

No. 13 of 1971

## AN ORDINANCE

To amend the *Motor Traffic Ordinance 1936-1970*.

**I** THE GOVERNOR-GENERAL in and over the Commonwealth of Australia, acting with the advice of the Federal Executive Council, hereby make the following Ordinance under the *Seat of Government (Administration) Act 1910-1970*.

Dated this twenty-eighth day of May, 1971.

PAUL HASLUCK  
Governor-General.

By His Excellency's Command,

RALPH J. HUNT  
Minister of State for the Interior.

### MOTOR TRAFFIC ORDINANCE 1971

1.—(1.) This Ordinance may be cited as the *Motor Traffic Ordinance 1971*.\*

Short title  
and citation.

(2.) The *Motor Traffic Ordinance 1936-1970*† is in this Ordinance referred to as the Principal Ordinance.

(3.) The Principal Ordinance, as amended by this Ordinance, may be cited as the *Motor Traffic Ordinance 1936-1971*.

2.—(1.) Sections 1 and 2, sub-sections (2.), (3.), (4.) and (5.) of section 4, and sections 6, 12, 13, 15, 16 and 17, of this Ordinance shall come into operation on the date on which this Ordinance is notified in the *Gazette*.

Commence-  
ment and  
saving.

(2.) The remaining sections of this Ordinance shall come into operation on such date as is fixed by the Minister by notice published in the *Gazette*.

(3.) Until the commencement of section 20 of this Ordinance, the reference in section 193 of the Principal Ordinance to section 129 shall be read as a reference to section 147A of the Principal Ordinance as amended by this Ordinance.

\* Notified in the *Commonwealth Gazette* on 10 June 1971.

† Ordinance No. 45, 1936, as amended by Nos. 25 and 41, 1938; No. 16, 1941; No. 14, 1942; Nos. 2 and 13, 1943; No. 3, 1945; Nos. 6 and 13, 1947; No. 7, 1950; No. 17, 1951; Nos. 1 and 7, 1955; No. 6, 1956; No. 19, 1957; Nos. 10 and 15, 1958; Nos. 7 and 21, 1959; No. 11, 1960; Nos. 16 and 17, 1962; No. 21, 1963; No. 8, 1964; Nos. 9 and 13, 1965; No. 19, 1966; No. 2, 1968; and Nos. 27 and 29, 1969; and No. 27, 1970.

## Parts.

3. Section 3 of the Principal Ordinance is amended by inserting after the words and figures—

“Part VIII.—Rules of the Road (Sections 113-139).”  
the words and figures—

“Part VIIIA.—Driving While Intoxicated or Drugged (Sections 139A-139H).”.

## Interpretation.

4.—(1.) Section 4 of the Principal Ordinance is amended—

(a) by inserting in sub-section (1.), after the definition of “driver” the following definitions:—

“‘driving licence’ means a licence to drive a motor vehicle under this Ordinance;

‘drug’ includes—

(a) a prohibited drug within the meaning of the *Public Health (Prohibited Drugs) Ordinance 1957-1966*;

(b) a narcotic drug within the meaning of the *Poisons and Dangerous Drugs Ordinance 1933-1967*; and

(c) a substance specified in the Schedule to that last-mentioned Ordinance;”;

(b) by inserting in that sub-section, after the definition of “new owner”, the following definition:—

“‘offence of culpable driving’, in relation to a person, means an offence against section 52A of the Crimes Act, 1900 or any other offence against that Act where the death of or bodily harm to another person being caused by or arising from the driving of a motor vehicle by that first-mentioned person was a fact necessary to constitute that offence;”;

(c) by inserting in that sub-section, after the definition of “the Court”, the following definition:—

“‘the Crimes Act, 1900’ means the Crimes Act, 1900 of the State of New South Wales in its application to the Territory;”.

(2.) Section 4 of the Principal Ordinance is amended by inserting in sub-section (3.), after the word and figure “Part VIII.”, the word and figure “Part VIIIA.”.

(3.) Section 4 of the Principal Ordinance is amended by inserting in sub-section (5.), after the figures “139.”, the figures “139B, 139D.”.

(4.) Section 4 of the Principal Ordinance is amended by omitting from sub-section (6.) the word and figures “and 139” and inserting in their stead the figures and word “, 139, 139B and 139D”.

(5.) Section 4 of the Principal Ordinance is amended by inserting in sub-section (5.), before the figures “156.”, the figures “147A, 147B, 147C.”.

Granting of  
licences to  
drive.

5. Section 10 of the Principal Ordinance is amended by omitting from sub-section (1.) the word “section” and inserting in its stead the word “Ordinance”.

**6. Section 11 of the Principal Ordinance is amended—**

- (a) by inserting after the word “taxi” the words “, a motor omnibus”;
- (b) by omitting from paragraph (a) the words “the laws” and inserting in their stead the words “this Ordinance or another law”; and
- (c) by omitting from paragraph (c) the words “taxi or to drive a private hire car” and inserting in their stead the words “motor vehicle”.

Refusal of  
licence to  
certain persons.

**7. After section 13 of the Principal Ordinance the following section is inserted:—**

“ 13A.—(1.) Where, on conviction for an offence, a person's driving licence has been suspended for a period under Part XIII, or a person has been disqualified from holding a driving licence for a period under that Part, the person may apply to the Court for a special licence to drive a motor vehicle.

Special  
licences to  
drive.

