

2023

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Minister for Transport and City Services)

Road Safety Legislation Amendment Bill 2023

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2023

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Minister for Transport and City Services)

Road Safety Legislation Amendment Bill 2023

A Bill for

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

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 Safety Legislation Amendment Act 2023*.

4 **2 Commencement**

5 (1) This Act (other than the provisions mentioned in subsection (2))
6 commences on the day after its notification day.

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

9 (2) The following provisions commence on 1 January 2025:

- 10 • section 5
11 • section 41
12 • section 63.

13 **3 Legislation amended**

14 This Act amends the following legislation:

- 15 • [Road Transport \(Alcohol and Drugs\) Act 1977](#)
16 • [Road Transport \(Alcohol and Drugs\) Regulation 2000](#)
17 • [Road Transport \(Driver Licensing\) Regulation 2000](#)
18 • [Road Transport \(General\) Act 1999](#)
19 • [Road Transport \(Offences\) Regulation 2005](#)
20 • [Road Transport \(Road Rules\) Regulation 2017](#)
21 • [Road Transport \(Safety and Traffic Management\) Act 1999](#).

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

1 **Part 2** **Road Transport (Alcohol and**
2 **Drugs) Act 1997**

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

5 *insert*

- 6 • s 21 (Prescribed concentration of alcohol and prescribed drug in
7 bodily fluid)

8 **5 Meaning of *first offender* and *repeat offender***
9 **New section 4F (2) (d)**

10 *insert*

11 (d) at any time before the disqualifying offence was committed, the
12 person has—

- 13 (i) been issued with an infringement notice for a relevant
14 offence other than a corresponding offence; and
15 (ii) not disputed the infringement notice within the time
16 allowed for the person to dispute the notice.

17 **6 Power to enter premises for alcohol screening test**
18 **Section 10A (1) (b)**

19 *substitute*

20 (b) suspects on reasonable grounds that the person has committed
21 an offence against one of the following provisions:

- 22 (i) section 19 (Prescribed concentration of alcohol in blood or
23 breath);
24 (ii) section 20 (Prescribed drug in oral fluid or blood—driver
25 or driver trainer);
26 (iii) section 21 (Prescribed concentration of alcohol and
27 prescribed drug in bodily fluid);

- 1 (iv) section 24 (Driving under the influence of intoxicating
2 liquor or a drug); and

3 **7 Power to enter premises for drug screening test**
4 **Section 13CA (1) (b)**

5 *substitute*

- 6 (b) suspects on reasonable grounds that the person has committed
7 an offence against one of the following provisions:
- 8 (i) section 19 (Prescribed concentration of alcohol in blood or
9 breath);
- 10 (ii) section 20 (Prescribed drug in oral fluid or blood—driver
11 or driver trainer);
- 12 (iii) section 21 (Prescribed concentration of alcohol and
13 prescribed drug in bodily fluid);
- 14 (iv) section 24 (Driving under the influence of intoxicating
15 liquor or a drug); and

16 **8 Prescribed concentration of alcohol in blood or breath**
17 **Section 19 (1), new penalty**

18 *insert*

19 Maximum penalty:

- 20 (a) for a first offender—the penalty mentioned in table 19,
21 column 3 for the concentration of alcohol at a level specified in
22 column 2; or
- 23 (b) for a repeat offender—the penalty mentioned in table 19,
24 column 4 for the concentration of alcohol at a level specified in
25 column 2.

26 *Note* A person other than a special driver does not commit an offence against
27 s (1) if the concentration of alcohol in the person's blood or breath is at
28 level 1 (see s 4C and s 4E).

9 Section 19 (3)*substitute*

- (3) A driver trainer convicted of an offence against subsection (1) is not punishable by imprisonment.

10 New table 19*after subsection (5), insert***Table 19**

column 1 item	column 2 alcohol concentration level	column 3 maximum penalty— first offender	column 4 maximum penalty—repeat offender
1	level 1	25 penalty units	50 penalty units, imprisonment for 6 months or both
2	level 2	25 penalty units	50 penalty units, imprisonment for 6 months or both
3	level 3	50 penalty units, imprisonment for 6 months or both	100 penalty units, imprisonment for 12 months or both
4	level 4	75 penalty units, imprisonment for 9 months or both	150 penalty units, imprisonment for 18 months or both

11 Section 19A heading*substitute***19A Defence if person did not intend to drive motor vehicle—
s 19**

12 Section 19A

2 *omit*
3 establishes
4 *substitute*
5 proves

13 Section 19A, new note

7 *insert*
8 *Note* The defendant has a legal burden in relation to the matters mentioned in
9 this section (see [Criminal Code](#), s 59).

14 Section 19B heading

11 *substitute*

**12 19B Defence if special driver with lower concentration of
13 alcohol from allowable source—s 19****14 15 Prescribed drug in oral fluid or blood—driver or driver
15 trainer
16 Section 20 (1), penalty**

17 *substitute*
18 Maximum penalty:
19 (a) for a first offender—25 penalty units; or
20 (b) for a repeat offender—
21 (i) if the offender is the driver—50 penalty units,
22 imprisonment for 6 months or both; and
23 (ii) if the offender is the driver trainer—50 penalty units.

16 Section 20 (6), definition of *relevant period*

2 *omit*

3 may

4 *substitute*

5 could

17 New sections 21 to 21C

7 *insert*

21 Prescribed concentration of alcohol and prescribed drug in bodily fluid

10 (1) A person commits an offence if the person—

11 (a) has been—

12 (i) the driver of a motor vehicle on a road or road related area;
13 or

14 (ii) the driver trainer in a motor vehicle on a road or road
15 related area; and

16 (b) has, within the relevant period, the prescribed concentration of
17 alcohol in the person's blood or breath; and

18 (c) has, within the relevant period, a prescribed drug in the person's
19 oral fluid or blood.

20 Maximum penalty:

21 (a) for a first offender—the penalty mentioned in table 21,
22 column 3 for the concentration of alcohol at a level specified in
23 column 2; or

Section 17

- 1 (b) for a repeat offender—the penalty mentioned in table 21,
2 column 4 for the concentration of alcohol at a level specified in
3 column 2.
- 4 *Note* A person other than a special driver does not commit an offence against
5 s (1) if the concentration of alcohol in the person’s blood or breath is at
6 level 1 (see s 4C and s 4E).
- 7 (2) Strict liability applies to subsection (1).
- 8 (3) A driver trainer convicted of an offence against subsection (1) is not
9 punishable by imprisonment.
- 10 (4) A defendant in a prosecution for an offence against this section cannot
11 rely on the [Criminal Code](#), section 36 (Mistake of fact—strict
12 liability) in relation to the identity of the prescribed drug if the
13 defendant claims to have—
- 14 (a) considered, and been under a mistaken belief about, the identity
15 of the prescribed drug; and
- 16 (b) believed that the prescribed drug was a controlled drug.
- 17 (5) A defendant in a prosecution for an offence against this section cannot
18 rely on the [Criminal Code](#), section 36 (Mistake of fact—strict
19 liability) in relation to having delta-9-tetrahydrocannabinol in the
20 defendant’s oral fluid or blood if the defendant’s mistake relates to
21 the effect of consumption of a cannabis food product on the presence
22 of delta-9-tetrahydrocannabinol in the defendant’s oral fluid or blood.
- 23 (6) In a proceeding for an offence against subsection (1), evidence may
24 be given of the concentration of alcohol in the person’s blood or
25 breath based on—
- 26 (a) for proof of the concentration of alcohol in the person’s blood
27 or breath—an analysis of a sample of the person’s breath carried
28 out in accordance with this Act; or
- 29 (b) for proof of the concentration of alcohol in the person’s blood—
30 an analysis of a sample of the person’s blood carried out at an
31 approved laboratory and certified accurate by an analyst.

