



Australian Capital Territory

Road Transport (Safety and Traffic Management) Amendment Act 2021

A2021-14

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Australian Capital Territory

Road Transport (Safety and Traffic Management) Amendment Act 2021

A2021-14

An Act to amend the *Road Transport (Safety and Traffic Management) Act 1999* and the *Road Transport (Safety and Traffic Management) Regulation 2017*, 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 (Safety and Traffic Management) Amendment Act 2021*.

2 Commencement

This Act commences 6 weeks after its notification day.

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

3 Legislation amended

This Act amends the *Road Transport (Safety and Traffic Management) Act 1999* and the *Road Transport (Safety and Traffic Management) Regulation 2017*.

Note This Act also amends other legislation (see sch 1).

Part 2 Road Transport (Safety and Traffic Management) Act 1999

4 Sections 22AA and 22A

substitute

22A Definitions—pt 6

In this part:

average speed detection system means a system designed to work out the average speed of a vehicle between 2 detection points by reference to the shortest practicable route between the detection points and the minimum travel time in which the route could be completed.

average speed limit, for a driver of a vehicle on a road between 2 detection points if more than 1 speed limit applies between the points, means the average speed limit prescribed by regulation for the road between the points.

detection point means a point prescribed by regulation on a road by reference to which a vehicle's average speed can be worked out.

minimum travel time, for a shortest practicable route, means a time prescribed by regulation that a driver could travel the route without committing a speeding offence.

mobile device—see the [Road Transport \(Road Rules\) Regulation 2017](#), section 300 (4).

mobile device detection system means a system designed to—

- (a) detect the driver of a vehicle using a mobile device while driving; and
- (b) take images of the vehicle and the driver of the vehicle.

shortest practicable distance means the distance between 2 detection points prescribed by regulation as the shortest distance between the points that a vehicle's driver could use to travel on a road between the points without contravening a provision of the road transport legislation.

shortest practicable route, between 2 detection points, means a route prescribed by regulation, used to determine the minimum travel time between the points.

speeding offence means an offence against a provision of the road transport legislation of failing to obey a speed limit.

speed measuring device means a device designed to measure the speed at which a vehicle is travelling.

5 Sections 23, 23A to 23C and 24

substitute

23 Meaning of *traffic offence detection device*

- (1) For this Act, a *traffic offence detection device* means a device or system—
 - (a) designed to detect or take images of the following:
 - (i) a vehicle being driven in contravention of a provision of the road transport legislation;
 - (ii) the driver of a vehicle mentioned in subparagraph (i); and
 - (b) approved in accordance with a regulation made under section 24 (1).
- (2) However, subsection (1) (a) does not include a device or system designed only to detect or take images of a vehicle parked in contravention of a provision of the road transport legislation.

24 Regulation for approval etc of device or system

- (1) A regulation may provide for the approval of a device or system designed to detect or take images of the following:
 - (a) a vehicle being driven in contravention of a provision of the road transport legislation;
 - (b) the driver of a vehicle mentioned in paragraph (a).
- (2) A regulation may provide for the following for a device or system mentioned in subsection (1):
 - (a) requirements for an image taken by the device or system;
 - (b) the requirements for testing, sealing, certification, maintenance or operation of the device or system;
 - (c) the approval of people to test, seal, certify, maintain or operate the device or system;
 - (d) the use, disclosure and retention of data collected by the device or system;
 - (e) requirements in relation to signage for the device or system.

Note Power to make a regulation includes power to make different provision in relation to different matters or different classes of matters (see [Legislation Act](#), s 48).

**Division 6.3 Traffic offence detection devices—
other matters**

**6 Other forms of proof of speeding offences not excluded by s 24A
Section 24B (2), example**

omit

an approved speed measuring device

substitute

a speed measuring device

**7 Use of camera detection devices and average speed detection systems
Section 24C**

omit

**8 Evidentiary certificates etc
Section 25 (2) (b) and (c)**

substitute

- (b) anything done or not done in relation to a traffic offence detection device under—
- (i) a regulation made under section 24 (2); or
 - (ii) an approval made in accordance with a regulation under section 24 (1);
- (c) the recording of an electronic file created by a traffic offence detection device;

9 Section 25 (3) and (4) and note

substitute

- (3) Without limiting subsection (2), a certificate given for a traffic offence detection device may state any of the following matters:
- (a) that the device has been tested, sealed, certified, maintained or operated as required or permitted by the following:
 - (i) a regulation made under section 24 (2) (b);
 - (ii) an approval made in accordance with a regulation under section 24 (1);
 - (b) the results of a test of the device under paragraph (a) at a stated time or within a stated period, including—
 - (i) the accuracy, or accuracy to a stated extent, of the device; or
 - (ii) if the device was working properly within the stated period;
 - (c) that a stated image, or series of images, is an accurate copy of an image, or series of images, taken by the device—
 - (i) at a stated date, time and place; or
 - (ii) within a stated period;
 - (d) if the device is a 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 or any 1 of a series of images taken by a traffic offence detection device is evidence of everything indicated on, or shown by, the image.

