



Australian Capital Territory

# **Road Transport (Safety and Traffic Management) Act 1999 No 80**

## **Republication No 5**

Republication date: 2 December 2001

Last amendment made by Act 2001 No 86

Amendments incorporated to 1 December 2001

Authorised by the ACT Parliamentary Counsel

## About this republication

### The republished law

This is a republication of the *Road Transport (Safety and Traffic Management) Act 1999* as in force on 2 December 2001. It includes any amendment, repeal or expiry affecting the republished law to 1 December 2001 and any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes).

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

### Kinds of republications

The Parliamentary Counsel's Office prepares 2 kinds of republications of ACT laws (see the ACT legislation register at [www.legislation.act.gov.au](http://www.legislation.act.gov.au)):

- 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—

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

Amendments incorporated to  
1 December 2001



Australian Capital Territory

# Road Transport (Safety and Traffic Management) Act 1999

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1 December 2001



Australian Capital Territory

## **Road Transport (Safety and Traffic Management) Act 1999**

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An Act to facilitate the adoption of nationally consistent road rules in the Territory, to make provision about other matters concerning safety and traffic management 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 (General) Act 1999*, the *Road Transport (Public Passenger Services) Act 2001*, the *Road Transport (Vehicle Registration) Act 1999* and the regulations made under those Acts. As part of the road transport legislation, this Act is subject to various provisions of the *Road Transport (General) Act 1999* about the administration and enforcement of the road transport legislation generally.

### 1 Name of Act

This Act is the *Road Transport (Safety and Traffic Management) Act 1999*.

### 3 Objects of Act (NSW s 3)

The objects of this Act are—

- (a) to provide for a safety and traffic management system in the ACT that is—
  - (i) consistent with the agreements scheduled to the *National Road Transport Commission Act 1991* (Cwlth); and
  - (ii) part of the uniform national road transport legislation envisaged by that Act; and
- (b) to re-enact with some changes certain provisions of the *Motor Traffic Act 1936* about safety and traffic management; and
- (c) to improve road safety and transport efficiency, and reduce the costs of administering road transport.

#### 4 Definitions—the dictionary (Cwth s 4, NSW s 4)

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 the dictionary to that Act 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 7)

(1) A note included 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:

- Cwth: *Road Transport Reform (Vehicles and Traffic) Act 1993* (Cwlth)
- MTA: *Motor Traffic Act 1936*, as in force immediately before the commencement of this Act
- NSW: *Road Transport (Safety and Traffic Management) Act 1999* (NSW)
- NSW RT (Gen): *Road Transport (General) Act 1999* (NSW)

**Part 1** Preliminary

Section 5

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- TA: *Traffic Act 1937*, as in force immediately before the commencement of this Act.

## **Part 2**                      **Speeding and other dangerous driving**

### **Division 2.1**              **Speeding and other dangerous driving offences**

*Note*      The offence of culpable driving is in the *Crimes Act 1900*, s 29.

#### **5A**      **Races, attempts on speed records, speed trials etc** (NSW s 40, MTA s 119)

- (1) A person must not, without the road transport authority's written approval, organise, promote or take part in—
  - (a) a race between vehicles on a road or road related area; or
  - (b) an attempt to break a vehicle speed record on a road or road related area; or
  - (c) a trial of the maximum speed or acceleration of a vehicle on a road or road related area; or
  - (d) a competitive trial designed to test the skill of a driver, or the reliability or mechanical condition of a vehicle, on a road or road related area.

Maximum penalty: 20 penalty units.

- (2) The road transport authority may—
  - (a) give or refuse to give an approval under subsection (1); and
  - (b) impose any condition (whether of general or limited application) on an approval that the authority considers necessary in the interests of public safety and convenience.
- (3) Before giving an approval under subsection (1), the road transport authority must—

- (a) consult the chief police officer; and
  - (b) take reasonable steps to seek, and take into account, the views of anyone who would be, in the authority's opinion, likely to be affected if the approval were granted or refused.
- (4) Failure to comply with subsection (3) (b) in relation to an approval does not affect the validity of the approval.
- (5) A person taking part in (or the organiser or promoter) of a race, attempt or trial mentioned in subsection (1) must comply with any condition of an approval given under the subsection for the race, attempt or trial.

Maximum penalty: 20 penalty units.

**5B Burnouts and other prohibited conduct** (NSW s 41, MTA s 119AA)

- (1) In this section:

*burnout* means—

- (a) in relation to a motor vehicle other than a motorbike—operate the vehicle in a way that causes the vehicle to undergo sustained loss of traction by 1 or more of the driving wheels; or
- (b) in relation to a motorbike—operate the motorbike in a way that causes the motorbike to undergo sustained loss of traction by the driving wheel.

*other prohibited conduct* means conduct that—

- (a) is associated with the operation of a motor vehicle for speed competitions or other activities prescribed under the regulations; and
- (b) is prescribed under the regulations for subsection (4).

*prohibited substance*, in relation to the burnout of a motor vehicle, means—

- (a) petrol, oil, diesel fuel or any other flammable liquid; or
  - (b) any other substance that increases the risk of death, injury or damage to property (including damage to the surface of any road or to any prescribed traffic control device) from the burnout.
- (2) The driver of a motor vehicle must not burnout the vehicle on a road or road related area.

Maximum penalty:

- (a) if a prohibited substance had been placed on the surface of the road or road related area under, or near, a tyre of the vehicle—30 penalty units; or
  - (b) in any other case—20 penalty units.
- (3) In a prosecution for an offence against subsection (2), it is a defence if the driver establishes that the motor vehicle, although operated in contravention of the subsection, was not deliberately operated in that way.
- (4) A person must not engage in other prohibited conduct on a road or road related area.

Maximum penalty: 20 penalty units.

- (5) This section does not apply to the operation of a motor vehicle for a race, attempt or trial carried out in accordance with an approval given under section 5A by the road transport authority.

**6 Negligent driving** (NSW s 42 (1), MTA s 129 (1A)-(2), s 130)

- (1) A person must not drive a motor vehicle negligently on a road or road related area.

Maximum penalty:

- (a) if the driving occasions death—200 penalty units, imprisonment for 2 years or both; or
  - (b) if the driving occasions grievous bodily harm—100 penalty units, imprisonment for 1 year or both; or
  - (c) in any other case—20 penalty units.
- (2) In deciding whether an offence has been committed against subsection (1), the court must have regard to all the circumstances of the case, including—
- (a) the nature, condition and use of the road or road related area where the offence is alleged to have been committed; and
  - (b) the amount of traffic on, or that might reasonably be expected to have been on, the road or road related area.
- (3) In this section:

***grievous bodily harm*** includes permanent or serious disfigurement.

*Note* If an offence against this section occasions death or grievous bodily harm, automatic licence disqualification applies (see *Road Transport (General) Act 1999*, s 63).

**7 Furious, reckless or dangerous driving** (NSW s 42 (2), MTA s 129 (1)-(2), s 147A)

- (1) A person must not drive a motor vehicle furiously, recklessly, or at a speed or in a way that is dangerous to the public, on a road or road related area.

Maximum penalty: 100 penalty units, imprisonment for 1 year or both.



- (2) In deciding whether an offence has been committed against subsection (1), the court must have regard to all the circumstances of the case, including—
- (a) the nature, condition and use of the road or road related area where the offence is alleged to have been committed; and
  - (b) the amount of traffic on, or that might reasonably be expected to have been on, the road or road related area.

*Note* Automatic licence disqualification applies to an offence against this section (see *Road Transport (General) Act 1999*, s 63).

## **8 Menacing driving (NSW s 43)**

- (1) A person must not drive a motor vehicle on a road or road related area in a way that menaces someone else with the intention of menacing the other person.

Maximum penalty: 100 penalty units, imprisonment for 1 year or both.

- (2) A person must not drive a motor vehicle on a road or road related area in a way that menaces someone else if the person ought to have known that the other person might be menaced.

Maximum penalty: 100 penalty units, imprisonment for 1 year or both.

- (3) This section applies—

- (a) whether the other person is menaced by a threat of personal injury or by a threat of damage to property; and
- (b) whether or not the other person or that property is on a road or road related area.