“ (2.) The Court may—

- (a) if it is satisfied that for the purposes of his employment the applicant is required to drive a motor vehicle at certain times;
- (b) if it is satisfied that he is a fit and proper person to drive a motor vehicle; and
- (c) if the Registrar by certificate in writing certifies that he has no ground under section 10, 11 or 12 of this Ordinance for refusing to grant a driving licence of a class specified in the certificate,

order the Registrar to grant to the applicant a special licence entitling the applicant in the course of his employment to drive a motor vehicle of such a class, during such days in the period during which his licence to drive a motor vehicle is suspended, and between such hours on those days, as the Court thinks reasonable and orders to be specified in the special licence.

“ (3.) Where a special licence is granted to a person whose driving licence was suspended on conviction for an offence against Part VIIIA., or for an offence of culpable driving in which he was the driver of a motor vehicle while under the influence of intoxicating liquor, that person shall not consume intoxicating liquor between such hours as the Court determines and orders to be specified in the special licence.

“ (4.) The Registrar shall, upon payment of a fee of One dollar by the applicant, comply with the order of the Court.

“ (5.) A person to whom a special licence is granted under this section shall comply with the conditions ordered to be specified in the licence under this section.

“ (6.) A reference to a licence to drive a motor vehicle or a driving licence, or to a licensee or person being licensed, in sections 12, 13, 15, 82, 97, 98, 102, 167, 172, 176, 177, 180, 192A, 193, 193A, 194 and 195 of this Ordinance shall, unless the contrary intention appears, be read as a reference to a special licence to drive a motor vehicle granted

under this section, or to the holder of such a special licence, as the case may be, while the special licence is, during the period and times specified in the licence, in force.”.

Motor vehicle  
not to be used  
on public street  
unless insured  
against third-  
party risk.

**8. Section 51 of the Principal Ordinance is amended—**

- (a) by omitting paragraph (a) of sub-section (2.); and
- (b) by omitting from that sub-section the words “in either case,”.

Return of  
certificates, &c.,  
after  
cancellation, &c.

**9. Section 100 of the Principal Ordinance is amended by inserting in paragraph (a) of sub-section (1.) after the word “licence”, the words “by the Registrar”.**

Visiting motor  
drivers.

**10. Section 107 of the Principal Ordinance is amended by inserting in sub-section (1.), after the word “section”, the words “and Part XIII.”.**

Driver of  
Defence Force  
vehicle.

**11. Section 108 of the Principal Ordinance is amended by omitting the words “The driver” and inserting in their stead the words “Subject to Part XIII., the driver”.**

Dangerous,  
&c., driving.

**12. Section 129 of the Principal Ordinance is amended by omitting from sub-section (1.) the words “at a speed or”.**

Traffic lights.

**13. Section 138 of the Principal Ordinance is amended—**

- (a) by inserting in paragraphs (a) and (b) of sub-section (2.), after the words “so long as the traffic lights”, the words “in respect of the first-mentioned public street”;
- (b) by inserting after sub-section (3.) the following sub-sections:—

“(3A.) Notwithstanding sub-section (2.) of this section, where a traffic sign bearing the words ‘TURN LEFT AT ANY TIME WITH CARE’ is erected at an intersection or junction of one or more public streets at which traffic lights are erected, the driver of a motor vehicle approaching that intersection or junction from one of those public streets from the direction in which that traffic sign is facing may, subject to the next succeeding sub-section, turn the motor vehicle to his left into another public street at that intersection or junction.

“(3B.) The driver of a motor vehicle upon a public street shall not turn or continue to turn the motor vehicle to his left in the circumstances referred to in the last preceding sub-section while there is a reasonable possibility that, by reason of his so turning or continuing to turn the motor vehicle, the motor vehicle might collide with another vehicle or a person or a dangerous situation might otherwise be created.”; and

- (c) by omitting from sub-section (6.) the word “above” and inserting in its stead the words “in respect of”.

14. After Part VIII. of the Principal Ordinance the following Part is inserted:—

**" PART VIIIA.—DRIVING WHILE INTOXICATED OR DRUGGED.**

**" 139A. In this Part, unless the contrary intention appears—**

**Definitions.**

'approved analyst' means a person approved by the Minister by instrument in writing published in the *Gazette* as an analyst for the purposes of this Part;

'blood test' means a test of a sample of a person's blood carried out in accordance with section 139G of this Ordinance for the purpose of ascertaining the concentration of alcohol in that person's blood;

'breath test' means a test of a sample of a person's breath carried out in accordance with section 139E of this Ordinance for the purpose of ascertaining the concentration of the alcohol in that person's blood;

'medical practitioner' means a person who is a registered medical practitioner within the meaning of the *Medical Practitioners Registration Ordinance 1930-1970*;

'solution of standard alcohol' means a solution consisting of ethyl alcohol and distilled water in the proportion of 3.36 grammes of ethyl alcohol per litre of solution.

**" 139B.—(1.) A person shall not, on a public street—**

- (a) drive a motor vehicle;
- (b) start the engine of a motor vehicle; or
- (c) put a motor vehicle in motion,

**Driving under the influence of intoxicating liquor or of a drug or with high alcohol-blood content.**

if he is under the influence of intoxicating liquor or of a drug to such an extent as to be incapable of having proper control of the motor vehicle.

Penalty: Five hundred dollars or imprisonment for twelve months, or both.

