



Australian Capital Territory

Road Transport (Driver Licensing) Act 1999

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About this republication

The republished law

This is a republication of the *Road Transport (Driver Licensing) Act 1999* (including any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes)) as in force on 25 November 2011. It also includes any commencement, amendment, repeal or expiry affecting this republished law to 25 November 2011.

The legislation history and amendment history of the republished law are set out in endnotes 3 and 4.

Kinds of republications

The Parliamentary Counsel's Office prepares 2 kinds of republications of ACT laws (see the ACT legislation register at www.legislation.act.gov.au):

- authorised republications to which the *Legislation Act 2001* applies
- unauthorised republications.

The status of this republication appears on the bottom of each page.

Editorial changes

The *Legislation Act 2001*, part 11.3 authorises the Parliamentary Counsel to make editorial amendments and other changes of a formal nature when preparing a law for republication. Editorial changes do not change the effect of the law, but have effect as if they had been made by an Act commencing on the republication date (see *Legislation Act 2001*, s 115 and s 117). The changes are made if the Parliamentary Counsel considers they are desirable to bring the law into line, or more closely into line, with current legislative drafting practice.

This republication includes amendments made under part 11.3 (see endnote 1).

Uncommenced provisions and amendments

If a provision of the republished law has not commenced, the symbol **U** appears immediately before the provision heading. Any uncommenced amendments that affect this republished law are accessible on the ACT legislation register (www.legislation.act.gov.au). For more information, see the home page for this law on the register.

Modifications

If a provision of the republished law is affected by a current modification, the symbol **M** appears immediately before the provision heading. The text of the modifying provision appears in the endnotes. For the legal status of modifications, see the *Legislation Act 2001*, section 95.

Penalties

At the republication date, the value of a penalty unit for an offence against this law is \$110 for an individual and \$550 for a corporation (see *Legislation Act 2001*, s 133).



Australian Capital Territory

Road Transport (Driver Licensing) Act 1999

Contents

	Page
Part 1	Preliminary
1	Name of Act 2
3	Objects of Act 2
4	Dictionary 4
5	Notes 4
5A	Offence against this Act—application of Criminal Code etc 4
Part 2	Driver licensing system
Division 2.1	Functions of road transport authority generally
6	Functions of road transport authority 5
7	Powers of road transport authority 5
8	Keeping of registers 6
9	Security and disclosure of information in registers 6

R21 Road Transport (Driver Licensing) Act 1999 contents 1
25/11/11 Effective: 25/11/11-04/06/12

	Page
Division 2.2	Issue of licences and mutual recognition
10	When road transport authority may issue or renew driver licences 7
11	Mutual recognition of Australian driver licences 8
12	Mutual recognition of demerit points 8
Division 2.3	Demerit points system
13	Meaning of <i>demerit points offence</i> 10
13A	Recording of demerit points 10
13B	When demerit points are <i>incurred</i> 11
14	Offences for which demerit points are incurred 11
15	Warning notices 12
16	Consequences of incurring demerit points—holder of licence 13
17	Consequences of incurring demerit points—applicant for issue or renewal of licence 14
18	Licence suspension 15
19	Good behaviour alternative to licence suspension 16
20	Licence ineligibility 18
21	Good behaviour alternative to licence ineligibility 19
22	Demerit points incurred by learner, probationary, provisional and restricted licence holders etc 21
23	Demerit points incurred but not taken into account for notice of licence suspension etc 22
24	Demerit points not affected by licence suspension etc under another law 23
25	Issue of licence suspension notice etc 24
Division 2.4	Regulations
26	Regulation-making power 24
27	Regulations may apply certain documents etc 24
28	Driver licensing system 25
Part 3	Offences
29	Obtaining licence by false statements etc 29
30	Unlawful possession of licence etc 29
31	Driver must be licensed 30
31A	Offence—driving while right to drive suspended 32
32	Offences committed by disqualified drivers etc 33

	Page
33	35
Part 4 Protection of photographs and signatures	
34	37
35	37
36	37
37	38
38	39
39	40
Part 5 Miscellaneous	
40	41
41	41
42	42
Dictionary	43
Endnotes	
1	49
2	49
3	50
4	54
5	61



Australian Capital Territory

Road Transport (Driver Licensing) Act 1999

An Act to provide for the licensing of drivers and for related matters as part of the system for nationally consistent road transport law, to provide for additional matters about learner, probationary, provisional, public vehicle and restricted licences, and for other purposes

Part 1 Preliminary

1 Name of Act

This Act is the *Road Transport (Driver Licensing) Act 1999*.

Note 1 This Act is part of the road transport legislation. See the *Road Transport (General) Act 1999* for various provisions about the administration and enforcement of the road transport legislation generally.

Note 2 Other road transport legislation includes the following:

- *Road Transport (Alcohol and Drugs) Act 1977*
- *Road Transport (General) Act 1999*
- *Road Transport (Mass, Dimensions and Loading) Act 2009*
- *Road Transport (Public Passenger Services) Act 2001*
- *Road Transport (Safety and Traffic Management) Act 1999*
- *Road Transport (Third-Party Insurance) Act 2008*
- *Road Transport (Vehicle Registration) Act 1999*.

Note 3 A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including any regulation (see Legislation Act, s 104).

3 Objects of Act

The objects of this Act are—

- (a) to provide for a driver licensing system in the ACT that is—
 - (i) consistent with the agreements scheduled to the *National Road Transport Commission Act 1991* (Cwlth); and
 - (ii) part of the uniform national road transport legislation envisaged by that Act and the uniform national approach to driver licensing; and
 - (iii) designed to provide uniform licence classes for drivers of motor vehicles, and uniform eligibility criteria for those licence classes; and

- (b) to define the responsibilities of people in relation to driver licensing; and
- (c) to provide a way of authorising the driving of motor vehicles on roads and road related areas and of identifying people as licensed drivers of motor vehicles; and
- (d) to facilitate the regulation of drivers of motor vehicles in the interests of road safety and transport efficiency and law enforcement generally; and
- (e) to provide a way of enforcing safety standards relating to the driving of motor vehicles on roads and road related areas; and
- (f) to facilitate—
 - (i) the recovery of expenses of administering the driver licensing system; and
 - (ii) the collection of fees determined for this Act under the *Road Transport (General) Act 1999*; and
- (g) to provide for other matters relating to learner, probationary, provisional, public vehicle and restricted licences; and
- (h) to improve road safety and transport efficiency, and reduce the costs of administering road transport.

Note 1 This Act establishes a driver licensing system, including a demerit points system, and provides for the classes of driver licences and for the issue, suspension, cancellation and renewal of driver licences.

Note 2 The Commonwealth Act mentioned in s 3 (a) (i) has been repealed and replaced by the *National Transport Commission Act 2003* (Cwlth), and the agreements scheduled to the repealed Act have been independently terminated and replaced by the *Inter-Governmental Agreement for Regulatory and Operational Reform in Road, Rail and Intermodal Transport*.

4 Dictionary

The dictionary at the end of this Act is part of this Act.

Note 1 The dictionary at the end of this Act defines certain terms, and includes references (*signpost definitions*) to other terms defined elsewhere in this Act or elsewhere in the road transport legislation.

For example, the signpost definition '*road transport legislation*—see the *Road Transport (General) Act 1999*, section 6.' means the term 'road transport legislation' is defined in that section and the definition applies to this Act.

Note 2 A definition in the dictionary (including a signpost definition) applies to the entire Act unless the definition, or another provision of the Act, provides otherwise or the contrary intention otherwise appears (see *Legislation Act*, s 155).

5 Notes

A note in this Act is explanatory and is not part of this Act.

Note See the *Legislation Act*, s 127 (1), (4) and (5) for the legal status of notes.

5A Offence against this Act—application of Criminal Code etc

Other legislation applies in relation to an offence against this Act.

Note 1 *Criminal Code*

The *Criminal Code*, sch 2 applies to the following offence against this Act (see *Code*, pt 2.1):

- s 31A (Offence—driving while right to drive suspended).

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

Note 2 *Penalty units*

The *Legislation Act*, s 133 deals with the meaning of offence penalties that are expressed in penalty units.

Part 2 Driver licensing system

Division 2.1 Functions of road transport authority generally

6 Functions of road transport authority

The functions of the road transport authority under this Act are—

- (a) to administer the driver licensing system established under this Act; and
- (b) to keep a driver licence register under this Act; and
- (c) to keep a demerit points register under this Act; and
- (d) to provide information about drivers in accordance with this Act and other laws in force in the ACT; and
- (e) to administer any scheme for driver training or the accreditation of driving instructors established by regulation; and
- (f) to exercise any other functions given to the authority under this Act.

7 Powers of road transport authority

In exercising functions under this Act, the road transport authority may, in accordance with this Act—

- (a) issue or refuse to issue a driver licence to a person; and
- (b) renew or refuse to renew a driver licence issued to a person; and
- (c) cancel or suspend a driver licence issued to a person; and
- (d) impose conditions on a driver licence; and

- (e) collect fees, charges and other amounts determined for this Act under the *Road Transport (General) Act 1999*; and
- (f) exercise other powers given to the authority under this Act.

8 Keeping of registers

- (1) The driver licence register and demerit points register may include information given to the road transport authority under this Act and any other information the authority considers appropriate.
- (2) The driver licence register and demerit points register may be kept in the form of, or as part of, 1 or more computer databases or in any other form the road transport authority considers appropriate.
- (3) The road transport authority may correct any mistake, error or omission in the driver licence register or the demerit points register subject to the requirements (if any) prescribed by regulation.
- (4) This section does not limit the functions of the road transport authority in relation to the driver licence register or demerit points register.

