

2015

THE LEGISLATIVE ASSEMBLY  
FOR THE AUSTRALIAN CAPITAL TERRITORY

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(As presented)

(Minister for Justice)

# Road Transport Legislation Amendment Bill 2015

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# Road Transport Legislation Amendment Bill 2015

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## A Bill for

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

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

1 **Part 1 Preliminary**

2 **1 Name of Act**

3 This Act is the *Road Transport Legislation Amendment Act 2015*.

4 **2 Commencement**

5 This Act commences on the day after its notification day.

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

8 **3 Legislation amended**

9 This Act amends the following legislation:

- 10 • *Crimes Act 1900*
- 11 • *Road Transport (Alcohol and Drugs) Act 1977*
- 12 • *Road Transport (Driver Licensing) Regulation 2000*
- 13 • *Road Transport (General) Act 1999*
- 14 • *Road Transport (Offences) Regulation 2005*
- 15 • *Road Transport (Safety and Traffic Management) Act 1999*
- 16 • *Road Transport (Safety and Traffic Management)*  
17 *Regulation 2000*
- 18 • *Road Transport (Vehicle Registration) Regulation 2000*.

## Part 2 Crimes Act 1900

### 4 Alternative verdicts for aggravated offences—offences against pregnant women Table 48B, new items 5 and 6

*insert*

5	section 29 (2) (Culpable driving of motor vehicle)—causing death—aggravated offence	<ul style="list-style-type: none"> <li>• section 29 (2), simple offence</li> <li>• <i>Road Transport (Safety and Traffic Management) Act 1999</i>, section 6 (1) (a) (Negligent driving)—causing death</li> </ul>
6	section 29 (4) (Culpable driving of motor vehicle)—causing grievous bodily harm—aggravated offence	<ul style="list-style-type: none"> <li>• section 29 (4), simple offence</li> <li>• <i>Road Transport (Safety and Traffic Management) Act 1999</i>, section 6 (1) (b) (Negligent driving)—causing grievous bodily harm</li> </ul>

### 5 Alternative verdicts for certain other offences against the person Table 49, new items 12 and 13

*insert*

12	section 29 (2) (Culpable driving of motor vehicle)—causing death	<i>Road Transport (Safety and Traffic Management) Act 1999</i> , section 6 (1) (a) (Negligent driving)—causing death
13	section 29 (4) (Culpable driving of motor vehicle)—causing grievous bodily harm	<i>Road Transport (Safety and Traffic Management) Act 1999</i> , section 6 (1) (b) (Negligent driving)—causing grievous bodily harm

1 **Part 3** **Road Transport (Alcohol and**  
2 **Drugs) Act 1977**

3 **6 Offences against Act—application of Criminal Code etc**  
4 **Section 4, note 1**

5 *insert*

- 6 • s 25 (Consuming alcohol—driver or driver trainer)

7 **7 New section 25**

8 *in part 3, insert*

9 **25 Consuming alcohol—driver or driver trainer**

- 10 (1) A person commits an offence if the person—
- 11 (a) drives or rides a vehicle on a road or road related area; and
- 12 (b) consumes alcohol while driving or riding the vehicle.
- 13 Maximum penalty: 20 penalty units.
- 14 (2) A person commits an offence if the person—
- 15 (a) is a driver trainer in a motor vehicle on a road or road related
- 16 area; and
- 17 (b) consumes alcohol while in the vehicle.
- 18 Maximum penalty: 20 penalty units.
- 19 (3) An offence against this section is a strict liability offence.
- 20 (4) In a prosecution for an offence against this section, a substance is
- 21 presumed to be alcohol if—
- 22 (a) the substance is in a container; and
- 23 (b) a label or other mark on the container describes the contents as
- 24 alcohol or containing alcohol.



1

**Examples—par (b)**

2

- ‘2.6% Alc/Vol’ printed on a can

3

- ‘14% Alc/Vol’ printed on the label of a bottle

4

*Note 1* The defendant has an evidential burden in relation to the matters mentioned in s (4) (see [Criminal Code](#), s 58).

5

6

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

7

8

9

(5) In this section:

10

*vehicle* means a bicycle or motor vehicle.