**" (2.) A person shall not, on a public street—**

- (a) drive a motor vehicle;
- (b) start the engine of a motor vehicle; or
- (c) put a motor vehicle in motion,

if he has a concentration of alcohol in his blood equal to eighty milligrammes or more of alcohol per one hundred millilitres of blood.

**" (3.) The penalty for an offence against the last preceding subsection is—**

- (a) if the Court is satisfied that at the time of the offence the person convicted had a concentration of alcohol in his blood equal to not less than eighty milligrammes but less than one hundred and fifty milligrammes of alcohol per one hundred millilitres of blood—a fine not exceeding Two hundred dollars or imprisonment for a period not exceeding six months, or both; or
- (b) if the Court is satisfied that at the time of the offence the person convicted had a concentration of alcohol in his blood equal to one hundred and fifty milligrammes or more

of alcohol per one hundred millilitres of blood—a fine not exceeding Five hundred dollars or imprisonment for a period not exceeding twelve months, or both.

Evidence of  
alcohol in  
blood by breath  
or blood test.

“139C.—(1.) Where, in any proceedings in a court, evidence for the purpose of showing the concentration of alcohol in the blood of a person is given of the result of a breath test of a sample of his breath expressed as a percentage of alcohol in blood as shown on the device used in the breath test, that person shall, unless the contrary is proved, be deemed to have had, at the time of the commission of the offence or occurrence of the accident in respect of which the breath test was carried out, a concentration of alcohol in his blood in grammes of alcohol per one hundred millilitres of blood equal to that percentage.

“(2.) Where, in any proceedings in a court, evidence is given that a person submitted to more than one breath test in respect of an offence or accident and of a difference between the results of the breath tests expressed as percentages of alcohol in blood, that person shall, unless the contrary is proved, be deemed to have had, at the time of the commission of the offence or occurrence of the accident, a concentration of alcohol in his blood in grammes of alcohol per one hundred millilitres of blood equal to the lower or lowest of those percentages.

“(3.) Where, in any proceedings in a court, evidence is given of the concentration of alcohol in blood as ascertained by a blood test of a sample of the blood of a person, that person shall, unless the contrary is proved, be deemed to have had, at the time of the commission of the offence or occurrence of the accident in respect of which the blood test was carried out, the concentration of alcohol in his blood as so ascertained.

“(4.) In any proceedings in a court—

- (a) other evidence may be given for the purposes of showing the concentration of alcohol in the blood of a person or showing that a person was under the influence of intoxicating liquor; and
- (b) the court may find that a person was, at the relevant time, under the influence of intoxicating liquor to such an extent as to be incapable of having proper control of a motor vehicle without evidence of the concentration of alcohol in his blood as at that time or on evidence that he had at that time a concentration of alcohol in his blood equal to less than eighty milligrammes of alcohol per one hundred millilitres of blood.

Power to  
require persons  
to submit to  
breath test.

“139D.—(1.) A member of the Police Force may require a person to submit to a breath test if he has reasonable cause to suspect that—

- (a) the person has committed an offence against section 139B of this Ordinance or an offence of culpable driving;
- (b) the person was the driver of a motor vehicle at the time of the occurrence of an accident on a public street in which the motor vehicle was involved; or

(c) the person was in an accident upon a public street owing to the presence of a motor vehicle and that person has, or had at the time of the accident, alcohol in his blood, and a period of less than two hours had elapsed since the commission of the offence or occurrence of the accident.

“(2.) Where a member of the Police Force has reasonable cause to suspect that a person has committed an offence against section 139B of this Ordinance or an offence of culpable driving, he shall give that person an opportunity of submitting to a breath test.

“(3.) A person may be required by a member of the Police Force under sub-section (1.) of this section to submit to another breath test of another sample of his breath in respect of the one offence or accident.

“(4.) Immediately after a breath test of a sample of a person's breath has been carried out, that person may ask a member of the Police Force for another breath test to be carried out on another sample of his breath, and the member of the Police Force shall, subject to the next succeeding section, arrange for the breath test to be carried out accordingly.

“(5.) A member of the Police Force shall not, under this section, require a person to submit to a breath test if—

- (a) the person is in hospital for medical examination or treatment and a medical practitioner who has there examined the person certifies in writing that, in his opinion, the submitting to the test by that person within the period of two hours referred to in sub-section (1.) of this section would be detrimental to that person's medical condition; or
- (b) it appears to the member of the Police Force that the person has injuries and the member of the Police Force is not satisfied that it would not be detrimental to that person's medical condition for him to submit to the breath test.

“(6.) A person shall not, on being required under this section to submit to a breath test—

- (a) refuse to submit to the breath test; or
- (b) fail or refuse to provide, in accordance with the directions of the member of the Police Force carrying out the test, a sample of his breath sufficient for the completion of the breath test.

Penalty: Five hundred dollars or imprisonment for twelve months, or both.

“(7.) Where a person commits an offence referred to in sub-section (1.) of this section or is in an accident referred to in that sub-section, that person shall not, at any time within the period within which he may be required under that sub-section to submit to a breath test in relation to the offence or accident, wilfully do anything that could alter the concentration of alcohol in his blood or affect the result of a breath test.

Penalty: Five hundred dollars or imprisonment for twelve months, or both.

“(8.) It is a defence to a prosecution for an offence against sub-section (6.) of this section if the accused person satisfies the Court that it would have been detrimental to his medical condition at the time when required so to do for him to have submitted to a breath test or that he had other reasonable grounds for failing or refusing to submit to a breath test.