9 Security and disclosure of information in registers

The road transport authority must ensure that information in the driver licence register or demerit points register is kept securely and disclosed only in accordance with this Act or another law in force in the ACT.

Note 1 The Information Privacy Principles apply to the road transport authority. Principle 4 states requirements about the storage and security of personal information and principle 11 states when personal information may be disclosed by an agency (see *Privacy Act 1988* (Cwlth), s 14).

Note 2 Access to the register may be sought under the *Freedom of Information Act 1989* (which also provides that certain information is exempt from disclosure).

Division 2.2 Issue of licences and mutual recognition

10 When road transport authority may issue or renew driver licences

- (1) The road transport authority may issue a driver licence (including a driver licence as varied) to a person only if—
 - (a) the authority is satisfied the person is a resident of the ACT; and
 - (b) the person is eligible under this Act to be issued with the driver licence; and
 - (c) the person has surrendered, in accordance with the regulations, any Australian driver licence or external driver licence held by the person.
- (2) However, the road transport authority may issue the driver licence to the person without the person surrendering an Australian driver licence or external driver licence if the authority is satisfied the licence has been stolen, lost or destroyed.
- (3) Also, if the person holds an external driver licence, the road transport authority may issue the driver licence to the person without the person surrendering the external driver licence in the circumstances prescribed by regulation.
- (4) The road transport authority must not renew a person's driver licence if the authority is satisfied the person is no longer a resident of the ACT.
- (5) Subsections (1) and (4), as far as they require a person to be a resident of the ACT, do not apply to a person who lives temporarily outside the ACT.

- (6) This section does not limit the other circumstances in which the road transport authority may refuse to issue, vary or renew a driver licence.

11 Mutual recognition of Australian driver licences

- (1) The road transport authority must, in accordance with the regulations, recognise—
- (a) Australian driver licences issued by the licensing authorities of other jurisdictions; and
 - (b) conditions that apply to those licences, other than conditions that apply only in circumstances that are unique to another jurisdiction or that are prescribed by regulation.
- (2) A regulation may make provision in relation to the effect of the recognition of licences and licence conditions by the road transport authority.

12 Mutual recognition of demerit points

- (1) If the holder of an Australian driver licence issued by the licensing authority of another jurisdiction commits an offence against a territory law that is included in the national schedule of demerit points, the road transport authority must give all relevant information about the offence to the licensing authority of the other jurisdiction.
- (2) If a person, who is not the holder of an Australian driver licence and who ordinarily lives in another jurisdiction, commits an offence against a territory law that is included in the national schedule of demerit points, the road transport authority must give all relevant information about the offence to the licensing authority of the other jurisdiction.

- (3) However, the road transport authority is not required to give information under subsection (1) or (2) until—
- (a) if the person is convicted, or found guilty, of the offence—the last day when the person could have appealed against the conviction or finding or, if the person appeals against the conviction or finding, the appeal is dismissed or discontinued; or
 - (b) the person is served with an infringement notice for the offence and the infringement notice penalty for the offence is paid in whole or in part; or
 - (c) if the person is served with an infringement notice for the offence and the person applies in accordance with the *Road Transport (General) Act 1999* for additional time to pay the infringement notice penalty for the offence—the administering authority for the offence allows the person additional time to pay the penalty; or
 - (d) if the person is served with an infringement notice for the offence and the person does not pay the infringement notice penalty for the offence or give a notice disputing liability for the offence in accordance with the *Road Transport (General) Act 1999*—the time within which the penalty is payable or the notice given under that Act has ended.

Note For when an infringement notice penalty is payable, see the *Road Transport (General) Act 1999*, s 27.

- (4) If the road transport authority receives information about a person from the licensing authority of another jurisdiction under a provision of a law of the other jurisdiction that corresponds to subsection (1) or (2), the authority must take the action under this Act that the authority would have taken if the offence had been committed in the ACT against a territory law.

Division 2.3 Demerit points system

13 Meaning of *demerit points offence*

In this Act:

demerit points offence means—

- (a) an offence included in the national schedule of demerit points; or
- (b) any other offence prescribed by regulation made under the *Road Transport (General) Act 1999* for this Act, section 14 (1); or
- (c) an offence recognised under this Act, section 14 (2) of this Act.

13A Recording of demerit points

- (1) The road transport authority must record, in the demerit points register, against a person the number of demerit points prescribed by regulation made under the *Road Transport (General) Act 1999* for the demerit points offence if—
 - (a) the person is convicted, or found guilty, of the offence; or
 - (b) the person is served with an infringement notice for the offence and the infringement notice penalty for the offence is paid in whole or in part; or
 - (c) the person is served with an infringement notice for the offence, the person applies in accordance with the *Road Transport (General) Act 1999* for additional time to pay the infringement notice penalty for the offence, and the administering authority for the offence allows the person additional time to pay the penalty; or
 - (d) the person is served with an infringement notice for the offence, the person does not pay the infringement notice penalty for the offence or give a notice disputing liability for

the offence in accordance with the *Road Transport (General) Act 1999*, and the time within which the penalty is payable or the notice given under that Act has ended.

Note For when an infringement notice penalty is payable, see the *Road Transport (General) Act 1999*, s 27.

- (2) The demerit points must be recorded in the demerit points register for the day when the offence was committed.

13B When demerit points are *incurred*

- (1) This section applies to demerit points recorded against a person in the demerit points register for a demerit points offence (including demerit points for an offence notified to the road transport authority under section 12 (4) (Mutual recognition of demerit points)).
- (2) The demerit points are taken to have been *incurred* by the person on the day when the offence to which the demerit points relate was committed.

14 Offences for which demerit points are incurred

- (1) A regulation made under the *Road Transport (General) Act 1999* may prescribe—
 - (a) the offences (relating to the use of motor vehicles), and the number of demerit points incurred for each offence, that make up the national schedule of demerit points; and
 - (b) additional offences (relating to the use of motor vehicles) against territory law for which demerit points may be incurred and the number of demerit points incurred for each offence.
- (2) The Minister may, in writing—
 - (a) recognise offences (relating to the use of motor vehicles) against the law of another jurisdiction that are not included in the national schedule of demerit points as offences for which demerit points may be incurred; and

- (b) state the number of demerit points incurred for each offence.
- (3) The Minister may, in writing, revoke the recognition of an offence under subsection (2) or amend the number of demerit points stated for an offence.
- (4) A regulation under the *Road Transport (General) Act 1999* or an instrument under this section may provide for different numbers of demerit points for the same offence in different circumstances (whether or not the offence is included in the national schedule of demerit points).
- (5) An offence is recognised under this section on the day the instrument recognising the offence is notified under the Legislation Act or, if a later day or time is provided in the instrument, on the later day or at the later time.
- (6) A revocation or amendment under subsection (3) takes effect on the day the instrument making the revocation or amendment is notified under the Legislation Act or, if a later day or time is provided in the instrument, on the later day or at the later time.
- (7) However, the revocation or amendment does not affect any demerit points incurred before the revocation or amendment begins.
- (8) An instrument under subsection (2) or (3) is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the Legislation Act.

15 Warning notices

- (1) This section applies to the holder of a driver licence, other than a learner licence, probationary licence, provisional licence or restricted licence.

Note Learner, probationary, provisional and restricted licences are dealt with by regulation, see s 22.

- (2) If the person incurs 7 or more demerit points within the 3 year period ending on the day when the person last committed an offence for which demerit points have been recorded against the person, the road transport authority must send a notice to the person—
- (a) reminding the person of the number of demerit points incurred by the person; and
 - (b) warning the person about the relevant provisions of this Act.
- Note* For how documents may be served, see the Legislation Act, pt 19.5.
- (3) Failure to comply with subsection (2) does not affect the validity of anything done by the road transport authority or a court.

16 Consequences of incurring demerit points—holder of licence

- (1) This section applies to a person if—
- (a) the person is the holder of a driver licence, other than a learner licence, probationary licence, provisional licence or restricted licence; and
 - (b) the person incurs 12 or more demerit points within the 3 year period ending on the day when the person last committed an offence for which demerit points have been recorded against the person.
- (2) The road transport authority must serve a notice of licence suspension on the person under section 18.
- (3) If the person's licence is already suspended (the **current suspension**) under a territory law, before serving a notice of licence suspension the road transport authority must serve a notice on the person stating that—
- (a) the person has incurred the demerit points; and
 - (b) the licence suspension under section 18 is additional to, not concurrent with, the current suspension; and

- (c) the person will be served with a notice of licence suspension under section 18.
- (4) Failure to comply with subsection (3) does not affect the validity of anything done by the road transport authority or a court.
- (5) However, the road transport authority is not required to serve a notice of suspension on the person if the authority is of the opinion—
 - (a) that it would be unreasonable to do so, having regard to when any offence for which demerit points were incurred was committed; or
 - (b) that it would be more appropriate for a notice of licence ineligibility to be served on the person under section 20.

17 Consequences of incurring demerit points—applicant for issue or renewal of licence

- (1) This section applies to a person if—
 - (a) the person applies to the road transport authority for a driver licence (including the renewal of a driver licence), other than a learner licence, probationary licence, provisional licence or restricted licence; and
 - (b) the person has incurred 12 or more demerit points within the 3 year period ending on the day when the person last committed an offence for which demerit points have been recorded against the person.
- (2) The road transport authority may—
 - (a) refuse the person's application and serve a notice of licence ineligibility on the person under section 20; or
 - (b) issue the licence and serve a notice of licence suspension on the person under section 18.

- (3) However, the road transport authority must not serve a notice of licence ineligibility and a notice of licence suspension on the person for the same 3 year period.

