



Australian Capital Territory

# **Road Transport (Safety and Traffic Management) Act 1999 No 80**

**Republication No 1A**

**Effective: 2 August 2000 – 13 December 2000**

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Authorised by the ACT Parliamentary Counsel

## **About this republication**

### **The republished law**

This is a republication of the *Road Transport (Safety and Traffic Management) Act 1999* effective from 2 August 2000 to 13 December 2000.

### **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](http://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 (Republication) Act 1996*, part 3, division 2 authorised 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 (Republication) Act 1996*, s 14 and s 16). 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.

In preparing this republication, amendments have not been made under section 13.



Australian Capital Territory

**Road Transport (Safety and Traffic Management) Act 1999**

CONTENTS

PART 1—PRELIMINARY

- 1 Name of Act
- 2 Commencement
- 3 Objects of Act (NSW s 3)
- 4 Definitions—the dictionary (Cwth s 4, NSW s 4)
- 5 Notes (NSW s 7)

PART 2—SPEEDING AND OTHER DANGEROUS DRIVING

*Division 2.1—Speeding and other dangerous driving offences*

- 5A Races, attempts on speed records, speed trials etc (NSW s 40, MTA s 119)
- 5B Burnouts and other prohibited conduct (NSW s 41, MTA s 119AA)
- 6 Negligent driving (NSW s 42 (1), MTA s 129 (1A)-(2), s 130)
- 7 Furious, reckless or dangerous driving (NSW s 42 (2), MTA s 129 (1)-(2), s 147A)
- 8 Menacing driving (NSW s 43)

*Division 2.2—Traffic offence evasion articles*

- 9 Sale etc of traffic offence evasion articles (NSW s 48, MTA s 164G, s 164H)
- 10 Surrender and forfeiture of traffic offence evasion articles (NSW s 49, MTA s 164I, s 164J)

*Road Transport (Safety and Traffic Management) Act 1999*

**CONTENTS—continued**

*Division 2.3—Seizure, impounding and forfeiture of  
vehicles for certain offences*

- 10A Impounding or forfeiture of vehicles used in committing certain offences  
(MTA s 139L, NSW RT (Gen) s 40)
- 10B Powers of police officers to seize and impound vehicles used in  
committing certain offences (MTA s 139K, NSW RT (Gen) s 39)
- 10C Registered operator and interested persons to be notified  
(MTA s 139N (1)-(2), NSW RT (Gen) sch 1, cl 2)
- 10D Keeping of vehicles seized under par 10B (1) (a)  
(MTA s 139N (3), NSW RT (Gen) sch 1, cl 3)
- 10E Keeping of vehicles impounded or forfeited under s 10A  
(MTA s 139N (4), NSW RT (Gen) sch 1, cl 4)
- 10F Release of vehicles by chief police officer  
(MTA s 139P, NSW RT (Gen) sch 1, cl 5)
- 10G Release of vehicles by order of Magistrates Court  
(MTA s 139Q, NSW RT (Gen) sch 1, cl 6)
- 10H Safekeeping of vehicles  
(MTA s 139M (2), NSW RT (Gen) sch 1, cl 7)
- 10I Failure to prosecute (NSW RT (Gen) sch 1, cl 8)
- 10J Disposal of vehicles  
(MTA s 139N (5), NSW RT (Gen) sch 1, cl 9)

**PART 3—UNSAFE LOADS**

- 11 Meaning of *loaded unsafely* (NSW s 58 (5))
- 12 Driver of vehicle loaded unsafely  
(NSW s 58 (1), MTA s 189 (1) (j))
- 13 Responsible person for vehicle loaded unsafely  
(NSW s 58 (2)-(3))
- 14 Proceeding against this Part (NSW s 58 (4), (6))

**PART 4—TRAFFIC ACCIDENTS**

- 15 Meaning of *traffic accident*
- 16 Driver or rider to stop and give assistance  
(NSW s 70, MTA s 178, TA s 32)
- 17 Regulations about duties of participants in, and witnesses to,  
traffic accidents (NSW sch 1, cl 6)

**PART 5—TRAFFIC CONTROL DEVICES**

- 18 Authority to install etc prescribed traffic control devices  
(NSW s 51, MTA s 109)
- 19 Offences about traffic control devices (NSW s 52, MTA s 112)
- 20 Removal of unauthorised devices (NSW s 53, s 54)
- 21 Devices generally presumed to be lawfully installed or displayed  
(NSW s 55, MTA s 111)

