



Australian Capital Territory

Road Transport Legislation Amendment Act 2019

A2019-21

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Australian Capital Territory

Road Transport Legislation Amendment Act 2019

A2019-21

An Act to amend legislation about road transport, and for other purposes

The Legislative Assembly for the Australian Capital Territory enacts as follows:

Part 1 Preliminary

1 Name of Act

This Act is the *Road Transport Legislation Amendment Act 2019*.

2 Commencement

- (1) The following provisions commence 6 weeks after this Act's notification day:
 - part 2
 - part 4 (other than sections 8, 25, 27 and 28)
 - part 5 (other than sections 30 and 31)
 - part 15
 - section 107.

Note The naming and commencement provisions automatically commence on the notification day (see [Legislation Act](#), s 75 (1)).

- (2) Part 3 commences on the commencement of the *Motor Accident Injuries Act 2019*, section 289.
- (3) Sections 71 and 72 commence on 10 December 2019.
- (4) The remaining provisions commence on the 14th day after this Act's notification day.

3 Legislation amended

This Act amends the following legislation:

- *Magistrates Court Act 1930*
- *Motor Accident Injuries Act 2019*
- *Road Transport (Alcohol and Drugs) Act 1977*
- *Road Transport (Driver Licensing) Act 1999*
- *Road Transport (Driver Licensing) Regulation 2000*
- *Road Transport (General) Act 1999*

- *Road Transport (General) Regulation 2000*
- *Road Transport (Offences) Regulation 2005*
- *Road Transport (Public Passenger Services) Act 2001*
- *Road Transport (Public Passenger Services) Regulation 2002*
- *Road Transport (Road Rules) Regulation 2017*
- *Road Transport (Safety and Traffic Management) Act 1999*
- *Road Transport (Safety and Traffic Management) Regulation 2017*
- *Road Transport (Third-Party Insurance) Act 2008*
- *Road Transport (Vehicle Registration) Act 1999*
- *Road Transport (Vehicle Registration) Regulation 2000.*

4 **Legislation repealed**

The *Road Transport (General) Website for Online Declarations Approval 2018 (No 1)* (NI2018-521) is repealed.

Part 3 Motor Accident Injuries Act 2019

6 Offence—use uninsured motor vehicle on road or road related area Section 289 (1) (a) and (2)

after

uses

insert

, or permits or allows a person to use,

Part 4 Road Transport (Alcohol and Drugs) Act 1977

7 Offences against Act—application of Criminal Code etc Section 4, note 1

insert

- s 23 (1) (Refusing blood test etc)

8 Meaning of *first offender* and *repeat offender* New section 4F (2) (c)

insert

- (c) in the 5 years immediately before the disqualifying offence was committed, the person has—
- been issued with an infringement notice (however described) in relation to a corresponding offence; and
 - not disputed the infringement notice within the time allowed for the person to dispute the notice under the law of the jurisdiction where the notice was issued.

9 Restrictions on tests etc under this part Section 14 (3) (b)

omit

detrimental to the person's medical condition

substitute

prejudicial to the proper care and treatment of the person or dangerous to the person's health

**10 Taking blood samples from people in custody
Section 15 (5) (b)**

substitute

- (b) if the person is unconscious or the doctor or nurse is of the opinion that the person is, because of their medical condition, incapable of giving or refusing permission to take such a sample—if requested to do so by a police officer under this section.

**11 Taking blood samples from people in hospital
Section 15AA (1) and note**

substitute

- (1) This section applies if a doctor or nurse attending to a person in a hospital believes on reasonable grounds that—
- (a) the person—
- (i) was involved in an accident; and
 - (ii) is at least 15 years old; and
 - (iii) was admitted to the hospital for examination or treatment because of the accident; and
- (b) the accident happened not more than 6 hours before the person arrived at the hospital.
- (1A) The doctor or nurse must, as soon as practicable but not more than 2 hours after the person arrives at the hospital, take a sample of the person's blood for analysis.
- (1B) A doctor or nurse must not fail to take a sample of blood under subsection (1A) only because—
- (a) the person is unconscious; or

- (b) the doctor or nurse is of the opinion that the person is, because of their medical condition, incapable of giving or refusing permission to take such a sample.