- (4) A person does not commit an offence against this section if the person could not, in the circumstances, reasonably avoid menacing the other person.

- (5) A person cannot be found guilty of an offence—
- (a) both against subsection (1) and against subsection (2) arising out of a single incident; or
  - (b) both against this section and against section 6 (1) or 7 (1) arising out of a single incident.

*Note* Automatic licence disqualification applies to an offence against this section (see *Road Transport (General) Act 1999*, s 63).

## **Division 2.2 Traffic offence evasion articles**

### **9 Sale etc of traffic offence evasion articles (NSW s 48, MTA s 164G, s 164H)**

- (1) A person must not sell, offer for sale, or buy a traffic offence evasion article.

Maximum penalty: 20 penalty units.

- (2) A person must not drive or park a vehicle on a road or road related area if a traffic offence evasion article is fitted to, applied to, or carried in the vehicle.

Maximum penalty: 20 penalty units.

- (3) The responsible person for a vehicle driven or parked on a road or road related area in contravention of subsection (2) commits an offence.

Maximum penalty: 20 penalty units.

- (4) It is a defence to a prosecution for an offence against this section if the defendant satisfies the court that the traffic offence evasion article was not designed as a traffic offence evasion article but was designed for a lawful purpose.

- (5) It is a defence to a prosecution for an offence against subsection (2) or (3) if the defendant satisfies the court that, at the time of the offence—
- (a) the vehicle was being taken to a place required by a police officer, the road transport authority or a court to surrender the traffic offence evasion article; or
  - (b) a notice issued under the regulations required the responsible person for the vehicle to remove the traffic offence evasion article from the vehicle within a stated time and that time had not expired; or
  - (c) the defendant did not know, and in the circumstances could not reasonably be expected to have known, the traffic offence evasion article was fitted to, applied to, or carried in the vehicle.

**10 Surrender and forfeiture of traffic offence evasion articles**  
(NSW s 49, MTA s 164I, s 164J)

- (1) This section applies if a police officer or authorised person suspects on reasonable grounds that a person—
- (a) is selling, is offering for sale, has sold or has bought a traffic offence evasion article in contravention of section 9 (1); or
  - (b) is driving or has parked a vehicle on a road or road related area with a traffic offence evasion article fitted to, applied to, or carried in the vehicle in contravention of section 9 (2).
- (2) If subsection (1) (b) applies in relation to a police officer, the officer may—
- (a) stop and detain the vehicle; and
  - (b) search the vehicle for the traffic offence evasion article; and
  - (c) seize the article if the officer finds it in or on the vehicle.

- (3) In exercising a power under subsection (2) in relation to a vehicle, a police officer—
- (a) may use such assistance as is necessary; and
  - (b) must search the vehicle in a public place or somewhere else to which members of the public have ready access; and
  - (c) must not detain the vehicle for longer than is necessary and reasonable to search it; and
  - (d) may use such force as is necessary and reasonable in the circumstances, but must not damage the vehicle by forcing open a part of the vehicle unless—
    - (i) someone apparently in charge of the vehicle has been given a reasonable opportunity to open that part; or
    - (ii) it is not possible to give anyone apparently in charge of the vehicle a reasonable opportunity to open that part.
- (4) If subsection (1) applies in relation to a police officer or authorised person, the police officer or authorised person may—
- (a) require the person mentioned in subsection (1) to surrender the traffic offence evasion article to the police officer or authorised person; or
  - (b) if the article is fitted to a vehicle and is not immediately removable—by written notice served on the responsible person for the vehicle, require the responsible person for the vehicle to surrender the article to the chief police officer within a stated time and in a stated way.
- (5) Subsection (4) does not limit the powers of a police officer under subsection (3).

- (6) A person must not, without reasonable excuse, contravene a requirement under subsection (4), whether or not the person is the owner of the traffic offence evasion article.

Maximum penalty: 20 penalty units.

- (7) If—

- (a) a court finds an offence against section 9 or subsection (6) proven against someone; and  
(b) the traffic offence evasion article has not already been surrendered under this section;

the court may order the person to surrender the article to the chief police officer within a stated time and in a stated way.

- (8) A traffic offence evasion article surrendered under this section is forfeited to the Territory and may be destroyed or otherwise disposed of as directed by the chief police officer or road transport authority.
- (9) If a person who is not the absolute owner of a traffic offence evasion article surrenders the article under this section, no liability attaches to the person because of the surrender.

## **Division 2.3                      Seizure, impounding and forfeiture of vehicles for certain offences**

### **10A    Impounding of vehicles used for menacing driving on court order before conviction etc**

- (1) If a police officer believes on reasonable grounds that a person has committed an offence against section 8 (Menacing driving), the police officer may apply to the Magistrates Court for an order that the motor vehicle used by the person to commit the offence be impounded.

- (2) The application may be made whether or not the person has been charged with the offence.

*Note* Subsection (10) provides that this section does not apply if a court convicts or finds a person guilty of an offence against s 8. In that case, the court would deal with the person under s 10B.

- (3) If the court is satisfied on the balance of probabilities that the person committed the offence, the court must order the motor vehicle is to be impounded for 3 months, unless the court otherwise orders under subsection (4).
- (4) The court may, by order, specify a shorter period of impounding or dispense with the period of impounding to avoid excessive hardship or other injustice to anyone.
- (5) In deciding whether to make an order under subsection (4), the court—
- (a) must have regard to the circumstances of the offence, including the risk to the safety of road users; and
  - (b) may seek evidence from a police officer about the circumstances of the offence.
- (6) Subsection (5) does not limit, by implication, the matters to which the court may have regard or prevent the person from presenting evidence about the circumstances of the offence.
- (7) Any period for which the motor vehicle was impounded under section 10C (Powers of police officers to seize and impound vehicles used in committing certain offences) counts towards a period of impounding of the motor vehicle under this section.
- (8) If the court makes an order under this section and the motor vehicle has not already been impounded under section 10C, the court may order the responsible person for the vehicle to surrender the motor vehicle to the chief police officer within a stated time and in a stated way.

- (9) The court may also make an order authorising any police officer to seize the vehicle from any place if the order under subsection (8) is not complied with.
- (10) This section does not apply if a court convicts the person, or finds the person guilty, of an offence against section 8 (Menacing driving).

**10B Impounding or forfeiture of vehicles on conviction etc for certain offences** (MTA s 139L, NSW RT (Gen) s 40)

- (1) If a court convicts a person, or finds a person guilty, of an offence against section 5A (Races, attempts on speed records, speed trials etc), section 5B (Burnouts and other prohibited conduct) or section 8 (Menacing driving), the motor vehicle used by the person in committing the offence is—
  - (a) for a first offender—to be impounded for 3 months, unless the court otherwise orders under subsection (2); or
  - (b) for a repeat offender—forfeited to the Territory, unless the court otherwise orders under subsection (2).
- (2) The court may, by order, specify a shorter period of impounding, dispense with the period of impounding or commute a forfeiture to a period of impounding to avoid excessive hardship or other injustice to anyone.
- (3) In deciding whether to make an order under subsection (2), the court—
  - (a) must have regard to the circumstances of the offence, including the risk to the safety of road users; and
  - (b) may seek evidence from the prosecution about the circumstances of the offence.
- (4) Subsection (3) does not limit, by implication, the matters to which the court may have regard or prevent the defendant from presenting evidence about the circumstances of the offence.

- (5) Any period for which the motor vehicle was impounded under section 10A (Impounding of vehicles used for menacing driving on court order before conviction etc) or section 10C (Powers of police officers to seize and impound vehicles used in committing certain offences) counts towards a period of impounding of the motor vehicle under this section.
- (6) If—
- (a) a court convicts a person, or finds a person guilty, of an offence against section 5A, 5B or 8; and
  - (b) the motor vehicle used in committing the offence is subject to impounding or forfeiture under this section; and
  - (c) the vehicle has not already been impounded under section 10C;
- the court may order the responsible person for the vehicle to surrender the vehicle to the chief police officer within a stated time and in a stated way.
- (7) The court may also make an order authorising any police officer to seize the vehicle from any place if the order under subsection (6) is not complied with.
- (8) The impounding or forfeiture of a motor vehicle under this section is in addition to any other penalty imposed for the offence.
- (9) For any rights of appeal against penalty, the impounding or forfeiture of a motor vehicle under this section is, or is part of, the penalty imposed for the offence.
- (10) For this section—
- (a) a person who is convicted, or found guilty, of an offence against section 5A, 5B or 8 (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 against section 5A, 5B or 8 within 5 years before being convicted, or found guilty, of the current offence; and



- (b) a person who is convicted, or found guilty, of an offence against section 5A, 5B or 8 is a *first offender* in relation to the offence if the person is not a repeat offender in relation to the offence.