*Road Transport (Safety and Traffic Management) Act 1999*

**CONTENTS—continued**

22	Notice of intention to challenge certain issues
	<b>PART 6—TRAFFIC OFFENCE DETECTION DEVICES</b>
23	What is a camera detection device? (MTA s 180ZE)
24	Regulations about traffic offence detection devices (MTA s 180ZF)
25	Evidentiary certificates etc (MTA s 180ZG)
26	Interfering with traffic offence detection devices (MTA s 180ZH)
27	Inspection and copies of images produced by traffic offence detection devices (MTA s 180ZI)
28	Notice of intention to challenge certain issues (MTA s 180ZJ)
29	Expiry of pt 6 (MTA s 180ZK)
	<b>PART 7—TRAFFIC MANAGEMENT</b>
30	Road or road related area may be closed temporarily to traffic (NSW s 74)
31	Removal of dangers and obstructions to traffic (NSW s 75, MTA s 202 (3))
32	Removal of unattended vehicles from certain places (NSW s 76, MTA s 202 (3))
	<b>PART 8—REGULATIONS ABOUT SAFETY AND TRAFFIC MANAGEMENT</b>
	<i>Division 8.1—General</i>
33	General regulation-making power (Cwth s 7, NSW s 71, MTA s 218)
34	Regulations may apply certain documents etc (Cwth s 7, NSW s 71, MTA s 218)
35	Regulations may exclude vehicles, people and animals from Act (Cwth s 10, NSW s 72, MTA s 218 (ag))
	<i>Division 8.2—Safety</i>
36	Regulations about safety generally (NSW sch 1, cl 1 (i)-(j))
37	Regulations about safe operation of vehicles (NSW sch 1, cl 3)
38	Regulations about child safety (NSW sch 1, cl 5)
	<i>Division 8.3—Traffic management</i>
39	Regulations about traffic management generally (NSW sch 1, cl 1)
40	Regulations about seizure, impounding etc of vehicles (NSW sch 1, cl 8 (2))
41	Regulations about towing fees (NSW sch 1, cl 4)
	<i>Division 8.4—Parking</i>
42	Regulations about parking (NSW sch 1, cl 2)

*Road Transport (Safety and Traffic Management) Act 1999*

**CONTENTS—continued**

- 43 Regulations about marking tyres (NSW sch 1, cl 8 (1))  
PART 9—MISCELLANEOUS
- 44 References to Motor Traffic Act, Traffic Act etc  
PART 10—TRANSITIONAL
- 45 Definitions for pt 10
- 46 Transitional regulations (NSW s 78)
- 47 Modification of pt 10's operation
- 48 Notices about radar detecting devices etc  
(NSW RT (Gen) sch 2, cl 18)
- 49 Existing traffic signs taken to be approved prescribed traffic  
control devices (NSW RT (Gen) sch 2, cl 9)
- 50 Expiry of pt 10

DICTIONARY

ENDNOTES

- 1 About this republication
- 2 Abbreviation key
- 3 Table of legislation
- 4 Table of amendments
- 5 Table of earlier republications
- 6 Modification of republished Act with temporary effect



Australian Capital Territory

## Road Transport (Safety and Traffic Management) Act 1999

An Act to facilitate the adoption of nationally consistent road rules in the Territory, to make provision about other matters concerning safety and traffic management on roads and road related areas, and for other purposes

### PART 1—PRELIMINARY

*Note* This Act and the regulations made under it form part of the road transport legislation. Other road transport legislation includes the *Road Transport (Alcohol and Drugs) Act 1977*, the *Road Transport (Dimensions and Mass) Act 1990*, the *Road Transport (Driver Licensing) Act 1999*, the *Road Transport (General) Act 1999*, the *Road Transport (Vehicle Registration) Act 1999* and the regulations made under those Acts. As part of the road transport legislation, this Act is subject to various provisions of the *Road Transport (General) Act 1999* about the administration and enforcement of the road transport legislation generally.

#### 1 Name of Act

This Act is the *Road Transport (Safety and Traffic Management) Act 1999*.

#### 2 Commencement

This Act commences on the commencement of the *Road Transport (General) Act 1999*.

#### 3 Objects of Act (NSW s 3)

The objects of this Act are—

*Road Transport (Safety and Traffic Management) Act 1999*

- (a) to provide for a safety and traffic management 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
- (b) to re-enact with some changes certain provisions of the *Motor Traffic Act 1936* about safety and traffic management; and
- (c) to improve road safety and transport efficiency, and reduce the costs of administering road transport.

