

Regulations 1977 No. 26

Regulations under the *Motor Traffic (Alcohol and Drugs)* *Ordinance 1977.**

I, ANTHONY ALLAN STALEY, the Minister of State for the Capital Territory, hereby make the following Regulations under the *Motor Traffic (Alcohol and Drugs) Ordinance 1977*.

Dated this twenty-seventh day of October, 1977.

A. A. STALEY
Minister of State for the Capital Territory.

MOTOR TRAFFIC (ALCOHOL AND DRUGS) REGULATIONS

1. These Regulations may be cited as the *Motor Traffic (Alcohol and Drugs) Regulations*. Citation.

2. In these Regulations, "the Ordinance" means the *Motor Traffic (Alcohol and Drugs) Ordinance 1977*. Definition.

3. (1) The procedures to be followed by an approved operator—

- (a) immediately before commencing an analysis of a sample of the breath of a person;
- (b) during the analysis of a sample of the breath of a person; and
- (c) immediately after the completion of the analysis of a sample of the breath of a person,

Procedures to be followed when the Breathalyzer Model 1000 is used.

by means of an instrument of the type known as "Breathalyzer" to which is affixed a label bearing, in addition to other material, the expressions "Model 1000" and "U.S. Patent 2,824,789" are those specified, respectively, in Parts 1, 2 and 3 of Schedule 1.

(2) A reference in Parts 1 and 3 of Schedule 1 to a solution of standard alcohol shall be read as a reference to a solution of ethyl alcohol and distilled water in the proportion of 1.21 grams of ethyl alcohol per litre of solution.

4. The approved operator shall not use an instrument of the type described in regulation 3 in the analysis of a sample of the breath of a person, unless in carrying out the procedures specified in Part 1 of Schedule 1—

Circumstances in which Model 1000 not to be used.

- (a) the temperature shown on the thermometer immersed in the solution of standard alcohol immediately before the air was passed into the chamber was not less than 33.8° Celsius or more than 34.2° Celsius; or
- (b) the result of the analysis, as shown by the instrument, of the air passed through the solution of standard alcohol was not less than .093 and was not more than .106.

* Notified in the *Commonwealth of Australia Gazette* on 3 November 1977.

Circumstances in which analysis is to be disregarded when Model 1000 is used.

5. The analysis of the sample of the breath of a person carried out by an instrument of the type described in regulation 3 shall be disregarded for the purposes of the Ordinance unless, in carrying out the procedures specified in Part 3 of Schedule 1, the result of the analysis, as shown by the instrument, of the air passed through the solution of standard alcohol was not less than .093 and was not more than .106.

Procedures to be followed when the Breathalyzer Model 900 is used.

6. (1) The procedures to be followed by an approved operator—
- (a) immediately before commencing an analysis of a sample of the breath of a person;
 - (b) during the analysis of a sample of the breath of a person; and
 - (c) immediately after the completion of the analysis of a sample of the breath of a person,

by means of an instrument of the type known as "Breathalyzer" to which is affixed a label bearing, in addition to other material, the expressions "Model 900" and "U.S. Patent 2,824,789" are those specified, respectively, in Parts 1, 2 and 3 of Schedule 2.

(2) A reference in Parts 1 and 3 of Schedule 2 to a solution of standard alcohol shall be read as a reference to a solution of ethyl alcohol and distilled water in the proportion of 3.36 grams of ethyl alcohol per litre of solution.

Circumstances in which Model 900 is not to be used.

7. An approved operator shall not use an instrument of the type described in regulation 6 in the analysis of a sample of the breath of a person unless—

- (a) while carrying out the procedures specified in Part 1 of Schedule 2—
 - (i) the galvanometer forming part of the instrument was completely released;
 - (ii) the temperature shown on the thermometer immersed in the solution of standard alcohol immediately before air was passed through the solution was not less than 9.5° Celsius and not more than 34° Celsius; and
 - (iii) the temperature shown on the thermometer forming part of the instrument immediately before air was passed through the solution was not less than 47° Celsius and not more than 53° Celsius; or
- (b) the result of the analysis, carried out by means of the instrument, of the air passed through the solution of standard alcohol was within the range specified in Column 2 of Schedule 3 opposite to the temperature range specified in Column 1 of that Schedule within which was the temperature shown on the thermometer immersed in the solution of standard alcohol used in those procedures.

Circumstances in which analysis is to be disregarded when Model 900 is used.

8. The analysis of the sample of the breath of a person carried out by an instrument of the type described in regulation 6 shall be disregarded for the purposes of the Ordinance unless, in carrying out the procedures specified in Part 3 of Schedule 2 the result, as shown by the instrument, of the analysis of air pumped through the solution of standard alcohol was within the range specified in Column 2 of Schedule 3 opposite to the temperature range specified in Column 1 of that Schedule within which was the temperature shown on the thermometer immersed in the solution of standard alcohol used in carrying out those procedures.

Statements required by sub-section 12 (5).