Note See section 17 (2) for circumstances when a doctor or nurse is not required to take a sample of blood.

12 New section 15AA (4)

insert

- (4) In this section:

accident means an accident on a road or road related area, whether within or outside the ACT and whether or not it involves a motor vehicle.

animal means a horse, cattle or sheep.

involved in an accident—a person was ***involved in an accident*** if the person—

- (a) was a driver or driver trainer of a motor vehicle involved in an accident; or
- (b) was in charge of, or driving or attempting to drive, a vehicle other than a motor vehicle involved in an accident; or
- (c) was riding or driving, or attempting to ride or drive, an animal involved in an accident; or
- (d) was a pedestrian involved in an accident that involved a motor vehicle or a vehicle other than a motor vehicle.

vehicle other than a motor vehicle means—

- (a) a bicycle; or
- (b) a personal mobility device; or
- (c) an animal-drawn vehicle.

13 Exemptions from requirements to take blood samples or carry out examinations
Section 17 (2) (a)

substitute

- (a) the doctor or nurse is of the opinion that to do so would be prejudicial to the proper care and treatment of the person or dangerous to the person's health; or

14 Section 17 (2) (c)

substitute

- (c) for a procedure under section 15AA, if—
- (i) the doctor or nurse believes on reasonable grounds that a sample of the person's blood—
 - (A) has already been taken under this Act; or
 - (B) will be taken under section 15; or
 - (ii) the behaviour of the person or another circumstance prevents the doctor or nurse from carrying out the procedure.

15 Section 17 (3)

omit

, section 15AA (1)

16 Taking blood samples from people involved in accidents
Section 18A

omit

**17 Refusing blood test etc
Section 23 (1) and (2)**

substitute

- (1) A person commits an offence if—
- (a) the person is—
 - (i) required by a police officer to permit a sample of blood to be taken under section 15; or
 - (ii) a person, other than a pedestrian, from whom a doctor or nurse is required to take a sample of blood under section 15AA; and
 - (b) the person fails or refuses to permit the sample to be taken.

Example—par (b)

the person waving their arm about so the nurse cannot place a tourniquet on it

Maximum penalty: 30 penalty units.

18 Section 23 (4)

omit

subsection (1), (2) or (3)

substitute

this section

**19 Evidentiary certificate—alcohol-related tests
Section 41 (1) (d) (vii)**

substitute

- (vii) if the sample was taken under section 15 or section 15AA—that, when the sample was taken, the relevant person was unconscious or the person was of the opinion that the relevant person was incapable of giving or refusing permission to take a sample of blood; and

20 Section 41 (1) (e) (iv)

substitute

- (iv) when told, the doctor or nurse was of the opinion that—
 - (A) complying with the requirement would be prejudicial to the proper care and treatment of the person or dangerous to the person's health; or
 - (B) complying with the requirement would not be prejudicial to the proper care and treatment of the person or dangerous to the person's health; and

**21 Evidentiary certificates—drug-related tests
Section 41AA (4) (d)**

omit

detrimental to the relevant person's medical condition

substitute

prejudicial to the proper care and treatment of the relevant person or dangerous to the relevant person's health

22 Section 41AA (5) (i)

substitute

- (i) if the sample was taken under section 15—that, when the sample was taken, the relevant person was unconscious or the sample taker was of the opinion that the relevant person was incapable of giving or refusing permission to take a sample of blood.

**23 Evidentiary certificate—blood sample not taken
Section 41AC (e) (i)**

omit

detrimental to the relevant person's health

substitute

prejudicial to the proper care and treatment of the relevant person or dangerous to the relevant person's health

**24 Evidence for insurance purposes
Section 41A (1) (g) and (5) (a)**

omit

section 15AA (1)

substitute

section 15AA (1A)

25 Dictionary, note 3

omit

- personal mobility device

26 Dictionary, definition of *driver involved in an accident*

omit

27 Dictionary, new definition of *personal mobility device*

insert

personal mobility device—see the [Road Transport \(Road Rules\) Regulation 2017](#), section 18A.