**4 Definitions—the dictionary** (Cwth s 4, NSW s 4)

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

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

For example, the signpost definition ‘*driver licence*—see the *Road Transport (Driver Licensing) Act 1999*, dictionary’ means the expression ‘driver licence’ is defined in the dictionary to that Act 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 *Interpretation Act 1967*, s 11F and s 11G).

**5 Notes** (NSW s 7)

- (1) A note included in this Act is explanatory and is not part of this Act.
- (2) In this section—

*note* includes material enclosed in brackets in section headings.

*Note* For comparison, a number of sections of this Act contain bracketed notes in their headings drawing attention to equivalent or comparable (though not necessarily identical) provisions of other Acts. Abbreviations in the notes include the following:

- Cwth: *Road Transport Reform (Vehicles and Traffic) Act 1993* (Cwlth)
- MTA: *Motor Traffic Act 1936*, as in force immediately before the commencement of this Act
- NSW: *Road Transport (Safety and Traffic Management) Act 1999* (NSW)
- NSW RT (Gen): *Road Transport (General) Act 1999* (NSW)



*Road Transport (Safety and Traffic Management) Act 1999*

- TA: *Traffic Act 1937*, as in force immediately before the commencement of this Act.

## **PART 2—SPEEDING AND OTHER DANGEROUS DRIVING**

### ***Division 2.1—Speeding and other dangerous driving offences***

*Note* The offence of culpable driving is in section 29 of the *Crimes Act 1900*.

#### **5A Races, attempts on speed records, speed trials etc (NSW s 40, MTA s 119)**

- (1) A person must not, without the road transport authority's written approval, organise, promote or take part in—
- (a) a race between vehicles on a road or road related area; or
  - (b) an attempt to break a vehicle speed record on a road or road related area; or
  - (c) a trial of the maximum speed or acceleration of a vehicle on a road or road related area; or
  - (d) a competitive trial designed to test the skill of a driver, or the reliability or mechanical condition of a vehicle, on a road or road related area.

Maximum penalty: 20 penalty units.

- (2) The road transport authority may—
- (a) give or refuse to give an approval under subsection (1); and
  - (b) impose any condition (whether of general or limited application) on an approval that the authority considers necessary in the interests of public safety and convenience.
- (3) Before giving an approval under subsection (1), the road transport authority must—
- (a) consult the chief police officer; and
  - (b) take reasonable steps to seek, and take into account, the views of anyone who would be, in the authority's opinion, likely to be affected if the approval were granted or refused.
- (4) Failure to comply with paragraph (3) (b) in relation to an approval does not affect the validity of the approval.
- (5) A person taking part in (or the organiser or promoter) of a race, attempt or trial mentioned in subsection (1) must comply with any

condition of an approval given under the subsection for the race, attempt or trial.

Maximum penalty: 20 penalty units.

**5B Burnouts and other prohibited conduct** (NSW s 41, MTA s 119AA)

(1) In this section—

*burnout* means—

- (a) in relation to a motor vehicle other than a motorbike—operate the vehicle in a way that causes the vehicle to undergo sustained loss of traction by 1 or more of the driving wheels; or
- (b) in relation to a motorbike—operate the motorbike in a way that causes the motorbike to undergo sustained loss of traction by the driving wheel.

*other prohibited conduct* means conduct that—

- (a) is associated with the operation of a motor vehicle for speed competitions or other activities prescribed under the regulations; and
- (b) is prescribed under the regulations for subsection (4).

*prohibited substance*, in relation to the burnout of a motor vehicle, means—

- (a) petrol, oil, diesel fuel or any other flammable liquid; or
- (b) any other substance that increases the risk of death, injury or damage to property (including damage to the surface of any road or to any prescribed traffic control device) from the burnout.

(2) The driver of a motor vehicle must not burnout the vehicle on a road or road related area.

Maximum penalty:

- (a) if a prohibited substance had been placed on the surface of the road or road related area under, or near, a tyre of the vehicle—30 penalty units; or
- (b) in any other case—20 penalty units.

(3) In a prosecution for an offence against subsection (2), it is a defence if the driver establishes that the motor vehicle, although operated in contravention of the subsection, was not deliberately operated in that way.

(4) A person must not engage in other prohibited conduct on a road or road related area.

Maximum penalty: 20 penalty units.

(5) This section does not apply to the operation of a motor vehicle for a race, attempt or trial carried out in accordance with an approval given under section 5A by the road transport authority.