**Breath tests.**

“139E.—(1.) The Minister may approve a course of instruction for members of the Police Force in the carrying out of breath tests.

“(2.) A person shall not purport to carry out a breath test unless he is a member of the Police Force and has undergone that course of instruction to the satisfaction of the Commissioner of Police.

“(3.) A member of the Police Force shall not carry out a breath test after the expiration of the period of two hours referred to in sub-section (1.) of the last preceding section.

“(4.) Before commencing to carry out a breath test, the member of the Police Force shall—

- (a) inform the person to be tested that he is a member of the Police Force;
- (b) produce to the person a certificate purporting to be made under sub-section (16.) of this section stating that that member of the Police Force has satisfactorily undergone the course of instruction in the carrying out of breath tests referred to in sub-section (1.) of this section; and
- (c) inform that person—
  - (i) that the device to be used in the test is a device the use of which is provided for by this Ordinance for the purpose of ascertaining the concentration of alcohol in that person's blood by analysis of a sample of his breath; and
  - (ii) that that person may, after the breath test, ask for another breath test of another sample of his breath to be carried out.

“(5.) The member of the Police Force shall not carry out a breath test except with a device—

- (a) of a type known as ‘Breathalyzer’; and
- (b) to which is affixed a label bearing the expression ‘U.S. Patent 2,824,789’.

“(6.) The member of the Police Force shall, immediately before the person submitting to a breath test gives a sample of his breath—

- (a) flush out with air the chamber in which air or breath is collected for testing in the device to be used in the breath test;
- (b) then, read the thermometer forming part of the device and record the reading;



- (c) then, after recording the reading from a thermometer immersed in a solution of standard alcohol, pump air into that chamber through the solution of standard alcohol, carry out a test of that air by means of the device as if it were a sample of breath given under this section and record the results of the test expressed as a percentage of alcohol in blood as shown on the device;
- (d) then, again flush out that chamber with air; and
- (e) then, again read the thermometer forming part of the device and record the reading.

“(7.) The member of the Police Force shall not carry out a breath test of a sample of a person’s breath unless the reading taken from the thermometer forming part of the device immediately before the person submitting to the breath test gives a sample of his breath shows a temperature of not less than forty-seven degrees centigrade and not more than fifty-three degrees centigrade.

“(8.) The member of the Police Force shall not carry out a breath test of a sample of a person’s breath unless he is satisfied that that person has not consumed any intoxicating liquor within the period of the last preceding fifteen minutes.

“(9.) The member of the Police Force shall, immediately after carrying out a breath test—

- (a) flush out with air the chamber in which air or breath is collected for testing in the device used in the breath test; and
- (b) then, carry out the test referred to in sub-section (6.) of this section.

“(10.) The member of the Police Force shall, in carrying out a breath test and the tests referred to in sub-sections (6.) and (9.) of this section—

- (a) use the device in accordance with the instructions given in the course of instruction referred to in sub-section (1.) of this section; and
- (b) while the breath test or other test is being carried out—
  - (i) ensure that the device is kept stable; and
  - (ii) ensure that the galvanometer forming part of the device is completely released.

“(11.) The member of the Police Force carrying out a breath test shall take all reasonable steps to ensure that it is not readily apparent to persons in or near a public street or public place that the breath test is being carried out.

“(12.) The member of the Police Force shall provide an unused mouthpiece for use in providing each sample of a person’s breath in each breath test.

“(13.) As soon as practicable after a breath test of a sample of a person’s breath has been carried out, the member of the Police Force using the device by means of which the breath test was carried out shall

sign and deliver to that person a statement in writing under his hand stating the result of the breath test expressed as a percentage of alcohol in blood as shown on the device and the place where and the date and time when the breath test was carried out.

“(14.) Evidence of the result of a breath test is not admissible unless the member of the Police Force carrying out the breath test has complied with the requirements of the last preceding section and of this section applicable to him in relation to the carrying out of the breath test.

“(15.) Where, in proceedings for an offence against this Ordinance or an offence of culpable driving, a person who has submitted to a breath test adduces evidence of the result of the breath test, that breath test shall, unless the contrary is proved, be deemed to have been carried out in accordance with the requirements of this Part.

“(16.) In any proceedings in a court in which evidence of the result of a breath test is relevant—

- (a) a certificate purporting to be signed by a member of the Police Force and stating that, at the place and on the date and at the time specified in the certificate, he had duly required a person named in the certificate to submit to a breath test is evidence of the matters stated in the certificate;
- (b) a certificate purporting to be signed by an approved analyst and stating that he supplied a quantity of a solution of standard alcohol in a container labelled and marked by him to a member of the Police Force is evidence of the matters stated in the certificate and of the facts on which they are based;
- (c) a certificate purporting to be signed by a member of the Police Force and stating that—
  - (i) the person named in the certificate submitted to a breath test at the place and on the date and at the time specified in the certificate;
  - (ii) the device used in the breath test was a device of a type referred to in sub-section (5.) of this section;
  - (iii) the sample of that person's breath for the purposes of the breath test was given in accordance with his directions;
  - (iv) he used the device in carrying out the breath test and both tests referred to in sub-sections (6.) and (9.) of this section in accordance with the instructions given in the course of instruction referred to in sub-section (1.) of this section;
  - (v) while the breath test and the tests referred to in sub-sections (6.) and (9.) of this section were being carried out, the device was kept stable and the galvanometer forming part of the device was completely released; and

- (vi) the device showed as the result of the breath test the percentage of alcohol in blood specified in the certificate,
- is evidence of the matters stated in the certificate and of the facts on which they are based; and
- (d) a certificate purporting to be made by the Commissioner of Police and stating that the person named in the certificate has satisfactorily undergone the course of instruction in the carrying out of breath tests referred to in sub-section (1.) of this section is evidence of the matters stated in the certificate.