28 Dictionary, definition of *road related area*

omit

Part 5 Road Transport (Driver Licensing) Act 1999

29 Offences committed by disqualified drivers etc Section 32 (6) (a) and (b)

substitute

- (a) if the suspension was under the *Road Transport (General) Act 1999*, part 3 (Infringement notices for certain offences) or part 6 (Fine defaulters) or a law of another jurisdiction corresponding to part 3 or part 6 (or to part of it)—
- (i) for a first offender—for 1 month or, if the court orders a longer period, the longer period; or
 - (ii) for a repeat offender—for 2 months or, if the court orders a longer period, the longer period; or
- (b) if the suspension was under division 2.3 (Demerit points system) or a law of another jurisdiction corresponding to division 2.3 (or to part of it)—
- (i) for a first offender—for 2 months or, if the court orders a longer period, the longer period; or
 - (ii) for a repeat offender—for 4 months or, if the court orders a longer period, the longer period; or

30 Dictionary, note 3

insert

- road
- road related area

31 Dictionary, definitions of *road* and *road related area*

omit

Part 6 Road Transport (Driver Licensing) Regulation 2000

32 Mandatory interlock condition Section 73T (5)

substitute

(5) In this section:

habitual offender, means a person who—

- (a) is convicted or found guilty of an alcohol-related disqualifying offence; and
- (b) within 5 years before the conviction or finding of guilt, has been subject to relevant action in relation to 2 or more other alcohol-related disqualifying offences.

relevant action means the person has been—

- (a) convicted or found guilty; or
- (b) issued an infringement notice (however described) under a law of another jurisdiction and not disputed the infringement notice within the time allowed for the person to dispute the notice under the law of that jurisdiction.

33 Dictionary, note 3

omit

- road
- road related area

34 Dictionary, note 4

insert

- permanent resident
- road
- road related area

35 Dictionary, definition of *permanent resident*

omit

Part 7 Road Transport (General) Act 1999

36 Objects of Act Section 3 (a)

omit

in a way that is consistent with the agreements scheduled to the [National Road Transport Commission Act 1991](#) (Cwlth);

37 Section 3, note

omit

38 Application orders and emergency orders Section 14 (2)

omit

39 Delegation of road transport authority's functions Section 17 (2) to (4)

substitute

(2) A delegate may subdelegate to a suitable person a function delegated under subsection (1) (a) or (b).

(3) In this section:

suitable person means—

- (a) a public employee; or
- (b) a person prescribed by regulation; or
- (c) if the person subdelegating a function is the chief police officer—a police officer.

**40 Delegation of chief police officer's functions
New section 18 (2)**

after the notes, insert

- (2) A public employee may subdelegate to another public employee a function delegated under subsection (1).

**41 Definitions—pt 3
Section 21A, definition of *illegal user declaration***

omit

statutory declaration or online declaration

substitute

written statement

**42 Section 21A, definition of *infringement notice declaration*,
note 1**

omit

43 Section 21A, definition of *known user declaration*

omit

statutory declaration or online declaration

substitute

written statement

44 Section 21A, definition of *online declaration*

omit

45 Section 21A, definition of *relevant circumstances*

omit

significantly affect

substitute

contributes to

46 Section 21A, definition of *relevant circumstances*, paragraphs (a) and (b)

substitute

(a) mental illness or mental disorder;

(b) disability, disease or illness;

47 Section 21A, definition of *relevant circumstances*, paragraph (d)

substitute

(d) family violence;

48 Section 21A, definition of *sold vehicle declaration*

omit

statutory declaration or online declaration

substitute

written statement

49 Section 21A, definition of *unknown user declaration*

omit

statutory declaration

substitute

written statement

50 New section 21A (2)

insert

(2) In this section:

disability—see the *Disability Services Act 1991*, dictionary.

mental disorder—see the *Mental Health Act 2015*, section 9.

mental illness—see the *Mental Health Act 2015*, section 10.