## **6 Negligent driving** (NSW s 42 (1), MTA s 129 (1A)-(2), s 130)

(1) A person must not drive a motor vehicle negligently on a road or road related area.

Maximum penalty:

- (a) if the driving occasions death—200 penalty units, imprisonment for 24 months or both; or
- (b) if the driving occasions grievous bodily harm—100 penalty units, imprisonment for 12 months or both; or
- (c) in any other case—20 penalty units.

(2) In deciding whether an offence has been committed against subsection (1), the court must have regard to all the circumstances of the case, including—

- (a) the nature, condition and use of the road or road related area where the offence is alleged to have been committed; and
- (b) the amount of traffic on, or that might reasonably be expected to have been on, the road or road related area.

(3) In this section—

***grievous bodily harm*** includes permanent or serious disfigurement.

*Note* If an offence against this section occasions death or grievous bodily harm, automatic licence disqualification applies (see *Road Transport (General) Act 1999*, s 63).

## **7 Furious, reckless or dangerous driving** (NSW s 42 (2), MTA s 129 (1)-(2), s 147A)

(1) A person must not drive a motor vehicle furiously, recklessly, or at a speed or in a way that is dangerous to the public, on a road or road related area.

*Road Transport (Safety and Traffic Management) Act 1999*

Maximum penalty: 100 penalty units, imprisonment for 12 months or both.

**(2)** In deciding whether an offence has been committed against subsection (1), the court must have regard to all the circumstances of the case, including—

- (a) the nature, condition and use of the road or road related area where the offence is alleged to have been committed; and
- (b) the amount of traffic on, or that might reasonably be expected to have been on, the road or road related area.

*Note* Automatic licence disqualification applies to an offence against this section (see *Road Transport (General) Act 1999*, s 63).

**8 Menacing driving (NSW s 43)**

**(1)** A person must not drive a motor vehicle on a road or road related area in a way that menaces someone else with the intention of menacing the other person.

Maximum penalty: 100 penalty units, imprisonment for 12 months or both.

**(2)** A person must not drive a motor vehicle on a road or road related area in a way that menaces someone else if the person ought to have known that the other person might be menaced.

Maximum penalty: 100 penalty units, imprisonment for 12 months or both.

**(3)** This section applies—

- (a) whether the other person is menaced by a threat of personal injury or by a threat of damage to property; and
- (b) whether or not the other person or that property is on a road or road related area.

**(4)** A person does not commit an offence against this section if the person could not, in the circumstances, reasonably avoid menacing the other person.

**(5)** A person cannot be found guilty of an offence—

- (a) both against subsection (1) and against subsection (2) arising out of a single incident; or
- (b) both against this section and against subsection 6 (1) or 7 (1) arising out of a single incident.

*Note* Automatic licence disqualification applies to an offence against this section (see *Road Transport (General) Act 1999*, s 63).

***Division 2.2—Traffic offence evasion articles***

**9 Sale etc of traffic offence evasion articles** (NSW s 48, MTA s 164G, s 164H)

(1) A person must not sell, offer for sale, or buy a traffic offence evasion article.

Maximum penalty: 20 penalty units.

(2) A person must not drive or park a vehicle on a road or road related area if a traffic offence evasion article is fitted to, applied to, or carried in the vehicle.

Maximum penalty: 20 penalty units.

(3) The responsible person for a vehicle driven or parked on a road or road related area in contravention of subsection (2) commits an offence.

Maximum penalty: 20 penalty units.

(4) It is a defence to a prosecution for an offence against this section if the defendant satisfies the court that the traffic offence evasion article was not designed as a traffic offence evasion article but was designed for a lawful purpose.

(5) It is a defence to a prosecution for an offence against subsection (2) or (3) if the defendant satisfies the court that, at the time of the offence—

- (a) the vehicle was being taken to a place required by a police officer, the road transport authority or a court to surrender the traffic offence evasion article; or
- (b) a notice issued under the regulations required the responsible person for the vehicle to remove the traffic offence evasion article from the vehicle within a stated time and that time had not expired; or
- (c) the defendant did not know, and in the circumstances could not reasonably be expected to have known, the traffic offence evasion article was fitted to, applied to, or carried in the vehicle.