**10C Powers of police officers to seize and impound vehicles used in committing certain offences (MTA s 139K, NSW RT (Gen) s 39)**

- (1) A police officer may seize a motor vehicle if—
- (a) the police officer believes, on reasonable grounds, that the vehicle is being or has been used by a person in committing an offence against section 5A (Races, attempts on speed records, speed trials etc) or section 5B (Burnouts and other prohibited conduct); or
  - (b) the vehicle is subject to impounding under section 10A (Impounding of vehicles used for menacing driving on court order before conviction etc); or
  - (c) the vehicle is subject to impounding or forfeiture under section 10B (Impounding or forfeiture of vehicles on conviction etc for certain offences).
- (2) However, the police officer may only seize the motor vehicle under subsection (1) (a) within 10 days after the commission of the offence.
- (3) The motor vehicle may be seized from—
- (a) a road or road related area or any other public place; or
  - (b) any other place—
    - (i) with the consent of the owner or occupier of the place; or
    - (ii) under the authority of an order under section 10A (9) or 10B (7) for the seizure of the vehicle.

- (4) After seizing the motor vehicle, the police officer must move the vehicle to a place decided by the chief police officer.
- (5) The motor vehicle may, subject to the regulations, be impounded at the place where it is moved under subsection (4), or may be moved to and impounded at any other place decided by the chief police officer.
- (6) To seize or move the motor vehicle, the police officer, or someone acting under the police officer's direction, may remove, dismantle or neutralise any locking device or other feature of the vehicle and may, if the driver or anyone else will not surrender the keys to the vehicle or the keys are not available to the police officer for any other reason, start the vehicle in another way.
- (7) The motor vehicle may be moved—
  - (a) by being driven (whether or not under power) or by being towed or pushed, or in any other way whatever; and
  - (b) by the police officer or someone acting under the police officer's direction.
- (8) In this section:  
*public place* includes any place that members of the public are entitled to use.

**10D Registered operator and interested persons to be notified**  
(MTA s 139N (1)-(2), NSW RT (Gen) sch 1, cl 2)

- (1) If a motor vehicle is seized under section 10C (1) (a) (Powers of police officers to seize and impound vehicles used in committing certain offences), the chief police officer must give notice of the seizure to the registered operator of the vehicle.
- (2) If a prosecution is begun against a person for an offence against section 5A (Races, attempts on speed records, speed trials etc), section 5B (Burnouts and other prohibited conduct) or section 8

(Menacing driving) involving a motor vehicle, the chief police officer must give notice of the prosecution to—

- (a) if the prosecution is against a person other than the registered operator (or a registered operator) of the vehicle—the registered operator; or
  - (b) if the vehicle may be subject to forfeiture if the person is convicted or found guilty of the offence—the holder of any registered interest in the vehicle.
- (3) The notice must be given within 7 days after the seizure or the beginning of the prosecution.
- (4) The notice must—
- (a) state—
    - (i) the short description prescribed under the *Road Transport (General) Act 1999* for the offence for which the motor vehicle has been seized or the prosecution begun (or the provision of this Act contravened by the person); and
    - (ii) the place where the offence was committed and the date and approximate time of the offence; and
    - (iii) the particulars that are, under the regulations under the *Road Transport (General) Act 1999*, identifying particulars for the vehicle; and
  - (c) for a notice under subsection (1)—tell the registered operator that an application may be made to the chief police officer or the Magistrates Court for the release of the vehicle; and
  - (d) for a notice under subsection (2)—tell the person that the vehicle may be subject to impounding or, if appropriate, forfeiture under section 10B.

**10E Keeping of vehicles seized under s 10C (1) (a)**  
(MTA s 139N (3), NSW RT (Gen) sch 1, cl 3)

- (1) If a motor vehicle is seized under section 10C (1) (a) by a police officer because the police officer believes the vehicle has been used by a person in committing an offence, the chief police officer must keep the vehicle until the earliest of the following happens:
- (a) the person is dealt with by a court for the offence;
  - (b) an infringement notice is served on the person for the offence;
  - (c) if a prosecution for the offence is not begun within 28 days after the seizure—the 28 days end;

unless the vehicle is sooner released under section 10G (Vehicles seized under s 10C (1) (a)—release by chief police officer) or section 10H (Vehicles seized under s 10C (1) (a)—release by Magistrates Court).

- (2) If the person is convicted, or found guilty of, the offence, the chief police officer must keep the vehicle as required under section 10F.

**10F Keeping of vehicles impounded or forfeited under s 10A or s 10B** (MTA s 139N (4), NSW RT (Gen) sch 1, cl 4)

- (1) A motor vehicle impounded under section 10A (Impounding of vehicles used for menacing driving on court order before conviction etc) or section 10B (Impounding or forfeiture of vehicles on conviction etc for certain offences) must be kept by the chief police officer for the period for which the vehicle is subject to impounding.
- (2) A motor vehicle subject to forfeiture under section 10B must be kept by the chief police officer until the road transport authority directs that the vehicle be disposed of.
- (3) A direction under subsection (2) may be given in relation to a motor vehicle not earlier than 28 days after the vehicle becomes subject to forfeiture.

**10G Vehicles seized under s 10C (1) (a)—release by chief police officer** (MTA s 139P, NSW RT (Gen) sch 1, cl 5)

- (1) A person may apply to the chief police officer for the release to the person of a motor vehicle that has been seized under section 10C (1) (a).
- (2) The chief police officer must release the vehicle to the person if—
  - (a) the chief police officer is satisfied that the person is entitled to possession of the vehicle; and
  - (b) the period for which the chief police officer is required under section 10E to keep the vehicle has ended; and
  - (c) any fee or other amount payable under the *Road Transport (General) Act 1999* in relation to the impounding and seizure of the vehicle has been paid.
- (3) The chief police officer may release the vehicle to the person if—
  - (a) the chief police officer is satisfied that the person is entitled to possession of the vehicle; and
  - (b) the chief police officer is satisfied that—
    - (i) the offence for which the vehicle was impounded was not committed by, or with the consent of, the person; and
    - (ii) the person did not know, and could not reasonably be expected that have known, that the vehicle would be used for the commission of the offence; and
  - (c) any fee or other amount payable under the *Road Transport (General) Act 1999* in relation to the seizure and impounding of the vehicle has been paid.
- (4) The chief police officer must ensure that an impounded vehicle is available for collection by a person as soon as practicable after the person becomes entitled to possession of it.

- (5) If a motor vehicle is released to a person under this section, the person must acknowledge in writing receiving the vehicle.

**10H Vehicles seized under s 10C (1) (a)—release by Magistrates Court**  
(MTA s 139Q, NSW RT (Gen) sch 1, cl 6)

- (1) A person may apply to the Magistrates Court for an order for the release to the person of a motor vehicle that has been seized under section 10C (1) (a), whether or not an application has been made to the chief police officer under section 10G for the release of the vehicle.
- (2) The court may order the release of the motor vehicle to the person if satisfied that—
- (a) the person is entitled to the possession of the vehicle; and
  - (b) either—
    - (i) the offence for which the vehicle was impounded was not committed by, or with the consent of, the person and the person did not know, and could not reasonably be expected to have known, that the vehicle would be used for the commission of an offence; or
    - (ii) keeping the vehicle would cause excessive hardship or other injustice to anyone.
- (3) The court may also remit all or part of any fee or other amount payable under the *Road Transport (General) Act 1999* in relation to the seizure and impounding of the vehicle.
- (4) If a motor vehicle is released to a person under this section, the person must acknowledge in writing receiving the vehicle.