" (17.) In any proceedings in a court in which evidence of the result of a breath test is relevant, a certificate purporting to be made by a member of the Police Force and stating that, in carrying out the tests referred to in sub-sections (6.) and (9.) of this section, he used a solution purporting to be a solution of standard alcohol obtained from a container purporting to have been supplied by an approved analyst and to have been labelled and marked by the analyst is evidence that the solution used in those procedures was a solution of standard alcohol.

" 139F. Where a member of the Police Force—

- (a) has reasonable cause to believe from the result of a breath test taken by a person that that person had at the time of the breath test a concentration of alcohol in his blood equal to eighty milligrammes or more of alcohol per one hundred millilitres of blood;
- (b) has reasonable cause to suspect that a person has committed an offence against sub-section (1.) of section 139a of this Ordinance or an offence of culpable driving; or
- (c) has reasonable cause to suspect that a person has committed an offence against sub-section (6.) or (7.) of section 139D of this Ordinance and that that person has alcohol in his blood,

Power of arrest.

the member of the Police Force may thereupon arrest that person without warrant for an offence against this Part or for an offence of culpable driving.

" 139G.—(1.) Where a member of the Police Force does not, by reason of sub-section (5.) of section 139D of this Ordinance, require a person to submit to a breath test, the member of the Police Force may require that person to have a blood test carried out on a sample of that person's blood in accordance with this section.

Blood tests.

" (2.) Where a member of the Police Force, in pursuance of the last preceding sub-section, requires a person to have a blood test of a sample of his blood carried out, the member of the Police Force shall, thereupon but subject to sub-section (5.) of this section, make arrangements for the person to be taken as soon as practicable to a hospital and for the blood test to be carried out at the hospital in accordance with this section as soon as practicable and within the period of two hours after the arrival of the person at the hospital.

“(3.) Where a member of the Police Force has reasonable cause to believe from the results of a breath test taken by a person that that person had at the time of the breath test a concentration of alcohol in his blood equal to eighty milligrammes or more of alcohol per one hundred millilitres of blood, the member of the Police Force shall forthwith inform that person that that person is entitled to have a blood test of a sample of that person's blood carried out, and that person may make a request accordingly.

“(4.) Where a member of the Police Force so informs a person and the person requests that a blood test of a sample of his blood be carried out, the member of the Police Force shall, thereupon, but subject to the next succeeding sub-section, make arrangements for the blood test to be carried out at a hospital or at a police station in accordance with this section as soon as practicable and within the period of two hours after so informing that person.

“(5.) A member of the Police Force shall not arrange for a sample of a person's blood to be taken for the purposes of a blood test if a medical practitioner certifies in writing that, in his opinion, the taking of a sample of that person's blood would be detrimental to that person's medical condition.

“(6.) The member of the Police Force shall, subject to the next succeeding sub-section, arrange for a sample of the person's blood to be taken by a medical practitioner nominated by the member of the Police Force or, if the person so requests, nominated by that person.

“(7.) The medical practitioner shall not take a sample of a person's blood for the purposes of a blood test—

- (a) if he is of the opinion that the taking of the sample of his blood would be detrimental to that person's medical condition; or
- (b) after the expiration of the period of two hours referred to in sub-section (2.) or (4.) of this section, whichever is applicable.

“(8.) The medical practitioner taking a sample of a person's blood for the purposes of a blood test shall—

- (a) take a sample of that person's blood in the presence of the member of the Police Force arranging for the blood test to be carried out;
- (b) divide the sample so taken into two approximately equal parts and put each part in a sealed container to which is affixed a label bearing his signature, the name of the person from whom the sample was taken and the date and time when the sample was taken; and
- (c) give one of the containers to that person and the other container to that member of the Police Force.

“(9.) The member of the Police Force shall arrange for the sample of blood in the container given to him to be tested by an approved analyst to ascertain the concentration of alcohol in the blood.

“(10.) The expenses of carrying out a blood test of a sample of a person's blood shall be borne—

- (a) if a member of the Police Force requires the carrying out of the blood test under sub-section (1.) of this section—by the Commonwealth; or
- (b) if the blood test is carried out at the request of the person under sub-section (3.) of this section—by that person.

“(11.) No action, whether in or outside the Territory, lies against a medical practitioner who takes, for the purpose of a blood test, a sample of blood of a person who has requested the blood test under this section, whether or not that person was capable by reason of his mental condition of effectively making the request.

“(12.) A person who is required under this section to have a blood test of a sample of his blood carried out shall not—

- (a) fail or refuse to give a sample of his blood for that purpose; or
- (b) at any time after the commission of the offence or after the accident in respect of which a member of the Police Force could, but for sub-section (5.) of section 139D of this Ordinance, have required that person to submit to a breath test and before the expiration of the period of two hours referred to in sub-section (2.) or (4.) of this section, whichever is applicable, wilfully do anything that could alter the concentration of alcohol in his blood or affect the result of a blood test.