18 Licence suspension

- (1) A notice of licence suspension served on a person by the road transport authority under this section—
- (a) must state the date of the notice; and
 - (b) must state the date, not earlier than 21 days after the notice is served on the person, when the suspension of the person's driver licence is to begin (the *date of effect*); and
 - (c) must state the period of licence suspension; and
 - (d) must include any other information required by regulation; and
 - (e) may include any additional information the road transport authority considers appropriate.

Note For how documents may be served, see the Legislation Act, pt 19.5.

- (2) The period of licence suspension is the period, beginning on the date of effect, applying under table 18.

Table 18
column 1
item

Table of licence suspension for demerit points
column 2
number of demerit points
incurred within previous 3 years

column 3
period of licence suspension

1	12-15	3 months
2	16-19	4 months
3	20 or more	5 months

- (3) If the person does not make an election under section 19, the person's driver licence is suspended for the period of licence suspension.

- (4) A person whose driver licence is suspended under this section is not entitled to apply for, or be issued with, a restricted licence during the suspension period.
- (5) At the beginning of the period of licence suspension under this section or, if the person makes an election under section 19, the 12 months period of good behaviour under that section, all demerit points recorded in the demerit points register against the person on the date of the notice of licence suspension under this section, and taken into account for the notice, are taken to be deleted.
- (6) Subsection (5) does not prevent the road transport authority keeping records of deleted demerit points.
- (7) In this section:
previous 3 years means the 3 year period ending on the day when the person last committed an offence for which demerit points have been recorded against the person.

19 Good behaviour alternative to licence suspension

- (1) If a person is served with a notice of licence suspension under section 18, the person may elect, as an alternative to undergoing the period of licence suspension applying under the notice, to be of good behaviour for a 12-month period.
- (2) The election must be made by notice given to the road transport authority in the period that—
 - (a) begins on the day the notice of licence suspension was served on the person; and
 - (b) ends the day before the person's licence suspension ends.

Note For how documents may be served, see the Legislation Act, pt 19.5.

- (3) The 12-month period of good behaviour under this section begins—
- (a) for a person who makes an election on or before the day on which the suspension of their licence is to begin—the day the person’s licence suspension would have begun; or
 - (b) for a person who makes an election after the day on which the suspension of their licence is to begin—the day the authority receives notice of the election.
- (4) If the person makes the election and incurs 2 or more demerit points during the 12 month good behaviour period, the road transport authority must serve a notice of licence suspension on the person under this section.

Note For how documents may be served, see the Legislation Act, pt 19.5.

- (5) The notice of licence suspension—
- (a) must state the date of the notice; and
 - (b) must state the date, not earlier than 21 days after the notice is served on the person, when the suspension of the person’s driver licence is to begin (the *date of effect*); and
 - (c) must state the period of licence suspension; and
 - (d) must include any other information required by regulation; and
 - (e) may include any additional information the road transport authority considers appropriate.
- (6) The period of licence suspension is the period, beginning on the date of effect, that is twice as long as the period of licence suspension that would have applied to the person if the person had not made the election.
- (7) If the person is served with a notice of licence suspension under this section, the person’s driver licence is suspended for the period of licence suspension.

- (8) A person whose driver licence is suspended under this section is not entitled to apply for, or be issued with, a restricted licence during the suspension period.
- (9) At the beginning of the period of licence suspension under this section, all demerit points recorded in the demerit points register against the person on the date of the notice of licence suspension under this section, and taken into account for the notice, are taken to be deleted.
- (10) Subsection (9) does not prevent the road transport authority keeping records of deleted demerit points.

20 Licence ineligibility

- (1) A notice of licence ineligibility served on a person by the road transport authority under this section—
 - (a) must state the date of the notice; and
 - (b) must state the date, not earlier than 21 days after the notice is served on the person, when the ineligibility of the person to obtain a driver licence is to begin (the *date of effect*); and
 - (c) must state the period of licence ineligibility; and
 - (d) must include any other information required by regulation; and
 - (e) may include any additional information the road transport authority considers appropriate.

Note For how documents may be served, see the Legislation Act, pt 19.5.

- (2) The period of licence ineligibility is the period, beginning on the date of effect, applying under table 20.

Table 20 **Table of licence ineligibility for demerit points**
column 1 **column 2** **column 3**
item **number of demerit points** **period of licence ineligibility**
incurred within previous 3 years

1	12-15	3 months
2	16-19	4 months
3	20 or more	5 months

- (3) If the person does not make an election under section 21, the person is disqualified from holding or obtaining a driver licence during the period of licence ineligibility and is not entitled to apply for, or be issued with, a restricted licence during that period.
- (4) At the beginning of the period of licence ineligibility under this section or, if the person makes an election under section 21, the 12 months period of good behaviour under that section, all demerit points recorded in the demerit points register against the person on the date of the notice of licence ineligibility under this section, and taken into account for the notice, are taken to be deleted.
- (5) Subsection (4) does not prevent the road transport authority keeping records of deleted demerit points.
- (6) In this section:
- previous 3 years* means the 3 year period ending on the day when the person last committed an offence for which demerit points have been recorded against the person.

21 Good behaviour alternative to licence ineligibility

- (1) If a person is served with a notice of licence ineligibility under section 20, the person may elect, as an alternative to undergoing the period of licence ineligibility applying under the notice, to be of good behaviour for a 12-month period.

- (2) The election must be made by notice given to the road transport authority in the period that—
- (a) begins on the day the notice of licence ineligibility was served on the person; and
 - (b) ends the day before the person's licence ineligibility ends.

Note For how documents may be served, see the Legislation Act, pt 19.5.

- (3) The 12-month period of good behaviour under this section begins—
- (a) for a person who makes an election on or before the day on which the period of licence ineligibility is to begin—the day the person's licence ineligibility would have begun; or
 - (b) for a person who makes an election after the day on which the period of licence ineligibility is to begin—the day the authority receives notice of the election.

- (4) If the person makes the election and incurs 2 or more demerit points during the 12 months good behaviour period, the road transport authority must serve a notice of licence suspension on the person under this section.

Note For how documents may be served, see the Legislation Act, pt 19.5.

- (5) The notice of licence suspension—
- (a) must state the date of the notice; and
 - (b) must state the date, not earlier than 21 days after the notice is served on the person, when the suspension of the person's driver licence is to begin (the *date of effect*); and
 - (c) must state the period of licence suspension; and
 - (d) must include any other information required by regulation; and
 - (e) may include any additional information the road transport authority considers appropriate.

- (6) The period of licence suspension is the period, beginning on the date of effect, that is twice as long as the period of licence ineligibility that would have applied to the person if the person had not made the election.
- (7) If the person is served with a notice of licence suspension under this section, the person's driver licence is suspended for the period of licence suspension.
- (8) A person whose driver licence is suspended under this section is not entitled to apply for, or be issued with, a restricted licence during the suspension period.
- (9) At the beginning of the period of licence suspension under this section, all demerit points recorded in the demerit points register on the date of the notice of licence suspension under this section, and taken into account for the notice, are taken to be deleted.
- (10) Subsection (9) does not prevent the road transport authority keeping records of deleted demerit points.

22 Demerit points incurred by learner, probationary, provisional and restricted licence holders etc

- (1) The regulations may make provision in relation to—
 - (a) the issue (including renewal), suspension or cancellation by the road transport authority of a learner licence, probationary licence, provisional licence or restricted licence (a *relevant licence*) if the applicant for the licence incurs the prescribed number or more of demerit points for the licence; or
 - (b) the suspension or cancellation by the authority of any other driver licence if the holder of the licence has incurred the prescribed number or more of demerit points for a relevant licence held by the person; or
 - (c) the suspension or cancellation by the authority of an additional provisional class of a driver licence if the holder of the licence

incurs the prescribed number or more of demerit points for the additional provisional class.

Example for par (b)

If a person incurs the prescribed number of demerit points for a provisional licence held by the person and, before a notice of licence suspension takes effect, the person is issued with a licence to which section 16 applies (a *full licence*), the regulations may authorise the full licence to be suspended even though the person has not incurred 12 or more demerit points.

- (2) Without limiting subsection (1), a regulation may make provision in relation to—
- (a) warning, suspension and cancellation notices in relation to demerit points; or
 - (b) periods of suspension and periods of inability to obtain a driver licence; or
 - (c) the circumstances when suspension rather than cancellation may be imposed; or
 - (d) disregarding demerit points, or deleting demerit points from the demerit points register, and the circumstances when such action may or must be taken; or
 - (e) other consequences for a person in relation to demerit points incurred by the person.

23 Demerit points incurred but not taken into account for notice of licence suspension etc

- (1) This section applies to—
- (a) demerit points incurred by a person on or before the date of a notice of licence suspension or ineligibility served on the person under this division and that were not taken into account for the notice; and
 - (b) demerit points incurred by the person after the date of the notice and—

- (i) before the period of licence suspension or licence ineligibility applying under the notice begins; or
 - (ii) if the person elects under this division to be of good behaviour for 12 months—before the period of good behaviour begins.
- (2) The demerit points are only taken into account in relation to the person from the end of the period of licence suspension or ineligibility applying under the notice or, if the person elects under this division to be of good behaviour for 12 months, from the end of the good behaviour period.

24 Demerit points not affected by licence suspension etc under another law

- (1) A period of licence suspension under this division is additional to, not concurrent with, any period of licence suspension otherwise imposed under this division or another territory law.
- (2) A period of disqualification from holding or obtaining a driver licence under this division is additional to, not concurrent with, any period of disqualification or licence suspension otherwise imposed under this division or another territory law.
- (3) Demerit points recorded in the demerit points register against a person are not affected by a period of licence suspension or disqualification imposed by a court in Australia or under part 3 or any other territory law.
- (4) This section does not prevent the regulations from requiring the road transport authority to take into account an earlier period of suspension ended by a disqualification in deciding whether to issue a new driver licence to a person who has completed the period of disqualification.