1 **Part 4** **Road Transport (Driver**  
2 **Licensing) Regulation 2000**

3 **8 Other exemptions from requirement to hold driver licence**  
4 **Section 99 (2), note**

5 *substitute*

6 *Note* A bicycle does not include any vehicle—

- 7 (a) with an electric motor capable of generating a power output over  
8 200W, other than a vehicle that is a power-assisted pedal cycle  
9 within the meaning of vehicle standards determined under the  
10 [Motor Vehicle Standards Act 1989](#) (Cwlth), s 7 (see [Road](#)  
11 [Transport \(General\) Act 1999](#), dict, def *bicycle* and [Australian](#)  
12 [Road Rules](#)); or  
13 (b) that has an internal combustion engine.

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1 **Part 5** **Road Transport (General)**  
2 **Act 1999**

3 **9** **Meaning of *first offender* and *repeat offender*—div 4.2**  
4 **Section 61AA (5), definition of *relevant offence*,**  
5 **paragraph (c)**

6 *omit*

7 burnouts and other prohibited conduct

8 *substitute*

9 improper use of a motor vehicle

10 **10** **Automatic disqualification for certain other driving**  
11 **offences**  
12 **Section 63 (1) (b)**

13 *omit*

14 burnouts and other prohibited conduct

15 *substitute*

16 improper use of a motor vehicle

17 **11** **New section 72A**

18 *insert*

19 **72A** **Evidentiary certificate—use etc of road or road related**  
20 **area**

21 (1) In a proceeding under the road transport legislation, a certificate that  
22 appears to be signed by or on behalf of an owner of land, or a  
23 representative of the owner, and states any of the following matters,  
24 is evidence of the matter:

25 (a) that an area of the land is or is not a road;

- 1 (b) that an area of the land is, or is not, open to or used by the  
2 public for driving, riding or parking vehicles;
- 3 (c) that a person was, on a stated date, the owner of the land, or a  
4 representative of the owner.
- 5 (2) A court must accept a certificate mentioned in subsection (1) as  
6 proof of the matters stated in it if there is no evidence to the  
7 contrary.
- 8 (3) In this section:  
9 *owner*, of land, includes the lessee or occupier of the land.

10 **12 Dictionary, definition of *bicycle*, paragraph (c)**

11 *substitute*

- 12 (c) does not include—
- 13 (i) a wheelchair, wheeled recreational device or wheeled  
14 toy; or
- 15 (ii) a vehicle (other than a vehicle mentioned in  
16 paragraph (b)) with an electric motor capable of  
17 generating a power output over 200W (whether or not the  
18 motor is operating); or
- 19 (iii) a vehicle that has an internal combustion engine.

20 **13 Dictionary, definition of *bicycle*, new note**

21 *insert*

- 22 *Note 3* This definition is not consistent with the definition of *bicycle* in the  
23 [Australian Road Rules](#), dictionary. The [Australian Road Rules](#) are not  
24 completely self-contained and need to be read with associated laws of  
25 each jurisdiction.

1 **Part 6** **Road Transport (Offences)**  
 2 **Regulation 2005**

3 **14 Short descriptions, penalties and demerit points**  
 4 **Schedule 1, part 1.3, table, new items 18A and 18B**

5 *insert*

18A	25 (1)	drive or ride vehicle on road/related area while consuming alcohol	20	\$300
18B	25 (2)	driver trainer in motor vehicle on road/related area while consuming alcohol	20	\$300

1 **Part 7** **Road Transport (Safety and**  
2 **Traffic Management) Act 1999**

3 **15** **New section 5AA**

4 *in part 1, insert*

5 **5AA** **Offences against Act—application of Criminal Code etc**

6 Other legislation applies in relation to offences against this Act.

7 *Note 1* *Criminal Code*

8 The [Criminal Code](#), ch 2 applies to the following offences against this  
9 Act (see Code, pt 2.1):

- 10 • s 5B (2) and (4) (Improper use of motor vehicle)
- 11 • s 10BA (5) (Powers of police officers to issue surrender notices for  
12 motor vehicles).

13 The chapter sets out the general principles of criminal responsibility  
14 (including burdens of proof and general defences), and defines terms  
15 used for offences to which the Code applies (eg *conduct*, *intention*,  
16 *recklessness* and *strict liability*).

17 *Note 2* *Penalty units*

18 The [Legislation Act](#), s 133 deals with the meaning of offence penalties  
19 that are expressed in penalty units.

20 **16** **Section 5B heading**

21 *substitute*

22 **5B** **Improper use of motor vehicle**

1 **17 Section 5B (1), definition of *burnout***

2 *omit*

3 **18 Section 5B (1), new definition of *improper use***

4 *insert*

5 *improper use*, of a motor vehicle, means operate the vehicle in a  
6 way that causes the vehicle to undergo sustained loss of traction by  
7 1 or more of the vehicle's wheels.