**10 Surrender and forfeiture of traffic offence evasion articles** (NSW s 49, MTA s 164I, s 164J)

(1) This section applies if a police officer or authorised person believes on reasonable grounds that a person—

*Road Transport (Safety and Traffic Management) Act 1999*

- (a) is selling, is offering for sale, has sold or has bought a traffic offence evasion article in contravention of subsection 9 (1); or
  - (b) is driving or has parked a vehicle on a road or road related area with a traffic offence evasion article fitted to, applied to, or carried in the vehicle in contravention of subsection 9 (2).
- (2)** The police officer or authorised person may—
- (a) require the person to surrender the traffic offence evasion article to the police officer or authorised person; or
  - (b) if the article is fitted to a vehicle and is not immediately removable—by written notice served on the responsible person for the vehicle, require the responsible person for the vehicle to surrender the article to the chief police officer within a stated time and in a stated way.
- (3)** A person must not, without reasonable excuse, contravene a requirement under subsection (2), whether or not the person is the owner of the traffic offence evasion article.

Maximum penalty: 20 penalty units.

- (4)** If—
- (a) a court finds an offence against section 9 or subsection (3) proven against someone; and
  - (b) the traffic offence evasion article has not already been surrendered under this section;

the court may order the person to surrender the article to the chief police officer within a stated time and in a stated way.

**(5)** A traffic offence evasion article surrendered under this section is forfeited to the Territory and may be destroyed or otherwise disposed of as directed by the chief police officer or road transport authority.

**(6)** If a person who is not the absolute owner of a traffic offence evasion article surrenders the article under this section, no liability attaches to the person because of the surrender.

***Division 2.3—Seizure, impounding and forfeiture of vehicles for certain offences***

**10A Impounding or forfeiture of vehicles used in committing certain offences** (MTA s 139L, NSW RT (Gen) s 40)

- (1) If a court convicts a person, or finds a person guilty, of an offence against section 5A (Races, attempts on speed records, speed trials etc) or 5B (Burnouts and other prohibited conduct), the motor vehicle used by the person in committing the offence is—
- (a) for a first offender—to be impounded for 3 months, unless the court otherwise orders under subsection (2); or
  - (b) for a repeat offender—forfeited to the Territory, unless the court otherwise orders under subsection (2).
- (2) The court may, by order, specify a shorter period of impounding, dispense with the period of impounding or commute a forfeiture to a period of impounding to avoid excessive hardship or other injustice to anyone.
- (3) In deciding whether to make an order under subsection (2), the court—
- (a) must have regard to the circumstances of the offence, including the risk to the safety of road users; and
  - (b) may seek evidence from the prosecution about the circumstances of the offence.
- (4) Subsection (3) does not limit, by implication, the matters to which the court may have regard or prevent the defendant from presenting evidence about the circumstances of the offence.
- (5) Any period for which the motor vehicle was impounded under section 10B (Powers of police officers to seize and impound vehicles used in committing certain offences) counts towards a period of impounding of the motor vehicle under this section.
- (6) If—
- (a) a court convicts a person, or finds a person guilty, of an offence against section 5A or 5B; and
  - (b) the motor vehicle used in committing the offence is subject to impounding or forfeiture under this section; and
  - (c) the vehicle has not already been impounded under section 10B;



the court may order the responsible person for the vehicle to surrender the vehicle to the chief police officer within a stated time and in a stated way.

(7) The court may also make an order authorising any police officer to seize the vehicle from any place if the order under subsection (6) is not complied with.

(8) The impounding or forfeiture of a motor vehicle under this section is in addition to any other penalty imposed for the offence.

(9) For any rights of appeal against penalty, the impounding or forfeiture of a motor vehicle under this section is, or is part of, the penalty imposed for the offence.

(10) For this section—

- (a) a person who is convicted, or found guilty, of an offence against section 5A or 5B (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 section 5A or 5B within 5 years before being convicted, or found guilty, of the current offence; and
- (b) a person who is convicted, or found guilty, of an offence against section 5A or 5B is a *first offender* in relation to the offence if the person is not a repeat offender in relation to the offence.

**10B Powers of police officers to seize and impound vehicles used in committing certain offences** (MTA s 139K, NSW RT (Gen) s 39)

(1) A police officer may seize a motor vehicle if—

- (a) the police officer believes on reasonable grounds that the vehicle is being or has (on that day or during the past 10 days) been used by a person in committing an offence against section 5A (Races, attempts on speed records, speed trials etc) or 5B (Burnouts and other prohibited conduct); or
- (b) the vehicle is subject to impounding or forfeiture under section 10A (Impounding or forfeiture of vehicles used in committing certain offences).