25 Issue of licence suspension notice etc

The road transport authority may give a notice of suspension or licence ineligibility to a person under this division without giving the person an opportunity to make representations about why the notice should not be given.

Division 2.4 Regulations

26 Regulation-making power

- (1) The Executive may make regulations for this Act.

Note A regulation must be notified, and presented to the Legislative Assembly, under the Legislation Act.

- (2) A regulation may prescribe offences for contraventions of a regulation and prescribe maximum penalties of not more than 20 penalty units for offences.

27 Regulations may apply certain documents etc

- (1) A regulation may apply a publication of the National Transport Commission approved, or of matters approved, by the Australian Transport Council or any other instrument as in force from time to time.

Note 1 The text of an applied, adopted or incorporated law or instrument, whether applied as in force from time to time or as at a particular time, is taken to be a notifiable instrument if the operation of the Legislation Act, s 47 (5) or (6) is not disapplied (see s 47 (7)).

Note 2 A notifiable instrument must be notified under the Legislation Act.

- (2) For a regulation, a regulation may define a term defined by this Act (or apply the definition of a term in an instrument mentioned in subsection (1))—
 - (a) in the same (or in substantially the same) way as it is defined by this Act; or

- (b) by reference to a matter included in the term as defined by this Act; or
 - (c) by reference to a combination of matters included in the term as defined by this Act and in any other term defined by this Act; or
 - (d) for applying a publication of the National Transport Commission approved, or of matters approved, by the Australian Transport Council—in the same way as it is defined in the publication despite anything in this Act or other road transport legislation.
- (3) In this section:

publication of the National Transport Commission includes—

- (a) a document published by or for the National Road Transport Commission under the *National Road Transport Commission Act 1991* (Cwlth); and
- (b) a document published for the National Transport Commission.

Note The Commonwealth Act mentioned in par (a) has been repealed and replaced by the *National Transport Commission Act 2003* (Cwlth).

28 Driver licensing system

- (1) The regulations are to provide for a system of licensing drivers of motor vehicles used on roads or road related areas that provides a way of authorising the driving of motor vehicles on roads and road related areas and identifying people as licensed drivers of motor vehicles.
- (2) Without limiting the scope of regulations under subsection (1), a regulation may—
 - (a) make provision in relation to—
 - (i) the issue or refusal to issue driver licences; and
 - (ii) the renewal and the refusal to renew driver licences; and

- (iii) the imposition of conditions on driver licences; and
- (iv) the replacement of and refusal to replace driver licences;
and
- (b) make provision in relation to the cancellation, variation and suspension of driver licences; and
- (c) fix the periods for which a driver licence or renewal remains in force; and
- (d) require the production of information by—
 - (i) applicants for driver licences or for renewals or variation of driver licences; or
 - (ii) holders of driver licences; and
- (e) make provision in relation to the recognition by the road transport authority of things done under a corresponding law; and
- (f) provide that this Act, or a stated provision of this Act, does not apply, or ceases to apply, to people prescribed by regulation; and
- (g) provide that people prescribed by regulation are exempt from this Act or a stated provision of this Act; and
- (h) allow the road transport authority to revoke, in the way and in circumstances prescribed by regulation, an exemption given under a regulation made for paragraph (g); and
- (i) prescribe different classes and kinds of driver licences, grade each class or kind by reference to the driving skills required for the class or kind, and prescribe the eligibility criteria for the issue of each class or kind of licence; and
- (j) allow the road transport authority to exempt people from holding a driver licence (whether or not subject to conditions imposed by the authority); and

- (k) make provision in relation to the keeping of the driver licence register or demerit points register; and
- (l) prescribe the circumstances in which driver licences must be surrendered or returned to the road transport authority; and
- (m) make provision in relation to the disclosure of personal information in the driver licence register or demerit points register; and
- (n) make provision in relation to competency-based assessment schemes relating to driver licensing; and
- (o) require people who are—
 - (i) applicants for driver licences or for renewal or variation of driver licences; and
 - (ii) holders of driver licences; and
 - (iii) people exempted by regulation from holding a driver licence;
to submit to tests or medical or other examinations to assess fitness to obtain, hold or continue to hold a driver licence, a varied driver licence or an exemption from holding a driver licence; and
- (p) require the holder of an Australian driver licence issued under the law of another jurisdiction to submit to tests or medical or other examinations to assess the person's fitness to drive in the ACT; and
- (q) make provision in relation to driver training schemes; and
- (r) make provision in relation to the accreditation of driving instructors, including the conduct and content of driving instruction and examinations; and

- (s) require a person convicted or found guilty of a disqualifying offence, that relates to alcohol, against the *Road Transport (Alcohol and Drugs) Act 1977* to complete a course approved by the road transport authority about the effects of alcohol, including its effects on driving and health; and
 - (t) require a person convicted or found guilty of a disqualifying offence, that relates to a prescribed drug, against the *Road Transport (Alcohol and Drugs) Act 1977* to complete a course approved by the road transport authority about the effects of drugs, including their effects on driving and health.
- (3) The kinds of driver licence that may be prescribed include, but are not limited to, conditional licences, learner licences, probationary licences, provisional licences, public vehicle licences and restricted licences.

Part 3 Offences

Note For offences in relation to false or misleading statements, information or documents, see the Criminal Code, pt 3.4

29 **Obtaining licence by false statements etc**

- (1) A person must not—
- (a) by a false statement, a misrepresentation or other dishonest means obtain a driver licence (including a driver licence as varied) or the renewal of a driver licence; or
 - (b) without lawful authority or excuse, possess an Australian driver licence or external driver licence obtained or renewed (whether in the ACT or elsewhere) using those means.

Maximum penalty: 20 penalty units.

- (2) A driver licence so obtained or renewed is void, and the road transport authority may alter the driver licence register accordingly.

30 **Unlawful possession of licence etc**

- (1) A person must not, without lawful authority or excuse, possess—
- (a) an Australian driver licence or external driver licence issued to someone else; or
 - (b) an Australian driver licence or external driver licence that has been forged, fraudulently changed or changed in a way calculated to deceive; or
 - (c) anything resembling an Australian driver licence or external driver licence that is calculated to deceive.

Maximum penalty: 20 penalty units.

- (2) A person must not—
- (a) forge or fraudulently change or use an Australian driver licence or external driver licence; or
 - (b) fraudulently lend or allow to be used by someone else an Australian driver licence or external driver licence.

Maximum penalty: 20 penalty units.

- (3) A person must not change an Australian driver licence or external driver licence in a way calculated to deceive.

Maximum penalty: 20 penalty units.

- (4) A person must not, without lawful authority or excuse, deface, damage, or otherwise interfere with, an Australian driver licence or external driver licence.

Maximum penalty: 20 penalty units.

31 Driver must be licensed

- (1) A person must not drive a motor vehicle on a road or road related area unless the person—
- (a) is the holder of an Australian driver licence that authorises the person to drive a motor vehicle of that kind; or
 - (b) is exempted by regulation from holding an Australian driver licence.

Maximum penalty: 20 penalty units.

- (2) A person who is not, and never has been, the holder of an Australian driver licence must not drive a motor vehicle on a road or road related area unless the person is exempted by regulation from holding an Australian driver licence.

Maximum penalty:

- (a) for a first offender—20 penalty units; or

(b) for a repeat offender—50 penalty units, imprisonment for 6 months or both.

(3) If—

(a) a court convicts a person of an offence against subsection (2);
and

(b) the person is a repeat offender;

the person is automatically disqualified from obtaining a driver licence for 3 years or, if the court orders a longer period, the longer period.

(4) A disqualification under this section is in addition to any penalty imposed for the offence.

Note Under the *Road Transport (General) Act 1999*, s 66 (1) the disqualification of a person from holding or obtaining a driver licence (whether or not by order of a court) operates to cancel any driver licence held by the person.

(5) For subsections (2) and (7), a person is taken to never to have been the holder of an Australian driver licence if the person has not held an Australian driver licence at any time within 5 years before being convicted, or found guilty, of the offence concerned.

(6) For subsections (2) and (3):

(a) a person who is convicted of an offence against subsection (2) (the **current offence**) is a **repeat offender** in relation to the current offence if the person has been convicted, or found guilty, of an offence against the subsection within 5 years before being convicted of the current offence; and

(b) a person who is convicted of an offence against subsection (2) is a **first offender** in relation to the offence if the person is not a repeat offender in relation to the offence.

(7) A person who has never been the holder of an Australian driver licence cannot be convicted or found guilty of an offence against

both this section and section 32 in relation to driving a motor vehicle on the same occasion.

- (8) However, this section does not prevent the person from being convicted or found guilty of an offence against section 32 in relation to driving a motor vehicle that is an offence against this section.
- (9) A person cannot be convicted or found guilty against both subsections (1) and (2) in relation to driving a motor vehicle on the same occasion.
- (10) However, a person charged with an offence against subsection (2) can be convicted or found guilty instead of an offence against subsection (1), but a person charged with an offence against subsection (1) cannot be convicted or found guilty instead of an offence against subsection (2).

Note 1 The offences in this section do not apply to a police officer, authorised person or authorised assistant who is driving a heavy vehicle or heavy combination under the *Road Transport (Mass, Dimensions and Loading) Act 2009*, s 318. Under that section, a heavy vehicle or heavy combination may be moved if it is on a road or road related area, is unattended or broken-down and is causing (or is likely to cause) either serious harm to public safety, the environment or road infrastructure or an obstruction to traffic.