9. A written statement referred to in sub-section 12 (5) of the Ordinance shall contain the particulars set out in Part 1 or Part 2, as the case requires, of Schedule 4.

10. (1) An approved analyst and an approved operator are specified persons for the purposes of paragraph 41 (e) of the Ordinance.

Certificates for the purposes of paragraph 41 (e) of the Ordinance.

(2) An approved analyst may state in a certificate given for the purposes of paragraph 41 (e) of the Ordinance that, on a specified date—

- (a) he prepared a solution consisting of ethyl alcohol and distilled water in the proportion of a specified number of grams of ethyl alcohol per litre of solution;
- (b) he allotted a batch number to the solution;
- (c) the solution was placed into containers, each of which was sealed and delivered to an approved operator; and
- (d) each of the containers bore a label signed by him and on which was endorsed the date of preparation of the solution, the proportion of ethyl alcohol per litre of solution and the batch number.

(3) An approved operator may state in a certificate given for the purposes of paragraph 41 (e) of the Ordinance that, in following the procedures specified in Part 1 of Schedule 1 or Part 1 of Schedule 2 immediately before a specified person was required to submit a sample of breath for analysis and the procedures specified in Part 3 of Schedule 1 or Part 3 of Schedule 2 immediately after the carrying out of an analysis of the sample of breath provided by that person or any of those procedures, he used a solution taken by him from a sealed container to which was affixed a label marked in the manner specified in the certificate.

SCHEDULE 1

Regulation 3

PROCEDURES TO BE FOLLOWED WHEN MODEL 1000 INSTRUMENT IS USED

PART 1—PROCEDURES BEFORE COMMENCING BREATH ANALYSIS

The approved operator shall—

- (a) check that the letters "WAIT" are not illuminated on the display panel of the instrument;
- (b) insert in the instrument a numbered record card to take in triplicate the print-out by the instrument of the results of the analyses and record the number of the card;
- (c) read and record the temperature shown on the thermometer immersed in a solution of standard alcohol and fill the chamber of the instrument in which air or breath is collected by passing air into the chamber through the solution of standard alcohol;
- (d) read and record the result of the analysis of that air as shown by the instrument; and
- (e) ensure that the test record card remains inserted in the instrument.

PART 2—PROCEDURES DURING BREATH ANALYSIS

The approved operator shall—

- (a) check that the letters "WAIT" are not illuminated on the display panel of the instrument and that the record card remains inserted in the instrument;
- (b) provide an unused mouthpiece for use by the person required to provide a sample of his breath for breath analysis;
- (c) after the person has provided a sample of his breath for analysis by the instrument and the analysis of the sample has been carried out by the instrument, read and record the result of the analysis of the sample as shown by the instrument; and
- (d) ensure that the record card remains inserted in the instrument.

PART 3—PROCEDURES AFTER BREATH ANALYSIS

The approved operator shall—

- (a) check that the letters "WAIT" are not illuminated on the display panel of the instrument and that the record card remains inserted in the instrument;

SCHEDULE 1—*continued*

- (b) read and record the temperature shown on the thermometer immersed in a solution of standard alcohol and fill the chamber of the instrument in which air or breath is collected by passing air into the chamber through the solution of standard alcohol;
- (c) read and record the result of the analysis of that air as shown by the instrument; and
- (d) remove the record card from the instrument and attach one part of it to the statement referred to in section 12 (5) of the Ordinance.

SCHEDULE 2

Regulation 6

PROCEDURES TO BE FOLLOWED WHEN MODEL 900 INSTRUMENT IS USED

PART 1—PROCEDURES BEFORE COMMENCING BREATH ANALYSIS

The approved operator shall—

- (a) flush out the chamber of the instrument in which air or breath is collected by pumping air into the chamber;
- (b) read and record the temperature shown on the thermometer forming part of the instrument;
- (c) read and record the temperature shown on the thermometer immersed in a solution of standard alcohol and fill the chamber of the instrument in which air or breath is collected by pumping air into the chamber through that solution of standard alcohol, and, if the temperature shown on the thermometer immersed in the solution is 19° Celsius or less, again fill the chamber by pumping air into the chamber through the solution of standard alcohol;
- (d) carry out the analysis of that air and record the result of the analysis of that air as shown by the instrument; and
- (e) flush out the chamber with air.

PART 2—PROCEDURES DURING BREATH ANALYSIS

The approved operator shall—

- (a) set the scale pointer forming part of the instrument on the starting line;
- (b) provide an unused mouthpiece for use by the person required to provide a sample of his breath for breath analysis;
- (c) read and record the temperature shown on the thermometer forming part of the instrument; and
- (d) after the person has provided a sample of his breath for analysis, carry out the analysis of the sample of breath and record the result of the analysis as shown by the instrument.