- 1 (7) In a proceeding for an offence against subsection (1), evidence may
2 be given that a person has a prescribed drug in the person's oral fluid
3 or blood based on—
- 4 (a) for proof of the presence of a prescribed drug in the person's
5 oral fluid—an analysis of a part of a sample of the person's oral
6 fluid under section 13G (Oral fluid—confirmatory analysis) that
7 indicates that a prescribed drug is present in the sample; or
- 8 (b) for proof of the presence of a prescribed drug in the person's
9 blood—an analysis of a part of a sample of the person's blood
10 under section 15A (Analysis of blood samples) that indicates
11 that a prescribed drug is present in the sample.
- 12 (8) In this section:
- 13 *cannabis food product*—see the *Drugs of Dependence Act 1989*,
14 section 6.
- 15 *controlled drug*—see the *Criminal Code*, section 600.
- 16 *relevant period* means the period beginning when the person stopped
17 being the driver of the vehicle or the driver trainer in the vehicle and
18 ending at the latest time when—
- 19 (a) both of the following could be carried out under this Act:
- 20 (i) a breath analysis of the person;
- 21 (ii) an oral fluid analysis of the person; or
- 22 (b) if a sample of the person's blood was taken under section 15
23 (Taking blood samples from people in custody) or section 15AA
24 (Taking blood samples from people in hospital)—a sample of
25 the person's blood could be taken under the section.

1 **Table 21**

column 1 item	column 2 alcohol concentration level	column 3 maximum penalty— first offender	column 4 maximum penalty—repeat offender
1	level 1	50 penalty units	100 penalty units, imprisonment for 12 months or both
2	level 2	50 penalty units	100 penalty units, imprisonment for 12 months or both
3	level 3	75 penalty units, imprisonment for 9 months or both	150 penalty units, imprisonment for 18 months or both
4	level 4	100 penalty units, imprisonment for 12 months or both	200 penalty units, imprisonment for 2 years or both

2 **21A** **Defence if person did not intend to drive motor vehicle—**
3 **s 21**

4 If a person charged with an offence against section 21 was the driver
5 of a motor vehicle only for the reason that the person was in, and in
6 charge of, a motor vehicle on a road or road related area, it is a defence
7 if the person charged proves that—

- 8 (a) the person had not started, or attempted to start, the motor
9 vehicle and had not put, or attempted to put, the motor vehicle
10 in motion; and
- 11 (b) the person did not intend to drive the motor vehicle until a time
12 when the concentration of alcohol in the person's blood or
13 breath was no longer the prescribed concentration for the person.

14 *Note* The defendant has a legal burden in relation to the matters mentioned in
15 this section (see [Criminal Code](#), s 59).

- 1 **21B** **Defence if special driver with lower concentration of**
2 **alcohol from allowable source—s 21**
- 3 (1) This section applies if—
- 4 (a) a person is a special driver charged with an offence against
5 section 21; and
- 6 (b) the concentration of alcohol in the person’s blood or breath
7 within the relevant period was less than 0.02g in 100mL of the
8 person’s blood or 210L of the person’s breath.
- 9 (2) It is a defence to a prosecution for the offence if the defendant proves
10 that the concentration of alcohol in the defendant’s blood or breath
11 was caused by—
- 12 (a) the consumption of an alcoholic beverage that formed part of a
13 religious observance; or
- 14 (b) the consumption or use of a substance that was not, entirely or
15 partly, consumed or used for its alcohol content.
- 16 **Example—substance**
17 food or medicine that contains alcohol
- 18 *Note* A defendant has a legal burden in relation to the matters mentioned in
19 s (2) (see [Criminal Code](#), s 59).
- 20 **21C** **Alternative verdicts—prescribed concentration of alcohol**
21 **and prescribed drug in bodily fluid**
- 22 (1) This section applies if, in a prosecution for an offence against
23 section 21, the trier of fact—
- 24 (a) is satisfied beyond reasonable doubt that the defendant
25 committed an offence against—
- 26 (i) section 19; or
27 (ii) section 20; but

Section 18

1 (b) is not satisfied that the defendant committed an offence against
2 section 21.

3 (2) The trier of fact may find the defendant guilty of an offence against
4 section 19 or section 20 but not guilty of an offence against section
5 21, but only if the defendant has been given procedural fairness in
6 relation to that finding of guilt.

7 **18 Refusing to provide breath sample**
8 **Section 22**

9 *omit*

10 punishable, on conviction, by a maximum fine of 30 penalty units

11 **19 Section 22, new penalty**

12 *insert*

13 Maximum penalty:

14 (a) for a first offender—100 penalty units, imprisonment for
15 12 months or both; or

16 (b) for a repeat offender—200 penalty units, imprisonment for
17 2 years or both.

18 **20 New section 22 (2)**

19 *insert*

20 (2) It is a defence to a prosecution for an offence against
21 subsection (1) (d) if the defendant proves that the failure or refusal
22 was based on medical grounds or on another reasonable excuse.

1 **21 Refusing to provide oral fluid sample**
2 **Section 22A (2), penalty**

3 *substitute*

4 Maximum penalty:

- 5 (a) for a first offender—100 penalty units, imprisonment for
6 12 months or both; or
7 (b) for a repeat offender—200 penalty units, imprisonment for
8 2 years or both.

9 **22 Section 22A (4), except note**

10 *substitute*

- 11 (4) It is a defence to a prosecution for an offence against
12 subsection (2) (b) if the defendant proves that the failure was based
13 on medical grounds or on another reasonable excuse.

14 **23 Failing to stay for screening test**
15 **Section 22B (1), penalty**

16 *substitute*

17 Maximum penalty: 100 penalty units.

18 **24 Refusing to undergo screening test**
19 **Section 22C (1), penalty**

20 *substitute*

21 Maximum penalty:

- 22 (a) for a first offender—100 penalty units, imprisonment for
23 12 months or both; or
24 (b) for a repeat offender—200 penalty units, imprisonment for
25 2 years or both.

25 Section 22C (3), except note

2 *substitute*

- 3 (3) It is a defence to a prosecution for an offence against this section if
4 the defendant proves that the failure was based on medical grounds
5 or on another reasonable excuse.

**26 Refusing blood test etc
Section 23 (1), penalty**

8 *substitute*

9 Maximum penalty:

- 10 (a) for a first offender—100 penalty units, imprisonment for
11 12 months or both; or
12 (b) for a repeat offender—200 penalty units, imprisonment for
13 2 years or both.

27 New section 23 (1A)

15 *insert*

- 16 (1A) It is a defence to a prosecution for an offence against subsection (1)
17 if the defendant proves that the failure or refusal was based on
18 religious or other conscientious grounds, on medical grounds or on
19 another reasonable excuse.

20 *Note* The defendant has a legal burden in relation to the matters mentioned in
21 s (1A) (see [Criminal Code](#), s 59).

28 Section 23 (2)

23 *omit*

24 punishable, on conviction, by a maximum fine of 30 penalty units

29 Section 23 (2), new penalty

2 *insert*

3 Maximum penalty:

4 (a) for a first offender—100 penalty units, imprisonment for
5 12 months or both; or

6 (b) for a repeat offender—200 penalty units, imprisonment for
7 2 years or both.

30 Section 23 (3)

9 *omit*

10 this section

11 *substitute*

12 subsection (2)

31 Section 23 (3)

14 *omit*

15 or on medical grounds

16 *substitute*

17 , on medical grounds or on another reasonable excuse

**32 Driving under the influence of intoxicating liquor or a drug
Section 24 (1), penalty**

21 *substitute*

22 Maximum penalty:

23 (a) for a first offender—100 penalty units, imprisonment for
24 12 months or both; or

25 (b) for a repeat offender—200 penalty units, imprisonment for
26 2 years or both.