**10I Safekeeping of vehicles** (MTA s 139M (2), NSW RT (Gen) sch 1, cl 7)

The chief police officer must take reasonable steps to secure an impounded vehicle against theft or damage while impounded.

**10J Failure to prosecute** (NSW RT (Gen) sch 1, cl 8)

A proceeding does not lie against the Territory, the chief police officer or a police officer in relation to the seizure or impounding under section 10C (1) (a) or (b) (Powers of police officers to seize and impound vehicles used in committing certain offences) of a vehicle for an offence merely because a prosecution is not begun for the offence.

**10K Disposal of vehicles** (MTA s 139N (5), NSW RT (Gen) sch 1, cl 9)

- (1) The chief police officer may cause an impounded or forfeited vehicle to be offered for sale, by public auction or public tender, in the circumstances prescribed under the regulations.
- (2) The vehicle may be disposed of otherwise than by sale if the chief police officer believes on reasonable grounds that the vehicle has no monetary value or that the proceeds of the sale would be unlikely to exceed the costs of sale.
- (3) If the vehicle offered for sale is not sold, the chief police officer may dispose of the vehicle otherwise than by sale.
- (4) The regulations may make provision for or with respect to the disposal of the proceeds of any such sale, including provisions for or with respect to entitling persons to seek to be paid any such proceeds.

## Part 3                      Unsafe loads

### 11      **Meaning of *loaded unsafely*** (NSW s 58 (5))

In this part:

*loaded unsafely*, for a vehicle, means—

- (a) a load on the vehicle is placed in a way that makes the vehicle unstable or unsafe; or
- (b) a load on the vehicle is not secured or is secured in a way that it is likely to fall or be dislodged from the vehicle; or
- (c) an appropriate method is not used to secure a load on the vehicle.

### 12      **Driver of vehicle loaded unsafely** (NSW s 58 (1), MTA s 189 (1) (j))

A person commits an offence if—

- (a) the person knows, or ought reasonably to know, a vehicle is loaded unsafely; and
- (b) the person drives the vehicle, or allows it to stand, on a road or road related area; and
- (c) while the vehicle is being so driven or allowed to stand, a person dies or is injured, or property (other than the vehicle or load) is damaged, because the vehicle is loaded unsafely.

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



**13 Responsible person for vehicle loaded unsafely**  
(NSW s 58 (2)-(3))

- (1) The responsible person for a vehicle commits an offence if—
- (a) the vehicle is loaded unsafely and is driven, or allowed to stand, on a road or road related area; and
  - (b) the person knows, or ought reasonably to know, the vehicle is loaded unsafely; and
  - (c) while the vehicle is being so driven or allowed to stand, a person dies or is injured, or property (other than the vehicle or load) is damaged, because the vehicle is loaded unsafely.

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

- (2) A person commits an offence if—
- (a) the person is a director of, or is concerned in the management of, a corporation that is the responsible person for a vehicle loaded unsafely and driven, or allowed to stand, on a road or road related area; and
  - (b) the person knows, or ought reasonably to know, the vehicle is loaded unsafely; and
  - (c) while the vehicle is being so driven or allowed to stand, a person dies or is injured, or property (other than the vehicle or load) is damaged, because the vehicle is loaded unsafely.

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

**14 Proceeding against pt 3 (NSW s 58 (4), (6))**

- (1) It is a defence to a prosecution of a person for an offence against this part if the person satisfies the court that he or she could not have prevented the vehicle being driven, or allowed to stand, on a road or road related area while loaded unsafely.

- (2) In a proceeding for an offence against this part, it is sufficient to prove a vehicle was loaded unsafely if the prosecution proves the load on the vehicle was not placed, secured or restrained in a way that met the performance standards recommended in the *Load Restraint Guide—Guidelines for the safe carriage of loads on road vehicles* published by the Australian Government Publishing Service on 12 December 1994.

## Part 4 Traffic Accidents

### 15 Meaning of *traffic accident*

In this Act:

*traffic accident* includes—

- (a) a collision between 2 or more vehicles or a vehicle and an animal; and
- (b) any other accident or incident involving a vehicle or animal in which a person dies or is injured, property is damaged, or an animal in someone's charge dies or is injured.

### 16 Driver or rider to stop and give assistance (NSW s 70, MTA s 178, TA s 32)

If the driver of a vehicle, or rider of an animal, is involved in a traffic accident on a road or road related area, and someone dies or is injured in the accident, the driver or rider must not knowingly fail to stop and give any assistance that is necessary and in his or her power to give.

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

### 17 Regulations about duties of participants in, and witnesses to, traffic accidents (NSW sch 1, cl 6)

- (1) The regulations may make provision for or with respect to the duties of the driver of a vehicle or anyone else involved in or affected by a traffic accident on a road or road related area.

- (2) Without limiting subsection (1), the regulations may require a person mentioned in that subsection—
- (a) to produce his or her Australian driver licence or external driver licence, or another form of identification, to anyone else; and
  - (b) to give particulars to the police or anyone else about—
    - (i) any vehicle, person or property involved in or affected by the accident; or
    - (ii) injury or damage caused by the accident; or
    - (iii) the names and addresses of witnesses to the accident.

## Part 5 Traffic control devices

### 18 Authority to install etc prescribed traffic control devices (NSW s 51, MTA s 109)

For this part, a person has *appropriate authority* to install or display (or to interfere with, change or remove) a prescribed traffic control device if the person is authorised in writing by the road transport authority to install or display (or to interfere with, change or remove) the device.

### 19 Offences about traffic control devices (NSW s 52, MTA s 112)

- (1) A person must not, without appropriate authority—
- (a) install or display a prescribed traffic control device—
    - (i) on, above or near a road or road related area; or
    - (ii) on a vehicle on, above or near a road or road related area;  
or
  - (b) interfere with, change or remove a prescribed traffic control device installed or displayed—
    - (i) on, above or near a road or road related area; or
    - (ii) on a vehicle on, above or near a road or road related area.

Maximum penalty: 20 penalty units.

- (2) A person must not install or display a sign, signal, marking, structure or other device that might reasonably be mistaken for a prescribed traffic control device—

- (a) on, above or near a road or road related area; or
- (b) on a vehicle on, above or near a road or road related area.

Maximum penalty: 20 penalty units.

**20 Removal of unauthorised devices (NSW s 53, s 54)**

- (1) This section applies if a person installs or displays a sign, signal, marking, structure or other device in contravention of section 19.
- (2) The road transport authority, a police officer, or an authorised person—
  - (a) may direct the person, orally or in writing, to remove the device within a stated reasonable time; or
  - (b) may remove the device.
- (3) If the person is given a direction under subsection (2) (a), the person must comply with the direction.

Maximum penalty: 20 penalty units.

- (4) If the road transport authority, a police officer, or an authorised person removes the device—
  - (a) the person's liability under section 19 or subsection (3) is not affected; and
  - (b) the road transport authority may recover the cost of removing the device as a debt payable by the person to the Territory.
- (5) A certificate given by or on behalf of the road transport authority, and stating that a stated amount is the cost of removing the device under subsection (2) (b), is evidence of the facts so stated.

**21 Devices generally presumed to be lawfully installed or displayed (NSW s 55, MTA s 111)**

In a proceeding for an offence against this Act (other than an offence against section 19 (1) (a) or section 20 (3) in relation to a

contravention of that paragraph), a prescribed traffic control device installed or displayed on, above or near a road or road related area, or on a vehicle on, above or near a road or road related area, is conclusively presumed to have been lawfully installed or displayed there under this Act.

## **22 Notice of intention to challenge certain issues**

- (1) This section applies if a defendant in a proceeding for an offence against this Act intends to challenge any of the following matters:
  - (a) that a stated prescribed traffic control device was, at the time of the offence, installed or displayed at a stated place on, above or near a road or road related area, or on a vehicle on, above or near a road or road related area;
  - (b) that a stated prescribed traffic control device on, above or near a road or road related area, or on a vehicle on, above or near a road or road related area, is a reasonable likeness of a diagram, or complies substantially with a description, of the device under this Act;
  - (c) that a symbol on or with a prescribed traffic control device on, above or near a road or road related area, or on a vehicle on, above or near a road or road related area, is a reasonable likeness of a diagram of the symbol under this Act;
  - (d) that a stated prescribed traffic control device on, above or near a road or road related area, or on a vehicle on, above or near a road or road related area, is clearly visible during the day or night in normal weather conditions, or during the day in normal weather conditions, to the drivers or pedestrians it applies to;
  - (e) that a stated prescribed traffic control device on, above or near a road or road related area, or on a vehicle on, above or near a road or road related area, was operating correctly at the time of the offence.