**51 Application for infringement notice management plan or addition to plan—decision
New section 31B (7) (ca)**

insert

(ca) variation or suspension of a person's infringement notice management plan at the person's request;

**52 Approval of community work or social development program
Section 31D (2) and note**

substitute

(2) An approval is a notifiable instrument.

Note A notifiable instrument must be notified under the [Legislation Act](#).

**53 Application for waiver of penalty—decision
New section 31G (3) (e)**

in division 3.2B, insert

- (e) allowing the application is consistent with any guidelines made under section 31I.

54 New section 31I

insert

31I Guidelines for waiver of penalty

- (1) The Minister may make guidelines for the waiver of infringement notice penalties.
- (2) The administering authority for an infringement notice offence must comply with the guidelines.
- (3) A guideline is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the [Legislation Act](#).

**55 Application for withdrawal—decision
Section 35 (2)**

omit

statutory declaration

substitute

written statement

56 Section 35 (2), note 1

omit

57 Section 40

substitute

40 Definitions—div 3.3A

In this division:

corporation's motor vehicle means a motor vehicle for which the corporation is the registered operator.

**58 Meaning of *all reasonable steps*—div 3.3A
Section 41 (1)**

before

vehicle

insert

motor

59 Section 41 (1), note 3

omit

60 Sections 42 to 43A

before

vehicle

insert

motor

**61 Offence—driving interstate corporate vehicle
Section 43B**

before

vehicle

insert

motor

62 Section 43B (3)

substitute

(3) In this section:

interstate corporate motor vehicle means a corporation's motor vehicle that is registered in another jurisdiction.

**63 Effect of suspension
Section 45 (2)**

substitute

- (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—
- (a) another part; or
 - (b) any other territory law, other than the *Road Transport (Driver Licensing) Act 1999*, division 2.3 (Demerit points system).
- (2A) Subsection (2) is subject to any order by a court in relation to the other suspension or disqualification.

64 Section 55

substitute

55 Written statements by corporations

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

Note It is an offence to make a false or misleading statement, give false or misleading information or produce a false or misleading document (see [Criminal Code](#), pt 3.4).

**65 Evidentiary certificates
Section 56 (3) (p) and (q)**

omit

statutory

**66 Approval of website for online declarations
Section 57**

omit

**67 Police officer or authorised person may require name,
date of birth, address and driver licence—driver or rider
New section 58 (1) (aa)**

insert

(aa) for the rider of an animal—require the person to produce an identification document if the person is carrying an identification document;

68 Section 58 (2)

omit

subsection (1)

substitute

subsection (1) (a), (b), (c) or (d)

69 Section 58 (5), new definition of *identification document*

insert

identification document, includes the following:

- (a) an Australian driver licence or foreign driver licence;
- (b) a proof of identity card issued under the *Liquor Act 2010*, section 210 (Proof of identity cards), or a corresponding document issued under the law of a State;
- (c) a passport;
- (d) a student card;
- (e) a document that contains a photograph that could reasonably be taken to be the person and states the person's name and date of birth.

**70 Suspension to be concurrent
Section 89 (1)**

substitute

- (1) The period for which a person's driver licence is suspended under this part is concurrent with any uncompleted period of driver licence suspension applying to the person under another part or any other territory law (the *other suspension*)—
 - (a) subject to any order by a court in relation to the other suspension; and

- (b) only if the other suspension is not a suspension under the *Road Transport (Driver Licensing) Act 1999*, division 2.3 (Demerit points system).

71 Dictionary, definition of *bicycle*, paragraph (b)

substitute

- (b) includes a power-assisted pedal cycle within the meaning of the national road vehicle standards determined under the *Road Vehicle Standards Act 2018* (Cwlth), section 12; but

72 Dictionary, definition of *bicycle*, note

omit

73 Dictionary, definition of *online declaration*

omit

74 Dictionary, new definition of *permanent resident*

insert

permanent resident means—

- (a) a person who holds a permanent visa for the *Migration Act 1958* (Cwlth), section 30; or
- (b) a New Zealand citizen who holds a special category visa under the *Migration Act 1958* (Cwlth), section 32.

75 Dictionary, definition of *personal mobility device*

substitute

personal mobility device—see the *Road Transport (Road Rules) Regulation 2017*, section 18A.