Note 2 The offences in this section do not apply to a person who is running the engine of a heavy vehicle or heavy combination under the *Road Transport (Mass, Dimensions and Loading) Act 2009*, s 339. Under that section, a person may run the engine of a heavy vehicle or heavy combination to assist with powers of enforcement.

31A Offence—driving while right to drive suspended

- (1) A person commits an offence if—
 - (a) the person's right to drive is suspended under a law of the territory; and

(b) the person drives a vehicle in the ACT.

Maximum penalty: 20 penalty units.

(2) An offence against this section is a strict liability offence.

32 Offences committed by disqualified drivers etc

(1) A person who is disqualified by a court in Australia or under the law of any jurisdiction from holding or obtaining an Australian driver licence must not—

(a) drive a motor vehicle on a road or road related area during the period of disqualification except in accordance with a restricted licence issued to the person; or

(b) apply for a driver licence during the period of disqualification and in, or in relation to, the application omit to mention the disqualification.

Maximum penalty:

(a) for a first offender—50 penalty units, imprisonment for 6 months or both; or

(b) for a repeat offender—100 penalty units, imprisonment for 1 year or both.

(2) A person whose Australian driver licence is suspended by a court in Australia or under the law of any jurisdiction must not—

(a) drive a motor vehicle on a road or road related area during the period of suspension except in accordance with a restricted licence issued to the person; or

(b) apply for a driver licence during the period of suspension and in, or in relation to, the application omit to mention the suspension.

Maximum penalty:

(a) for a first offender—50 penalty units, imprisonment for 6 months or both; or

- (b) for a repeat offender—100 penalty units, imprisonment for 1 year or both.
- (3) A person whose application for an Australian driver licence is refused in any jurisdiction, or whose Australian driver licence is cancelled by a court in Australia or under the law of any jurisdiction (other than under the *Road Transport (General) Act 1999*, section 66 (1) or a corresponding provision of the law of another jurisdiction), must not—
 - (a) drive a motor vehicle on a road or road related area without having subsequently obtained an Australian driver licence; or
 - (b) apply for a driver licence and in, or in relation to, the application omit to mention the refusal or cancellation.

Maximum penalty:

- (a) for a first offender—50 penalty units, imprisonment for 6 months or both; or
- (b) for a repeat offender—100 penalty units, imprisonment for 1 year or both.
- (4) A regulation may provide that subsection (1), (2) or (3) does not apply to the driving of a motor vehicle in circumstances prescribed by regulation.
- (5) If a court convicts a person of an offence against subsection (1), (2) or (3), the person is automatically disqualified from holding or obtaining a driver licence—
 - (a) for a first offender—for 12 months or, if the court orders a longer period, the longer period; or
 - (b) for a repeat offender—for 24 months or, if the court orders a longer period, the longer period.

Note Under the *Road Transport (General) Act 1999*, s 66 (1) the disqualification of a person from holding or obtaining a driver licence (whether or not by order of a court) operates to cancel any driver licence held by the person.

- (6) If a person is already disqualified from holding or obtaining a driver licence, or the person's driver licence is suspended, the disqualification takes effect at the end of the disqualification or suspension.
- (7) A disqualification under this section is in addition to any penalty imposed for the offence.
- (8) In this section—
 - (a) a person who is convicted of an offence against this section (the *current offence*) is a *repeat offender* in relation to the current offence if the person has been convicted, or found guilty, of an offence against this section within 5 years before being convicted of the current offence; and
 - (b) a person who is convicted of an offence against this section is a *first offender* in relation to the offence if the person is not a repeat offender in relation to the offence.

33 Contravention of conditions of restricted licence

- (1) The holder of a restricted licence must not, without reasonable excuse, contravene a condition to which the licence is subject.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.
- (2) If the holder of a restricted licence is convicted, or found guilty, by a court of an offence against subsection (1), the licence is automatically cancelled unless the court orders otherwise.
- (3) If the licence is cancelled under subsection (2), the cancellation takes effect from the time of the conviction or finding or, if the court orders a later date, on the later date.
- (4) Subsection (2) does not apply if the licence is cancelled under another provision of the road transport legislation.

Note Under the *Road Transport (General) Act 1999*, s 66 (1) the disqualification of a person from holding or obtaining a driver licence

(whether or not by order of a court) operates to cancel any driver licence held by the person.

- (5) The holder of a licence cancelled under subsection (2) is disqualified from applying for, or being issued with, another restricted licence for the remainder of the period for which the person was originally disqualified from holding or obtaining a driver licence.

Part 4 Protection of photographs and signatures

34 Application of pt 4

This part applies to photographs and signatures taken by the road transport authority, or given to the authority, in relation to applications for the issue, replacement, renewal or variation by the authority of a driver licence or proof of age card.

35 Definitions for pt 4

In this part:

photograph means a photograph to which this part applies, and includes a copy of a photograph.

Note **Photograph** includes a digitised, electronic or computer generated image in a form approved by the road transport authority (see the dict).

signature means a signature to which this part applies, and includes a copy of a signature.

36 Use of photographs and signatures

- (1) The road transport authority may use a photograph or signature only for 1 or more of the following purposes:
 - (a) for a photograph—to reproduce the likeness of a person on a driver licence or proof of age card issued to the person;
 - (b) for a signature—to reproduce a person's signature on a driver licence or proof of age card issued to the person;
 - (c) to assist in establishing the identity of a person to decide whether to issue, replace, renew or vary a driver licence or proof of age card;
 - (d) to assist in establishing the identity of a person to decide whether to register, or renew, vary or transfer the registration

of, a vehicle under the *Road Transport (Vehicle Registration) Act 1999* or to replace a certificate of registration under that Act;

- (e) in relation to the investigation of, or the conduct of a criminal proceeding for, an offence against the *Dangerous Goods (Road Transport) Act 2009* or the road transport legislation;
- (f) for a signature—any other purpose related to the administration of the road transport legislation;
- (g) a purpose prescribed by regulation or allowed by another law in force in the ACT.

Note The information Privacy Principles apply to the road transport authority. Principle 10 states when personal information may be used by an agency (see *Privacy Act 1988* (Cwlth), s 14).

- (2) A photograph or signature may be used for a purpose mentioned in this section at the time that the photograph or signature is taken by, or given to, the road transport authority or at any later time.

37 Disclosure of photographs and signatures by road transport authority

- (1) The road transport authority must ensure that a photograph or signature is not disclosed by the authority to someone else except—
 - (a) to a police officer; or
 - (b) to an entity of another jurisdiction that corresponds to the road transport authority; or
 - (c) for a purpose in relation to the investigation of, or the conduct of, a criminal proceeding for an offence against the *Dangerous Goods (Road Transport) Act 2009*, the road transport legislation or in relation to a proof of age card; or
 - (d) to a court officer for the recovery of a fine (including proceedings under the *Crimes (Sentence Administration) Act 2005*, chapter 6A (Court imposed fines)); or

- (e) for a photograph—to the person shown in the photograph; or
- (f) for a signature—to the person who made the signature; or
- (g) to a person, or for a purpose, prescribed by regulation or in accordance with another law in force in the ACT.

Note 1 The Information Privacy Principles apply to the road transport authority. Principle 11 states when personal information may be disclosed by an agency (see *Privacy Act 1988* (Cwlth), s 14).

Note 2 Access to photographs and signatures may be sought under the *Freedom of Information Act 1989* (which also provides that certain information is exempt from disclosure).

- (2) A regulation may limit the people to whom, the purposes for which, or the circumstances when, a photograph or signature may be disclosed under subsection (1) (a) to (d).
- (3) In this section:

court officer means a person who is—

- (a) the sheriff or a deputy sheriff under the *Supreme Court Act 1933*, another officer of the Supreme Court or a public servant assisting the sheriff; or
- (b) the registrar, a deputy registrar or a bailiff under the *Magistrates Court Act 1930* or a member of the staff of the Magistrates Court assisting the registrar.

fine—see the *Crimes (Sentence Administration) Act 2005*, section 116A.

38 Security of photographs and signatures

- (1) The road transport authority must ensure that photographs and signatures are kept securely.

Note The Information Privacy Principles apply to the road transport authority. Principle 4 states requirements about the storage and security of personal information (see *Privacy Act 1988* (Cwlth), s 14).

- (2) A regulation may make provision in relation to the keeping of photographs and signatures.

39 Unauthorised reproduction of photographs and signatures

- (1) This section applies to a person (a *record keeper*) who is employed or engaged in relation to any aspect of the production of driver licences or proof of age cards or who is otherwise involved in the administration or enforcement of the road transport legislation.
- (2) A record keeper must not reproduce (by photographic or other means) the likeness of the person who is shown (or is to be shown) on a driver licence or proof of age card other than—
- (a) for the administration or enforcement of—
 - (i) the road transport legislation; or
 - (ii) the *Liquor Act 2010*, section 210 (Proof of age cards); or
 - (b) in accordance with, or for any other purpose mentioned in, section 36 or section 37.

Maximum penalty: 20 penalty units.

- (3) A record keeper must not reproduce (by any means) the signature of the person to whom a driver licence or proof of age card is issued (or is to be issued) other than—
- (a) for the administration or enforcement of—
 - (i) the road transport legislation; or
 - (ii) the *Liquor Act 2010*, section 210 (Proof of age cards); or
 - (b) in accordance with, or for any other purpose mentioned in, section 36 or section 37.

Maximum penalty: 20 penalty units.

