or expression (or apply, adopt, or incorporate a definition of a word or expression in a publication mentioned in subsection (1) (a)) defined by this Act—

- (a) in the same (or in substantially the same) way as it is defined by this Act; or
  - (b) by reference to a matter included in the word or expression as defined by this Act; or
  - (c) by reference to a combination of matters included in the word or expression as defined by this Act and in any other word or expression defined by this Act (but not in a way that exceeds the power to make regulations about those matters); or
  - (d) for applying, adopting or incorporating a publication of the National Road Transport Commission approved, or of matters approved, by the Australian Transport Council—in the same way as it is defined in the publication despite anything in this Act or other road transport legislation.
- (3) If a regulation applies, adopts or incorporates a publication (or provision of a publication) of the National Road Transport Commission approved, or of matters approved, by the Australian Transport Council, evidence of the publication or provision may be given in a proceeding—
- (a) by the production of a document purporting to be a copy of it and purporting to be published by or on behalf of the National Road Transport Commission; or
  - (b) by the production of a document purporting to be a copy of it and purporting to be printed by the government printer or by the authority of the Government of any jurisdiction.
- (4) In this section, a reference to a ***publication of the National Road Transport Commission*** includes a reference to a document published on behalf of the National Road Transport Commission.

## Division 11.2            Other matters

### 230    Indemnity from personal liability for honest and good faith carrying out of duties (NSW s 49)

- (1) An individual is not civilly liable for an act or omission done honestly and in good faith in the exercise of a function under the road transport legislation.
- (2) A liability that would, apart from subsection (1), attach to an individual attaches instead to the Territory.
- (3) An individual is not civilly or criminally liable for carrying out a test or examination under the *Road Transport (Driver Licensing) Act 1999* and expressing to the road transport authority, in good faith, an opinion formed because of having carried out the test or examination.
- (4) An individual is not civilly or criminally liable for reporting to the road transport authority, in good faith, information that discloses or suggests that—
  - (a) someone else is or may be unfit to drive; or
  - (b) it may be dangerous to allow someone else to hold, to be issued or to have renewed, a driver licence or a variation of a driver licence.

### 231    Person not to hinder or obstruct (NSW s 50 (2), NSW(VR) s 27A (2), s 27B (6))

A person must not, without reasonable excuse, hinder or obstruct a police officer, an authorised person or anyone else in the exercise of a function under the road transport legislation.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

### **232 False or misleading statements**

A person must not, for or in relation to the road transport legislation—

- (a) state anything to the road transport authority, a police officer or an authorised person that the person knows is false or misleading in a material particular; or
- (b) omit from a statement made to the road transport authority, a police officer or an authorised person anything without which the statement is, to the person's knowledge, misleading in a material particular.

Maximum penalty: 20 penalty units.

### **233 General regulation-making power (NSW s 71)**

- (1) The Executive may make regulations for this Act.

*Note* Regulations must be notified, and presented to the Legislative Assembly, under the *Legislation Act 2001*.

- (2) The Executive may also make regulations under this Act, not inconsistent with another road transport Act, prescribing matters—
  - (a) required or permitted by the other road transport Act to be prescribed (whether or not the other road transport Act expressly provides for the matters to be prescribed under this Act or that Act); or
  - (b) necessary or convenient to be prescribed for carrying out or giving effect to the other road transport Act.
- (3) The regulations may also prescribe offences for contraventions of the regulations and prescribe maximum penalties of not more than 20 penalty units for offences against the regulations.
- (4) In this section:

***another road transport Act*** means any of the following Acts:

- (a) the *Road Transport (Alcohol and Drugs) Act 1977*;

- (b) the *Road Transport (Dimensions and Mass) Act 1990*;
- (c) the *Road Transport (Driver Licensing) Act 1999*;
- (d) the *Road Transport (Safety and Traffic Management) Act 1999*;
- (e) the *Road Transport (Vehicle Registration) Act 1999*;
- (f) any other Act (or any provision of an Act) included in the road transport legislation.

**234 Regulations may exclude vehicles, people and animals from Act (NSW s 72)**

- (1) The regulations may—
  - (a) exempt a vehicle, person or animal prescribed under the regulations from this Act (or a stated provision of this Act); or
  - (b) authorise the road transport authority to exempt a vehicle, person or animal prescribed under the regulations from this Act (or a stated provision of this Act).
- (2) An exemption granted under a regulation mentioned in subsection (1) may be subject to conditions.
- (3) The regulations may provide for the road transport authority to—
  - (a) suspend the operation of any regulation mentioned in subsection (1) (a) in the way and circumstances prescribed under the regulations; or
  - (b) suspend the operation of an exemption given by the authority to a vehicle, person or animal in the way and circumstances prescribed under the regulations.

**235 References to Motor Traffic Act, Traffic Act etc**

- (1) In any Act, instrument made under an Act or document, a reference to an earlier law is, in relation to anything to which this Act applies, a reference to this Act.

(2) In this section:

*earlier law* means any of the following:

- (a) *Motor Traffic Act 1936*;
- (b) *Motor Traffic (Alcohol and Drugs) Act 1977*;
- (c) *Motor Vehicles (Dimensions and Mass) Act 1990*;
- (d) *Traffic Act 1937*;
- (e) *Motor Traffic Regulations 1934*;
- (f) *Motor Vehicle (Third Party Insurance) Regulations 1947*;
- (g) *Taxi and Private Hire Car Regulations*.