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

10 New section 25 (5) (da)

insert

- (da) if the information indicates the use of a mobile device by the driver of the vehicle—that the vehicle was moving, or stationary, but not parked when the image was taken;

11 Section 25 (6)

omit

12 New section 25 (11)

insert

- (11) In this section:
image includes a video recording.

13 Sections 29 to 29C

substitute

29 Use, retention and disclosure of data by road transport authority and other people

- (1) The road transport authority may use or disclose data collected in relation to a traffic offence detection device only—
- (a) in connection with the enforcement of the road transport legislation; or

Examples

- 1 disclosure to a police officer for issuing an infringement notice
- 2 disclosure to a prosecutor preparing prosecutions
- 3 disclosure to or use by a contractor engaged to provide services in relation to the operation of a traffic offence detection device
- 4 use of data to test and maintain a traffic offence detection device

- (b) to issue a written warning in connection with the enforcement of the road transport legislation; or
- (c) if the use or disclosure of the data is reasonably necessary for the enforcement of the criminal law or a law imposing a monetary penalty; or
- (d) for research relating to improving road safety and transport efficiency, but only if identifying information about people cannot be ascertained from the data; or
- (e) if the use or disclosure of the data is required or authorised by—
 - (i) a law of the Territory; or

Example

a person asks for a copy of an image under s 27

- (ii) a law of the Commonwealth; or
 - (iii) an order of a court of competent jurisdiction.
- (2) A person to whom data collected by a traffic offence detection device is disclosed under subsection (1)—
 - (a) may use the data only for the purpose for which it was disclosed and in accordance with any applicable laws; and
 - (b) must not retain the data for longer than required by or for that purpose, or as required by law; and
 - (c) must not disclose the data to someone else unless the disclosure is required or authorised by—
 - (i) a law of the Territory; or
 - (ii) a law of the Commonwealth; or
 - (iii) an order of a court of competent jurisdiction.

- (3) A person mentioned in subsection (2) includes a contractor engaged to operate a traffic offence detection device.

Note A public sector agency must not enter into a government contract unless the contract contains appropriate provisions for privacy protections (see [Information Privacy Act 2014](#), s 21).

- (4) The road transport authority, and any person to whom data collected by a traffic offence detection device is disclosed under this section, must ensure that the data is protected by security safeguards that are reasonable in the circumstances to prevent—

- (a) loss; and
- (b) unauthorised access, use, modification or disclosure; and
- (c) other misuse.

- (5) In this section:

data includes an image or a series of images.

law of the Territory, in relation to data collected by a traffic offence detection device, means a law that expressly requires or authorises the use of the data.

14 Dictionary, definitions

omit the definitions of

approved average speed detection system

approved camera detection device

approved speed measuring device

15 Dictionary, definitions of *average speed detection system* and *average speed limit*

substitute

average speed detection system, for part 6 (Traffic offence detection devices)—see section 22A.

average speed limit, for a driver of a vehicle on a road between 2 detection points if more than 1 speed limit applies between the points, for part 6 (Traffic offence detection devices)—see section 22A.

16 Dictionary, definition of *camera detection device*

omit

17 Dictionary, definitions of *detection point* and *indicated on*

substitute

detection point, for part 6 (Traffic offence detection devices)—see section 22A.

indicated on, an image of a vehicle or the driver of a vehicle taken by a traffic offence detection device, includes accompanying or reasonably associated with the image.

18 Dictionary, new definitions

insert

minimum travel time, for a shortest practicable route, for part 6 (Traffic offence detection devices)—see section 22A.

mobile device, for part 6 (Traffic offence detection devices)—see the [Road Transport \(Road Rules\) Regulation 2017](#), section 300 (4).

mobile device detection system, for part 6 (Traffic offence detection devices)—see section 22A.