76 Dictionary, definitions of road and road related area

substitute

road, for the road transport legislation or a provision of the road transport legislation (the *relevant legislation*)—

- (a) 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
- (b) does not include an area that would otherwise be a road so far as a declaration under section 12 (Power to include or exclude areas in road transport legislation) declares that the relevant legislation does not apply to the area.

road related area, for the road transport legislation or a provision of the road transport legislation (the *relevant legislation*)—

- (a) means—
 - (i) an area that divides a road; or
 - (ii) a footpath or nature strip adjacent to a road; or
 - (iii) an area that is open to the public and is designated for use by cyclists or animals; or
 - (iv) an area that is not a road and that is open to or used by the public for driving, riding or parking vehicles; or
 - (v) a shoulder of a road; or
 - (vi) any other area that is open to or used by the public so far as a declaration under section 12 (Power to include or exclude areas in road transport legislation) declares that the relevant legislation applies to the area; but
- (b) does not include an area that would otherwise be a road related area so far as a declaration under that section declares that the relevant legislation does not apply to the area.

Part 8 Road Transport (General) Regulation 2000

77 Internally reviewable decisions Schedule 1, part 1.5, new item 2A

insert

2A	31B (5)	administering authority—amount of instalments
----	---------	---

Part 9 Road Transport (Offences) Regulation 2005

78 Sections 14F to 14I

omit

Note 1 The [Statutory Declarations Act 1959](#) (Cwlth) applies to the making of statutory declarations under ACT laws.

79 New section 16BA

insert

16BA Variation or suspension of plan—Act, s 31B (7) (ca)

The authority may, at the request of the person subject to the plan—

- (a) vary the plan; or
- (b) suspend the plan for a stated amount of time.

80 Kinds of community work or social development programs that may be approved Section 16D (2) (a) and (b)

substitute

- (a) mental illness or mental disorder;
- (b) disability, disease or illness;

81 Section 16D (3), new definitions

insert

disability—see the [Disability Services Act 1991](#), dictionary.

mental disorder—see the [Mental Health Act 2015](#), section 9.

mental illness—see the [Mental Health Act 2015](#), section 10.

**82 Short descriptions, penalties and demerit points
Schedule 1, part 1.3, item 15**

omit

83 Schedule 1, part 1.7, item 2, column 3

before

vehicle

insert

motor

Part 10 **Road Transport (Public Passenger Services) Act 2001**

84 **Bus operators—purposes of accreditation**
Section 15 (a)

omit

85 **Taxi service operators—purposes of accreditation**
Section 49 (a)

omit

86 **Demand responsive service authorisations**
Section 82 (1)

omit

The Minister

substitute

The road transport authority

87 **Demand responsive service operators—purposes of accreditation**
Section 87 (a)

omit

88 Police officer or authorised person—power to require name and address etc
Section 121 (1), except note

substitute

- (1) A police officer or authorised person may, if the police officer or authorised person believes on reasonable grounds that a person is committing or has committed an offence against this Act, require the person to state 1 or more of the following:
- (a) the person's name;
 - (b) the person's date of birth;
 - (c) the person's home address.

89 New section 121 (6) and (7)

insert

- (6) If a police officer or authorised officer suspects on reasonable grounds that information stated in response to a requirement under subsection (1) is false, the police officer or authorised officer may require the person to produce an identification document if the person is carrying an identification document.
- (7) In this section:
- identification document*** includes the following:
- (a) an Australian driver licence or foreign driver licence;
 - (b) a proof of identity card issued under the *Liquor Act 2010*, section 210 (Proof of identity cards), or a corresponding document issued under the law of a State;
 - (c) a passport;
 - (d) a student card;

- (e) a document that contains a photograph that could reasonably be taken to be the person and states the person's name and date of birth.

90 Dictionary, note 3

insert

- road
- road related area

91 Dictionary, definitions of *road* and *road related area*

omit

Part 11 **Road Transport (Public
Passenger Services)
Regulation 2002**

92 **Dictionary, note 3**

omit

- road

93 **Dictionary, note 4**

insert

- permanent resident
- road

Part 12 Road Transport (Road Rules) Regulation 2017

94 Meaning of *road* Section 12, note 1

substitute

Note 1 *Road*—see the *Road Transport (General) Act 1999*, dictionary.