(2) The motor vehicle may be seized from—

- (a) a road or road related area or any other public place; or
- (b) any other place—

*Road Transport (Safety and Traffic Management) Act 1999*

- (i) with the consent of the owner or occupier of the place; or
  - (ii) under the authority of an order under subsection 10A (7) for the seizure of the vehicle.
- (3) After seizing the motor vehicle, the police officer must move the vehicle to a place decided by the chief police officer.
- (4) The motor vehicle may, subject to the regulations, be impounded at the place where it is moved under subsection (3), or may be moved to and impounded at any other place decided by the chief police officer.
- (5) To seize or move the motor vehicle, the police officer, or someone acting under the police officer's direction, may remove, dismantle or neutralise any locking device or other feature of the vehicle and may, if the driver or anyone else will not surrender the keys to the vehicle or the keys are not available to the police officer for any other reason, start the vehicle in another way.
- (6) The motor vehicle may be moved—
- (a) by being driven (whether or not under power) or by being towed or pushed, or in any other way whatever; and
  - (b) by the police officer or someone acting under the police officer's direction.
- (7) In this section—
- public place** includes any place that members of the public are entitled to use.

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

- (1) If a motor vehicle is seized under paragraph 10B (1) (a) (Powers of police officers to seize and impound vehicles used in committing certain offences), the chief police officer must give notice of the seizure to the registered operator of the vehicle.
- (2) If a prosecution is begun against a person for an offence against section 5A (Races, attempts on speed records, speed trials etc) or 5B (Burnouts and other prohibited conduct) involving a motor vehicle, the chief police officer must give notice of the prosecution to—

*Road Transport (Safety and Traffic Management) Act 1999*

- (a) if the prosecution is against a person other than the registered operator (or a registered operator) of the vehicle—the registered operator; or
  - (b) if the vehicle may be subject to forfeiture if the person is convicted or found guilty of the offence—the holder of any registered interest in the vehicle.
- (3) The notice must be given within 7 days after the seizure or the beginning of the prosecution.
- (4) The notice must—
- (a) state—
    - (i) the short description prescribed under the *Road Transport (General) Act 1999* for the offence for which the motor vehicle has been seized or the prosecution begun (or the provision of this Act contravened by the person); and
    - (ii) the place where the offence was committed and the date and approximate time of the offence; and
    - (iii) the particulars that are, under the regulations under the *Road Transport (General) Act 1999*, identifying particulars for the vehicle; and
  - (b) for a notice under subsection (1)—tell the registered operator that an application may be made to the chief police officer or the Magistrates Court for the release of the vehicle; and
  - (c) for a notice under subsection (2)—tell the person that the vehicle may be subject to impounding or, if appropriate, forfeiture under section 10A.

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

- (1) If a motor vehicle is seized under paragraph 10B (1) (a) by a police officer because the police officer believes the vehicle has been used by a person in committing an offence, the chief police officer must keep the vehicle until the earliest of the following happens:
- (a) the person is dealt with by a court for the offence;
  - (b) an infringement notice is served on the person for the offence;
  - (c) if a prosecution for the offence is not begun within 28 days after the seizure—the 28 days end;

unless the vehicle is sooner released under section 10F (Release of vehicles by chief police officer) or 10G (Release of vehicles by order of Magistrates Court).

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

**10E Keeping of vehicles impounded or forfeited under s 10A**  
(MTA s 139N (4), NSW RT (Gen) sch 1, cl 4)

(1) A motor vehicle impounded under section 10A (Impounding or forfeiture of vehicles used in committing certain offences) must be kept by the chief police officer for the period for which the vehicle is subject to impounding.

(2) A motor vehicle subject to forfeiture under section 10A must be kept by the chief police officer until the road transport authority directs that the vehicle be disposed of.

(3) A direction under subsection (2) may be given in relation to a motor vehicle not earlier than 28 days after the vehicle becomes subject to forfeiture.

**10F Release of vehicles by chief police officer** (MTA s 139P,  
NSW RT (Gen) sch 1, cl 5)

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

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

- (a) the chief police officer is satisfied that the person is entitled to possession of the vehicle; and
- (b) the period for which the chief police officer is required under section 10D to keep the vehicle has ended; and
- (c) any fee or other amount payable under the *Road Transport (General) Act 1999* in relation to the impounding and seizure of the vehicle has been paid.