Part 5 Miscellaneous

40 **Additional matters about identity**

The road transport authority may refuse to issue, replace, renew or vary a driver licence or proof of age card if—

- (a) the applicant has not gone to a place designated by the road transport authority and had a photograph taken, by a person authorised by the authority to take photographs for this Act, that is suitable for use on the driver licence or proof of age card; or
- (b) in the authority's opinion it is impracticable for the applicant to go to a designated place and the applicant has not given the authority a photograph of the applicant that the authority considers is suitable for use on the driver licence or proof of age card; or
- (c) the applicant has not given, in support of the application, evidence that is required by regulation or by the authority to establish the applicant's identity or home address.

41 **Effect of expiry of driver licence during a suspension period**

If a person's driver licence expires while it is suspended under this Act or any other territory law—

- (a) the person is not eligible to apply for, or be issued with, another driver licence during the unexpired part of the suspension period; and
- (b) the person's driver licence is taken to be suspended during the unexpired part of the suspension period for any provision of this Act or any other territory law that creates an offence in relation to driving a motor vehicle, or applying for a driver licence, while a person's driver licence is suspended.

42 References to Motor Traffic Act etc

In any Act or document, a reference to the *Motor Traffic Act 1936* or the *Motor Traffic Regulations 1934* is, in relation to anything to which this Act applies, a reference to this Act.

Note A reference to an Act includes a reference to the statutory instruments made or in force under the Act (see the Legislation Act, s 104).

Dictionary

(see s 4)

Note 1 The Legislation Act contains definitions and other provisions relevant to this Act.

Note 2 For example, the Legislation Act, dict, pt 1, defines the following terms:

- ACT
- exercise
- function
- instrument.

Note 3 The *Road Transport (General) Act 1999* contains definitions relevant to this Act. For example, the following terms are defined in the *Road Transport (General) Act 1999*, dictionary:

- another jurisdiction
- Australian Transport Council
- driver
- jurisdiction
- motor vehicle
- National Transport Commission
- ride
- road transport authority (or authority) (see s 16)
- road transport legislation (see s 6)
- trailer
- use (in relation to a vehicle).

Note 4 If a word or expression is defined in an Act (but not a regulation or another publication) included in the road transport legislation, the definition applies to each use of the word or expression in other road transport legislation unless the contrary intention appears (see *Road Transport (General) Act 1999*, s 8).

additional provisional class, in relation to an Australian driver licence (including a provisional licence) of a particular class, means any other class of licence that is shown on the licence as a provisional class.

administering authority, for a demerit points offence, means the entity that, under the regulations made under the *Road Transport (General) Act 1999*, is the administering authority for the offence.

Australian driver licence means—

- (a) a driver licence; or
- (b) a licence (including a conditional licence, learner licence, probationary licence, provisional licence or restricted licence or a driver licence receipt) issued under the law of another jurisdiction authorising the holder to drive a motor vehicle on a road or road related area.

class, of a driver licence, means a class of driver licence prescribed by regulation.

conditional licence means an Australian driver licence that is subject to a condition imposed by the road transport authority or the licensing authority of another jurisdiction.

corresponding law means a law of another jurisdiction under which authority is given to drive motor vehicles on roads or road related areas.

demerit points offence—see section 13 (Meaning of *demerit points offence*).

demerit points register means the register required to be kept under section 6 (c) (Functions of road transport authority).

drive a vehicle includes—

- (a) be in control of the steering, movement or propulsion of the vehicle; and
- (b) if the vehicle is a trailer—draw or tow the vehicle; and
- (c) if the vehicle can be ridden—ride the vehicle.

driver licence means—

- (a) a licence (including a conditional licence, learner licence, probationary licence, provisional licence or restricted licence) issued under this Act authorising the holder to drive a motor vehicle on a road or road related area; or
- (b) a driver licence receipt issued under this Act.

driver licence receipt means a receipt that—

- (a) is issued following an application for an Australian driver licence and after payment of any applicable fee; and
- (b) authorises the holder to drive a motor vehicle on a road or road related area.

driver licence register means the register required to be kept under section 6 (b) (Functions of road transport authority).

external driver licence means—

- (a) an external territory driver licence; or
- (b) a foreign driver licence.

external territory driver licence means a licence to drive a motor vehicle (however described) issued under the law of an external territory.

foreign driver licence means a licence to drive a motor vehicle (however described) issued under the law of a foreign country.

incur, demerit points for an offence—see section 13B (2) (When demerit points are *incurred*).

infringement notice—

- (a) means a notice served under the *Road Transport (General) Act 1999*, section 24 (Service of infringement notices generally) or 36 (Service of infringement notices on responsible people for vehicles); and

- (b) includes a notice (however described) served on a person under the law of another jurisdiction that gives the person the option of paying an amount for an offence instead of being charged with the offence.

infringement notice penalty—

- (a) see the *Road Transport (General) Act 1999*, dictionary; and
- (b) includes an amount payable under an infringement notice served on a person under the law of another jurisdiction.

learner licence means an Australian driver licence issued to a person under the law of any jurisdiction that authorises the person to drive a motor vehicle on a road or road related area for the purpose of learning to drive.

licensing authority, for another jurisdiction, means the entity that has functions under the law of the other jurisdiction corresponding to the functions of the road transport authority under this Act.

national schedule of demerit points means the offences, and the number of demerit points incurred for each offence, prescribed by regulation under the *Road Transport (General) Act 1999* as the national schedule of demerit points.

photograph—

- (a) includes a digitised, electronic or computer generated image in a form approved by the road transport authority; and
- (b) for part 4 (Protection of photographs and signatures)—see section 35.

probationary licence means—

- (a) a driver licence, other than a learner licence, issued under this Act to a person who applies for a driver licence after a period of disqualification (whether or not by court order) from holding or obtaining an Australian driver licence; or

- (b) an equivalent Australian driver licence issued under a corresponding law.

proof of age card means a proof of age card issued under the *Liquor Act 2010*, section 210 (Proof of age cards).

provisional licence means an Australian driver licence issued as a provisional licence, but does not include an Australian driver licence that includes an additional provisional class merely because it includes the additional provisional class.

public vehicle means a public passenger vehicle under the *Road Transport (Public Passenger Services) Act 2001*.

Note A public passenger vehicle is a public bus, taxi, hire car or demand responsive service vehicle.

public vehicle licence means a driver licence that authorises the person to drive a public vehicle for hire or reward.

restricted licence means an Australian driver licence, issued under the authority of a court in Australia, that authorises the holder to drive only in the course of his or her employment or in other restricted circumstances.

road means an area that is open to or used by the public and is developed for, or has as 1 of its main uses, the driving or riding of motor vehicles, but does not include an area that would otherwise be a road so far as a declaration under the *Road Transport (General) Act 1999*, section 12 (Power to include or exclude areas in road transport legislation) declares that this Act does not apply to the area.

road related area means—

- (a) an area that divides a road; or
- (b) a footpath or nature strip adjacent to a road; or
- (c) an area that is open to the public and is designated for use by cyclists or animals; or

- (d) an area that is not a road and that is open to or used by the public for driving, riding, or parking vehicles; or
- (e) a shoulder of a road; or
- (f) any other area that is open to or used by the public so far as a declaration under the *Road Transport (General) Act 1999*, section 12 (Power to include or exclude areas in road transport legislation) declares that this Act applies to the area;

but does not include an area that would otherwise be a road related area so far as a declaration under that section declares that this Act does not apply to the area.

signature, for part 4 (Protection of photographs and signatures)—see section 35.

vehicle means—

- (a) any description of vehicle on wheels, other than a vehicle used on a railway or tramway; or
- (b) any other vehicle prescribed by regulation.

Endnotes

1 About the endnotes

Amending and modifying laws are annotated in the legislation history and the amendment history. Current modifications are not included in the republished law but are set out in the endnotes.

Not all editorial amendments made under the *Legislation Act 2001*, part 11.3 are annotated in the amendment history. Full details of any amendments can be obtained from the Parliamentary Counsel's Office.

Uncommenced amending laws are not included in the republished law. The details of these laws are underlined in the legislation history. Uncommenced expiries are underlined in the legislation history and amendment history.

If all the provisions of the law have been renumbered, a table of renumbered provisions gives details of previous and current numbering.

The endnotes also include a table of earlier republications.

2 Abbreviation key

A = Act	NI = Notifiable instrument
AF = Approved form	o = order
am = amended	om = omitted/repealed
amdt = amendment	ord = ordinance
AR = Assembly resolution	orig = original
ch = chapter	par = paragraph/subparagraph
CN = Commencement notice	pres = present
def = definition	prev = previous
DI = Disallowable instrument	(prev...) = previously
dict = dictionary	pt = part
disallowed = disallowed by the Legislative Assembly	r = rule/subrule
div = division	reloc = relocated
exp = expires/expired	renum = renumbered
Gaz = gazette	R[X] = Republication No
hdg = heading	RI = reissue
IA = Interpretation Act 1967	s = section/subsection
ins = inserted/added	sch = schedule
LA = Legislation Act 2001	sdiv = subdivision
LR = legislation register	SL = Subordinate law
LRA = Legislation (Republication) Act 1996	sub = substituted
mod = modified/modification	<u>underlining</u> = whole or part not commenced or to be expired

Endnotes

3 Legislation history

3 Legislation history

Road Transport (Driver Licensing) Act 1999 No 78

notified 23 December 1999 (Gaz 1999 No S65)

commenced 1 March 2000 (s 2 and Gaz 2000 No S5)

as amended by

Road Transport Legislation Amendment Act 2001 No 27 sch 3

notified 24 May 2001 (Gaz 2001 No 21)

s 1, s 2 commenced 24 May 2001 (IA s 10B)

sch 3 commenced 24 May 2001 (s 2)