33 Part 4 heading

2 *substitute*

Part 4 Automatic driver licence disqualification

5 *Note* The effect of disqualification is set out in the *Road Transport (General)*
6 *Act 1999*, s 66.

34 Sections 26 to 34

8 *substitute*

26 Automatic disqualification taken to be court order

10 For the *Magistrates Court Act 1930*, section 208 (1) (g) an automatic
11 disqualification from holding or obtaining a driver licence under this
12 part is taken to be an order of the court to disqualify a person from
13 holding or obtaining a driver licence.

27 Automatic driver licence disqualification—first offenders, s 19

- 16 (1) This section applies to a person who is convicted of an offence against
17 section 19 (1) and is a first offender in relation to the offence.
- 18 (2) The person is automatically disqualified from holding or obtaining a
19 driver licence for—
- 20 (a) the period mentioned in table 27, column 4 for the concentration
21 of alcohol at a level specified in column 2; or
- 22 (b) if the convicting court orders a shorter period of disqualification
23 that is not less than the period mentioned in column 3 for that
24 level—the shorter period.

1 **Table 27**

column 1 item	column 2 alcohol concentration level	column 3 minimum disqualification	column 4 default disqualification
1	level 1	3 months	6 months
2	level 2	3 months	6 months
3	level 3	6 months	12 months
4	level 4	9 months	18 months

2 **28 Automatic driver licence disqualification—repeat**
 3 **offenders, s 19**

- 4 (1) This section applies to a person who is convicted of an offence against
 5 section 19 (1) and is a repeat offender in relation to the offence.
- 6 (2) The person is automatically disqualified from holding or obtaining a
 7 driver licence for—
- 8 (a) the period mentioned in table 28, column 4 for the concentration
 9 of alcohol at a level specified in column 2; or
- 10 (b) if the convicting court orders a shorter period of disqualification
 11 that is not less than the period mentioned in column 3 for that
 12 level—the shorter period.

13 **Table 28**

column 1 item	column 2 alcohol concentration level	column 3 minimum disqualification	column 4 default disqualification
1	level 1	6 months	12 months
2	level 2	6 months	12 months
3	level 3	12 months	2 years
4	level 4	18 months	3 years

- 1 **29** **Automatic driver licence disqualification—first offenders,**
2 **s 20**
- 3 (1) This section applies to a person who is convicted of an offence against
4 section 20 (1) and is a first offender in relation to the offence.
- 5 (2) The person is automatically disqualified from holding or obtaining a
6 driver licence for—
- 7 (a) 6 months; or
- 8 (b) if the convicting court orders a shorter period of disqualification
9 that is not less than 3 months—the shorter period.
- 10 **30** **Automatic driver licence disqualification—repeat**
11 **offenders, s 20**
- 12 (1) This section applies to a person who is convicted of an offence against
13 section 20 (1) and is a repeat offender in relation to the offence.
- 14 (2) The person is automatically disqualified from holding or obtaining a
15 driver licence for—
- 16 (a) 12 months; or
- 17 (b) if the convicting court orders a shorter period of disqualification
18 that is not less than 6 months—the shorter period.
- 19 **31** **Automatic driver licence disqualification—first offenders,**
20 **s 21**
- 21 (1) This section applies to a person who is convicted of an offence against
22 section 21 (1) and is a first offender in relation to the offence.
- 23 (2) The person is automatically disqualified from holding or obtaining a
24 driver licence for—
- 25 (a) the period mentioned in table 31, column 4 for the concentration
26 of alcohol at a level specified in column 2; or

- 1 (b) if the convicting court orders a shorter period of disqualification
 2 that is not less than the period mentioned in column 3 for that
 3 level—the shorter period.

4 **Table 31**

column 1 item	column 2 alcohol concentration level	column 3 minimum disqualification	column 4 default disqualification
1	level 1	6 months	12 months
2	level 2	6 months	12 months
3	level 3	9 months	18 months
4	level 4	12 months	2 years

5 **32 Automatic driver licence disqualification—repeat**
 6 **offenders, s 21**

- 7 (1) This section applies to a person who is convicted of an offence against
 8 section 21 (1) and is a repeat offender in relation to the offence.
- 9 (2) The person is automatically disqualified from holding or obtaining a
 10 driver licence for—
- 11 (a) the period mentioned in table 32, column 4 for the concentration
 12 of alcohol at a level specified in column 2; or
- 13 (b) if the convicting court orders a shorter period of disqualification
 14 that is not less than the period mentioned in column 3 for that
 15 level—the shorter period.

16 **Table 32**

column 1 item	column 2 alcohol concentration level	column 3 minimum disqualification	column 4 default disqualification
1	level 1	12 months	2 years
2	level 2	12 months	2 years

column 1 item	column 2 alcohol concentration level	column 3 minimum disqualification	column 4 default disqualification
3	level 3	18 months	3 years
4	level 4	2 years	4 years

- 1 **33 Automatic driver licence disqualification—first offenders,**
2 **s 24**
- 3 (1) This section applies to a person who is convicted of an offence against
4 section 24 (1) and is a first offender in relation to the offence.
- 5 (2) The person is automatically disqualified from holding or obtaining a
6 driver licence for—
- 7 (a) 2 years; or
- 8 (b) if the convicting court orders a shorter period of disqualification
9 that is not less than 12 months—the shorter period.
- 10 **34 Automatic driver licence disqualification—repeat**
11 **offenders, s 24**
- 12 (1) This section applies to a person who is convicted of an offence against
13 section 24 (1) and is a repeat offender in relation to the offence.
- 14 (2) The person is automatically disqualified from holding or obtaining a
15 driver licence for—
- 16 (a) 4 years; or
- 17 (b) if the convicting court orders a shorter period of disqualification
18 that is not less than 2 years—the shorter period.
- 19 **34A Automatic driver licence disqualification—other**
20 **disqualifying offences**
- 21 (1) This section applies to a person who is convicted of an offence against
22 section 22, section 22A, section 22C or section 23.

- 1 (2) If the person is a first offender in relation to the offence mentioned in
2 subsection (1), the person is automatically disqualified from holding
3 or obtaining a driver licence for—
- 4 (a) 2 years; or
- 5 (b) if the court orders a shorter period of disqualification that is not
6 less than 6 months—the shorter period.
- 7 (3) If the person is a repeat offender in relation to the offence mentioned
8 in subsection (1), the person is automatically disqualified from
9 holding or obtaining a driver licence for—
- 10 (a) 4 years; or
- 11 (b) if the court orders a shorter period of disqualification that is not
12 less than 12 months—the shorter period.

13 **35 Automatic driver licence disqualification—immediate**
14 **suspension period**
15 **Section 35 (2)**

16 *omit*

17 (including any period of minimum disqualification under section 32
18 or section 33)

19 **36 Evidence for insurance purposes**
20 **Section 41A (5), definition of *relevant offence*,**
21 **paragraph (a)**

22 *substitute*

- 23 (a) an offence against section 19 (Prescribed concentration of
24 alcohol in blood or breath);

- 1 **37 Section 41A (5), definition of *relevant offence*, new**
2 **paragraph (ba)**
- 3 *insert*
- 4 (ba) an offence against section 21 (Prescribed concentration of
5 alcohol and prescribed drug in bodily fluid);
- 6 **38 Dictionary, definition of *disqualifying offence*, new**
7 **paragraph (ba)**
- 8 *insert*
- 9 (ba) section 21 (Prescribed concentration of alcohol and prescribed
10 drug in bodily fluid); or
- 11 **39 Dictionary, definition of *prescribed drug***
- 12 *substitute*
- 13 ***prescribed drug*** means a drug prescribed by regulation.

1 **Part 3** **Road Transport (Alcohol and**
2 **Drugs) Regulation 2000**

3 **40** **New section 5A**

4 *insert*

5 **5A** **Prescribed drugs—Act, dict, def *prescribed drug***

6 The following are prescribed:

- 7 (a) delta-9-tetrahydrocannabinol;
8 (b) methylamphetamine;
9 (c) N, α -Dimethyl-3,4-(Methylenedioxy)phenylethylamine.