Penalty: Five hundred dollars or imprisonment for twelve months, or both.

“(13.) In any proceedings in a court in which evidence of the result of a blood test is relevant—

- (a) a certificate purporting to be signed by a medical practitioner stating that he took a sample of blood of a person named in the certificate in accordance with this section is evidence of the matters stated in the certificate and of the facts on which they are based; and
- (b) a certificate purporting to be signed by a person purporting to be an approved analyst and stating that—
  - (i) he tested a sample of blood contained in a container to which was affixed a label bearing the signature of a medical practitioner named in the certificate, the name of a person specified in the certificate as the person from whom the sample was taken and the date and time when the sample was taken; and
  - (ii) the concentration of alcohol in blood specified in the certificate was the concentration as ascertained by the blood test of that sample of blood,

is evidence of the matters so certified and of the facts on which they are based.

Medical  
examination  
of arrested  
person.

“ 139H.—(1.) A member of the Police Force who arrests a person under section 139F of this Ordinance shall inform that person or another person on his behalf that the arrested person is entitled to be medically examined by a medical practitioner nominated by the arrested person or on his behalf, and the arrested person or a person on his behalf may request a medical examination accordingly.

“ (2.) The member of the Police Force shall, on being so requested, make arrangements for the holding of the examination as soon as practicable.”.

Definitions.

15. Section 140 of the Principal Ordinance is amended by inserting before the definition of “speed limit sign” the following definition:—

“ ‘amphometer’, means a speed measuring device known as ‘Amphometer’, being a device to which is affixed a label bearing the expression ‘Aust. Patent 272336’;”.

Maximum  
speeds  
applicable to  
streets in the  
City Area.

16. Section 143 of the Principal Ordinance is amended by omitting the words “the next succeeding section” and inserting in their stead the words “this Part”.

17. After section 147 of the Principal Ordinance the following sections are inserted:—

Driving at  
dangerous  
speeds.

“ 147A.—(1.) The driver of a motor vehicle shall not drive the motor vehicle upon a public street at a speed dangerous to persons using the public street.

“ (2.) In considering whether an offence has been committed against this section, the Court shall have regard to all the circumstances existing at the time at which the offence is alleged to have been committed, including the nature, condition and use of the public street upon which the offence is alleged to have been committed and to the amount of traffic that was, or might reasonably have been expected to have been, upon the public street. and, if no evidence is given of those circumstances, the Court shall dismiss the charge.

Evidence of  
speed.

“ 147B.—(1.) Where, in any proceedings in a court, evidence for the purpose of showing the speed at which a motor vehicle was travelling on a public street at a particular time is given of the calculation of speed of that motor vehicle at that time on that public street as shown on an amphometer in accordance with the next succeeding section, that motor vehicle shall, unless the contrary is proved, be deemed to have been travelling at the speed so calculated at that time on that public street.

“ (2.) Nothing in this section precludes the giving of other evidence of the speed at which the motor vehicle was travelling.

" 147c.—(1.) Evidence of the speed at which a motor vehicle was travelling upon a public street by reference to a calculation of speed as shown on an amphotometer shall not be given unless—

Speed  
measuring  
device.

- (a) the amphotometer has, within the period of six months before being used to calculate that speed, been tested for accuracy by a duly qualified electrical engineer approved for the purposes of this section by the Minister by instrument in writing published in the *Gazette*;
- (b) the amphotometer has been sealed by the approved electrical engineer in such a way as to prevent the mechanism of the amphotometer being tampered or interfered with without breaking the seal, and the seal is intact; and
- (c) the amphotometer was, in so calculating that speed, used in accordance with this Part.

" (2.) The member of the Police Force using an amphotometer to calculate the speed of a motor vehicle travelling upon a public street shall—

- (a) place and secure the two detection tubes forming part of the amphotometer approximately parallel to each other and directly across or partly across the carriageway of the public street at a distance of between eighty-seven feet nine inches and eighty-eight feet three inches apart, the distance being measured by a measuring tape sealed with a distinguishing mark of verification or re-verification in pursuance of the Weights and Measures (National Standards) Regulations; and
- (b) before using the device to calculate the speed of the motor vehicle—
  - (i) ensure that the seal referred to in paragraph (b) of the last preceding sub-section is intact; and
  - (ii) ensure that the indicator needle on the device is at the zero scale position when the device is switched off and that the indicator needle is at the full scale position when the device is switched on.

" (3.) In any proceedings in a court in which evidence is given of the calculation of speed as shown on an amphotometer—

- (a) a certificate purporting to be signed by a duly qualified electrical engineer approved by the Minister as provided by sub-section (1.) of this section and stating that, on a date specified in the certificate—
  - (i) he tested an amphotometer bearing the identification number or symbols stated in the certificate and found it to be accurate; and

- (ii) he duly sealed the amphotometer on that date in the manner referred to in paragraph (b) of that subsection,

is evidence of the accuracy of the device and of the matters stated in the certificate; and

**(b) a certificate purporting to be signed by a member of the Police Force and stating that—**

- (i) during a specified period on a specified date and on a specified public street he used an amphotometer bearing the identification number or symbols stated in the certificate and the seal referred to in the last preceding paragraph;
- (ii) the seal of the amphotometer was intact during that period;
- (iii) in so using the amphotometer during that period, the measuring tape used in placing the detection tubes attached to the device in accordance with this section was sealed with the distinguishing mark of verification or re-verification specified in the certificate;
- (iv) a motor vehicle the registration number of which is specified in the certificate crossed the detection tubes forming part of the amphotometer while he was using the amphotometer during that period; and
- (v) the amphotometer calculated that the motor vehicle was so travelling on that public street between those two detection tubes at the speed specified in the certificate,

is evidence of the matters stated in the certificate and of the facts on which they are based.