19 Dictionary, definition of *relevant information*

omit

20 Dictionary, definitions of *shortest practicable distance* etc

substitute

shortest practicable distance, for part 6 (Traffic offence detection devices)—see section 22A.

shortest practicable route, between 2 detection points, for part 6 (Traffic offence detection devices)—see section 22A.

speeding offence, for part 6 (Traffic offence detection devices)—see section 22A.

speed measuring device, for part 6 (Traffic offence detection devices)—see section 22A.

traffic offence detection device—see section 23.

Part 3 Road Transport (Safety and Traffic Management) Regulation 2017

21 Part 5

substitute

Part 5 Traffic offence detection devices

12 Average speed detection systems—Act, s 22A

- (1) For the [Act](#), section 22A, definition of *average speed limit*, the average speed limit for the road between 2 detection points mentioned in an item in schedule 1, part 1.2, column 2 is the speed mentioned in column 6 for the item.
- (2) For the [Act](#), section 22A, definition of *detection point*, the points mentioned in schedule 1, part 1.2, column 2 are prescribed.
- (3) For the [Act](#), section 22A, definition of *shortest practicable distance*, the distance mentioned in an item in schedule 1, part 1.2, column 3 is the shortest practicable distance between the 2 detection points mentioned in column 2 for the item.
- (4) For the [Act](#), section 22A, definition of *shortest practicable route*, the shortest practicable route mentioned in an item in schedule 1, part 1.2, column 4 is the route used to work out the shortest practicable distance mentioned in column 3 for the item.
- (5) For the [Act](#), section 22A, definition of *minimum travel time*, the minimum time that a vehicle's driver could take to drive the vehicle on the route mentioned in an item in schedule 1, part 1.2, column 4 is the time mentioned in column 5 for the item.

13 Approval of traffic offence detection devices—Act, s 24

- (1) The road transport authority may approve any of the following as a traffic offence detection device:
 - (a) an average speed detection system;
 - (b) a mobile device detection system;
 - (c) a speed measuring device;
 - (d) another kind of device or system that detects or takes images of the following:
 - (i) a vehicle being driven in contravention of a provision of the road transport legislation;
 - (ii) the driver of a vehicle mentioned in subparagraph (i).
- (2) An approval is a disallowable instrument.
- (3) However, the road transport authority must not approve a device or system as a traffic offence detection device unless satisfied on reasonable grounds that the device or system is capable of complying with section 15 (Requirements for images taken by traffic offence detection devices—Act, s 24 (2) (a)).
- (4) Subsection (3) does not—
 - (a) limit the matters that may be indicated on or shown by an image taken by a traffic offence detection device; or
 - (b) limit the information included in an electronic file created by a traffic offence detection device; or
 - (c) require a traffic offence detection device to be operated by a person.

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

14 Approval of police vehicle speedometer—Act, s 24 (1)

- (1) The chief police officer may approve a speed measuring device fitted to a vehicle driven by a police officer as a traffic offence detection device.
- (2) An approval is a notifiable instrument.

15 Requirements for images taken by traffic offence detection devices—Act, s 24 (2) (a) and (d)

- (1) An image of a vehicle or the driver of a vehicle, taken by a traffic offence detection device, must—
 - (a) include the following information:
 - (i) the date and time when, and place where, the image was taken;
 - (ii) if the traffic offence detection device is operated by a person—the person responsible for the operation of the device when the image was taken;
 - (iii) if the vehicle is being driven in contravention of a provision of the road transport legislation about traffic lights—
 - (A) the general direction and lane in which the vehicle is being driven; and
 - (B) the time a red traffic light or red traffic arrow facing the driver of the vehicle is showing before the driver contravenes the provision;
 - (iv) if the driver of the vehicle is detected committing a speeding offence—
 - (A) the speed measuring device component of the traffic offence detection device; and

- (B) 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
 - (C) the speed at which the driver of the vehicle was driving when the image is taken;
 - (v) any other information the road transport authority considers appropriate; and
 - (b) be capable of—
 - (i) showing the vehicle or its numberplate; and
 - (ii) for a traffic offence detection device designed to take an image of the driver—showing the driver of the vehicle; and
 - (c) comply with any other requirement stated in the approval under section 13 for the device (including the meaning of codes and other information indicated on the image).
- (2) For a traffic offence detection device designed to take an image of the driver of a vehicle, as far as practicable, the image must only show as much of the driver as is necessary to show the person in contravention of a provision of the road transport legislation.
 - (3) An image and any data associated with an image taken by a traffic offence detection device must be encrypted.
 - (4) If an image taken by a traffic offence detection device does not show a contravention of a provision of the road transport legislation, the image and any data associated with the image must be destroyed as soon as possible.