10 **41** **Prescribed drugs—Act, dict, def *prescribed drug***
11 **New section 5A (d)**

12 *insert*

- 13 (d) cocaine.

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

3 **42 Eligibility to apply to Magistrates Court for order**
4 **authorising issue of restricted licence**
5 **Section 45 (2), note 1, 3rd dot point**

6 *substitute*

- 7 • s 67A (which is about disqualification of first offenders)

8 **43 Section 45 (2), note 2**

9 *omit*

10 **44 Definitions—div 3.14**
11 **Section 73K, definition of *drug-related disqualifying***
12 ***offence*, new paragraph (aa)**

13 *insert*

- 14 (aa) section 21 (Prescribed concentration of alcohol and prescribed
15 drug in bodily fluid);

16 **45 Mandatory interlock condition**
17 **New section 73T (1) (a) (i) (AA)**

18 *insert*

- 19 (AA) section 21 (Prescribed concentration of alcohol and
20 prescribed drug in bodily fluid); or

21 **46 New section 73T (1) (a) (i) (E)**

22 *insert*

- 23 (E) section 24 (Driving under the influence of
24 intoxicating liquor or a drug) to the extent that the
25 offence is related to alcohol; or

1 **47 Dictionary, definition of *alcohol related disqualifying***
2 ***offence, new paragraph (a) (ia)***

3 *insert*

4 (ia) the *Road Transport (Alcohol and Drugs) Act 1977*,
5 section 21 (Prescribed concentration of alcohol and
6 prescribed drug in bodily fluid); or

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

3 **48 Regulations about infringement notice offences**
4 **New section 23 (6)**

5 *insert*

- 6 (6) If a regulation prescribes an offence that has a different penalty for a
7 first offender or a repeat offender in relation to the offence the
8 regulation may only prescribe the offence in relation to a first
9 offender.

10 **49 Infringement notices**
11 **New section 24 (2A)**

12 *insert*

- 13 (2A) If an authorised person reasonably believes that a person has
14 committed an offence and section 23 (6) applies to the offence—
15 (a) the administering authority need not consider whether the
16 person would, if convicted, be a first offender or a repeat
17 offender in relation to the offence; and
18 (b) for the purposes of the infringement notice, the person is
19 presumed to be a first offender.

20 **50 Meaning of *first offender* and *repeat offender*—s 60**
21 **Section 60A (2) (a)**

22 *after 1st mention of*

23 failing to identify or stop offence

24 *insert*

25 that was committed

1 **51** **Definitions—div 4.2**
2 **Section 61A, definition of *automatic disqualification***
3 ***provision, paragraphs (d) to (f)***

4 *substitute*

- 5 (d) the *Road Transport (Alcohol and Drugs) Act 1977*, section 27
6 (which is about automatic disqualification for first offender
7 drivers for having the prescribed concentration of alcohol in
8 their blood or breath);
- 9 (e) the *Road Transport (Alcohol and Drugs) Act 1977*, section 28
10 (which is about automatic disqualification for repeat offender
11 drivers for having the prescribed concentration of alcohol in
12 their blood or breath);
- 13 (f) the *Road Transport (Alcohol and Drugs) Act 1977*, section 29
14 (which is about automatic disqualification for first offender
15 drivers for having a prescribed drug in their oral fluid or blood);
- 16 (fa) the *Road Transport (Alcohol and Drugs) Act 1977*, section 30
17 (which is about automatic disqualification for repeat offender
18 drivers for having a prescribed drug in their oral fluid or blood);
- 19 (fb) the *Road Transport (Alcohol and Drugs) Act 1977*, section 31
20 (which is about automatic disqualification for first offender
21 drivers for having the prescribed concentration of alcohol in
22 their blood or breath and a prescribed drug in their bodily fluid);
- 23 (fc) the *Road Transport (Alcohol and Drugs) Act 1977*, section 32
24 (which is about automatic disqualification for repeat offender
25 drivers for having the prescribed concentration of alcohol in
26 their blood or breath and a prescribed drug in their bodily fluid);
- 27 (fd) the *Road Transport (Alcohol and Drugs) Act 1977*, section 33
28 (which is about automatic disqualification for first offender
29 drivers for driving under the influence of intoxicating liquor or
30 a drug);

Section 52

- 1 (fe) the *Road Transport (Alcohol and Drugs) Act 1977*, section 34
2 (which is about automatic disqualification for repeat offender
3 drivers for driving under the influence of intoxicating liquor or
4 a drug);
- 5 (ff) the *Road Transport (Alcohol and Drugs) Act 1977*, section 34A
6 (which is about automatic disqualification for other offences
7 against that Act);

52 Section 61A, definition of *driver trainer*

8 *substitute*

9
10 *driver trainer*—see the *Road Transport (Alcohol and Drugs)*
11 *Act 1977*, section 4BA.

53 Section 61A, definition of *immediate suspension offence*, paragraph (b)

12 *substitute*

- 13
14 (b) the following, if the person to whom the offence relates is not a
15 driver trainer:
16
- 17 (i) the *Road Transport (Alcohol and Drugs) Act 1977*,
18 section 19 (Prescribed concentration of alcohol in blood or
19 breath);
- 20 (ii) the *Road Transport (Alcohol and Drugs) Act 1977*,
21 section 20 (Prescribed drug in oral fluid or blood—driver
22 or driver trainer);
- 23 (iii) the *Road Transport (Alcohol and Drugs) Act 1977*,
24 section 21 (Prescribed concentration of alcohol and
25 prescribed drug in bodily fluid);

54 Section 61A, definition of *special driver*

substitute

special driver—see the *Road Transport (Alcohol and Drugs) Act 1977*, section 4B.

**55 Immediate suspension of licence
Section 61B (5) and (6)**

omit

56 New sections 61BA to 61BC

insert

61BA When a suspension notice ceases to have effect

- (1) This section applies if an immediate suspension notice is served on a person for an immediate suspension offence under section 61B (1).
- (2) The suspension notice ceases to have effect if—
- (a) the maximum suspension time has elapsed since the day the suspension notice was served; or
 - (b) the Magistrates Court orders a stay of the suspension notice; or
 - (c) the chief police officer or the DPP gives the person written notice that no proceeding will be brought for the offence; or
 - (d) the offence is found proved, dismissed or taken into account by a court; or
 - (e) if a proceeding was brought for the offence—any of the following happens:
 - (i) the chief police officer or the DPP gives the person written notice that the proceeding is to be withdrawn or discontinued;

- 1 (ii) the proceeding is withdrawn or discontinued other than
2 under section 53 (3); or
- 3 (f) if an infringement notice was given for the offence and the
4 person has not disputed the notice under section 51—the
5 infringement notice is withdrawn; or
- 6 (g) if an infringement notice was given for the offence and the
7 person has disputed the notice under section 51—any of the
8 following happens:
- 9 (i) the administering authority tells the person under
10 section 53 (5) that no further action will be taken against
11 the person for the offence;
- 12 (ii) the administering authority has not brought a proceeding
13 within the time allowed under section 53; or
- 14 (h) if the offence is an infringement notice offence—the
15 administering authority gives the person written notice that no
16 infringement notice will be given for the offence.
- 17 (3) In this section:
- 18 ***maximum suspension time*** means—
- 19 (a) if an infringement notice was given for the offence and the
20 person does not dispute the notice under section 51—180 days;
21 or
- 22 (b) if a proceeding is discontinued under section 53 (3) and 90 days
23 have not elapsed since the day the suspension notice was
24 served—180 days; or
- 25 (c) in any other case—90 days.
- 26 ***bring***, in relation to a proceeding for an offence, includes lay an
27 information.