## **U** Dictionary

(see s 4)

**accident**, for part 10 (Compulsory vehicle insurance)—see motor accident.

**administering authority**, for an infringement notice offence, means the person or unincorporated body that, under the regulations, is the administering authority for the offence.

**another jurisdiction** means a jurisdiction other than the ACT.

**approved camera detection device**—see the *Road Transport (Safety and Traffic Management) Act 1999*, dictionary.

**Australian driver licence**—see the *Road Transport (Driver Licensing) Act 1999*, dictionary.

**Australian Transport Council** means the Australian Transport Council mentioned in the *National Road Transport Commission Act 1991* (Cwlth), section 3 or its successor.

**authorised insurer**—see section 158 (Definitions for pt 10).

**authorised person** means—

- (a) for a provision of this Act (except a provision of part 3 (Infringement notices for certain offences))—either of the following:
  - (i) a person who is appointed as an authorised person under this Act for the provision;
  - (ii) a person who, under the regulations, is an authorised person for the provision; or
- (b) for an infringement notice for an infringement notice offence—any of the following:
  - (i) the administering authority;



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- (ii) a person who is authorised, in writing, by the administering authority to serve an infringement notice for the offence;
  - (iii) anyone else who, under the regulations, may serve an infringement notice for the offence; or
- (c) for a reminder notice for an infringement notice offence—any of the following:
- (i) the administering authority;
  - (ii) a person who is authorised, in writing, by the administering authority to serve a reminder notice for the offence;
  - (iii) anyone else who, under the regulations, may serve a reminder notice for the offence.

**authority**—see *road transport authority*.

**camera-detected offence** means an offence detected by an approved camera detection device.

**certificate of insurance**—see section 158 (Definitions for pt 10).

**claim**, for part 10 (Compulsory vehicle insurance)—see section 158 (Definitions for pt 10).

**Commonwealth authority**—see section 158 (Definitions for pt 10).

**credit card** includes a debit card.

**date of service**, of an infringement notice or reminder notice that has been, or is to be, served on a person, means the date the notice is served on the person.

**decision-maker**, in part 7 (Review of decisions under road transport legislation)—see section 91 (Notice of decisions to be given to affected people).

**drive a vehicle** includes—

- (a) be in control of the steering, movement or propulsion of the vehicle; and
- (b) if the vehicle is a trailer—draw or tow the vehicle; and
- (c) if the vehicle can be ridden—ride the vehicle.

**driver**, of a vehicle, means the person who is driving the vehicle.

**driver licence**—see the *Road Transport (Driver Licensing) Act 1999*, dictionary.

**executive officer**, of a corporation, means a person, by whatever name called and whether or not the person is a director of the corporation, who is concerned with, or takes part in, the corporation's management.

**exercise** a function includes perform a duty.

**external driver licence**—see the *Road Transport (Driver Licensing) Act 1999*, dictionary.

*Note* An external driver licence is a foreign driver licence or an external Territory driver licence.

**function** includes power.

**home address**, of a person, means the address of the place where the person usually lives.

**hospital treatment**—see section 158 (Definitions for pt 10).

**illegal user declaration** means a statutory declaration mentioned in section 38.

**infringement notice** means a notice served under section 24 (Service of infringement notices generally) or section 36 (Service of infringement notices on responsible persons for vehicles).

**infringement notice declaration** means an illegal user declaration, known user declaration, sold vehicle declaration or unknown user declaration.

***infringement notice offence*** means an offence prescribed under the regulations as an infringement notice offence.

***infringement notice penalty***, for a person for an infringement notice offence, means—

- (a) the amount prescribed under the regulations as the penalty payable by the person for the offence under an infringement notice for the offence; or
- (b) if a reminder notice has also been served on the person for the offence—the total of the amount mentioned in paragraph (a) and the amount prescribed under the regulations as the amount payable by the person for the cost of serving the reminder notice.

***issue***, of a third-party policy—see section 158 (Definitions for pt 10).

***insured motor vehicle***—see section 158 (Definitions for pt 10).

***insured person***, for part 10 (Compulsory vehicle insurance)—see section 158 (Definitions for pt 10).

***internal reviewer***—see section 92 (2) (Who may apply for internal review of decisions).

***jurisdiction*** means a State, the Commonwealth or an internal Territory, including the ACT.

***known user declaration*** means a statutory declaration mentioned in section 39.

***learner licence***—see the *Road Transport (Driver Licensing) Act 1999*, dictionary.

***medical and surgical treatment***—see section 158 (Definitions for pt 10).

***motor accident*** (or ***accident***), for part 10 (Compulsory vehicle insurance)—see section 158 (Definitions for pt 10).

**motor vehicle** means a vehicle built to be propelled by a motor that forms part of the vehicle.

**National Road Transport Commission** means the National Road Transport Commission established by the *National Road Transport Commission Act 1991* (Cwlth) or its successor.

**nominal defendant**—see section 158 (Definitions for pt 10).

**offence of culpable driving**, for a person, means—

- (a) an offence against the *Crimes Act 1900*, section 29 (Culpable driving); or
- (b) any other offence against the *Crimes Act 1900* if a necessary fact to constitute the offence is that someone dies or is injured because of, or as a result of, the way a person drove a motor vehicle.

**owner**, for part 10 (Compulsory vehicle insurance)—see section 158 (Definitions for pt 10).

**private hire car**—see section 100 (Definitions for pt 9).

**private hire car operator's licence**—see subsection 120 (1).

**public bus**—see the Road Transport (Public Passenger Services) Act 2001, dictionary.

**public vehicle**—

- (a) for part 9 (Public vehicles)—see section 100; and
- (b) for part 10 (Compulsory vehicle insurance)—see section 158.