- (5) Subsection (4) does not apply if—
- (a) the image is de-identified for the purposes of collection under the [Act](#), section 29 (1) (d); or
- Note* Section 29 (1) (d) of the Act is a provision about the collection of data for research relating to improving road safety and transport efficiency.
- (b) the image is 1 of a series of images of which another image shows a contravention of a provision of the road transport legislation.
- (6) In this section:
image includes a video recording.

16 Testing and maintenance requirements—Act, s 24 (2) (b)

- (1) This section applies to a traffic offence detection device that is—
- (a) an average speed detection system; or
 - (b) a speed measuring device.
- (2) The device must be tested by a testing authority at least every 12 months—
- (a) to determine if it is operating—
 - (i) for a speed measuring device, or the speed measuring component of the device—
 - (A) if the device is operating in an area where the speed limit is over 100km/h—within an accuracy tolerance of 2%; or
 - (B) in any other case—within an accuracy tolerance of 2km/h; and
 - (ii) for an average speed detection system—within an accuracy tolerance of 2%; and

- (b) in accordance with—
 - (i) any applicable Australian Standard for the device; and
 - (ii) any other requirement stated in an approval under section 13 for the device.
- (3) After testing the device, the testing authority must—
 - (a) seal the device in a way that—
 - (i) prevents any interference with the device; or
 - (ii) will show if the device has been interfered with; and
 - (b) issue a certificate that states—
 - (i) the serial number for the device ; and
 - (ii) the date and time when the testing was done; and
 - (iii) the results of the testing.

17 Testing and maintenance requirements for police vehicle speedometer—Act, s 24 (2) (b)

- (1) This section applies to a speed measuring device approved under section 14.
- (2) The device must be tested by a testing authority at least every 12 months to determine if it is operating—
 - (a) within an accuracy tolerance of 2%; and
 - (b) in accordance with any applicable Australian standard for the device.
- (3) A testing authority, after testing a device, must—
 - (a) seal the device in a way that—
 - (i) prevents any interference with the device; or
 - (ii) will show if the device has been interfered with; and

- (b) issue a certificate that states—
 - (i) the serial number for the device tested; and
 - (ii) the date and time when the testing was completed; and
 - (iii) the results of the testing.

18 Operation requirements—Act, s 24 (2) (b)

- (1) A traffic offence detention device must be positioned, aimed, activated and operated in accordance with the manufacturer's specifications for the device.
- (2) A person approved under section 19 (2) must test a traffic offence detention device in accordance with—
 - (a) any requirement stated in an approval under section 13 for the device; and
 - (b) the manufacturer's specifications for the testing of the device if any of the following happen:
 - (i) the device is installed at a location;
 - (ii) the device is being operated for the first time, including after repair, reinstallation or replacement;
 - (iii) changes are made to the software used by the device.
- (3) For subsection (2) (b) (i), a device that is designed to be moved frequently is not installed at a location only because the device is moved to the location.

Example—device designed to be moved frequently

a speed camera van

19 Approved people—Act, s 24 (2) (c)

- (1) A police officer is approved to operate a traffic offence detection device.
- (2) The road transport authority may approve a person who is not a police officer to operate a traffic offence detection device.
- (3) An approval is a notifiable instrument.
- (4) The road transport authority may only approve a person under subsection (2) if the authority is satisfied that the person has appropriate qualifications to operate, or experience in the operation of, the traffic offence detection device.

20 Traffic offence detection device signage—Act, s 24 (2) (e)

- (1) For a traffic offence detection device that is an average speed detection system, the road transport authority must display a sign indicating that an average speed detection system is in use—
 - (a) not more than 100m before each detection point; and
 - (b) approximately halfway along the shortest practicable route between detection points.
- (2) Failure to comply with this section does not affect an infringement notice or a proceeding for a speeding offence.

22 Dictionary, new definition of *testing authority*

insert

testing authority means—

- (a) a department of electrical or electronic engineering at a university in Australia; or
- (b) the National Measurement Institute under the *National Measurement Act 1960* (Cwlth); or
- (c) an entity that is accredited by the National Association of Testing Authorities to test traffic offence detection devices; or
- (d) Technical Services, Australian Federal Police, Canberra.