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

- (a) the chief police officer is satisfied that the person is entitled to possession of the vehicle; and
- (b) the chief police officer is satisfied that—

*Road Transport (Safety and Traffic Management) Act 1999*

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

**10G Release of vehicles by order of Magistrates Court** (MTA s 139Q, NSW RT (Gen) sch 1, cl 6)

- (1) A person may apply to the Magistrates Court for an order for the release to the person of a motor vehicle that has been seized under paragraph 10B (1) (a), whether or not an application has been made to the chief police officer under section 10F for the release of the vehicle.
- (2) The court may order the release of the motor vehicle to the person if satisfied that—
- (a) the person is entitled to the possession of the vehicle; and
  - (b) either—
    - (i) the offence for which the vehicle was impounded was not committed by, or with the consent of, the person and the person did not know, and could not reasonably be expected to have known, that the vehicle would be used for the commission of an offence; or
    - (ii) keeping the vehicle would cause excessive hardship or other injustice to anyone.
- (3) The court may also remit all or part of any fee or other amount payable under the *Road Transport (General) Act 1999* in relation to the seizure and impounding of the vehicle.
- (4) If a motor vehicle is released to a person under this section, the person must acknowledge in writing receiving the vehicle.

**10H Safekeeping of vehicles** (MTA s 139M (2),  
NSW RT (Gen) sch 1, cl 7)

The chief police officer must take reasonable steps to secure an impounded vehicle against theft or damage while impounded.

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

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

**10J Disposal of vehicles** (MTA s 139N (5), NSW RT (Gen) sch 1, cl 9)

(1) The chief police officer may cause an impounded or forfeited vehicle to be offered for sale, by public auction or public tender, in the circumstances prescribed under the regulations.

(2) The vehicle may be disposed of otherwise than by sale if the chief police officer believes on reasonable grounds that the vehicle has no monetary value or that the proceeds of the sale would be unlikely to exceed the costs of sale.

(3) If the vehicle offered for sale is not sold, the chief police officer may dispose of the vehicle otherwise than by sale.

(4) The regulations may make provision for or with respect to the disposal of the proceeds of any such sale, including provisions for or with respect to entitling persons to seek to be paid any such proceeds.

### PART 3—UNSAFE LOADS

#### 11 **Meaning of *loaded unsafely*** (NSW s 58 (5))

In this Part—

*loaded unsafely*, for a vehicle, means—

- (a) a load on the vehicle is placed in a way that makes the vehicle unstable or unsafe; or
- (b) a load on the vehicle is not secured or is secured in a way that it is likely to fall or be dislodged from the vehicle; or
- (c) an appropriate method is not used to secure a load on the vehicle.

#### 12 **Driver of vehicle loaded unsafely** (NSW s 58 (1), MTA s 189 (1) (j))

A person commits an offence if—

- (a) the person knows, or ought reasonably to know, a vehicle is loaded unsafely; and
- (b) the person drives the vehicle, or allows it to stand, on a road or road related area; and
- (c) while the vehicle is being so driven or allowed to stand, a person dies or is injured, or property (other than the vehicle or load) is damaged, because the vehicle is loaded unsafely.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

#### 13 **Responsible person for vehicle loaded unsafely** (NSW s 58 (2)-(3))

(1) The responsible person for a vehicle commits an offence if—

- (a) the vehicle is loaded unsafely and is driven, or allowed to stand, on a road or road related area; and
- (b) the person knows, or ought reasonably to know, the vehicle is loaded unsafely; and
- (c) while the vehicle is being so driven or allowed to stand, a person dies or is injured, or property (other than the vehicle or load) is damaged, because the vehicle is loaded unsafely.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

- (2) A person commits an offence if—
- (a) the person is a director of, or is concerned in the management of, a corporation that is the responsible person for a vehicle loaded unsafely and driven, or allowed to stand, on a road or road related area; and
  - (b) the person knows, or ought reasonably to know, the vehicle is loaded unsafely; and
  - (c) while the vehicle is being so driven or allowed to stand, a person dies or is injured, or property (other than the vehicle or load) is damaged, because the vehicle is loaded unsafely.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

**14 Proceeding against this Part** (NSW s 58 (4), (6))

(1) It is a defence to a prosecution of a person for an offence against this Part if the person satisfies the court that he or she could not have prevented the vehicle being driven, or allowed to stand, on a road or road related area while loaded unsafely.

(2) In a proceeding for an offence against this Part, it is sufficient to prove a vehicle was loaded unsafely if the prosecution proves the load on the vehicle was not placed, secured or restrained in a way that met the performance standards recommended in the *Load Restraint Guide—Guidelines for the safe carriage of loads on road vehicles* published by the Australian Government Publishing Service on 12 December 1994.