**public vehicle policy**—see section 218.

**registered**, for a vehicle, means registered under the *Road Transport (Vehicle Registration) Act 1999*.

**registered operator**—see the *Road Transport (Vehicle Registration) Act 1999*, dictionary.

**registrable vehicle**—see the *Road Transport (Vehicle Registration) Act 1999*, dictionary.

**registration**, for part 10 (Compulsory vehicle insurance)—see section 158 (Definitions for pt 10).

**reminder notice**, for part 3 (Infringement notices for certain offences), means a notice under section 33.

**responsible person**, for a vehicle—see sections 10 and 11.

**restricted hire vehicle**—see section 100 (Definitions for pt 9).

**restricted hire vehicle operator's licence**—see section 126 (1).

**restricted licence**—see the *Road Transport (Driver Licensing) Act 1999*, dictionary.

**reviewable decision**—see section 90 (1) (Application of pt 7 etc).

**revocation notice**—see section 86 (1) (Revocation of suspension of driver licence, registration etc).

**ride**, for the rider of a motorbike or an animal-drawn vehicle, includes be in control of the vehicle.

**rider**, of a vehicle that can be ridden, means the person who is riding the vehicle.

**road** means an area that is open to or used by the public and is developed for, or has as 1 of its main uses, the driving or riding of motor vehicles, but does not include an area that would otherwise be a road so far as an order under section 12 (Power to include or exclude areas in road transport legislation) declares that this Act does not apply to the area.

**road related area** means—

- (a) an area that divides a road; or
- (b) a footpath or nature strip adjacent to a road; or
- (c) an area that is open to the public and is designated for use by cyclists or animals; or

- (d) an area that is not a road and that is open to or used by the public for driving, riding or parking vehicles; or
- (e) a shoulder of a road; or
- (f) any other area that is open to or used by the public so far as an order under section 12 (Power to include or exclude areas in road transport legislation) declares that this Act applies to the area;

but does not include an area that would otherwise be a road related area so far as an order under that section declares that this Act does not apply to the area.

**road transport authority** (or **authority**)—see section 16.

**road transport legislation**—see section 6.

**sightseeing vehicle operator's licence**—see section 135 (1).

**sold vehicle declaration** means a statutory declaration mentioned in section 40.

**taxi**—see the *Road Transport (Public Passenger Services) Act 2001*, section 45 (Meaning of *taxi*).

**third-party policy**—see section 158 (Definitions for pt 10).

**trader's plate**—see the *Road Transport (Vehicle Registration) Act 1999*, dictionary.

**traffic** includes vehicle and pedestrian traffic.

**trailer** means a vehicle being towed, or built to be towed, by a motor vehicle, but does not include a motor vehicle being towed.

**unidentified motor vehicle**—see section 158 (Definitions for pt 10).

**uninsured motor vehicle**—see section 158 (Definitions for pt 10).

**unknown user declaration** means a statutory declaration mentioned in section 41.

***use*** a vehicle includes drive, park or stop the vehicle on a road or road related area.

***vehicle*** means—

- (a) any description of vehicle on wheels, other than a vehicle used on railways or tramways; or
- (b) any other vehicle prescribed under the regulations;

and includes anything else that, under the regulations, is to be treated as a vehicle.

## Endnotes

1 About the endnotes

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## Endnotes

### 1 About the endnotes

Amending and modifying laws are annotated in the legislation history and the amendment history. Current modifications are not included in the republished law but are set out in the endnotes.

Not all editorial amendments made under the *Legislation Act 2001*, part 11.3 are annotated in the amendment history. Full details of any amendments can be obtained from the Parliamentary Counsel's Office.

Uncommenced amending laws and expiries are listed in the legislation history and the amendment history. These details are underlined. Uncommenced provisions and amendments are not included in the republished law but are set out in the last endnote.

If all the provisions of the law have been renumbered, a table of renumbered provisions gives details of previous and current numbering.

The endnotes also include a table of earlier republications.

If the republished law includes penalties, current information about penalty unit values appears on the republication inside front cover.

### 2 Abbreviation key

am = amended	ord = ordinance
amdt = amendment	orig = original
ch = chapter	p = page
cl = clause	par = paragraph
def = definition	pres = present
dict = dictionary	prev = previous
disallowed = disallowed by the Legislative Assembly	(prev...) = previously
div = division	prov = provision
exp = expires/expired	pt = part
Gaz = Gazette	r = rule/subrule
hdg = heading	reg = regulation/subregulation
IA = Interpretation Act 1967	renum = renumbered
ins = inserted/added	reloc = relocated
LA = Legislation Act 2001	R[X] = Republication No
LR = legislation register	s = section/subsection
LRA = Legislation (Republication) Act 1996	sch = schedule
mod = modified / modification	sdiv = subdivision
No = number	sub = substituted
num = numbered	SL = Subordinate Law
o = order	<u>underlining</u> = whole or part not commenced or to be expired
om = omitted/repealed	



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### 3 Legislation history

**Road Transport (General) Act 1999 No 77**

notified 23 December 1999 (Gaz 1999 No S65)  
s 1, s 2 commenced 23 December 1999 (IA s 10B)  
remainder commenced 1 March 2000 (Gaz 2000 No S5)

as modified by

**Road Transport (Offences) Regulations 2000 No 11 pt 5 (as am by SL 2000 Nos 22, 57)**

notified 29 February 2000 (Gaz 2000 No S6)  
reg 1, reg 2 commenced 29 February 2000 (IA s 10B)  
pt 5 commenced 1 March 2000 (reg 2 and Gaz 2000 No S5)

as amended by

**Road Transport Legislation Amendment Act 2000 No 4 pt 2**

notified 1 March 2000 (Gaz 2000 No S8)  
commenced 1 March 2000 (s 2)