23 Schedule 1

substitute

Schedule 1 Average speed detection systems

(see s 12)

Part 1.1 General

1.1 Definitions—sch 1

In this schedule:

ACT Standard Grid Coordinates (or *Australian Capital Territory Standard Grid Coordinates*)—see the *Surveyors (Surveyor-General) Practice Directions 2021 (No 1)* (DI2021-51), schedule 2 (Datums and Mapping Projections).

AHD—see the *Surveyors (Surveyor-General) Practice Directions 2021 (No 1)* (DI2021-51), direction 5 (Definitions).

Part 1.2 Average speed detection systems—Act, s 22A

| column 1 item | column 2 detection points | column 3 shortest practicable distance | column 4 shortest practicable route | column 5 minimum time (seconds) | column 6 average speed limit |
|------------------|--|---|---|--|---------------------------------------|
| 1 | ACT Standard Grid Coordinates 208876.18 East, 596541.65 North, AHD 629.88 Level ACT Standard Grid Coordinates 211361.44 East, 596864.50 North, AHD 644.45 Level | 2.7081km (westbound) | Hindmarsh Drive (westbound), starting west of the intersection of Dalrymple Street and Mugga Lane and ending north-east of Tyagarah Street | 121.8645 (westbound) | 80km/h |
| 2 | ACT Standard Grid Coordinates 208912.50 East, 596591.35 North, AHD 629.42 Level ACT Standard Grid Coordinates 211418.53 East, 596883.22 North, AHD 641.25 Level | 2.7146km (eastbound) | Hindmarsh Drive (eastbound), starting north-east of Palmer Street near Tyagarah Street and ending west of the intersection of Dalrymple Street and Mugga Lane | 122.157 (eastbound) | 80km/h |

24 Dictionary, note 3

insert

- average speed detection system (see s 22A)
- detection point (see s 22A)
- mobile device detection system (see s 22A)
- speeding offence (see s 22A)

25 Dictionary, note 3

omit

- camera detection device (see s 23)

26 Dictionary, definitions

omit the definitions of

approved police speedometer

digital camera detection device

fixed camera detection device

laser speed measuring device

loop detector speed measuring device

operator

piezo strip speed measuring device

radar speed measuring device

recording medium

security checksum

Schedule 1 Other amendments

(see s 3)

Part 1.1 Road Transport (General) Act 1999

[1.1] Dictionary, definitions of *approved camera detection device* and *camera-detected offence*

omit

Part 1.2 Road Transport (Offences) Regulation 2005

[1.2] Sections 4C (2) and 4CA (2)

omit

a camera-detected offence

substitute

an offence detected by a traffic offence detection device

[1.3] Section 6 (2) (b)

omit

a camera-detected offence

substitute

an offence detected by a traffic offence detection device

[1.4] Section 13 heading

substitute

13 Infringement notices for offence detected by traffic offence detection device—time of service—Act, s24 (2)

[1.5] Section 13 and note

omit

a camera-detected offence

substitute

an offence detected by a traffic offence detection device

[1.6] Section 14A (2) (l) (vii)

substitute

- (vii) if the offence is detected by a traffic offence detection device—information about how to inspect and obtain a copy of the image taken by the traffic offence detection device.

[1.7] Section 14B (2) (d) (vii)

substitute

- (vii) if the offence is detected by a traffic offence detection device—information about how to inspect and obtain a copy of the image taken by the traffic offence detection device.

[1.8] Dictionary, note 3

omit

- camera-detected offence

Part 1.3 Road Transport (Road Rules) Regulation 2017

[1.9] New section 300 (3AA)

before section 300 (3A), insert

- (3AA) For this section, a vehicle may be parked even though—
- (a) the key for the vehicle is located in the vehicle’s ignition lock;
or
 - (b) the engine of the vehicle is running.

[1.10] Section 300 (4), definition of *use*, paragraph (a)

omit

, except while in the process of giving the body of the device to a passenger in the vehicle

[1.11] New section 300AA (4A)

insert

- (4A) For this section, a vehicle may be parked even though—
- (a) the key for the vehicle is located in the vehicle’s ignition lock;
or
 - (b) the engine of the vehicle is running.

[1.12] Section 300AA (5), definition of *use*, paragraph (a)

omit

, except while in the process of giving the body of the device to a passenger in the vehicle

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 13 May 2021.

2 Notification

Notified under the [Legislation Act](#) on 1 July 2021.

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 (Safety and Traffic Management) Amendment Bill 2021, which was passed by the Legislative Assembly on 22 June 2021.

Acting Clerk of the Legislative Assembly

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