Tampering, &c.,  
with  
amphotometers.

“ 147D. A person shall not, knowingly and without lawful authority, tamper or interfere with, or damage the mechanism of, an amphotometer by reference to which evidence of speed may be given under this Part or tamper or interfere with a seal affixed to such an amphotometer.

Penalty: Five hundred dollars.

Testing of  
speedometers.

“ 147E. In a prosecution for an offence against this Ordinance in which evidence is given of the calculation of speed by means of a motor vehicle speedometer, a certificate purporting to be signed by a person who is a duly qualified instrument maker and approved by the Minister for that purpose and certifying that, on a date specified in the certificate, he tested the motor vehicle speedometer bearing the identification number stated in the certificate and found it to be accurate is evidence of the matters stated in the certificate.”

Repeal of  
section 175.

**18. Section 175 of the Principal Ordinance is repealed.**



**19. Section 192A of the Principal Ordinance is amended—**

- (a) by omitting sub-section (1.) and inserting in its stead the following sub-section:—

“(1.) Where a person is convicted of an offence of culpable driving, the Supreme Court may—

- (a) if the person convicted holds a driving licence—suspend the licence for such period as the Supreme Court thinks fit or cancel the licence; or
- (b) if the person convicted does not hold a driving licence (whether or not he is to be deemed to be licensed to drive a motor vehicle under section 107 or 108 of this Ordinance)—be disqualified from holding a driving licence for such period as the Supreme Court thinks fit or until such time as the Supreme Court declares him to be a fit and proper person to hold such a licence.”;

- (b) by omitting sub-section (3.); and

- (c) by omitting from sub-section (4.) the words “cancellations, disqualifications and”.

Cancellation and suspension of licences, &c., by Supreme Court for offence of culpable driving.

**20. Section 193 of the Principal Ordinance is repealed and the following sections are inserted in its stead:—**

“193.—(1.) In this section, unless the contrary intention appears, ‘inebriate’ means a person in respect of whom an order, licence or recognizance is in force under the Inebriates Act, 1900 of the State of New South Wales in its application to the Territory or in respect of whom a prohibition order is in force under the *Liquor Ordinance* 1929-1971.

Additional penalty of suspension or cancellation of driving licence.

“(2.) Where a person is convicted of an offence against sub-section (5.) of section 13A of this Ordinance, the special licence to drive a motor vehicle under that section and his suspended driving licence shall, by force of the conviction, be cancelled.

“(3.) Where a person is convicted of an offence against section 51 of this Ordinance, the Court may suspend his driving licence for a period of twelve months commencing on the date of his conviction.

“(4.) Where a person is convicted of an offence against section 129 or 147A of this Ordinance by reason of driving a motor vehicle on a public street recklessly or at a speed or in a manner dangerous to persons using the public street, that person’s driving licence shall, by force of the conviction—

- (a) for a first offence against that section—be suspended for a period of three months or such longer period as the Court thinks fit; and
- (b) for a second or subsequent offence against that section—be suspended for a period of twelve months or such longer period as the Court thinks fit.

“(5.) Where a person is convicted of an offence against section 129 of this Ordinance by reason of driving a motor vehicle negligently upon a public street, or of an offence against any other provision of this Ordinance for which no other penalty is expressly provided, the Court may—

- (a) suspend that person's driving licence for such period as it thinks fit; or
- (b) cancel the driving licence.

“(6.) Where a person who is an inebriate is convicted of an offence against sub-section (1.) or (2.) of section 139B or sub-section (6.) or (7.) of section 139D of this Ordinance, that person's driving licence shall, by force of the conviction, be cancelled.

“(7.) Where a person, not being an inebriate, is convicted of an offence against sub-section (2.) of section 139B of this Ordinance, that person's driving licence shall, by force of the conviction—

- (a) if it is a first offence against that sub-section and the Court is satisfied that at the time of the offence he had a concentration of alcohol in his blood equal to not less than eighty milligrammes, but less than one hundred and fifty milligrammes, of alcohol per one hundred millilitres of blood—be suspended for a period of three months or such longer period as the Court thinks fit;
- (b) if it is a second or subsequent offence against that sub-section and the Court was, in relation to the previous offence, satisfied as provided by the last preceding paragraph and is, in relation to that second or subsequent offence, satisfied that at the time of the offence he had a concentration of alcohol in his blood equal to not less than eighty milligrammes of alcohol per one hundred millilitres of blood—be suspended for a period of twelve months or such longer period as the Court thinks fit;
- (c) if it is a first offence against that sub-section and the Court is satisfied that at the time of the offence he had a concentration of alcohol in his blood equal to not less than one hundred and fifty milligrammes of alcohol per one hundred millilitres of blood—be suspended for a period of six months or such longer period as the Court thinks fit;
- (d) if it is a second or subsequent offence against that sub-section and the Court is, in relation to that offence, satisfied that at the time of the offence he had a concentration of alcohol in his blood equal to not less than eighty milligrammes, but less than one hundred and fifty milligrammes, of alcohol per one hundred millilitres of blood, and the previous offence was an offence against sub-section (1.) of that section or an offence by culpable driving or the Court was, in relation to the previous offence, satisfied as provided by the last preceding paragraph—be suspended for a period of twelve months or such longer period as the Court thinks fit; or

- (e) if it is a second or subsequent offence against that sub-section and the Court was, in relation to the previous offence, satisfied as provided by paragraph (c) of this sub-section and is, in relation to the second or subsequent offence also so satisfied—be cancelled.