8 **Examples—improper use**

- 9 • burnouts  
10 • handbrake turns  
11 • wheelies  
12 • drifting  
13 • j-turns

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

17 **19 Section 5B (1), definition of *prohibited substance***

18 *omit*

19 burnout

20 *substitute*

21 improper use

- 1 **20 Section 5B (2)**
- 2 *substitute*
- 3 (2) A person commits an offence if—
- 4 (a) the person uses a motor vehicle on a road or road related area;
- 5 and
- 6 (b) the use is an improper use.
- 7 Maximum penalty:
- 8 (a) if a prohibited substance had been placed on the surface of the
- 9 road or road related area under, or near, a tyre of the vehicle—
- 10 30 penalty units; or
- 11 (b) in any other case—20 penalty units.
- 12 **21 Section 5B (4)**
- 13 *substitute*
- 14 (4) A person commits an offence if—
- 15 (a) the person engages in conduct on a road or road related area;
- 16 and
- 17 (b) the conduct is other prohibited conduct.
- 18 Maximum penalty: 20 penalty units.
- 19 **22 Meaning of *first offender* and *repeat offender*—div 2.3**
- 20 **Section 10AA (5), definition of *impounding offence*,**
- 21 **paragraph (b)**
- 22 *omit*
- 23 Burnouts and other prohibited conduct
- 24 *substitute*
- 25 Improper use of motor vehicle



1 **23 Impounding of vehicles used for menacing driving on**  
2 **court order before conviction etc**  
3 **Section 10A (7)**

4 *before*  
5 section 10C  
6 *insert*  
7 section 10BA (Powers of police officers to issue surrender notices  
8 for motor vehicles) or

9 **24 Section 10A (8)**

10 *before*  
11 section 10C  
12 *insert*  
13 section 10BA or

14 **25 Impounding or forfeiture of vehicles on conviction etc for**  
15 **certain offences**  
16 **Section 10B (1)**

17 *omit*  
18 Burnouts and other prohibited conduct  
19 *substitute*  
20 Improper use of motor vehicle

1 **26 Section 10B (5)**  
2 *before*  
3 or section 10C  
4 *insert*  
5 , section 10BA (Powers of police officers to issue surrender notices  
6 for motor vehicles)

7 **27 Section 10B (6) (c)**  
8 *before*  
9 section 10C  
10 *insert*  
11 section 10BA or

12 **28 New section 10BA**  
13 *insert*

14 **10BA Powers of police officers to issue surrender notices for**  
15 **motor vehicles**

16 (1) This section applies to a motor vehicle if a police officer believes on  
17 reasonable grounds that the vehicle is being or has been used by a  
18 person in committing an offence against section 5A (Races, attempts  
19 on speed records, speed trials etc) or section 5B (Improper use of  
20 motor vehicle).

21 (2) A police officer may, by notice (a *surrender notice*), require the  
22 responsible person for the vehicle to surrender the vehicle for  
23 impounding at the place and by the date stated in the notice.

24 *Note* A police officer may seize a motor vehicle under s 10C without giving  
25 the responsible person for the vehicle a surrender notice.

- 1 (3) However, the police officer may only give a person a surrender  
2 notice within 10 days after the day of the commission of the offence  
3 mentioned in subsection (1).
- 4 (4) The notice must state—
- 5 (a) the details of the alleged offence; and
- 6 (b) the service number of the police officer giving the notice; and
- 7 (c) a reasonable date and time by which the motor vehicle must be  
8 surrendered; and
- 9 (d) that it is an offence to fail to comply with a surrender notice;  
10 and
- 11 (e) that a police officer may seize the vehicle under section 10C if  
12 the person fails to comply with the notice; and
- 13 (f) anything else prescribed by regulation.
- 14 (5) The responsible person for a motor vehicle commits an offence if  
15 the person—
- 16 (a) is given a surrender notice for the vehicle; and
- 17 (b) fails to comply with the notice.
- 18 Maximum penalty: 20 penalty units.
- 19 (6) An offence against subsection (5) is a strict liability offence.
- 20 (7) Subsection (5) does not apply if the person has a reasonable excuse  
21 for failing to comply with the notice.
- 22 *Note* The defendant has an evidential burden in relation to the matters  
23 mentioned in s (7) (see [Criminal Code](#), s 58).
- 24 (8) If a person fails to comply with a surrender notice, a police officer  
25 may seize the vehicle under section 10C.