- (2) The defendant must give written notice of the challenge to the prosecution at least 7 days before the day fixed for the hearing.
- (3) The notice must—
  - (a) state the defendant's full name and address; and
  - (b) state—
    - (i) if an infringement notice for the offence has been served on the person—the number of the infringement notice and the date of service of the infringement notice; or
    - (ii) if an infringement notice for the offence has not been served on the person—sufficient details of the offence to allow the prosecution to identify the offence; and
  - (c) clearly identify the stated prescribed traffic control device and the matter the defendant intends to challenge; and
  - (d) outline the grounds of the challenge.



## Part 6                      Traffic offence detection devices

### 22A    Meaning of *relevant information* for pt 6

- (1) In this part, *relevant information*, for an image of a vehicle taken by a camera detection device, is—
- (a) the date and time when, and place where, the image was taken; and
  - (b) the person responsible for the use of the device when the image was taken; and
  - (c) if the vehicle is being driven in contravention of a provision of the regulations about traffic lights at an intersection—
    - (i) the general direction and lane in which the vehicle is being driven; and
    - (ii) the time a red traffic light or red traffic arrow facing the driver of the vehicle at the intersection had been showing before the driver entered the intersection; and
  - (d) if the vehicle is being driven in contravention of a provision of the regulations about obeying the speed limit—
    - (i) the speed measuring device component of the camera detection device; and
    - (ii) the speed limit applying to the driver of the vehicle for the length of road where the driver was driving when the image is taken; and
    - (iii) the speed at which the driver of the vehicle was driving when the image is taken.

**23 Use of camera detection devices (MTA s 180ZE)**

- (1) A *camera detection device* is a device designed to do either or both of the following:
  - (a) take complying images of vehicles being driven in contravention of the regulations about traffic lights at intersections;
  - (b) measure the speed at which vehicles are being driven and take complying images of vehicles being driven in contravention of a provision of the regulations about obeying the speed limit.
- (2) A photographic or electronic image of a vehicle taken by an approved camera detection device is a complying image if—
  - (a) the image shows the vehicle and its numberplate; and
  - (b) the relevant information for the image is indicated on the image; and
  - (c) for an electronic image—
    - (i) the device creates an electronic file that contains the image and the relevant information for the image; and
    - (ii) the file is recorded in accordance with the regulations; and
    - (iii) if the regulations require the accuracy of the file to be verified—the file is verified in accordance with the regulations.
- (3) This section does not—
  - (a) limit the matters that may be indicated on or shown by an image taken by an approved camera detection device; or
  - (b) limit the information included in an electronic file created by an approved camera detection device; or

- (c) require an approved camera detection device to be operated by a person.

*Note* Information etc that is indicated on an image includes information etc accompanying or reasonably associated with the image (see the dict, def of *indicated on*).

## **24 Regulations about traffic offence detection devices** (MTA s 180ZF)

- (1) The regulations may make provision for or with respect to the testing, sealing, maintenance and use of traffic offence detection devices, including the approval by the road transport authority of people to test, seal, maintain or use traffic offence detection devices.
- (2) The regulations may also make provision about the meaning of codes and other information indicated on images taken by approved camera detection devices.

## **25 Evidentiary certificates etc** (MTA s 180ZG)

- (1) This section applies to a proceeding against a person for an offence against this Act involving a vehicle.
- (2) A certificate that appears to be signed by a police officer or the road transport authority, and states a matter relevant to any of the following, is evidence of the matter:
- (a) the use of a traffic offence detection device in relation to the vehicle;
  - (b) anything done or not done in relation to a traffic offence detection device under the regulations made for this part;
  - (c) the recording or verification of an electronic file created by an approved camera detection device.

- (3) Without limiting subsection (2), a certificate given under that subsection may state any of the following matters:
- (a) that the device is—
    - (i) an approved camera detection device; or
    - (ii) an approved speed measuring device;
  - (b) that the device has been maintained, tested, sealed or used as required or permitted under the regulations made for this part;
  - (c) the condition of the device at a stated time or at any time during a stated period, including, for example, that it was accurate (or accurate to a stated extent) and operating properly at that time or during that period;
  - (d) if the device is an approved camera detection device—that a stated image is an accurate copy of an image taken by the device at a stated date, time and place or is an accurate copy of 1 of a series of images taken by the device at a stated place during a stated period;
  - (e) if the device is an approved speed measuring device—a measurement of speed obtained by the use of the device.
- (4) An image stated by a certificate given under subsection (2) to be an accurate copy of an image taken by an approved camera detection device is evidence of everything indicated on or shown by the image.
- Note* Information etc that is indicated on an image includes information etc accompanying or reasonably associated with the image (see the dict, def of *indicated on*).
- (5) Without limiting subsection (4), the information indicated on or shown by the image is evidence of the following matters:
- (a) that the vehicle shown in the image was being driven when and the place where (the *relevant time and place*) the image was taken by the device;

- (b) if the information indicates a speed limit—that the speed limit applied to the driver of the vehicle for the length of road where the driver was driving at the relevant time and place;
  - (c) if the information indicates the speed of the vehicle—that the driver was driving the vehicle at that speed at the relevant time and place;
  - (d) if the information indicates the lane and the general direction in which the vehicle was travelling—that the vehicle was travelling in that lane in the general direction indicated;
  - (e) if the information indicates the length of time a red traffic light or red traffic arrow facing the driver of the vehicle at the intersection concerned had been showing—that the light or arrow shown in the image had been showing for the stated time before the driver entered the intersection.
- (6) If an image mentioned in subsection (4) is a copy of 1 of a series of images taken by an approved camera detection device during a period, subsections (4) and (5) apply to the image considered by itself and to the image considered with other images in the series.
- (7) If the defendant is the responsible person (or a responsible person) for the vehicle, it is to be presumed (unless evidence to the contrary is presented) that the defendant was the driver of the vehicle at the relevant time and place.
- (8) Evidence may be given by a police officer or authorised person about any matter mentioned in subsections (2) and (3).
- (9) Without limiting subsection (8), evidence by a police officer or authorised person of the speed a vehicle was moving as measured by a traffic offence detection device is evidence that the vehicle was being driven at that speed when and where the measurement was taken.

- (10) Evidence of the condition of a traffic offence detection device is necessary only if evidence is given that the device was not accurate or operating properly.
- (11) This section does not limit evidence that can be presented apart from this section.

**26 Interfering with traffic offence detection devices**  
(MTA s 180ZH)

A person must not, without lawful authority, knowingly or recklessly interfere with—

- (a) a traffic offence detection device or its operation; or
- (b) a seal on a traffic offence detection device; or
- (c) anything taken or created by a traffic offence detection device.

Maximum penalty: 30 penalty units.

**27 Inspection and purchase of images taken by camera detection devices** (MTA s 180ZI)

- (1) This section applies to—
  - (a) the responsible person for a vehicle shown in an image taken by a traffic offence detection device; or
  - (b) a person nominated under the *Road Transport (General) Act 1999*, section 38 (Illegal user declarations), 39 (Known user declarations) or 40 (Sold vehicle declarations) by the responsible person for a vehicle shown in an image taken by a traffic offence detection device.
- (2) The road transport authority must—
  - (a) make a copy of the image (including the information indicated on the image) available for inspection by the person; and

- (b) give a copy to the person if the person asks for a copy.

*Note* A fee may be determined under the *Road Transport (General) Act 1999*, s 96 (Determination of fees, charges and other amounts) for this section.