**Road Transport Legislation Amendment Act 2001 No 27 sch 3**

notified 24 May 2001 (Gaz 2001 No 21)  
s 1, s 2 commenced 24 May 2001 (IA s 10B)  
sch 3 commenced 24 May 2001 (s 2)

**Legislation (Consequential Amendments) Act 2001 No 44 pt 340**

notified 26 July 2001 (Gaz 2001 No 30)  
s 1, s 2 commenced 26 July 2001 (IA s 10B)  
pt 340 commenced 12 September 2001 (s 2 and Gaz 2001 No S65)

**Road Transport (Public Passenger Services) Act 2001 No 62 pt 1.5**

notified 10 September 2001 (Gaz 2001 No S66)  
s 1, s 2 commenced 10 September 2001 (IA s 10B)  
pt 1.5 commenced 1 December 2001 (s 2 and CN 2001 No 2)

**Road Transport (Public Passenger Services) Amendment Act 2001 No 94 sch 1**

notified LR 27 September 2001  
s 1, s 2 commenced 27 September 2001 (LA s 75)  
sch 1 commences 1 March 2002 (s 2 and CN 2002 No 2)

## Endnotes

4 Amendment history

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### **Road Transport Legislation Amendment Act 2002 No 23 pt 3**

notified LR 9 September 2002

s 1, s 2 commenced 9 September 2002 (LA s 75)

ss 10-12 commenced 10 September 2002 (s 2 (1))

s 13, s 14 awaiting commencement (s 2 (3))

*Note* default commencement under LA s 79: 9 March 2003

## **4 Amendment history**

### **Preliminary**

pt 1 note am 2001 No 44 amdt 1.3733; 2001 No 62 amdt 1.10

### **Commencement**

s 2 om 2001 No 27 amdt 3.34

### **Notes**

s 5 am 2001 No 44 amdt 1.3734

### **What is the road transport legislation?**

s 6 am 2001 No 44 amdt 1.3735, amdt 1.3736 2001 No 62 amdt 1.11; R4 LA (see 2001 No 62 amdt 1.12)

### **References to Acts and regulations included in road transport legislation**

s 7 om 2001 No 44 amdt 1.3737

### **General relationship with other laws**

s 9 am 2001 No 27 amdt 3.35; 2001 No 44 amdt 1.3738 (2)-(4) exp 1 March 2002 (s 9 (4))

### **Who is a responsible person for a vehicle**

s 10 pars renum R7 LA

### **Power to include or exclude areas in road transport legislation**

s 12 am 2001 No 44 amdt 1.3739

### **Power to exclude vehicles, persons or animals from road transport legislation**

s 13 am 2001 No 44 amdt 1.3740

### **Application orders and emergency orders**

s 14 am 2001 No 44 amdt 1.3741

### **Database of declarations and orders made under div 2.4**

s 15 om 2001 No 44 amdt 1.3742

### **Authorised persons**

s 19 am 2001 No 27 amdt 3.36, amdt 3.37; 2002 No 23 s 11

### **Identity cards**

s 20 am 2002 No 23 s 12

**Guidelines about withdrawal of infringement notices**

s 32 am 2001 No 44 amdt 1.3743

**Seizure of licences**

s 59 am 2001 No 44 amdt 1.3744

**Automatic disqualification for culpable driving**

s 62 am 2001 No 27 amdt 3.38-3.40

**Automatic disqualification for certain other driving offences**

s 63 am 2000 No 4 s 4; 2001 No 27 amdt 3.41-3.44

**Limitations on issue etc of restricted licences**

s 67 am 2001 No 27 amdt 3.45

**Multiple disqualifications cumulative unless court orders otherwise**

s 69 am 2001 No 27 amdt 3.46

**Written-off vehicles register**

div 5.3 hdg [ins 2002 No 23 s 13](#)

**Purposes of div 5.3**

s 83A [ins 2002 No 23 s 13](#)

**Definitions for div 5.3**

s 83B [ins 2002 No 23 s 13](#)

**When a vehicle is a *total loss***

s 83C [ins 2002 No 23 s 13](#)

**Written-off vehicles register**

s 83D [ins 2002 No 23 s 13](#)

**Security and disclosure of information in register**

s 83E [ins 2002 No 23 s 13](#)

**Regulations about written-off vehicles**

s 83F [ins 2002 No 23 s 13](#)