PART 3—PROCEDURES AFTER BREATH ANALYSIS

The approved operator shall—

- (a) flush out the chamber of the instrument in which air or breath is collected by pumping air into the chamber;
- (b) read and record the temperature shown on the thermometer forming part of the instrument;
- (c) read and record the temperature shown on the thermometer immersed in a solution of standard alcohol and fill the chamber of the instrument in which air or breath is collected by pumping air into the chamber through that solution of standard alcohol, and, if the temperature shown on the thermometer immersed in the solution is 19° Celsius or less, again fill the chamber by pumping air into the chamber through the solution of standard alcohol;
- (d) carry out the analysis of that air and record the result of the analysis of that air as shown by the instrument; and
- (e) flush out the chamber with air.

SCHEDULE 3

Regulation 7

TABLE OF READINGS FOR MODEL 900 WHEN TESTED WITH STANDARD ALCOHOL SOLUTION

Column 1 Temperature range in degrees Celsius		Column 2 Range	
Not less than—	And less than—	Minimum	Maximum
10	10.5	.095	.120
10.5	11	.099	.124
11	11.5	.103	.128
11.5	12	.108	.133
12	12.5	.112	.137
12.5	13	.117	.142
13	13.5	.121	.146
13.5	14	.126	.151
14	14.5	.131	.156
14.5	15	.135	.160
15	15.5	.139	.164
15.5	16	.144	.169
16	16.5	.149	.174
16.5	17	.153	.178
17	17.5	.157	.182
17.5	18	.162	.187
18	18.5	.166	.191
18.5	19	.171	.196
19	19.5	.175	.200
19.5	20	.085	.110
20	20.5	.090	.115
20.5	21	.095	.120
21	21.5	.097	.122
21.5	22	.102	.127
22	22.5	.105	.130
22.5	23	.110	.135
23	23.5	.115	.140
23.5	24	.120	.145
24	24.5	.125	.150
24.5	25	.130	.155
25	25.5	.135	.160
25.5	26	.140	.165
26	26.5	.145	.170
26.5	27	.152	.177
27	27.5	.158	.183
27.5	28	.165	.190
28	28.5	.170	.195
28.5	29	.175	.200
29	29.5	.185	.210
29.5	30	.192	.217
30	30.5	.200	.225
30.5	31	.206	.231
31	31.5	.215	.240
31.5	32	.220	.245
32	32.5	.230	.255
32.5	33	.234	.259
33	33.5	.240	.265
33.5	34	.250	.275
34	34.5	.260	.285

SCHEDULE 4

Regulation 9 (1)

MOTOR TRAFFIC (ALCOHOL AND DRUGS) ORDINANCE 1977

PART 1—PARTICULARS TO BE INCLUDED IN A WRITTEN STATEMENT UNDER SECTION 12 (5) WHEN BREATH ANALYSIS IS CARRIED OUT BY MEANS OF AN INSTRUMENT OF THE TYPE REFERRED TO IN REGULATION 3 (1)

1. The date on which, and the time and place at which, the requirement to provide a sample of breath for breath analysis was made.

*Motor Traffic (Alcohol and Drugs) Regulations*SCHEDULE 4—*continued*

2. The type of instrument used in carrying out the breath analysis.
3. The temperature shown on the thermometer immersed in the solution of standard alcohol—
 - (a) immediately before the analysis of air referred to in Part 1 of Schedule 1 was carried out; and
 - (b) immediately before the analysis of air referred to in Part 3 of Schedule 1 was carried out.
4. The result, as shown by the instrument, of each analysis of air passed into the instrument through the solution of standard alcohol—
 - (a) used in following the procedures immediately before carrying out the breath analysis; and
 - (b) used in following the procedures immediately after carrying out the breath analysis.
5. The result of the breath analysis as shown by the instrument.
6. The serial number of the card used during the procedures before, during, and after, the carrying out of the breath analysis and the results, as recorded on that card, of the analyses of air and of the sample of breath made during those procedures.

PART 2—PARTICULARS TO BE INCLUDED IN A WRITTEN STATEMENT UNDER SECTION 12 (5) WHEN BREATH ANALYSIS IS CARRIED OUT BY MEANS OF AN INSTRUMENT OF THE TYPE REFERRED TO IN REGULATION 6 (1)

1. The date on which, and the time and place at which, the requirement to provide a sample of breath for breath analysis was made.
2. The type of instrument used in carrying out the breath analysis.
3. The temperature shown on the thermometer forming part of the instrument—
 - (a) immediately before the analysis of air referred to in Part 1 of Schedule 2 was carried out;
 - (b) immediately before the sample of breath was provided for breath analysis; and
 - (c) immediately before the analysis of air referred to in Part 3 of Schedule 2 was carried out.
4. The temperature shown on the thermometer immersed in the solution of standard alcohol—
 - (a) immediately before the analysis of air referred to in Part 1 of Schedule 2 was carried out; and
 - (b) immediately before the analysis of air referred to in Part 3 of Schedule 2 was carried out.
5. The result, as shown by the instrument, of each analysis of air pumped into the instrument through the solution of standard alcohol—
 - (a) in following the procedures immediately before the breath analysis; and
 - (b) in following the procedures immediately after the breath analysis.
6. The result of the breath analysis as shown by the instrument.