1 **61BB Additional suspension notice—discontinued infringement**
2 **notice proceedings**

- 3 (1) This section applies if—
- 4 (a) an immediate suspension notice is served on a person for an
5 immediate suspension offence; and
- 6 (b) an infringement notice is given for the offence; and
- 7 (c) the person disputes the infringement notice under section 51;
8 and
- 9 (d) 90 days or more have elapsed since the day the immediate
10 suspension notice was served; and
- 11 (e) a proceeding for the offence is discontinued under
12 section 53 (3).
- 13 (2) A police officer may serve an additional immediate suspension notice
14 on the person.
- 15 (3) An additional immediate suspension notice is taken to have been
16 served under section 61B (1).

17 *Note* The maximum suspension time for an additional suspension notice is
18 90 days (see s 61BA (3), def *maximum suspension time*, par (c)).

19 **61BC Road transport authority to return surrendered licence**

20 If a person has surrendered their driver licence under an immediate
21 suspension notice and the suspension notice ceases to have effect, the
22 road transport authority must return the driver licence to the person
23 as soon as practicable.

1 **57 Eligibility of disqualified first offender for restricted**
2 **licence—automatic disqualification provisions**
3 **Section 67A (2) (a)**

4 *substitute*

5 (a) the person is disqualified from holding or obtaining a driver
6 licence under the *Road Transport (Alcohol and Drugs)*
7 *Act 1977*, section 27 (Automatic driver licence
8 disqualification—first offenders, s 19); and

9 **58 Section 67A (4)**

10 *omit*

11 section 32

12 *substitute*

13 section 27

14 **59 Section 67A (5), example 2**

15 *substitute*

16 2 For the *Road Transport (Alcohol and Drugs) Act 1977*, s 34A, the minimum
17 disqualification period is 6 months (see that Act, s 34A (2) (b)).

18 **60 Section 67A (5), note**

19 *substitute*

20 *Note* The *Road Transport (Alcohol and Drugs) Act 1977*, s 27 applies to first
21 offenders and only applies for this section if the offender has a limited
22 concentration of alcohol in their blood or breath. That Act, s 28 applies
23 to repeat offenders.

24 **61 Section 67A (6)**

25 *omit*

Part 6 Road Transport (Offences) Regulation 2005

62 Schedule 1, part 1.3

substitute

Part 1.3 Road Transport (Alcohol and Drugs) Act 1977

column 1 item	column 2 offence provision and, if relevant, case	column 3 short description	column 4 offence penalty (pu)	column 5 infringement penalty (\$)	column 6 demerit points
1	15 (5)	doctor/nurse refuse to take blood sample permitted by person/requested by police officer	10	-	-
2	16 (4)	doctor/nurse practitioner not carry out medical examination within 2 hours	10	-	-

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column 1 item	column 2 offence provision and, if relevant, case	column 3 short description	column 4 offence penalty (pu)	column 5 infringement penalty (\$)	column 6 demerit points
3	16 (5)	doctor/nurse practitioner not take body sample within 2 hours	10	-	-
4	16 (6)	nurse not take body sample within 2 hours	10	-	-
5	19 (1)				
5.1	<ul style="list-style-type: none"> special driver, level 1, first offender—driver 	special driver drive motor vehicle on road/related area with level 1 alcohol in blood or breath—first offender	25	-	-
5.2	<ul style="list-style-type: none"> special driver, level 1, first offender—driver trainer 	driver trainer in motor vehicle on road/related area with level 1 alcohol in blood or breath—first offender	25	-	-
5.3	<ul style="list-style-type: none"> special driver, level 1, repeat offender—driver 	special driver drive motor vehicle on road/related area with level 1 alcohol in blood or breath—repeat offender	50pu/ 6 months prison/both	-	-

column 1 item	column 2 offence provision and, if relevant, case	column 3 short description	column 4 offence penalty (pu)	column 5 infringement penalty (\$)	column 6 demerit points
5.4	<ul style="list-style-type: none"> special driver, level 1, repeat offender—driver trainer 	driver trainer in motor vehicle on road/related area with level 1 alcohol in blood or breath—repeat offender	50	-	-
5.5	<ul style="list-style-type: none"> special driver, level 2, first offender—driver 	special driver drive motor vehicle on road/related area with level 2 alcohol in blood or breath—first offender	25	-	-
5.6	<ul style="list-style-type: none"> special driver, level 2, first offender—driver trainer 	driver trainer in motor vehicle on road/related area with level 2 alcohol in blood or breath—first offender	25	-	-
5.7	<ul style="list-style-type: none"> special driver, level 2, repeat offender—driver 	special driver drive motor vehicle on road/related area with level 2 alcohol in blood or breath—repeat offender	50pu/ 6 months prison/both	-	-
5.8	<ul style="list-style-type: none"> special driver, level 2, repeat offender—driver trainer 	driver trainer in motor vehicle on road/related area with level 2 alcohol in blood or breath—repeat offender	50	-	-

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column 1 item	column 2 offence provision and, if relevant, case	column 3 short description	column 4 offence penalty (pu)	column 5 infringement penalty (\$)	column 6 demerit points
5.9	<ul style="list-style-type: none"> special driver, level 3, first offender—driver 	special driver drive motor vehicle on road/related area with level 3 alcohol in blood or breath—first offender	50pu/ 6 months prison/both	-	-
5.10	<ul style="list-style-type: none"> special driver, level 3, first offender—driver trainer 	driver trainer in motor vehicle on road/related area with level 3 alcohol in blood or breath—first offender	50	-	-
5.11	<ul style="list-style-type: none"> special driver, level 3, repeat offender—driver 	special driver drive motor vehicle on road/related area with level 3 alcohol in blood or breath—repeat offender	100pu/ 12 months prison/both	-	-
5.12	<ul style="list-style-type: none"> special driver, level 3, repeat offender—driver trainer 	driver trainer in motor vehicle on road/related area with level 3 alcohol in blood or breath—repeat offender	100	-	-
5.13	<ul style="list-style-type: none"> special driver, level 4, first offender—driver 	special driver drive motor vehicle on road/related area with level 4 alcohol in blood or breath—first offender	75pu/ 9 months prison/both	-	-

column 1 item	column 2 offence provision and, if relevant, case	column 3 short description	column 4 offence penalty (pu)	column 5 infringement penalty (\$)	column 6 demerit points
5.14	<ul style="list-style-type: none"> special driver, level 4, first offender—driver trainer 	driver trainer in motor vehicle on road/related area with level 4 alcohol in blood or breath—first offender	75	-	-
5.15	<ul style="list-style-type: none"> special driver, level 4, repeat offender—driver 	special driver drive motor vehicle on road/related area with level 4 alcohol in blood or breath—repeat offender	150pu/ 18 months prison/both	-	-
5.16	<ul style="list-style-type: none"> special driver, level 4, repeat offender—driver trainer 	driver trainer in motor vehicle on road/related area with level 4 alcohol in blood or breath—repeat offender	150	-	-
5.17	<ul style="list-style-type: none"> person other than special driver, level 2, first offender 	drive motor vehicle on road/related area with level 2 alcohol in blood or breath—first offender	25	-	-
5.18	<ul style="list-style-type: none"> person other than special driver, level 2, repeat offender 	drive motor vehicle on road/related area with level 2 alcohol in blood or breath—repeat offender	50pu/ 6 months prison/both	-	-