**Determination of fees, charges and other amounts**

s 96 am 2001 No 44 amdt 1.3745-1.3747

**Fees, charges and other amounts payable to Territory in accordance with determinations etc**

s 97 om 2001 No 44 amdt 1.3748

**Recovery of unpaid fees, charges and other amounts**

s 98 om 2001 No 44 amdt 1.3748

**Regulations may make provision about fees, charges and other amounts**

s 99 om 2001 No 44 amdt 1.3748

**Definitions for pt 9**

s 100 def **bus** om 2001 No 62 amdt 1.17

def **bus operator's licence** om 2001 No 62 amdt 1.17

def **bus service licence** om 2001 No 62 amdt 1.17

## Endnotes

### 4 Amendment history

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def **defined right** om 2001 No 94 amdt 1.1  
def **private hire car** am 2001 No 62 amdt 1.13; 2001 No 94  
amdt 1.3  
def **public vehicle** am 2001 No 62 amdt 1.14  
sub 2001 No 94 amdt 1.2  
def **restricted hire vehicle** am 2001 No 62 amdt 1.15; 2001  
No 94 amdt 1.3  
def **restricted taxi** om 2001 No 94 amdt 1.1  
def **restricted taxi operator's licence** om 2001 No 94 amdt 1.1  
def **taxi** am 2001 No 62 amdt 1.16  
sub 2001 No 94 amdt 1.2  
def **taxi operator's licence** om 2001 No 94 amdt 1.1  
def **taxi zone** om 2001 No 94 amdt 1.1  
def **visiting bus** om 2001 No 62 amdt 1.17  
def **visiting bus operator's licence** om 2001 No 62 amdt 1.17

#### **Taxis and restricted taxis**

div 9.2 hdg om 2001 No 94 amdt 1.4

#### **Use of motor vehicles as taxis**

s 101 om 2001 No 94 amdt 1.4

#### **Defined rights for taxi operator's licences**

s 102 am 2001 No 44 amdt 1.3749  
om 2001 No 94 amdt 1.4

#### **Duration of defined rights**

s 103 om 2001 No 94 amdt 1.4

#### **Transfer of defined rights**

s 104 om 2001 No 94 amdt 1.4

#### **Holder of defined right to be issued licence**

s 105 om 2001 No 94 amdt 1.4

#### **Taxi operator's licences**

s 106 am 2001 No 44 amdt 1.3750, amdt 1.3751  
om 2001 No 94 amdt 1.4

#### **Limitation on number of restricted taxi operator's licences**

s 107 sub 2001 No 44 amdt 1.3752  
om 2001 No 94 amdt 1.4

#### **Restricted taxi operator's licences**

s 108 om 2001 No 94 amdt 1.4

#### **Transfer of taxi operator's licence**

s 109 om 2001 No 94 amdt 1.4

#### **Variation of restricted taxi operator's licence initiated by licence holder**

s 110 om 2001 No 94 amdt 1.4

**Variation of restricted taxi operator's licence initiated by road transport authority**

s 111 om 2001 No 94 amdt 1.4

**Suspension or cancellation of licence**

s 112 om 2001 No 94 amdt 1.4

**Offence to carry more than licensed number of passengers**

s 113 om 2001 No 94 amdt 1.4

**Offence to not display information about maximum number of passengers**

s 114 om 2001 No 94 amdt 1.4

**Taxi fares**

s 115 am 2001 No 44 amdt 1.3753  
om 2001 No 94 amdt 1.4

**Offence to park taxis on road for longer than 30 minutes**

s 116 om 2001 No 94 amdt 1.4

**Offence to contravene condition of restricted taxi operator's licence**

s 117 om 2001 No 94 amdt 1.4

**Display of restricted taxi operator's licence**

s 118 om 2001 No 94 amdt 1.4

**Private hire car operator's licences**

s 120 am 2001 No 44 amdt 1.3754, amdt 1.3755; 2001 No 94  
amdt 1.5

**Transfer of private hire car operator's licence**

s 121 am 2001 No 94 amdt 1.5

**Variation of restricted hire vehicle operator's licence initiated by licence holder**

s 128 am 2001 No 94 amdt 1.6

**Variation of restricted hire vehicle operator's licences initiated by road transport authority**

s 129 am 2001 No 94 amdt 1.7

**Buses**

div 9.6 om 2001 No 62 amdt 1.18

**Use of motor vehicles as buses**

s 137 om 2001 No 62 amdt 1.18

**Bus operator's licences**

s 138 om 2001 No 62 amdt 1.18

**Transfer of bus operator's licence**

s 139 om 2001 No 62 amdt 1.18

**Offence to carry more than licensed number of passengers**

s 140 om 2001 No 62 amdt 1.18

## Endnotes

4 Amendment history

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**Offence not to display information about maximum number of passengers**

s 141 om 2001 No 62 amdt 1.18

**Bus Services**

div 9.7 om 2001 No 62 amdt 1.18

**Bus service licences**

s 142 om 2001 No 62 amdt 1.18

**Variation of bus service licence initiated by licence holder**

s 143 om 2001 No 62 amdt 1.18

**Transfer of bus service licences**

s 144 om 2001 No 62 amdt 1.18

**Licence holder must tell road transport authority when stopping service etc**

s 145 om 2001 No 62 amdt 1.18

**Bus fares**

s 146 om 2001 No 62 amdt 1.18

**Bus fares must be displayed**

s 147 om 2001 No 62 amdt 1.18

**Offence to contravene condition of bus service licence**

s 148 om 2001 No 62 amdt 1.18

**Visiting buses**

div 9.8 om 2001 No 62 amdt 1.18

**Visiting bus operator's licence**

s 149 om 2001 No 62 amdt 1.18

**Offence to carry more than licensed number of passengers**

s 150 om 2001 No 62 amdt 1.18

**Offence to contravene condition of visiting bus operator's licence**

s 151 om 2001 No 62 amdt 1.18

**Certain people to have use, control and management of vehicles**

s 152 am 2001 No 94 amdt 1.8, amdt 1.9

**Unauthorised use of motor vehicles**

s 155 am 2001 No 62 amdt 1.19, amdt 1.20; 2001 No 94 amdt 1.10

**Refusal, cancellation or suspension of licences or registration etc**

s 156 om 2001 No 62 amdt 1.21; 2001 No 94 amdt 1.11, amdt 1.12

**Definitions for pt 10**

s 158 def *issue* am 2001 No 27 amdt 3.47  
def *public vehicle* am 2001 No 62 amdt 1.22; 2001 No 94  
amdt 1.13  
def *public vehicle policy* sub 2001 No 27 amdt 3.48