## **28 Notice of intention to challenge certain issues** (MTA s 180ZJ)

- (1) This section applies if a defendant in a proceeding for an offence against this Act intends to challenge the maintenance, testing, sealing, use, accuracy or operating condition of a traffic offence detection device.
- (2) The defendant must give written notice of the challenge to the prosecution at least 7 days before the day fixed for the hearing.
- (3) The notice must—
  - (a) state the defendant's full name and address; and
  - (b) state—
    - (i) if an infringement notice for the offence has been served on the person—the number of the infringement notice and the date of service of the infringement notice; or
    - (ii) if an infringement notice for the offence has not been served on the person—sufficient details of the offence to allow the prosecution to identify the offence; and
  - (c) outline the grounds on which the defendant intends to challenge the maintenance, testing, sealing, use or condition of the traffic offence detection device.

## Part 7 Traffic management

### 30 Road or road related area may be closed temporarily to traffic (NSW s 74)

- (1) A police officer may—
  - (a) close a road or road related area to traffic during a temporary obstruction or danger to traffic or for any temporary purpose; and
  - (b) give directions to prevent the traffic of any vehicles, people or animals in or on a road or road related area closed to traffic under paragraph (a) or under the authority of another Act.
- (2) A person must not, without reasonable excuse, contravene a direction of a police officer under this section.

Maximum penalty: 20 penalty units.

### 31 Removal of dangers and obstructions to traffic (NSW s 75, MTA s 202 (3))

- (1) If a danger or obstruction to traffic on a road or road related area is caused by—
  - (a) a vehicle that is involved in a traffic accident or is broken down; or
  - (b) anything that has fallen, escaped or been removed from a vehicle; or
  - (c) a container used for transporting materials or rubbish (including a building skip) or anything else left or placed on a road or road related area;

a police officer or authorised person may remove the vehicle, thing or container and take other steps necessary to protect the public and assist the free flow of traffic.



- (2) The road transport authority may recover the cost of action taken under subsection (1) as a debt payable to the Territory by—
- (a) for a vehicle—the driver of, or responsible person for, the vehicle at the time of the traffic accident or breakdown; or
  - (b) for anything that has fallen, escaped or been removed from a vehicle—the driver of, or responsible person for, the vehicle at the time of the fall, escape or removal; or
  - (c) for anything else left or placed on a road or road related area—the person who left or placed it, or had possession of it when it was left or placed.
- (3) A certificate given by or on behalf of the road transport authority, and stating that a stated amount is the cost of taking stated action under subsection (1), is evidence of the facts stated.

**32 Removal of unattended vehicles from certain places**  
(NSW s 76, MTA s 202 (3))

- (1) A police officer or authorised person may move an unattended vehicle from a road or road related area to a retention area—
- (a) if the vehicle is unlawfully parked; or
  - (b) if the police officer or authorised person believes on reasonable grounds that the vehicle is causing, or is likely to cause, a danger to the public or an unreasonable obstruction to other users of the road or road related area; or
  - (c) in any other circumstances prescribed under the regulations.
- (2) As soon as practicable after moving the vehicle to a retention area, the police officer or authorised person must report the action to the police officer in charge of the closest police station and ask that the responsible person for the vehicle (or other person entitled to possession of the vehicle) be told where it has been moved to.

- (3) A vehicle moved to a retention area is taken to be uncollected goods under the *Uncollected Goods Act 1996* and—
- (a) the road transport authority is taken to be the possessor of the vehicle under that Act; and
  - (b) the responsible person for the vehicle is taken to be the owner of the vehicle; and
  - (c) the road transport authority may dispose of the vehicle in accordance with part 3 of that Act; and
  - (d) reasonable costs of the possessor in complying with that Act are taken to include the cost of moving the vehicle to the retention area.
- (4) However, the responsible person for the vehicle is not required to pay costs under the *Uncollected Goods Act 1996*, section 26 (2) (a) or (b) if the person satisfies the road transport authority that the vehicle was stolen or illegally taken or used at the relevant time.

*Note* The *Uncollected Goods Act 1996*, s 26 (2) (a) and (b) require the owner to pay the reasonable costs incurred by the possessor in complying with that Act and the possessor's reasonable costs in storing and maintaining the goods before they are collected.

## **Part 8**                      **Regulations about safety and traffic management**

### **Division 8.1**              **General**

#### **33**      **General regulation-making power** (Cwth s 7, NSW s 71, MTA s 218)

- (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 regulations may prescribe offences for contraventions of the regulations and prescribe maximum penalties of not more than 30 penalty units for offences against the regulations.
- (3) The regulations may provide defences for offences against the regulations and provide who bears the onus of proof for the defences.
- (4) In addition to a penalty mentioned in subsection (2), the regulations may provide for a person who is convicted or found guilty by a court of an offence against this Act to be disqualified by order of the court from holding or obtaining a driver licence for the period the court considers appropriate.
- (5) The regulations may provide for a person who is prosecuted for an aggravated form of an offence against the regulations to be found guilty by a court of a lesser offence if the court is not satisfied that the elements of the aggravated offence have been proven, but is satisfied that the elements of the lesser offence have been proven.
- (6) The regulations may provide that a document that is signed or purports to be signed on behalf of the road transport authority (or someone else prescribed under the regulations), and stating any matter relevant to the speed limit applying to a road or road related

area (including the operation of any device that sets the speed limit), is evidence of the matter in a proceeding before a court or tribunal.

**34 Regulations may apply certain documents etc** (Cwth s 7, NSW s 71, 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.

**35 Regulations may exclude vehicles, people and animals from Act (Cwth s 10, NSW s 72, MTA s 218 (ag))**

- (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 given under a regulation mentioned in subsection (1) may be conditional.
- (3) The regulations may provide for the road transport authority to—

- (a) suspend the operation of a 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.

## **Division 8.2 Safety**

### **36 Regulations about safety generally (NSW sch 1, cl 1 (i)-(j))**

The regulations may make provision for or with respect to the regulation or prohibition of traffic, people and animals on roads and road related areas, including provision about—

- (a) the use of safety equipment by drivers, riders, passengers and other people; and
- (b) standards of conduct for safety purposes.

### **37 Regulations about safe operation of vehicles (NSW sch 1, cl 3)**

The regulations may make provision for or with respect to the safe operation of vehicles on roads and road related areas, including provision about—

- (a) the loading and unloading of vehicles and securing of loads; and
- (b) the regulation of vehicles with a size, mass or load greater than limits prescribed under the regulations; and
- (c) the keeping and production of records and other information in relation to vehicles used on roads or road related areas.

**38 Regulations about child safety (NSW sch 1, cl 5)**

- (1) The regulations may make provision for or with respect to the duties of parents and other people responsible for children (other than children over 16 years and 9 months) in relation to the use of roads or road related areas (or vehicles on roads or road related areas).
- (2) The regulations may make provision for or with respect to the establishment and conduct of schemes to assist children to cross roads and road related areas safely, including the following:
  - (a) enabling the road transport authority to conduct, or authorise other people to conduct, the schemes;
  - (b) enabling the road transport authority to—
    - (i) amend or replace the schemes; and
    - (ii) impose conditions on an authority to conduct schemes; and
    - (iii) revoke an authority to conduct schemes;
  - (c) the signs to be displayed at crossings and how the signs are to be displayed;
  - (d) the placement of barriers across or partly across a road or road related area near a crossing;
  - (e) conditions about the wearing or display of insignias, badges, belts or other articles of uniform by anyone taking part in crossing schemes;
  - (f) that evidence the sign was displayed as prescribed by a person at or near a crossing is evidence in a proceeding that the displaying of the sign by the person was authorised;
  - (g) anything else necessary or convenient to be prescribed for the carrying out of the scheme.

## **Division 8.3 Traffic management**

### **39 Regulations about traffic management generally** (NSW sch 1, cl 1)

The regulations may make provision for or with respect to the regulation or prohibition of traffic, people and animals on roads and road related areas, including provision about—

- (a) the places where and how vehicles or animals may or may not be driven or ridden; and
- (b) the use of roads and road related areas by people on foot and other people and by animals; and
- (c) speed limits for vehicles (including speed limits that may be varied electronically or otherwise); and
- (d) signs, signals, structures and other devices to control, direct or warn traffic; and
- (e) the marks that are to be used on the surface of roads and road related areas; and
- (f) the control and reduction of traffic congestion or danger in vehicle operation; and
- (g) the conduct of events on roads and road related areas that may disrupt traffic; and
- (h) complying with directions by police officers, authorised persons or other people prescribed under the regulations; and
- (i) the use of stalls or other ways of selling goods or services, or carrying out any business or trade, on a road or road related area.