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column 1 item	column 2 offence provision and, if relevant, case	column 3 short description	column 4 offence penalty (pu)	column 5 infringement penalty (\$)	column 6 demerit points
5.19	<ul style="list-style-type: none">person other than special driver, level 3, first offender	drive motor vehicle on road/related area with level 3 alcohol in blood or breath— first offender	50pu/ 6 months prison/both	-	-
5.20	<ul style="list-style-type: none">person other than special driver, level 3, repeat offender	drive motor vehicle on road/related area with level 3 alcohol in blood or breath— repeat offender	100pu/ 12 months prison/both	-	-
5.21	<ul style="list-style-type: none">person other than special driver, level 4, first offender	drive motor vehicle on road/related area with level 4 alcohol in blood or breath— first offender	75pu/ 9 months prison/both	-	-
5.22	<ul style="list-style-type: none">person other than special driver, level 4, repeat offender	drive motor vehicle on road/related area with level 4 alcohol in blood or breath— repeat offender	150pu/ 18 months prison/both	-	-

column 1 item	column 2 offence provision and, if relevant, case	column 3 short description	column 4 offence penalty (pu)	column 5 infringement penalty (\$)	column 6 demerit points
6	20 (1)				
6.1	<ul style="list-style-type: none"> first offender 	drive motor vehicle on road/related area with prescribed drug in oral fluid or blood—first offender	25	-	-
6.2	<ul style="list-style-type: none"> repeat offender—driver 	drive motor vehicle on road/related area with prescribed drug in oral fluid or blood—repeat offender	50pu/ 6 months prison/both	-	-
6.3	<ul style="list-style-type: none"> repeat offender—driver trainer 	driver trainer in motor vehicle on road/related area with prescribed drug in oral fluid or blood—repeat offender	50	-	-
7	21 (1)				
7.1	<ul style="list-style-type: none"> special driver, level 1, first offender—driver 	special driver drive motor vehicle on road/related area with level 1 alcohol and prescribed drug—first offender	50	-	-

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column 1 item	column 2 offence provision and, if relevant, case	column 3 short description	column 4 offence penalty (pu)	column 5 infringement penalty (\$)	column 6 demerit points
7.2	<ul style="list-style-type: none"> special driver, level 1, first offender—driver trainer 	driver trainer in motor vehicle on road/related area with level 1 alcohol and prescribed drug—first offender	50	-	-
7.3	<ul style="list-style-type: none"> special driver, level 1, repeat offender—driver 	special driver drive motor vehicle on road/related area with level 1 alcohol and prescribed drug—repeat offender	100pu/ 12 months prison/both	-	-
7.4	<ul style="list-style-type: none"> special driver, level 1, repeat offender—driver trainer 	driver trainer in motor vehicle on road/related area with level 1 alcohol and prescribed drug—repeat offender	100	-	-
7.5	<ul style="list-style-type: none"> special driver, level 2, first offender—driver 	special driver drive motor vehicle on road/related area with level 2 alcohol and prescribed drug—first offender	50	-	-
7.6	<ul style="list-style-type: none"> special driver, level 2, first offender—driver trainer 	driver trainer in motor vehicle on road/related area with level 2 alcohol and prescribed drug—first offender	50	-	-

column 1 item	column 2 offence provision and, if relevant, case	column 3 short description	column 4 offence penalty (pu)	column 5 infringement penalty (\$)	column 6 demerit points
7.7	<ul style="list-style-type: none"> special driver, level 2, repeat offender—driver 	special driver drive motor vehicle on road/related area with level 2 alcohol and prescribed drug—repeat offender	100pu/ 12 months prison/both	-	-
7.8	<ul style="list-style-type: none"> special driver, level 2, repeat offender—driver trainer 	driver trainer in motor vehicle on road/related area with level 2 alcohol and prescribed drug—repeat offender	100	-	-
7.9	<ul style="list-style-type: none"> special driver, level 3, first offender—driver 	special driver drive motor vehicle on road/related area with level 3 alcohol and prescribed drug—first offender	75pu/ 9 months prison/both	-	-
7.10	<ul style="list-style-type: none"> special driver, level 3, first offender—driver trainer 	driver trainer in motor vehicle on road/related area with level 3 alcohol and prescribed drug—first offender	75	-	-
7.11	<ul style="list-style-type: none"> special driver, level 3, repeat offender—driver 	special driver drive motor vehicle on road/related area with level 3 alcohol and prescribed drug—repeat offender	150pu/ 18 months prison/both	-	-

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column 1 item	column 2 offence provision and, if relevant, case	column 3 short description	column 4 offence penalty (pu)	column 5 infringement penalty (\$)	column 6 demerit points
7.12	<ul style="list-style-type: none"> special driver, level 3, repeat offender—driver trainer 	driver trainer in motor vehicle on road/related area with level 3 alcohol and prescribed drug—repeat offender	150	-	-
7.13	<ul style="list-style-type: none"> special driver, level 4, first offender—driver 	special driver drive motor vehicle on road/related area with level 4 alcohol and prescribed drug—first offender	100pu/ 12 months prison/both	-	-
7.14	<ul style="list-style-type: none"> special driver, level 4, first offender—driver trainer 	driver trainer in motor vehicle on road/related area with level 4 alcohol and prescribed drug—first offender	100	-	-
7.15	<ul style="list-style-type: none"> special driver, level 4, repeat offender—driver 	special driver drive motor vehicle on road/related area with level 4 alcohol and prescribed drug—repeat offender	200pu/ 2 years prison/both	-	-
7.16	<ul style="list-style-type: none"> special driver, level 4, repeat offender—driver trainer 	driver trainer in motor vehicle on road/related area with level 4 alcohol and prescribed drug—repeat offender	200	-	-

column 1 item	column 2 offence provision and, if relevant, case	column 3 short description	column 4 offence penalty (pu)	column 5 infringement penalty (\$)	column 6 demerit points
7.17	<ul style="list-style-type: none"> person other than special driver, level 2, first offender 	drive motor vehicle on road/related area with level 2 alcohol and prescribed drug—first offender	50	-	-
7.18	<ul style="list-style-type: none"> person other than special driver, level 2, repeat offender 	drive motor vehicle on road/related area with level 2 alcohol and prescribed drug—repeat offender	100pu/ 12 months prison/both	-	-
7.19	<ul style="list-style-type: none"> person other than special driver, level 3, first offender 	drive motor vehicle on road/related area with level 3 alcohol and prescribed drug—first offender	75pu/ 9 months prison/both	-	-
7.20	<ul style="list-style-type: none"> person other than special driver, level 3, repeat offender 	drive motor vehicle on road/related area with level 3 alcohol and prescribed drug—repeat offender	150pu/ 18 months prison/both	-	-
7.21	<ul style="list-style-type: none"> person other than special driver, level 4, first offender 	drive motor vehicle on road/related area with level 4 alcohol and prescribed drug—first offender	100pu/ 12 months prison/both	-	-

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column 1 item	column 2 offence provision and, if relevant, case	column 3 short description	column 4 offence penalty (pu)	column 5 infringement penalty (\$)	column 6 demerit points
7.22	<ul style="list-style-type: none"> person other than special driver, level 4, repeat offender 	drive motor vehicle on road/related area with level 4 alcohol and prescribed drug—repeat offender	200pu/ 2 years prison/both	-	-
8	22 (c)				
8.1	<ul style="list-style-type: none"> first offender—driver 	refuse to provide breath sample—first offender	100pu/ 12 months prison/both	-	-
8.2	<ul style="list-style-type: none"> first offender—driver trainer 	refuse to provide breath sample—first offender	100pu/ 12 months prison/both	-	-
8.3	<ul style="list-style-type: none"> repeat offender—driver 	refuse to provide breath sample—repeat offender	200pu/ 2 years prison/both	-	-

column 1 item	column 2 offence provision and, if relevant, case	column 3 short description	column 4 offence penalty (pu)	column 5 infringement penalty (\$)	column 6 demerit points
8.4	<ul style="list-style-type: none"> repeat offender—driver trainer 	refuse to provide breath sample—repeat offender	200pu/ 2 years prison/both	-	-
9	22 (d)				
9.1	<ul style="list-style-type: none"> first offender—driver 	fail/refuse to provide breath sample in accordance with reasonable directions of police officer—first offender	100pu/ 12 months prison/both	-	-
9.2	<ul style="list-style-type: none"> first offender—driver trainer 	fail/refuse to provide breath sample in accordance with reasonable directions of police officer—first offender	100pu/ 12 months prison/both	-	-
9.3	<ul style="list-style-type: none"> repeat offender—driver 	fail/refuse to provide breath sample in accordance with reasonable directions of police officer—repeat offender	200pu/ 2 years prison/both	-	-