**Application of pt 10 to Territory and Commonwealth motor vehicles**

s 161 am 2001 No 27 amdt 3.49

**Beginning and duration of third-party policy**

s 167 am 2001 No 27 amdt 3.50

**Offence—unapproved insurer**

s 205 sub 2001 No 27 amdt 3.51

**Information to be supplied by authorised insurers**

s 212 am 2001 No 27 amdt 3.52

**Guidelines about Minister's powers under div 10.10**

s 213 am 2001 No 44 amdt 1.3756, amdt 1.3757

**Additional insurance for public vehicles**

div 10.12 hdg sub 2001 No 27 amdt 3.53

**Public vehicle insurance compulsory**

s 217 sub 2001 No 27 amdt 3.53

**Public vehicle policies**

s 218 sub 2001 No 27 amdt 3.53

**Issue of public vehicle insurance certificates and policies**

s 219 om 2001 No 27 amdt 3.53

**Public vehicle insurance required for registration of public vehicles**

s 220 om 2001 No 27 amdt 3.53

**Commencement and duration of public vehicle policy**

s 221 om 2001 No 27 amdt 3.53

**Certificate evidence**

s 223 am 2001 No 27 amdt 3.54, amdt 3.55

**Approved forms**

s 225 am 2001 No 44 amdt 1.3758, amdt 1.3759

**General regulation-making power**

s 233 am 2001 No 44 amdt 1.3760, amdt 1.3761

**Transitional**

pt 12 hdg exp 1 June 2001 (s 296)

**General**

div 12.1 hdg exp 1 June 2001 (s 296)

**Definitions for pt 12**

s 236 exp 1 June 2001 (s 296)

**Transitional regulations**

s 237 exp 1 June 2001 (s 296)

**Modification of pt 12's operation**

s 238 exp 1 June 2001 (s 296)

## Endnotes

4 Amendment history

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### **Service of infringement notices for parking infringements and offences under former Acts**

s 238A ins as mod SL 2000 No 11 reg 22A (as ins by SL 2000 No 22 reg 3)  
exp 1 June 2001 (SL 2000 No 11 reg 24 (2))

### **Infringement notices under Motor Traffic Act and Motor Vehicles (Dimensions and Mass) Act**

div 12.2 hdg exp 1 June 2001 (s 296)

### **Existing infringement notices**

s 239 (3)-(6) ins as mod SL 2000 No 11 reg 22 (as renum SL 2000 No 57 reg 6)  
(3)-(6) exp 1 June 2001 (SL 2000 No 11 reg 24 (2))

### **Existing reminder and final notices**

s 240 exp 1 June 2001 (s 296)

### **Existing applications for withdrawal of infringement notices**

s 241 exp 1 June 2001 (s 296)

### **Existing notices disputing liability under infringement notices**

s 242 exp 1 June 2001 (s 296)

### **Suspension in force under Motor Traffic Act**

s 243 exp 1 June 2001 (s 296)

### **Revocation of suspension on court order etc**

s 244 exp 1 June 2001 (s 296)

### **Service of infringement notices etc**

s 244A ins as mod SL 2000 No 11 reg 22  
exp 1 June 2000 (SL 2000 No 11 reg 24 (1))

### **Application to court for failure to revoke suspension on court order**

s 245 exp 1 June 2001 (s 296)

### **Public vehicles**

div 12.3 hdg exp 1 June 2001 (s 296)

### **Definitions**

subdiv 12.3.1 hdg exp 1 June 2001 (s 296)

### **Declarations for definition of *motor omnibus***

s 246 exp 1 June 2001 (s 296)

### **Taxis (including *restricted taxis*)**

subdiv 12.3.2 hdg exp 1 June 2001 (s 296)

### **Determination of reserved price**

s 247 exp 1 June 2001 (s 296)

### **Determination about maximum number of defined rights**

s 248 exp 1 June 2001 (s 296)



**Defined rights**

s 249 exp 1 June 2001 (s 296)

**Existing taxi licences**

s 250 exp 1 June 2001 (s 296)

**Determined fee for taxi licence**

s 251 exp 1 June 2001 (s 296)

**Non-transferable taxi licences**

s 252 exp 1 June 2001 (s 296)

**Determination about maximum number of taxi licences**

s 253 exp 1 June 2001 (s 296)

**Determination about maximum number of restricted taxi licences**

s 254 exp 1 June 2001 (s 296)

**Existing restricted taxi licences**

s 255 exp 1 June 2001 (s 296)

**Application to transfer taxi licence**

s 256 exp 1 June 2001 (s 296)

**Application for variation of restricted taxi licence**

s 257 exp 1 June 2001 (s 296)

**Variation of restricted taxi licence otherwise than on application**

s 258 exp 1 June 2001 (s 296)

**Suspension of licences**

s 259 exp 1 June 2001 (s 296)

**Determination about maximum taxi fares**

s 260 exp 1 June 2001 (s 296)

**Private hire cars**

subdiv 12.3.3 hdg exp 1 June 2001 (s 296)

**Existing private hire car licences**

s 261 exp 1 June 2001 (s 296)

**Application to transfer private hire car licence**

s 262 exp 1 June 2001 (s 296)