“(8.) Where a person, not being an inebriate, is convicted of an offence against sub-section (1.) of section 139B or sub-section (6.) or (7.) of section 139D of this Ordinance, that person’s driving licence shall, by force of the conviction—

- (a) for a first offence against that sub-section—be suspended for a period of six months or such longer period as the Court thinks fit; or  
(b) for a second or subsequent offence against that sub-section—be cancelled.

“(9.) Where a person whose driving licence is suspended under this Ordinance is convicted of an offence against sub-section (1.) or (2.) of section 139B or sub-section (6.) or (7.) of section 139D of this Ordinance, the driving licence shall, by force of the conviction, be cancelled.

“(10.) Where a person is convicted of an offence against the next succeeding section of driving while his driving licence is suspended, the Court may suspend his licence for a further period or cancel the licence.

“(11.) Where a person is convicted of an offence against this Ordinance referred to in this section and he does not, otherwise than by reason of a suspension or cancellation under this Ordinance, hold a driving licence (whether or not he is to be deemed to be licensed to drive a motor vehicle under section 107 or 108 of this Ordinance), that person shall, by force of the conviction, be disqualified from holding a driving licence for the period of suspension provided by this section in respect of that offence or, if the additional penalty provided by this section in respect of the offence is cancellation of a driving licence, until such time as the Court, in the same way as it could if he had held such a licence, declares him to be a fit and proper person to hold such a licence.

“(12.) A reference in a provision of this section to a first offence against a specified provision of this Ordinance shall be read as a reference to an offence committed by a person who has not previously been convicted of that offence, of an offence against section 129, 147A, sub-section (1.) or (2.) of section 139B, or sub-section (6.) or (7.) of section 139D, of this Ordinance or of an offence of culpable driving.

“(13.) A reference in a provision of this section to a second or subsequent offence against a specified provision of this Ordinance shall be read as a reference to an offence committed against that specified provision by a person who has previously been convicted of that offence, of an offence against a provision referred to in the last preceding sub-section or of an offence of culpable driving.

“(14.) The suspension or cancellation of a driving licence or disqualification from holding a driving licence under this section in respect of an offence is in addition to any other penalty imposed by the Court for that offence.

Suspension or  
cancellation of  
driving licence.

“193A.—(1.) Where a driving licence is suspended for a period under this Ordinance, the holder of the licence shall, from the date of the suspension, cease to be licensed to drive a motor vehicle and shall, subject to section 13A of this Ordinance, be disqualified from holding a driving licence for the period of the suspension.

“(2.) Where a driving licence is cancelled under this Ordinance, the holder of the licence shall, from the date of the cancellation, cease to be licensed to drive a motor vehicle, and be disqualified from holding a driving licence, until such time as the Court declares that he is a fit and proper person to hold a driving licence.

“(3.) For the purposes of the last preceding sub-section, sub-section (11.) of the last preceding section or section 192A of this Ordinance, the Court shall not declare a person whose driving licence has been cancelled, or who has otherwise been disqualified from holding a driving licence, by force of a conviction for an offence against sub-section (5.) of section 13A, 139B or 139D of this Ordinance, or for an offence of culpable driving in which that person was the driver of a motor vehicle while under the influence of intoxicating liquor, to be a fit and proper person to hold a driving licence unless the Court is satisfied that, on medical evidence, he has received treatment and has been rehabilitated and is not likely again to drive a motor vehicle while under the influence of intoxicating liquor.

“(4.) Where a person's driving licence is suspended for a period or he is disqualified for a period from holding a driving licence, that person shall not, during that period—

- (a) obtain a driving licence other than a special licence under section 13A of this Ordinance; or
- (b) drive a motor vehicle except in pursuance of such a special licence.

**Penalty:** Five hundred dollars or imprisonment for six months, or both.

“(5.) Where a person's driving licence is cancelled, or he is disqualified from holding a driving licence or ceases to be deemed to be so licensed until such time as the Supreme Court or the Court declares him to be a fit and proper person to hold a driving licence, that person shall not, until that time—

- (a) obtain a driving licence; or
- (b) drive a motor vehicle.

**Penalty:** One thousand dollars or imprisonment for twelve months, or both.

“(6.) Where, upon conviction of a person, his driving licence is suspended or cancelled, the person shall, forthwith after the conviction, return the licence to the Registrar.

“(7.) A suspended driving licence shall, unless subsequently cancelled or the period of the licence has expired, be returned after the expiration of the period of suspension by the Registrar to the person to whom it was granted.

“(8.) A person whose driving licence has been suspended or cancelled is not entitled to a refund of fees for the remaining period for which the licence was granted.

“(9.) The Court shall cause particulars of all convictions, cancellations and suspensions of driving licences and disqualifications from holding driving licences and orders of the Court to be forwarded to the Registrar.”.