95 Meaning of *vehicle* Section 15

before

or a wheeled recreational device

insert

a personal mobility device,

96 New section 18A

insert

18A Meaning of *personal mobility device*

In this regulation:

personal mobility device means a vehicle that—

- (a) is designed to be self-balancing while a person travels in or on the vehicle; and
- (b) is propelled by an electric motor; and
- (c) has 2 wheels that operate on a single axis; and
- (d) has a platform anywhere between the 2 wheels for the person's feet; and
- (e) has handles mounted on an upright post.

97 Dictionary, note 3

omit

- road
- road related area

98 Dictionary, note 4

omit

- personal mobility device

99 Dictionary, note 4

insert

- road
- road related area

100 Dictionary, new definition of *personal mobility device*

insert

personal mobility device—see section 18A.

Part 13 Road Transport (Safety and Traffic Management) Act 1999

101 Dictionary, note 3

insert

- road
- road related area

102 Dictionary, definitions of *road* and *road related area*

omit

Part 14 Road Transport (Safety and Traffic Management) Regulation 2017

103 Meaning of *road* Section 7, note 1

substitute

Note 1 **Road**—see the [Road Transport \(General\) Act 1999](#), dictionary.

104 Dictionary, note 3

omit

- road
- road related area

105 Dictionary, note 4

insert

- road
- road related area

Part 15 Road Transport (Third-Party Insurance) Act 2008

106	Offence—using uninsured motor vehicle on road or road related area Section 17 (1) (a)
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after

uses

insert

, or permits or allows a person to use,

Part 16 Road Transport (Vehicle Registration) Act 1999

107 Prohibition on using unregistered registrable vehicles or vehicles with suspended registration Section 18 (1)

after

use

insert

, or permit or allow a person to use,

108 Dictionary, definitions of *gross combination mass* and *gross vehicle mass*

substitute

gross combination mass (or ***GCM***), of a motor vehicle, means the greatest possible sum of the maximum loaded mass of the motor vehicle and any vehicle that may be towed by the motor vehicle at the same time—

- (a) stated on the RAV for the motor vehicle; or
- (b) if the GCM is not stated on the RAV for the motor vehicle—
 - (i) stated by the motor vehicle's manufacturer on the identification plate on the vehicle; or
 - (ii) if there is no GCM stated on the identification plate or the GCM stated on the plate is not appropriate because the motor vehicle has been modified—certified by the road transport authority.

gross vehicle mass (or ***GVM***), of a vehicle, means the maximum loaded mass of the vehicle—

- (a) stated on the RAV for the vehicle; or

- (b) if the GVM is not stated on the RAV for the vehicle—
- (i) stated by the vehicle’s manufacturer on the identification plate on the vehicle; or
 - (ii) if there is no GVM stated on the identification plate or the GVM stated on the plate is not appropriate because the vehicle has been modified—certified by the road transport authority.

109 Dictionary, new definitions

insert

identification plate means a plate approved to be placed on a vehicle, or taken to have been placed on a vehicle, under the [Motor Vehicle Standards Act 1989](#) (Cwlth), section 10 (1) as in force immediately before the repeal of that Act.

RAV means the Register of Approved Vehicles kept under the [Road Vehicle Standards Act 2018](#) (Cwlth), section 14.

110 Dictionary, note 3

insert

- road
- road related area

111 Dictionary, definitions of *road* and *road related area*

omit

Part 17 Road Transport (Vehicle Registration) Regulation 2000

112 Dictionary, note 4

insert

- road
- road related area

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 6 June 2019.

2 Notification

Notified under the [Legislation Act](#) on 8 August 2019.

3 Republications of amended laws

For the latest republication of amended laws, see www.legislation.act.gov.au.

I certify that the above is a true copy of the Road Transport Legislation Amendment Bill 2019, which was passed by the Legislative Assembly on 30 July 2019.

Clerk of the Legislative Assembly

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