**Medical certificate concerning operator**

s 263 exp 1 June 2001 (s 296)

**Suspension of private hire car licence**

s 264 exp 1 June 2001 (s 296)

**Restricted hire vehicles**

subdiv 12.3.4 hdg exp 1 June 2001 (s 296)

**Existing restricted hire vehicle licences**

s 265 exp 1 June 2001 (s 296)

## Endnotes

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**Application for variation of restricted hire vehicle licence**

s 266 exp 1 June 2001 (s 296)

**Variation of restricted hire vehicle licence otherwise than on application**

s 267 exp 1 June 2001 (s 296)

**Suspension of restricted hire vehicles licence**

s 268 exp 1 June 2001 (s 296)

**Sightseeing vehicles**

subdiv 12.3.5 hdg exp 1 June 2001 (s 296)

**Existing licences for sightseeing vehicles**

s 269 exp 1 June 2001 (s 296)

**Conditions determined by Minister**

s 270 exp 1 June 2001 (s 296)

**Buses**

subdiv 12.3.6 hdg exp 1 June 2001 (s 296)

**Existing motor omnibus licences**

s 271 exp 1 June 2001 (s 296)

**Application for transfer of motor omnibus licence**

s 272 exp 1 June 2001 (s 296)

**Bus services**

subdiv 12.3.7 hdg exp 1 June 2001 (s 296)

**Application for motor omnibus service licence**

s 273 exp 1 June 2001 (s 296)

**Existing motor omnibus service licences**

s 274 exp 1 June 2001 (s 296)

**Request for variation of motor omnibus service licence**

s 275 exp 1 June 2001 (s 296)

**Minister's approval for variation of motor omnibus service licence**

s 276 exp 1 June 2001 (s 296)

**Application for transfer of bus service licence**

s 277 exp 1 June 2001 (s 296)

**Maximum bus fares**

s 278 exp 1 June 2001 (s 296)

**Visiting buses**

subdiv 12.3.8 hdg exp 1 June 2001 (s 296)

**Existing visiting motor omnibus licences**

s 279 exp 1 June 2001 (s 296)

**Other matters**

subdiv 12.3.9 hdg exp 1 June 2001 (s 296)

**Suspension of licences under s 31 of the Motor Traffic Act**

s 280 exp 1 June 2001 (s 296)

**Suspension of licences under s 104 of the Motor Traffic Act**

s 281 exp 1 June 2001 (s 296)

**Compulsory vehicle insurance**

div 12.4 hdg exp 1 June 2001 (s 296)

**Existing authorised insurers etc**

s 282 exp 1 June 2001 (s 296)

**Existing third-party policies**

s 283 exp 1 June 2001 (s 296)

**Existing public vehicle policies**

s 284 exp 1 June 2001 (s 296)

**Existing nominal defendant etc**

s 285 exp 1 June 2001 (s 296)

**Payment of amounts to, and recovery of amounts by, nominal defendant etc**

s 286 exp 1 June 2001 (s 296)

**Miscellaneous**

div 12.5 hdg exp 1 June 2001 (s 296)

**Road transport authority may act in name of registrar**

s 287 exp 1 June 2001 (s 296)

**Road transport authority may give effect to decisions of registrar etc**

s 288 exp 1 June 2001 (s 296)

**Review of decisions of registrar**

s 289 exp 1 June 2001 (s 296)

**Court order for disqualification**

s 290 exp 1 June 2001 (s 296)

**Effect of disqualification before commencement**

s 291 exp 1 June 2001 (s 296)

**Existing disqualifications until court order**

s 292 exp 1 June 2001 (s 296)

**Existing suspensions and disqualifications of fine defaulters**

s 293 exp 1 June 2001 (s 296)

**Appointment of authorised persons**s 293A ins 2001 No 27 amdt 3.56  
exp 1 June 2001 (s 196)**Certificates under the Motor Traffic Act**

s 294 exp 1 June 2001 (s 196)

## Endnotes

### 4 Amendment history

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#### **Fees and charges payable under Motor Traffic Act etc**

s 295 exp 1 June 2001 (s 196)

#### **Expiry of Part**

s 296 am 2001 No 27 amdt 3.57  
exp 1 June 2001 (s 296)

#### **Dictionary**

dict

- def **Australian Design Rule** ins 2002 No 23 s 14
- def **bus** om 2001 No 62 amdt 1.23
- def **bus operator's licence** om 2001 No 62 amdt 1.23
- def **bus service licence** om 2001 No 62 amdt 1.23
- def **defined right** om 2001 No 94 amdt 1.14
- def **issue** am 2001 No 27 amdt 3.58
- def **public bus** ins 2001 No 62 amdt 1.25
- def **public vehicle** sub 2001 No 62 amdt 1.24
- def **public vehicle policy** am 2001 No 27 amdt 3.59
- def **restricted taxi** om 2001 No 94 amdt 1.14
- def **restricted taxi operator's licence** om 2001 No 94 amdt 1.14
- def **taxi** sub 2001 No 94 amdt 1.15
- def **taxi operator's licence** om 2001 No 94 amdt 1.14
- def **taxi zone** om 2001 No 94 amdt 1.1
- def **the regulations** om 2001 No 44 amdt 1.3762
- def **this Act** (or **the Act**) om 2001 No 44 amdt 1.3762
- def **total loss** ins 2002 No 23 s 14
- def **vehicle identifier** ins 2002 No 23 s 14
- def **visiting bus** om 2001 No 62 amdt 1.23
- def **visiting bus operator's licence** om 2001 No 62 amdt 1.23
- def **written-off** ins 2002 No 23 s 14
- def **written-off vehicles register** ins 2002 No 23 s 14

## 5 Earlier republications

Some earlier republications were not numbered. The number in column 1 refers to the publication order.