Legislation (Consequential Amendments) Act 2001 No 44 pt 338

notified 26 July 2001 (Gaz 2001 No 30)

s 1, s 2 commenced 26 July 2001 (IA s 10B)

pt 338 commenced 12 September 2001 (s 2 and see Gaz 2001 No S65)

Road Transport (Public Passenger Services) Act 2001 No 62 pt 1.4

notified 10 September 2001 (Gaz 2001 No S66)

s 1, s 2 commenced 10 September 2001 (IA s 10B)

pt 1.4 commenced 1 December 2001 (s 2 and CN 2001 No 2)

Road Transport (Driver Licensing) Amendment Act 2002 No 5

notified LR 14 March 2002

commenced 15 March 2002 (s 2)

Road Transport Legislation Amendment Act 2002 No 23 pt 2

notified LR 9 September 2002

s 1, s 2 commenced 9 September 2002 (LA s 75)

ss 3-7 commenced 10 September 2002 (s 2 (1))

s 8, s 9 commenced 17 September 2002 (s 2 (2) and see Statute Law Amendment Act 2002 s 2 (1))

Statute Law Amendment Act 2002 No 30 pt 3.66

notified LR 16 September 2002

s 1, s 2 taken to have commenced 19 May 1997 (LA s 75 (2))

pt 3.66 commenced 17 September 2002 (s 2 (1))

Statute Law Amendment Act 2002 (No 2) No 49 pt 3.21

notified LR 20 December 2002

s 1, s 2 taken to have commenced 7 October 1994 (LA s 75 (2))

pt 3.21 commenced 17 January 2003 (s 2 (1))

Criminal Code 2002 No 51 pt 1.17

notified LR 20 December 2002

s 1, s 2 commenced 20 December 2002 (LA s 75)

pt 1.17 commenced 1 January 2003 (s 2 (1))

Criminal Code (Theft, Fraud, Bribery and Related Offences) Amendment Act 2004 A2004-15 sch 2 pt 2.79

notified LR 26 March 2004

s 1, s 2 commenced 26 March 2004 (LA s 75 (1))

sch 2 pt 2.79 commenced 9 April 2004 (s 2 (1))

Court Procedures (Consequential Amendments) Act 2004 A2004-60 sch 1 pt 1.66

notified LR 2 September 2004

s 1, s 2 commenced 2 September 2004 (LA s 75 (1))

sch 1 pt 1.66 commenced 10 January 2005 (s 2 and see Court Procedures Act 2004 A2004-59, s 2 and CN2004-29)

Road Transport (Public Passenger Services) (Hire Cars) Amendment Act 2004 A2004-69 pt 4

notified LR 9 September 2004

s 1, s 2 commenced 9 September 2004 (LA s 75 (1))

pt 4 commenced 9 March 2005 (s 2 and LA s 79)

Statute Law Amendment Act 2005 A2005-20 sch 3 pt 3.55

notified LR 12 May 2005

s 1, s 2 taken to have commenced 8 March 2005 (LA s 75 (2))

sch 3 pt 3.55 commenced 2 June 2005 (s 2 (1))

Road Transport (Third-Party Insurance) Act 2008 A2008-1 sch 1 pt 1.5 (as am by A2008-39 s 4)

notified LR 26 February 2008

s 1, s 2 commenced 26 February 2008 (LA s 75 (1))

sch 1 pt 1.5 commenced 1 October 2008 (s 2 as am by A2008-39 s 4)

Endnotes

3 Legislation history

Road Transport (Third-Party Insurance) Amendment Act 2008 A2008-39

notified LR 22 August 2008

s 1, s 2 commenced 22 August 2008 (LA s 75 (1))

remainder commenced 23 August 2008 (s 2)

Note This Act only amends the Road Transport (Third-Party Insurance) Act 2008 A2008-1.

Road Transport Legislation Amendment Act 2009 A2009-5 pt 2

notified LR 4 March 2009

s 1, s 2 commenced 4 March 2009 (LA s 75 (1))

pt 2 commenced 8 March 2009 (s 2 and CN2009-6)

Road Transport (Mass, Dimensions and Loading) Act 2009 A2009-22 sch 1 pt 1.3

notified LR 3 September 2009

s 1, s 2 commenced 3 September 2009 (LA s 75 (1))

sch 1 pt 1.3 commenced 3 March 2010 (s 2 and LA s 79)

Statute Law Amendment Act 2010 A2010-18 sch 3 pt 3.12

notified LR 13 May 2010

s 1, s 2 commenced 13 May 2010 (LA s 75 (1))

sch 3 pt 3.12 commenced 3 June 2010 (s 2)

Crimes (Sentence Administration) Amendment Act 2010 A2010-21 sch 1 pt 1.7

notified LR 30 June 2010

s 1, s 2 commenced 30 June 2010 (LA s 75 (1))

sch 1 pt 1.7 commenced 1 July 2010 (s 2)

Liquor (Consequential Amendments) Act 2010 A2010-43 sch 1 pt 1.17

notified LR 8 November 2010

s 1, s 2 commenced 8 November 2010 (LA s 75 (1))

sch 1 pt 1.17 commenced 1 December 2010 (s 2 (4) and see Liquor Act 2010 A2010-35, s 2 (3) (as am by A2010-43 amdt 1.19) and CN2010-14)

Road Transport (Alcohol and Drugs) Legislation Amendment Act 2010 A2010-47 pt 3

notified LR 25 November 2010

s 1, s 2 commenced 25 November 2010 (LA s 75 (1))

pt 3 commenced 25 November 2011 (s 2)

Road Transport Legislation Amendment Act 2011 A2011-14 pt 2

notified LR 11 May 2011

s 1, s 2 commenced 11 May 2011 (LA s 75 (1))

pt 2 commenced 3 June 2011 (s 2 (1) and CN2011-7)

Endnotes

4 Amendment history

4 Amendment history

Preliminary

pt 1 hdg note am 2001 No 44 amdt 1.3704; 2001 No 62 amdt 1.7
om A2005-20 amdt 3.350

Name of Act

s 1 am A2005-20 amdt 3.351; A2008-1 amdt 1.14; A2009-22
amdt 1.3

Commencement

s 2 om 2001 No 27 amdt 3.23

Objects of Act

s 3 hdg bracketed note exp 17 September 2002 (s 5 (3))
s 3 am 2001 No 44 amdt 1.3705; A2005-20 amdt 3.352

Dictionary

s 4 hdg bracketed note exp 17 September 2002 (s 5 (3))
sub A2005-20 amdt 3.353
s 4 am 2001 No 62 amdt 1.8; A2004-69 s 28

Notes

s 5 hdg bracketed note exp 17 September 2002 (s 5 (3))
s 5 am 2002 No 30 amdt 3.700
(2), (3) exp 17 September 2002 (s 5 (3))

Offence against this Act—application of Criminal Code etc

s 5A ins A2011-14 s 4

Functions of road transport authority generally

div 2.1 hdg sub 2002 No 30 amdt 3.701

Functions of road transport authority

s 6 hdg bracketed note exp 17 September 2002 (s 5 (3))

Keeping of registers

s 8 hdg bracketed note exp 17 September 2002 (s 5 (3))

Security and disclosure of information in registers

s 9 hdg bracketed note exp 17 September 2002 (s 5 (3))
s 9 sub 2002 No 49 amdt 3.224

When road transport authority may issue or renew driver licences

s 10 hdg bracketed note exp 17 September 2002 (s 5 (3))

Mutual recognition of Australian driver licences

s 11 hdg bracketed note exp 17 September 2002 (s 5 (3))
s 11 am 2002 No 49 amdt 3.225

Mutual recognition of demerit points

s 12 hdg bracketed note exp 17 September 2002 (s 5 (3))
 s 12 am 2001 No 27 amdt 3.24
 sub 2002 No 5 s 4

Meaning of *demerit points offence*

s 13 sub 2002 No 5 s 5

Recording of demerit points

s 13A hdg bracketed note exp 17 September 2002 (s 5 (3))
 s 13A ins 2002 No 5 s 5

When demerit points are *incurred*

s 13B ins 2002 No 5 s 5
 (3), (4) exp 15 June 2002 (s 13B (4))

Offences for which demerit points are incurred

s 14 hdg bracketed note exp 17 September 2002 (s 5 (3))
 s 14 am 2001 No 44 amdt 1.3706-1.3710

Warning notices

s 15 hdg bracketed note exp 17 September 2002 (s 5 (3))
 s 15 am 2002 No 30 amdt 3.702

Consequences of incurring demerit points—holder of licence

s 16 hdg bracketed note exp 17 September 2002 (s 5 (3))
 s 16 am A2009-5 s 4; ss renum R15 LA

Consequences of incurring demerit points—applicant for issue or renewal of licence

s 17 hdg bracketed note exp 17 September 2002 (s 5 (3))

Licence suspension

s 18 hdg bracketed note exp 17 September 2002 (s 5 (3))
 s 18 am 2002 No 30 amdt 3.702
 table renum R11 LA

Good behaviour alternative to licence suspension

s 19 hdg bracketed note exp 17 September 2002 (s 5 (3))
 s 19 am 2002 No 30 amdt 3.702; A2011-14 s 5; ss renum R20 LA

Licence ineligibility

s 20 hdg bracketed note exp 17 September 2002 (s 5 (3))
 s 20 am 2002 No 30 amdt 3.702
 table renum R11 LA

Good behaviour alternative to licence ineligibility

s 21 hdg bracketed note exp 17 September 2002 (s 5 (3))
 s 21 am 2002 No 30 amdt 3.702; A2011-14 s 6; ss renum R20 LA