1 **29 Powers of police officers to seize and impound vehicles**  
2 **used in committing certain offences**  
3 **Section 10C (1) (a)**

4 *omit*

5 Burnouts and other prohibited conduct

6 *substitute*

7 Improper use of motor vehicle

8 **30 Section 10C (2)**

9 *substitute*

10 (2) However, the police officer may only seize the motor vehicle under  
11 subsection (1) (a) within 10 days after the later of—

12 (a) the commission of the offence; and

13 (b) if a surrender notice has been given to the responsible person  
14 for the vehicle under section 10BA and the person fails to  
15 comply with the notice—the date and time by which the motor  
16 vehicle was to be surrendered under the notice.

17 **31 Registered operator and interested people to be notified**  
18 **Section 10D (2)**

19 *omit*

20 Burnouts and other prohibited conduct

21 *substitute*

22 Improper use of motor vehicle

23 **32 Section 10E heading**

24 *substitute*

25 **10E Keeping of certain vehicles seized or surrendered**

- 1 **33 New section 10E (1A)**
- 2 *insert*
- 3 (1A) This section also applies if a motor vehicle is surrendered under  
4 section 10BA (Powers of police officers to issue surrender notices  
5 for motor vehicles) in the circumstances mentioned in  
6 section 10BA (1).
- 7 **34 Section 10E (3)**
- 8 *omit*
- 9 Vehicles seized under s 10C (1) (a)
- 10 *substitute*
- 11 Certain vehicles seized or surrendered
- 12 **35 Section 10E (5), definition of *relevant offence*,**  
13 **paragraph (b)**
- 14 *omit*
- 15 Burnouts and other prohibited conduct
- 16 *substitute*
- 17 Improper use of motor vehicle
- 18 **36 Section 10G heading**
- 19 *substitute*
- 20 **10G Certain vehicles seized or surrendered—release by chief**  
21 **police officer**

**37 Section 10G (1)**

*substitute*

- (1) A person may apply to the chief police officer for the release to the person of a motor vehicle that has been—
- (a) seized under section 10C (1) (a); or
  - (b) surrendered in the circumstances mentioned in section 10BA (1).

**38 Section 10H heading**

*substitute*

**10H Certain vehicles seized or surrendered—release by Magistrates Court****39 Section 10H (1)**

*substitute*

- (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—
- (a) seized under section 10C (1) (a); or
  - (b) surrendered in the circumstances mentioned in section 10BA (1).
- (1A) This section applies whether or not an application has been made to the chief police officer under section 10G for the release of the vehicle.

1 **40** **Failure to prosecute**  
2 **Section 10J**

3 *before*

4 section 10C

5 *insert*

6 section 10BA (1) (Powers of police officers to issue surrender  
7 notices for motor vehicles) or

1 **Part 8** **Road Transport (Safety and**  
2 **Traffic Management)**  
3 **Regulation 2000**

4 **41** **General**  
5 **Division 2.2.1 heading, note 3, new item 11**

6 *insert*

11 dict, def *bicycle* *Road Transport (General) Act 1999*, dict, def  
*bicycle*

7 **42** **Exemption for driver of police vehicle—training and**  
8 **assessment**  
9 **Section 69A (3), new definition of *police officer***

10 *insert*

11 *police officer* includes a person who is training to become a police  
12 officer.



1 **Part 9** **Road Transport (Vehicle**  
2 **Registration) Regulation 2000**

3 **43 Section 20 heading**

4 *substitute*

5 **20 Bicycles with electric motors**

6 **44 Section 20, note**

7 *substitute*

8 *Note* A bicycle does not include any vehicle—

- 9 (a) with an electric motor capable of generating a power output over  
10 200W, other than a vehicle that is a power-assisted pedal cycle  
11 within the meaning of vehicle standards determined under the  
12 [Motor Vehicle Standards Act 1989](#) (Cwlth), s 7 (see [Road](#)  
13 [Transport \(General\) Act 1999](#), dict, def **bicycle** and [Australian](#)  
14 [Road Rules](#)); or  
15 (b) that has an internal combustion engine.

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## Endnotes

**1 Presentation speech**

Presentation speech made in the Legislative Assembly on 14 May 2015.

**2 Notification**

Notified under the [Legislation Act](#) on 2015.

**3 Republications of amended laws**

For the latest republication of amended laws, see [www.legislation.act.gov.au](http://www.legislation.act.gov.au).

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