

2001

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Mr Rugendyke)

Road Transport (Safety and Traffic Management) Amendment Bill 2001 (No 2)

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Road Transport (Safety and Traffic Management) Amendment Bill 2001 (No 2)

A Bill for

An Act to amend the *Road Transport (Safety and Traffic Management) Act 1999*

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

1 **Part 1 Preliminary**

2 **1 Name of Act**

3 This Act is the *Road Transport (Safety and Traffic Management)*
4 *Amendment Act 2001 (No 2)*.

5 **2 Commencement**

6 This Act commences on the day it is notified in the Gazette.

7 **3 Act amended**

8 This Act amends the *Road Transport (Safety and Traffic*
9 *Management) Act 1999*.

10 **4 Powers of police officers to seize and impound vehicles**
11 **used in committing certain offences**
12 **Section 10B (1)**

13 *substitute*

- 14 (1) A police officer may seize a motor vehicle if—
- 15 (a) the police officer believes, on reasonable grounds, that the
16 vehicle is being or has been used by a person in committing an
17 offence against section 5A (Races, attempts on speed records,
18 speed trials etc) or section 5B (Burnouts and other prohibited
19 conduct); or
- 20 (b) the vehicle is subject to impounding under section 10AA
21 (Impounding of vehicles used for menacing driving on court
22 order before conviction etc); or
- 23 (c) the vehicle is subject to impounding or forfeiture under
24 section 10A (Impounding or forfeiture of vehicles on
25 conviction etc for certain offences).

1 (1A) However, the police officer may only seize the motor vehicle under
2 subsection (1) (a) within 10 days after the commission of the
3 offence.

4 **5 Powers of police officers to seize and impound vehicles**
5 **used in committing certain offences**
6 **Section 10B**

7 *renumber subsections under Legislation Act 2001 when Act next*
8 *republished*

9 **6 New sections 10C and 10D**

10 *insert*

11 **10C Registered operator and interested persons to be notified**
12 **(MTA s 139N (1)-(2), NSW RT (Gen) sch 1, cl 2)**

13 (1) If a motor vehicle is seized under section 10B (1) (a) (Powers of
14 police officers to seize and impound vehicles used in committing
15 certain offences), the chief police officer must give notice of the
16 seizure to the registered operator of the vehicle.

17 (2) If a prosecution is begun against a person for an offence against
18 section 5A (Races, attempts on speed records, speed trials etc),
19 section 5B (Burnouts and other prohibited conduct) or section 8
20 (Menacing driving) involving a motor vehicle, the chief police
21 officer must give notice of the prosecution to—

22 (a) if the prosecution is against a person other than the registered
23 operator (or a registered operator) of the vehicle—the
24 registered operator; or

25 (b) if the vehicle may be subject to forfeiture if the person is
26 convicted or found guilty of the offence—the holder of any
27 registered interest in the vehicle.

28 (3) The notice must be given within 7 days after the seizure or the
29 beginning of the prosecution.

- 1 (4) The notice must—
- 2 (a) state—
- 3 (i) the short description prescribed under the *Road Transport*
4 *(General) Act 1999* for the offence for which the motor
5 vehicle has been seized or the prosecution begun (or the
6 provision of this Act contravened by the person); and
- 7 (ii) the place where the offence was committed and the date
8 and approximate time of the offence; and
- 9 (iii) the particulars that are, under the regulations under the
10 *Road Transport (General) Act 1999*, identifying
11 particulars for the vehicle; and
- 12 (c) for a notice under subsection (1)—tell the registered operator
13 that an application may be made to the chief police officer or
14 the Magistrates Court for the release of the vehicle; and
- 15 (d) for a notice under subsection (2)—tell the person that the
16 vehicle may be subject to impounding or, if appropriate,
17 forfeiture under section 10A.

18 **10D Keeping of vehicles seized under s 10B (1) (a)**
19 (MTA s 139N (3), NSW RT (Gen) sch 1, cl 3)

- 20 (1) If a motor vehicle is seized under section 10B (1) (a) by a police
21 officer because the police officer believes the vehicle has been used
22 by a person in committing an offence, the chief police officer must
23 keep the vehicle until the earliest of the following happens:
- 24 (a) the person is dealt with by a court for the offence;
- 25 (b) an infringement notice is served on the person for the offence;
- 26 (c) if a prosecution for the offence is not begun within 28 days
27 after the seizure—the 28 days end;
- 28 unless the vehicle is sooner released under section 10F (Vehicles
29 seized under s 10B (1) (a)—release by chief police officer) or

1 section 10G (Vehicles seized under s 10B (1) (a)—release by
2 Magistrates Court).