Endnotes

4 Amendment history

Demerit points incurred by learner, probationary, provisional and restricted licence holders etc

s 22 hdg bracketed note exp 17 September 2002 (s 5 (3))
s 22 sub 2002 No 5 s 6

Demerit points incurred but not taken into account for notice of licence suspension etc

s 23 hdg bracketed note exp 17 September 2002 (s 5 (3))

Demerit points not affected by licence suspension etc under another law

s 24 hdg bracketed note exp 17 September 2002 (s 5 (3))
s 24 am A2009-5 s 5

Issue of licence suspension notice etc

s 25 hdg bracketed note exp 17 September 2002 (s 5 (3))
s 25 am A2005-20 amdt 3.354

Regulation-making power

s 26 sub 2001 No 44 amdt 1.3711

Regulations may apply certain documents etc

s 27 sub 2002 No 30 amdt 3.703
am 2002 No 51 amdt 1.35
sub A2005-20 amdt 3.355

Driver licensing system

s 28 hdg bracketed note exp 17 September 2002 (s 5 (3))
s 28 am 2001 No 44 amdt 1.3712; 2002 No 49 amdt 3.225;
A2010-47 s 111

Offences

pt 3 hdg note ins A2004-15 amdt 2.165

Obtaining licence by false statements etc

s 29 hdg bracketed note exp 17 September 2002 (s 5 (3))

Unlawful possession of licence etc

s 30 hdg bracketed note exp 17 September 2002 (s 5 (3))

Driver must be licensed

s 31 hdg bracketed note exp 17 September 2002 (s 5 (3))
s 31 am 2001 No 27 amdts 3.25-3.27; A2009-22 amdt 1.4

Offence—driving while right to drive suspended

s 31A ins A2011-14 s 7

Offences committed by disqualified drivers etc

s 32 hdg bracketed note exp 17 September 2002 (s 5 (3))
s 32 am 2001 No 27 amdts 3.28-3.30
am A2004-15 amdt 2.166, amdt 2.167; ss renum R9 LA (see
A2004-15 amdt 2.168)

Contravention of conditions of restricted licence

s 33 hdg bracketed note exp 17 September 2002 (s 5 (3))

Protection of photographs and signatures

pt 4 hdg orig pt 4 hdg renum as pt 5 hdg
(prev pt 3A hdg) ins 2002 No 23 s 4
renum 2002 No 23 s 8

Application of pt 3A

s 33A renum as s 34

Definitions for pt 3A

s 33B renum as s 35

Use of photographs and signatures

s 33C renum as s 36

Disclosure of photographs and signatures by road transport authority

s 33D renum as s 37

Security of photographs and signatures

s 33E renum as s 38

Unauthorised reproduction of photographs and signatures

s 33F renum as s 39

Application of pt 4

s 34 orig s 34 renum as s 40
(prev s 33A) ins 2002 No 23 s 4
renum 2002 No 23 s 9

Definitions for pt 4

s 35 orig s 35 renum as s 41
(prev s 33B) ins 2002 No 23 s 4
renum 2002 No 23 s 9
def **photograph** ins 2002 No 23 s 4
def **signature** ins 2002 No 23 s 4

Use of photographs and signatures

s 36 orig s 36 renum as s 42
(prev s 33C) ins 2002 No 23 s 4
renum 2002 No 23 s 9
am A2011-14 s 8

Endnotes

4 Amendment history

Disclosure of photographs and signatures by road transport authority

s 37 orig s 37 renum as s 43
(prev s 33D) ins 2002 No 23 s 4
renum 2002 No 23 s 9
am A2004-60 amdt 1.628; A2010-21 amdt 1.19, amdt 1.20;
A2011-14 s 9

Security of photographs and signatures

s 38 orig s 38 renum as s 44
(prev s 33E) ins 2002 No 23 s 4
renum 2002 No 23 s 9

Unauthorised reproduction of photographs and signatures

s 39 orig s 39 renum as s 45
(prev s 33F) ins 2002 No 23 s 4
renum 2002 No 23 s 9
am A2010-43 amdt 1.62, amdt 1.63

Miscellaneous

pt 5 hdg orig pt 5 hdg renum as pt 6 hdg
(prev pt 4 hdg) renum 2002 No 23 s 8

Existing licences, suspensions and disqualifications

div 5.1 hdg om 2002 No 30 amdt 3.704

Additional matters about identity

s 40 orig s 40 renum as s 46
(prev s 34) sub 2002 No 23 s 5
renum 2002 No 23 s 9

Effect of expiry of driver licence during a suspension period

s 41 hdg orig s 41 hdg renum as s 47 hdg
(prev s 35 hdg) renum 2002 No 23 s 9
bracketed note exp 17 September 2002 (s 5 (3))
s 41 orig s 41 renum as s 47
(prev s 35) renum 2002 No 23 s 9

References to Motor Traffic Act etc

s 42 orig s 42 renum as s 48
(prev s 36) am 2001 No 44 amdt 1.3713, amdt 1.3714
renum 2002 No 23 s 9

Other matters

div 5.2 hdg exp 1 June 2001 (s 49)

Expiry of div 5.2

s 49 am 2001 No 27 amdt 3.32
exp 1 June 2001 (s 49)

Transitional

pt 6 hdg (prev pt 5 hdg) renum 2002 No 23 s 8
exp 1 March 2006 (s 48)

Definitions for pt 6

- s 43 hdg orig s 43 hdg exp 1 June 2001 (s 49)
(prev s 37 hdg) sub 2002 No 30 amdt 3.705
renum 2002 No 23 s 9
- s 43 orig s 43 exp 1 June 2001 (s 49)
(prev s 37) am 2002 No 30 amdt 3.705
renum 2002 No 23 s 9
exp 1 March 2006 (s 48)

Existing licences

- s 44 orig s 44 exp 1 June 2001 (s 49)
(prev s 38) renum 2002 No 23 s 9
exp 1 March 2006 (s 48)

Existing demerit points

- s 45 orig s 45 exp 1 June 2001 (s 49)
(prev s 39) renum 2002 No 23 s 9
exp 1 March 2006 (s 48)

Existing licence suspensions or disqualifications

- s 46 orig s 46 exp 1 June 2001 (s 49)
(prev s 40) renum 2002 No 23 s 9
exp 1 March 2006 (s 48)

Period a driver licence held

- s 47 orig s 47 exp 1 June 2001 (s 49)
(prev s 41) renum 2002 No 23 s 9
exp 1 March 2006 (s 48)

Expiry of pt 6

- s 48 orig s 48 exp 1 June 2001 (s 49)
(prev s 42) am 2001 No 27 amdt 3.31
sub 2002 No 30 amdt 3.706
renum 2002 No 23 s 9
exp 1 March 2006 (s 48)

Dictionary

- dict am 2002 No 30 amdt 3.707; A2010-18 amdt 3.15
def **administering authority** ins 2002 No 5 s 7
def **another jurisdiction** om A2010-18 amdt 3.16
def **Australian Transport Council** sub A2005-20 amdt 3.356
om A2010-18 amdt 3.16
def **authority** om A2010-18 amdt 3.17
def **demerit points offence** ins 2002 No 5 s 8
def **exercise** om 2002 No 30 amdt 3.708
def **function** om 2002 No 30 amdt 3.708
def **incur** ins 2002 No 5 s 9
def **jurisdiction** om A2010-18 amdt 3.18
def **motor vehicle** om A2010-18 amdt 3.18

Endnotes

4 Amendment history

- def **National Road Transport Commission** om A2005-20
amdt 3.357
- def **National Transport Commission** ins A2005-20
amdt 3.357
om A2010-18 amdt 3.18
- def **photograph** sub 2002 No 23 s 6
- def **proof of age card** ins 2002 No 23 s 7
sub A2010-43 amdt 1.64
- def **public vehicle** sub 2001 No 27 amdt 3.33; 2001 No 62
amdt 1.9; A2004-69 s 29
- def **road** am 2002 No 30 amdt 3.709
- def **road related area** am 2002 No 30 amdt 3.709
- def **road transport authority** om A2010-18 amdt 3.18
- def **road transport legislation** om A2010-18 amdt 3.18
- def **signature** ins 2002 No 23 s 7
- def **the regulations** om 2001 No 44 amdt 1.3715
- def **this Act** om 2001 No 44 amdt 1.3715
- def **trailer** om A2010-18 amdt 3.18
- def **use** om A2010-18 amdt 3.18

5 Earlier republications

Some earlier republications were not numbered. The number in column 1 refers to the publication order.

Since 12 September 2001 every authorised republication has been published in electronic pdf format on the ACT legislation register. A selection of authorised republications have also been published in printed format. These republications are marked with an asterisk (*) in column 1. Electronic and printed versions of an authorised republication are identical.

Republication No	Amendments to	Republication date
1	not amended	1 March 2000
2	Act 2001 No 44	12 September 2001
3	Act 2001 No 62	3 December 2001
4	Act 2002 No 5	15 March 2002
4A	Act 2002 No 5	20 September 2002
5 (RI)	Act 2002 No 23	20 September 2002
6	Act 2002 No 30	20 September 2002
7	Act 2002 No 51	1 January 2003
8*	A2002-49	17 January 2003
9	A2004-15	9 April 2004
10	<u>A2004-69</u>	10 January 2005
11	A2004-69	9 March 2005
12	A2005-20	2 June 2005
13	A2005-20	2 March 2006
14*	A2008-39	1 October 2008
15	A2009-5	8 March 2009
16	A2009-22	3 March 2010
17	A2010-18	3 June 2010
18	A2010-21	1 July 2010
19	A2010-47	1 December 2010
20	A2011-14	3 June 2011

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