**40 Regulations about seizure, impounding etc of vehicles**  
(NSW sch 1, cl 8 (2))

The regulations may make provision for or with respect to—

- (a) the seizure and moving to a retention area of a vehicle that is—
  - (i) a danger to the public or an unreasonable obstruction to traffic; or
  - (ii) abandoned or left unattended on a road or road related area; or
  - (iii) parked unlawfully on a road or road related area where there is conspicuously displayed a sign including the words ‘tow away area’ or ‘vehicles impounded’ or other words indicating the vehicle may be seized; and
- (b) the conditions to be complied with before a vehicle can be seized; and
- (c) the application of the *Uncollected Goods Act 1996* to a vehicle seized and moved to a retention area.

**41 Regulations about towing fees** (NSW sch 1, cl 4)

The regulations may make provision for or with respect to—

- (a) the payment of a fee by the driver or responsible person for a vehicle for the towing of the vehicle because of the exercise of functions under this Act; and
- (b) the recovery of the fee by the road transport authority or anyone else as a debt payable to the Territory in a court of competent jurisdiction; and
- (c) the issue of certificates about towing and the cost of towing, and their use as evidence of those matters in proceedings.

## **Division 8.4**                      **Parking**

### **42**      **Regulations about parking** (NSW sch 1, cl 2)

- (1) The regulations may make provision for or with respect to the regulation or prohibition of the parking of vehicles (including pay parking), and parked or stopped vehicles, on roads, road related areas and other places, including provision about the following:
- (a) the Territory and other entities establishing and operating pay parking schemes;
  - (b) the Territory and other entities fixing and collecting parking fees, and the application of parking fees by the collector of the fees and the payments to be made to the road transport authority;
  - (c) allocating the costs for pay parking schemes;
  - (d) providing pay parking on a common payment basis;
  - (e) installing and operating devices used for pay parking;
  - (f) the road transport authority issuing guidelines for pay parking schemes and the legal effect of the guidelines;
  - (g) the road transport authority granting approvals for the establishment and operation of pay parking schemes;
  - (h) resolving disputes about pay parking;
  - (i) the powers of police officers and authorised persons to remove vehicles parked or stopped in parking spaces and to close parking spaces;
  - (j) parking vehicles on residential land, including for heavy vehicles—
    - (i) prescribing the circumstances in which the road transport authority may enter residential land; and

- (ii) prescribing the circumstances in which warrants may be issued for residential land; and
  - (iii) prescribing maximum penalties of not more than 20 penalty units for each day a person contravenes a regulation in relation to the parking of a vehicle on residential land, including the day of a conviction for the contravention or a later day.
- (2) Without limiting subsection (1), the regulations may make provision for or with respect to the powers that may be exercised by a police officer or an authorised person, who enters land under regulations made for subsection (1) (j), including for example requiring a person in or on the land—
- (a) to give the police officer or authorised person information relevant to the exercise of his or her powers in relation to the land; or
  - (b) to produce to the police officer or authorised person a document containing information relevant to the exercise of his or her powers in relation to the land.
- (3) In this section:

*residential land* means land leased for residential purposes.

#### **43 Regulations about marking tyres (NSW sch 1, cl 8 (1))**

The regulations may make provision for or with respect to the marking of tyres on vehicles using crayon, chalk or a similar substance by police officers and authorised persons for any purpose connected with the enforcement of a provision of any Act or subordinate law.

## Part 9                      Miscellaneous

### 44      References to Motor Traffic Act, Traffic Act etc

In any Act or document, a reference to any of the following legislation is, in relation to anything to which this Act applies, a reference to this Act:

- (a) *Motor Traffic Act 1936*;
- (b) *Traffic Act 1937*;
- (c) *Motor Traffic Regulations 1934*.

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

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## Dictionary

(see s 4)

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

***approved camera detection device*** means a camera detection device approved under the regulations.

***approved speed measuring device*** means a speed measuring device approved under the regulations.

***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 person***, for a provision of this Act, means—

- (a) a person who is appointed as an authorised person under the *Road Transport (General) Act 1999* for the provision; or
- (b) a person who is, under the regulations made under this Act or the *Road Transport (General) Act 1999*, an authorised person for the provision.

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

***camera detection device***—see section 23.

***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.

**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.

**indicated on**, an image of a vehicle taken by an approved camera detection device, includes accompanying or reasonably associated with the image.

**infringement notice**—see the *Road Transport (General) Act 1999*, dictionary.

**installation**, of a prescribed traffic control device, includes the painting or formation of any marks or structure that forms, or forms part of, the device.

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

**loaded unsafely**, in part 3 (Unsafe loads)—see section 11.

**motor vehicle** means a vehicle that is 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.

**prescribed traffic control device** means a device, line, marking, sign, signal or anything else that is prescribed under the regulations for this definition, and includes any board, device, plate, screen, word, and anything else, with a prescribed traffic control device that provides information about the application of the device.

**red traffic arrow** includes a flashing red traffic arrow.

**red traffic light** includes a flashing red traffic light.

**relevant information**, for an image of a vehicle, for part 6 (Traffic offence detection devices)—see section 22A (Meaning of **relevant information** for pt 6).

**registered interest**, in relation to a motor vehicle, means an interest in the vehicle that is registered under the *Registration of Interests in Goods Act 1986* (NSW).

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

**responsible person**, for a vehicle—see the *Road Transport (General) Act 1999*, section 10.

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

**retention area**—see the *Uncollected Goods Act 1996*, section 4.

**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 the *Road Transport (General) Act 1999*, 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 the *Road Transport (General) Act 1999*, 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**) means the Australian Capital Territory Road Transport Authority.

*Note* The chief executive of the department responsible for the *Road Transport (General) Act 1999* is the road transport authority (see *Road Transport (General) Act 1999*, s 16).

**road transport legislation**—see the *Road Transport (General) Act 1999*, section 6.

**speed measuring device** means a device designed to measure the speed at which vehicles are travelling.

**traffic** includes vehicle and pedestrian traffic.

**traffic accident**—see section 15.

**traffic lights** includes any traffic arrows installed with or near the lights.

**traffic offence detection device** means an approved camera detection device or approved speed measuring device.

**traffic offence evasion article** means any device or substance (the **article**) that is designed or adapted, or apparently designed or



adapted, to be fitted to, applied to, or carried in a vehicle to detect, interfere with, or reduce the effectiveness of, a traffic offence detection device, whether or not the article is operating or in working order.

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

**vehicle** means—

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

## 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 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 endnotes.

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
ins = inserted/added	renum = renumbered
LA = Legislation Act 2001	reloc = relocated
LR = legislation register	R[X] = Republication No
LRA = Legislation (Republication) Act 1996	s = section/subsection
mod = modified / modification	sch = schedule
No = number	sdiv = subdivision
o = order	sub = substituted
om = omitted/repealed	SL = Subordinate Law
	<u>underlining</u> = whole or part not commenced

### 3 Legislation history

**Road Transport (Safety and Traffic Management) Act 1999 No 80**

notified 23 December 1999 (Gaz 1999 No S65)  
s 1, s 2 commenced 23 December 1999 (IA s 10B)  
remainder (ss 3-44) commenced 1 March 2000 (s 2 and Gaz 2000 No S5)

as amended by

**Road Transport Legislation Amendment Act 2000 No 4 pt 3**

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

as modified by

**Road Transport Legislation Regulations Amendment SL 2000 No 33  
reg 7**

notified 2 August 2000 (Gaz 2000 No S41)  
commenced 2 August 2000 (reg 1)

**Road Transport Legislation Regulations Amendment SL 2000 No 52  
pt 3**

notified 14 December 2000 (Gaz 2000 No 50)  
commenced 14 December 2000 (reg 1)

as amended by

**Road Transport Legislation Amendment Act 2001 No 27 sch 5**

notified 24 May 2001 (Gaz 2001 No 21)  
s 1, s 2 commenced 24 May 2001 (IA s 10B)  
sch 5 commenced 24 May 2001 (s 2)