Since 12 September 2001 every authorised republication has been published in electronic pdf format on the ACT legislation register. A selection of authorised republications have also been published in printed format. These republications are marked with an asterisk (\*) in column 1. Except for the footer, electronic and printed versions of an authorised republication are identical.

Republication No	Amendments to	Republication date
1	Act 2000 No 4	1 March 2000
2	Act 2001 No 27	10 July 2001
3	Act 2001 No 44	12 September 2001
4	<u>Act 2001 No 94</u>	3 December 2001
5	Act 2001 No 94	1 March 2002
6*	Act 2001 No 94	2 March 2002

## 6 Uncommenced amendments

The following amendments have not been included in this republication because they were uncommenced at the republication date:

**Road Transport Legislation Amendment Act 2002 No 23  
(s 13, s 14)**

### 13 New division 5.3

*insert*

## Division 5.3 Written-off vehicles register

### 83A Purposes of div 5.3

The purposes of this division are—

## Endnotes

6 Uncommenced amendments

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- (a) to curtail trade in stolen vehicles by preventing vehicle information about written-off vehicles, particularly vehicle identifiers, being used to register stolen vehicles; and
- (b) to facilitate inspection of written-off vehicles that have been repaired; and
- (c) to make information available to prospective purchasers about whether a vehicle has previously been written-off.

### 83B Definitions for div 5.3

In this division:

*total loss*—see section 83C.

*vehicle identifier* means—

- (a) for a vehicle manufactured before 1 January 1989—
  - (i) if the vehicle has a chassis or engine number—the number; or
  - (ii) in any other case—any number permanently marked by the vehicle’s manufacturer on the vehicle for its identification; or
- (b) for a vehicle manufactured after 31 December 1988—
  - (i) if the vehicle has a vehicle identification number allocated in accordance with an Australian Design Rule—the number; or
  - (ii) in any other case—any number permanently marked by the vehicle’s manufacturer on the vehicle for its identification; or
- (c) if a number mentioned in paragraph (a) or (b) has been replaced by the road transport authority or an entity of another jurisdiction that corresponds to the authority—the replacement number.

*written-off* vehicle means—

- 
- (a) a vehicle that is assessed by a person prescribed under the regulations to be a total loss; or
  - (b) a vehicle that a person prescribed under the regulations begins to demolish or dismantle.

*written-off vehicles register* means the written-off vehicles register under section 83D.

### **83C When a vehicle is a *total loss***

For this division, a vehicle is a *total loss* if the vehicle has been damaged by any event to the extent that its fair salvage value plus the cost of repairing the vehicle for use on a road or road related area would be more than its fair market value immediately before the event that caused the damage.

#### **Examples of events that may damage a vehicle**

Collision, fire, flood, accident, trespass, dismantling and demolition.

### **83D Written-off vehicles register**

- (1) The road transport authority must keep a written-off vehicles register.
- (2) The register may include information given to the road transport authority under this Act and any other information the authority considers appropriate.
- (3) The register may be kept in the form of, or as part of, 1 or more computer databases or in any other form the road transport authority considers appropriate.
- (4) The road transport authority may correct any mistake, error or omission in the register subject to the requirements (if any) of the regulations.
- (5) The road transport authority may authorise a person to make entries in the register.
- (6) This section does not limit the functions of the road transport authority in relation to the register.

### **83E Security and disclosure of information in register**

The road transport authority must ensure that information in the written-off vehicles register is kept securely and disclosed only in accordance with this Act or another law in force in the ACT.

*Note 1* The Information Privacy Principles apply to the road transport authority. Principle 4 states requirements about the storage and security of personal information and principle 11 states when personal information may be disclosed by an agency (see *Privacy Act 1988* (Cwlth), s 14).

*Note 2* Access to the register may be sought under the *Freedom of Information Act 1989* (which also provides that certain information is exempt from disclosure).

### **83F Regulations about written-off vehicles**

- (1) The regulations may make provision in relation to written-off vehicles and the written-off vehicles register, including—
  - (a) the vehicles to which this division applies; and
  - (b) when a prescribed person must give information to the road transport authority about a written-off vehicle, the kind of information that must be given, and how the information is to be given; and
  - (c) the disclosure of information in the register.
- (2) In particular, the regulations may make provision in relation to—
  - (a) vehicles recorded as written-off vehicles under the law of another jurisdiction; and
  - (b) matters relating to notices for, and the placement of notices on, written-off vehicles; and
  - (c) matters relating to the removal, defacement or destruction of vehicle identifiers on written-off vehicles; and
  - (d) the keeping of records by prescribed people or the doing of anything else by prescribed people in relation to written-off vehicles; and



- (e) the entry of information into the written-off vehicles register by a person or the doing of anything else in relation to the register.

## 14 Dictionary, new definitions

*insert*

*Australian Design Rule*—see the *Road Transport (Vehicle Registration) Regulations 2000*, schedule 1, clauses 11 and 13.

*total loss*, in relation to a vehicle for division 5.3 (Written-off vehicles register)—see section 83C.

*vehicle identifier*, for division 5.3 (Written-off vehicles register)—see section 83B.

*written-off vehicle*, for division 5.3 (Written-off vehicles register)—see section 83B.

*written-off vehicles register*, for division 5.3 (Written-off vehicles register)—see section 83B.

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