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column 1 item	column 2 offence provision and, if relevant, case	column 3 short description	column 4 offence penalty (pu)	column 5 infringement penalty (\$)	column 6 demerit points
9.4	<ul style="list-style-type: none"> repeat offender— driver trainer 	fail/refuse to provide breath sample in accordance with reasonable directions of police officer—repeat offender	200pu/ 2 years prison/both	-	-
10	22A (2) (a)				
10.1	<ul style="list-style-type: none"> first offender—driver 	refuse to provide sample of oral fluid for analysis—first offender	100pu/ 12 months prison/both	-	-
10.2	<ul style="list-style-type: none"> first offender—driver trainer 	refuse to provide sample of oral fluid for analysis—first offender	100pu/ 12 months prison/both	-	-
10.3	<ul style="list-style-type: none"> repeat offender— driver 	refuse to provide sample of oral fluid for analysis—repeat offender	200pu/ 2 years prison/both	-	-

column 1 item	column 2 offence provision and, if relevant, case	column 3 short description	column 4 offence penalty (pu)	column 5 infringement penalty (\$)	column 6 demerit points
10.4	<ul style="list-style-type: none"> repeat offender—driver trainer 	refuse to provide sample of oral fluid for analysis—repeat offender	200pu/ 2 years prison/both	-	-
11	22A (2) (b)				
11.1	<ul style="list-style-type: none"> first offender—driver 	fail to provide sample of oral fluid in accordance with reasonable directions of police officer—first offender	100pu/ 12 months prison/both	-	-
11.2	<ul style="list-style-type: none"> first offender—driver trainer 	fail to provide sample of oral fluid in accordance with reasonable directions of police officer—first offender	100pu/ 12 months prison/both	-	-
11.3	<ul style="list-style-type: none"> repeat offender—driver 	fail to provide sample of oral fluid in accordance with reasonable directions of police officer—repeat offender	200pu/ 2 years prison/both	-	-

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column 1 item	column 2 offence provision and, if relevant, case	column 3 short description	column 4 offence penalty (pu)	column 5 infringement penalty (\$)	column 6 demerit points
11.4	<ul style="list-style-type: none"> repeat offender—driver trainer 	fail to provide sample of oral fluid in accordance with reasonable directions of police officer—repeat offender	200pu/ 2 years prison/both	-	-
12	22B	fail to stay for alcohol or drug screening test	100	-	-
13	22C (1)				
13.1	<ul style="list-style-type: none"> first offender—driver 	fail to undergo alcohol or drug screening test—first offender	100pu/ 12 months prison/both	-	-
13.2	<ul style="list-style-type: none"> first offender—driver trainer 	fail to undergo alcohol or drug screening test—first offender	100pu/ 12 months prison/both	-	-
13.3	<ul style="list-style-type: none"> repeat offender—driver 	fail to undergo alcohol or drug screening test—repeat offender	200pu/ 2 years prison/both	-	-

column 1 item	column 2 offence provision and, if relevant, case	column 3 short description	column 4 offence penalty (pu)	column 5 infringement penalty (\$)	column 6 demerit points
13.4	<ul style="list-style-type: none"> repeat offender—driver trainer 	fail to undergo alcohol or drug screening test—repeat offender	200pu/ 2 years prison/both	-	-
14	23 (1)				
14.1	<ul style="list-style-type: none"> first offender—driver 	fail/refuse to permit blood sample to be taken—first offender	100pu/ 12 months prison/both	-	-
14.2	<ul style="list-style-type: none"> first offender—driver trainer 	fail/refuse to permit blood sample to be taken—first offender	100pu/ 12 months prison/both	-	-
14.3	<ul style="list-style-type: none"> repeat offender—driver 	fail/refuse to permit blood sample to be taken—repeat offender	200pu/ 2 years prison/both	-	-

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column 1 item	column 2 offence provision and, if relevant, case	column 3 short description	column 4 offence penalty (pu)	column 5 infringement penalty (\$)	column 6 demerit points
14.4	<ul style="list-style-type: none"> repeat offender— driver trainer 	fail/refuse to permit blood sample to be taken—repeat offender	200pu/ 2 years prison/both	-	-
15	23 (2) (a)				
15.1	<ul style="list-style-type: none"> first offender—driver 	fail/refuse to submit to medical examination—first offender	100pu/ 12 months prison/both	-	-
15.2	<ul style="list-style-type: none"> first offender—driver trainer 	fail/refuse to submit to medical examination—first offender	100pu/ 12 months prison/both	-	-
15.3	<ul style="list-style-type: none"> repeat offender— driver 	fail/refuse to submit to medical examination—repeat offender	200pu/ 2 years prison/both	-	-

column 1 item	column 2 offence provision and, if relevant, case	column 3 short description	column 4 offence penalty (pu)	column 5 infringement penalty (\$)	column 6 demerit points
15.4	<ul style="list-style-type: none"> repeat offender— driver trainer 	fail/refuse to submit to medical examination—repeat offender	200pu/ 2 years prison/both	-	-
16	23 (2) (b)				
16.1	<ul style="list-style-type: none"> first offender—driver 	fail/refuse to give/permit taking of body sample—first offender	100pu/ 12 months prison/both	-	-
16.2	<ul style="list-style-type: none"> first offender—driver trainer 	fail/refuse to give/permit taking of body sample—first offender	100pu/ 12 months prison/both	-	-
16.3	<ul style="list-style-type: none"> repeat offender— driver 	fail/refuse to give/permit taking of body sample—repeat offender	200pu/ 2 years prison/both	-	-

Part 6

Road Transport (Offences) Regulation 2005

Section 62

column 1 item	column 2 offence provision and, if relevant, case	column 3 short description	column 4 offence penalty (pu)	column 5 infringement penalty (\$)	column 6 demerit points
16.4	<ul style="list-style-type: none"> repeat offender— driver trainer 	fail/refuse to give/permit taking of body sample—repeat offender	200pu/ 2 years prison/both	-	-
17	24 (1)				
17.1	<ul style="list-style-type: none"> first offender 	drive vehicle on road/related area under influence of intoxicating liquor/drug incapable of proper control of vehicle—first offender	100pu/ 12 months prison/both	-	-
17.2	<ul style="list-style-type: none"> repeat offender 	drive vehicle on road/related area under influence of intoxicating liquor/drug incapable of proper control of vehicle—repeat offender	200pu/ 2 years prison/both	-	-

column 1 item	column 2 offence provision and, if relevant, case	column 3 short description	column 4 offence penalty (pu)	column 5 infringement penalty (\$)	column 6 demerit points
18	24A (1)				
18.1	<ul style="list-style-type: none"> first offender 	drive vehicle/ride animal/be in charge of animal on road under influence of alcohol/drug, incapable of proper control of vehicle/animal—first offender	30pu/ 6 months prison/both	-	-
18.2	<ul style="list-style-type: none"> repeat offender 	drive vehicle/ride animal/be in charge of animal on road under influence of alcohol/drug, incapable of proper control of vehicle/animal—repeat offender	30pu/ 12 months prison/both	-	-
19	24A (2)	drive vehicle/ride animal/be in charge of animal on road related area under influence of alcohol/drug, incapable of proper control of vehicle/animal	20	-	-
20	25 (1)	drive or ride vehicle on road/related area while consuming alcohol	20	400	-