**Road Transport (Safety and Traffic Management) Amendment Act  
2001 No 29 pt 2**

notified 24 May 2001 (Gaz 2001 No 21)  
commenced 24 May 2001 (s 2)

**Legislation (Consequential Amendments) Act 2001 No 44 pt 347**

notified 26 July 2001 (Gaz 2001 No 30)  
s 1, s 2 commenced 26 July 2001 (IA s 10B)  
pt 347 commenced 12 September 2001 (s 2 and Gaz 2001 No S65)

## Endnotes

### 4 Amendment history

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#### **Road Transport (Safety and Traffic Management) Amendment Act 2001 (No 2) No 59**

notified 10 September 2001 (Gaz 2001 No S66)  
commenced 10 September 2001 (s 2)

#### **Road Transport (Public Passenger Services) Act 2001 No 62 pt 1.6**

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

#### **Crimes Legislation Amendment Act 2001 No 63 pt 9**

notified 10 September 2001 (Gaz 2001 No S66)  
s 1, s 2 commenced 10 September 2001 (IA s 10B)  
pt 9 commenced 27 September 2001 (s 2 (2) and CN 2001 No 3)

#### **Road Transport (Safety and Traffic Management) Amendment Act 2001 (No 3) No 86**

notified 10 September 2001 (Gaz 2001 No S66)  
commenced 10 September 2001 (s 2)

## 4 Amendment history

### **Preliminary**

pt 1 note am 2001 No 44 amdt 1.3788; 2001 No 62 amdt 1.26

### **Commencement**

s 2 om 2001 No 27 amdt 5.1

### **Races, attempts on speed records, speed trials etc**

s 5A ins 2000 No 4 s 6

### **Burnouts and other prohibited conduct**

s 5B ins 2000 No 4 s 6

### **Seizure, impounding and forfeiture of vehicles for certain offences**

div 2.3 hdg ins 2000 No 4 s 7

### **Surrender and forfeiture of traffic offence evasion articles**

s 10 am 2001 No 63 ss 60-68

### **Impounding of vehicles used for menacing driving on court order before conviction etc**

s 10A (prev s 10AA) ins 2001 No 29 s 4  
renum R3 LA (see 2001 No 59 s 8; 2001 No 86 s 9)

**Impounding or forfeiture of vehicles on conviction etc for certain offences**

s 10B hdg (prev s 10A hdg) sub 2000 No 29 s 5 (a)  
s 10B (prev s 10A) ins 2000 No 4 s 7  
am 2001 No 29 s 5 (b)-(e)  
renum R3 LA (see 2001 No 59 s 8; 2001 No 86 s 9)

**Powers of police officers to seize and impound vehicles used in committing certain offences**

s 10C (prev s 10B) ins 2000 No 4 s 7  
am 2001 No 29 s 6; 2001 No 59 s 4; R3 LA (see 2001 No 59  
s 5); 2001 No 86 s 4; R3 LA (see 2001 No 86 s 5)  
renum R3 LA (see 2001 No 59 s 8; 2001 No 86 s 9)

**Registered operator and interested persons to be notified**

s 10D (prev s 10C) ins 2000 No 4 s 7  
am 2001 No 29 s 7  
om 2001 No 59 s 6  
ins 2001 No 86 s 6  
renum R3 LA (see 2001 No 89 s 9)

**Keeping of vehicles seized under par 10B (1) (a) or (b)**

s 10E hdg (prev s 10D) sub 2000 No 29 s 8 (a)  
s 10E ins 2000 No 4 s 7  
am 2001 No 29 s 8 (b)  
om 2001 No 59 s 6  
ins 2001 No 86 s 6  
renum R3 LA (see 2001 No 89 s 9)

**Keeping of vehicles impounded or forfeited under s 10AA or s 10A**

s 10F hdg (prev s 10E) sub 2000 No 29 s 9 (a)  
s 10F ins 2000 No 4 s 7  
am 2001 No 29 s 9 (b)  
renum R3 LA (see 2001 No 59 s 8; 2001 No 86 s 9)

**Release of vehicles by chief police officer**

s 10G (prev s 10F) ins 2000 No 4 s 7  
am 2001 No 29 s 10  
om 2001 No 59 s 6  
ins 2001 No 86 s 7  
renum R3 LA (see 2001 No 89 s 9)

**Release of vehicles by order of Magistrates Court**

s 10H (prev s 10G) ins 2000 No 4 s 7  
am 2001 No 29 s 11  
om 2001 No 59 s 6  
ins 2001 No 86 s 7  
renum R3 LA (see 2001 No 59 s 8; 2001 No 86 s 9)

## Endnotes

### 4 Amendment history

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#### **Safekeeping of vehicles**

s 10I (prev s 10H) ins 2000 No 4 s 7  
am 2001 No 59 s 7  
renum R3 LA (see 2001 No 59 s 8; 2001 No 86 s 9)

#### **Failure to prosecute**

s 10J (prev s 10I) ins 2000 No 4 s 7  
am 2001 No 29 s 12; 2001 No 59 s 7  
sub 2001 No 86 s 8  
renum R3 LA (see 2001 No 59 s 8; 2001 No 86 s 9)

#### **Disposal of vehicles**

s 10K (prev s 10J) ins 2000 No 4 s 7  
renum R3 LA (see 2001 No 89 s 9)

#### **Meaning of *relevant information* for pt 6**

s 22A ins 2001 No 27 amdt 5.2

#### **Use of camera detection devices**

s 23 sub 2001 No 27 amdt 5.2

#### **Regulations about traffic offence detection devices**

s 24 am 2001 No 27 amdt 5.3

#### **Evidentiary certificates etc**

s 25 am 2001 No 27 amdt 5.4-5.7

#### **Interfering with traffic offence detection devices**

s 26 am 2001 No 27 amdt 5.8

#### **Inspection and purchase of images taken by camera detection devices**

s 27 hdg sub 2001 No 27 amdt 5.9  
s 27 am 2001 No 27 amdt 5.10

#### **Expiry of pt 6**

s 29 om 2001 No 59 s 9

#### **General regulation-making power**

s 33 am 2001 No 44 amdt 1.3789

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

s 44 am 2001 No 44 amdt 1.3790, amdt 1.3791

#### **Transitional**

pt 10 hdg exp 1 June 2001 (s 50)

#### **Definitions for pt 10**

s 45 exp 1 June 2001 (s 50)

#### **Transitional regulations**

s 46 exp 1 June 2001 (s 50)

#### **Modification of pt 10's operation**

s 47 exp 1 June 2001 (s 50)

**Notices about radar detecting devices etc**

s 48 exp 1 June 2001 (s 50)

**Existing traffic signs taken to be approved prescribed traffic control devices**

s 49 exp 1 June 2001 (s 50)

**What is a camera detection device**s 49A ins as mod SL 2000 No 33 reg 7  
om SL 2000 No 52 reg 10  
ins as mod SL 2000 No 52 reg 10  
exp 1 June 2001 (s 49A (2))**Expiry of pt 10**s 50 am 2001 No 27 amdt 5.11  
exp 1 June 2001 (s 50)**Dictionary**dict def **indicated on** ins 2001 No 27 amdt 5.12  
def **red traffic arrow** ins 2001 No 27 amdt 5.12  
def **red traffic light** ins 2001 No 27 amdt 5.12  
def **registered interest** ins 2000 No 4 s 8  
def **registered operator** ins 2000 No 4 s 8  
def **relevant information** ins 2001 No 27 amdt 5.12  
def **the regulations** om 2001 No 44 amdt 1.3792  
def **this Act** (or **the Act**) om 2001 No 44 amdt 1.3792  
def **traffic lights** ins 2001 No 27 amdt 5.12**5 Earlier republications**

Some earlier republications were not numbered. The number in column 1 refers to the publication order.

Republication No	Amendments to	Republication date
1	Act 2000 No 4	1 March 2000
2	Act 2001 No 29	27 June 2001
3	<u>Act 2001 No 86</u>	12 September 2001
4	Act 2001 No 86	27 September 2001

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