3 (2) If the person is convicted, or found guilty of, the offence, the chief
4 police officer must keep the vehicle as required under section 10E.

5 **7 New sections 10F and 10G**

6 *insert*

7 **10F Vehicles seized under s 10B (1) (a)—release by chief** 8 **police officer** (MTA s 139P, NSW RT (Gen) sch 1, cl 5)

9 (1) A person may apply to the chief police officer for the release to the
10 person of a motor vehicle that has been seized under
11 section 10B (1) (a).

12 (2) The chief police officer must release the vehicle to the person if—

13 (a) the chief police officer is satisfied that the person is entitled to
14 possession of the vehicle; and

15 (b) the period for which the chief police officer is required under
16 section 10D to keep the vehicle has ended; and

17 (c) any fee or other amount payable under the *Road Transport*
18 *(General) Act 1999* in relation to the impounding and seizure
19 of the vehicle has been paid.

20 (3) The chief police officer may release the vehicle to the person if—

21 (a) the chief police officer is satisfied that the person is entitled to
22 possession of the vehicle; and

23 (b) the chief police officer is satisfied that—

24 (i) the offence for which the vehicle was impounded was not
25 committed by, or with the consent of, the person; and

- 1 (ii) the person did not know, and could not reasonably be
2 expected that have known, that the vehicle would be used
3 for the commission of the offence; and
- 4 (c) any fee or other amount payable under the *Road Transport*
5 *(General) Act 1999* in relation to the seizure and impounding
6 of the vehicle has been paid.
- 7 (4) The chief police officer must ensure that an impounded vehicle is
8 available for collection by a person as soon as practicable after the
9 person becomes entitled to possession of it.
- 10 (5) If a motor vehicle is released to a person under this section, the
11 person must acknowledge in writing receiving the vehicle.

12 **10G Vehicles seized under s 10B (1) (a)—release by**
13 **Magistrates Court**

14 (MTA s 139Q, NSW RT (Gen) sch 1, cl 6)

- 15 (1) A person may apply to the Magistrates Court for an order for the
16 release to the person of a motor vehicle that has been seized under
17 section 10B (1) (a), whether or not an application has been made to
18 the chief police officer under section 10F for the release of the
19 vehicle.
- 20 (2) The court may order the release of the motor vehicle to the person if
21 satisfied that—
- 22 (a) the person is entitled to the possession of the vehicle; and
- 23 (b) either—
- 24 (i) the offence for which the vehicle was impounded was not
25 committed by, or with the consent of, the person and the
26 person did not know, and could not reasonably be
27 expected to have known, that the vehicle would be used
28 for the commission of an offence; or
- 29 (ii) keeping the vehicle would cause excessive hardship or
30 other injustice to anyone.

1 (3) The court may also remit all or part of any fee or other amount
2 payable under the *Road Transport (General) Act 1999* in relation to
3 the seizure and impounding of the vehicle.

4 (4) If a motor vehicle is released to a person under this section, the
5 person must acknowledge in writing receiving the vehicle.

6 **8 Failure to prosecute**
7 **Section 10I**

8 *substitute*

9 **10I Failure to prosecute (NSW RT (Gen) sch 1, cl 8)**

10 A proceeding does not lie against the Territory, the chief police
11 officer or a police officer in relation to the seizure or impounding
12 under section 10B (1) (a) or (b) (Powers of police officers to seize
13 and impound vehicles used in committing certain offences) of a
14 vehicle for an offence merely because a prosecution is not begun for
15 the offence.

16 **9 Seizure, impounding and forfeiture of vehicles for certain**
17 **offences**
18 **Division 2.3**

19 *renumber sections of division under Legislation Act 2001 when Act*
20 *next republished*

Endnote

Act amended

Republished as in force on 1 March 2000 (Republication No 1). See also SL 2000
Nos 33 and 52; Acts 2001 Nos 27 and 29.

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