Part 6

Road Transport (Offences) Regulation 2005

Section 62

column 1 item	column 2 offence provision and, if relevant, case	column 3 short description	column 4 offence penalty (pu)	column 5 infringement penalty (\$)	column 6 demerit points
21	25 (2)	driver trainer in motor vehicle on road/related area while consuming alcohol	20	400	-
22	47B (4)	fail to comply with police officer's direction not to drive	10	-	-

**63 Road Transport (Alcohol and Drugs) Act 1977
Schedule 1, part 1.3, item 5**

substitute

5	19 (1)				
5.1	<ul style="list-style-type: none"> special driver, level 1, first offender—driver 	special driver drive motor vehicle on road/related area with level 1 alcohol in blood or breath—first offender	25	800	-
5.2	<ul style="list-style-type: none"> special driver, level 1, first offender—driver trainer 	driver trainer in motor vehicle on road/related area with level 1 alcohol in blood or breath—first offender	25	800	-
5.3	<ul style="list-style-type: none"> special driver, level 1, repeat offender—driver 	special driver drive motor vehicle on road/related area with level 1 alcohol in blood or breath—repeat offender	50pu/ 6 months prison/both	-	-
5.4	<ul style="list-style-type: none"> special driver, level 1, repeat offender—driver trainer 	driver trainer in motor vehicle on road/related area with level 1 alcohol in blood or breath—repeat offender	50	-	-

Part 6

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5.5	<ul style="list-style-type: none"> special driver, level 2, first offender—driver 	special driver drive motor vehicle on road/related area with level 2 alcohol in blood or breath—first offender	25	800	-
5.6	<ul style="list-style-type: none"> special driver, level 2, first offender—driver trainer 	driver trainer in motor vehicle on road/related area with level 2 alcohol in blood or breath—first offender	25	800	-
5.7	<ul style="list-style-type: none"> special driver, level 2, repeat offender—driver 	special driver drive motor vehicle on road/related area with level 2 alcohol in blood or breath—repeat offender	50pu/ 6 months prison/both	-	-
5.8	<ul style="list-style-type: none"> special driver, level 2, repeat offender—driver trainer 	driver trainer in motor vehicle on road/related area with level 2 alcohol in blood or breath—repeat offender	50	-	-
5.9	<ul style="list-style-type: none"> special driver, level 3, first offender—driver 	special driver drive motor vehicle on road/related area with level 3 alcohol in blood or breath—first offender	50pu/ 6 months prison/both	-	-
5.10	<ul style="list-style-type: none"> special driver, level 3, first offender—driver trainer 	driver trainer in motor vehicle on road/related area with level 3 alcohol in blood or breath—first offender	50	-	-

5.11	<ul style="list-style-type: none"> special driver, level 3, repeat offender—driver 	special driver drive motor vehicle on road/related area with level 3 alcohol in blood or breath—repeat offender	100pu/ 12 months prison/both	-	-
5.12	<ul style="list-style-type: none"> special driver, level 3, repeat offender—driver trainer 	driver trainer in motor vehicle on road/related area with level 3 alcohol in blood or breath—repeat offender	100	-	-
5.13	<ul style="list-style-type: none"> special driver, level 4, first offender—driver 	special driver drive motor vehicle on road/related area with level 4 alcohol in blood or breath—first offender	75pu/ 9 months prison/both	-	-
5.14	<ul style="list-style-type: none"> special driver, level 4, first offender—driver trainer 	driver trainer in motor vehicle on road/related area with level 4 alcohol in blood or breath—first offender	75	-	-
5.15	<ul style="list-style-type: none"> special driver, level 4, repeat offender—driver 	special driver drive motor vehicle on road/related area with level 4 alcohol in blood or breath—repeat offender	150pu/ 18 months prison/both	-	-
5.16	<ul style="list-style-type: none"> special driver, level 4, repeat offender—driver trainer 	driver trainer in motor vehicle on road/related area with level 4 alcohol in blood or breath—repeat offender	150	-	-

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

Section 63

5.17	<ul style="list-style-type: none"> person other than special driver, level 2, first offender 	drive motor vehicle on road/related area with level 2 alcohol in blood or breath—first offender	25	800	-
5.18	<ul style="list-style-type: none"> person other than special driver, level 2, repeat offender 	drive motor vehicle on road/related area with level 2 alcohol in blood or breath—repeat offender	50pu/ 6 months prison/both	-	-
5.19	<ul style="list-style-type: none"> person other than special driver, level 3, first offender 	drive motor vehicle on road/related area with level 3 alcohol in blood or breath—first offender	50pu/ 6 months prison/both	-	-
5.20	<ul style="list-style-type: none"> person other than special driver, level 3, repeat offender 	drive motor vehicle on road/related area with level 3 alcohol in blood or breath—repeat offender	100pu/ 12 months prison/both	-	-
5.21	<ul style="list-style-type: none"> person other than special driver, level 4, first offender 	drive motor vehicle on road/related area with level 4 alcohol in blood or breath—first offender	75pu/ 9 months prison/both	-	-
5.22	<ul style="list-style-type: none"> person other than special driver, level 4, repeat offender 	drive motor vehicle on road/related area with level 4 alcohol in blood or breath—repeat offender	150pu/ 18 months prison/both	-	-

1 **Part 7** **Road Transport (Road Rules)**
2 **Regulation 2017**

3 **64 Dictionary, new definition of *mobile device***

4 *insert*

5 ***mobile device***—

6 (a) includes a mobile phone and any other wireless hand-held or
7 wearable device designed or capable of being used for
8 telecommunication; but

9 (b) does not include a CB radio or any other two-way radio.

10 **Examples—other wireless hand-held or wearable devices**

11 tablet computer, smart watch

1 **Part 8** **Road Transport (Safety and**
2 **Traffic Management) Act 1999**

3 **65** **Meaning of *first offender* and *repeat offender*—div 2.1**
4 **Section 5AB (2) (a)**

5 *after 1st mention of*

6 dangerous driving offence

7 *insert*

8 that was committed

9 **66** **Aggravated offence—furious, reckless or dangerous**
10 **driving**
11 **Section 7A (4), definition of *repeat offender*, paragraph (a)**

12 *after*

13 (Culpable driving of motor vehicle)

14 *insert*

15 that was committed

16 **67** **Definitions—pt 6**
17 **Section 22A, definition of *mobile device***

18 *substitute*

19 *mobile device*—see the *Road Transport (Road Rules)*
20 *Regulation 2017*, dictionary.

21 **68** **Dictionary, definition of mobile device**

22 *substitute*

23 *mobile device*, for part 6 (Traffic offence detection devices)—see the
24 *Road Transport (Road Rules) Regulation 2017*, dictionary.

1 **Schedule 1** **Consequential Amendments**

2 (see s 3)

3 **Part 1.1** **Lakes Act 1976**

4 **[1.1] Section 73 (2) (d)**

5 *omit*

6 19 to 20

7 *substitute*

8 19 to 21C

9 **Part 1.2** **Motor Accident Injuries Act 2019**

10 **[1.2] Section 41, definition of *driving offence*, new**
11 **paragraph (c) (ia)**

12 *insert*

13 (ia) section 21 (Prescribed concentration of alcohol and
14 prescribed drug in bodily fluid), if the convicting court
15 finds that the concentration of alcohol in the person's
16 blood or breath was at level 3; or

17 **[1.3] Section 48 (6), definition of *serious offence*, new**
18 **paragraph (b) (ia)**

19 *insert*

20 (ia) section 21 (Prescribed concentration of alcohol and
21 prescribed drug in bodily fluid), if the convicting court
22 finds that the concentration of alcohol in the person's
23 blood or breath was at level 4; or

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 29 November 2023.

2 Notification

Notified under the [Legislation Act](#) on 2023.

3 Republications of amended laws

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

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