## PART 4—TRAFFIC ACCIDENTS

### 15 Meaning of *traffic accident*

In this Act—

*traffic accident* includes—

- (a) a collision between 2 or more vehicles or a vehicle and an animal; and
- (b) any other accident or incident involving a vehicle or animal in which a person dies or is injured, property is damaged, or an animal in someone's charge dies or is injured.

### 16 Driver or rider to stop and give assistance (NSW s 70, MTA s 178, TA s 32)

If the driver of a vehicle, or rider of an animal, is involved in a traffic accident on a road or road related area, and someone dies or is injured in the accident, the driver or rider must not knowingly fail to stop and give any assistance that is necessary and in his or her power to give.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

### 17 Regulations about duties of participants in, and witnesses to, traffic accidents (NSW sch 1, cl 6)

(1) The regulations may make provision for or with respect to the duties of the driver of a vehicle or anyone else involved in or affected by a traffic accident on a road or road related area.

(2) Without limiting subsection (1), the regulations may require a person mentioned in that subsection—

- (a) to produce his or her Australian driver licence or external driver licence, or another form of identification, to anyone else; and
- (b) to give particulars to the police or anyone else about—
  - (i) any vehicle, person or property involved in or affected by the accident; or
  - (ii) injury or damage caused by the accident; or
  - (iii) the names and addresses of witnesses to the accident.

## PART 5—TRAFFIC CONTROL DEVICES

### **18 Authority to install etc prescribed traffic control devices** (NSW s 51, MTA s 109)

For this Part, a person has *appropriate authority* to install or display (or to interfere with, change or remove) a prescribed traffic control device if the person is authorised in writing by the road transport authority to install or display (or to interfere with, change or remove) the device.

### **19 Offences about traffic control devices** (NSW s 52, MTA s 112)

- (1) A person must not, without appropriate authority—
- (a) install or display a prescribed traffic control device—
    - (i) on, above or near a road or road related area; or
    - (ii) on a vehicle on, above or near a road or road related area;or
  - (b) interfere with, change or remove a prescribed traffic control device installed or displayed—
    - (i) on, above or near a road or road related area; or
    - (ii) on a vehicle on, above or near a road or road related area.

Maximum penalty: 20 penalty units.

- (2) A person must not install or display a sign, signal, marking, structure or other device that might reasonably be mistaken for a prescribed traffic control device—
- (a) on, above or near a road or road related area; or
  - (b) on a vehicle on, above or near a road or road related area.

Maximum penalty: 20 penalty units.

### **20 Removal of unauthorised devices** (NSW s 53, s 54)

- (1) This section applies if a person installs or displays a sign, signal, marking, structure or other device in contravention of section 19.
- (2) The road transport authority, a police officer, or an authorised person—
- (a) may direct the person, orally or in writing, to remove the device within a stated reasonable time; or

(b) may remove the device.

(3) If the person is given a direction under paragraph (2) (a), the person must comply with the direction.

Maximum penalty: 20 penalty units.

(4) If the road transport authority, a police officer, or an authorised person removes the device—

(a) the person's liability under section 19 or subsection (3) is not affected; and

(b) the road transport authority may recover the cost of removing the device as a debt payable by the person to the Territory.

(5) A certificate given by or on behalf of the road transport authority, and stating that a stated amount is the cost of removing the device under paragraph (2) (b), is evidence of the facts so stated.

**21 Devices generally presumed to be lawfully installed or displayed**  
(NSW s 55, MTA s 111)

In a proceeding for an offence against this Act (other than an offence against paragraph 19 (1) (a) or subsection 20 (3) in relation to a contravention of that paragraph), a prescribed traffic control device installed or displayed on, above or near a road or road related area, or on a vehicle on, above or near a road or road related area, is conclusively presumed to have been lawfully installed or displayed there under this Act.

**22 Notice of intention to challenge certain issues**

(1) This section applies if a defendant in a proceeding for an offence against this Act intends to challenge any of the following matters:

(a) that a stated prescribed traffic control device was, at the time of the offence, installed or displayed at a stated place on, above or near a road or road related area, or on a vehicle on, above or near a road or road related area;

(b) that a stated prescribed traffic control device on, above or near a road or road related area, or on a vehicle on, above or near a road or road related area, is a reasonable likeness of a diagram, or complies substantially with a description, of the device under this Act;

*Road Transport (Safety and Traffic Management) Act 1999*

- (c) that a symbol on or with a prescribed traffic control device on, above or near a road or road related area, or on a vehicle on, above or near a road or road related area, is a reasonable likeness of a diagram of the symbol under this Act;
  - (d) that a stated prescribed traffic control device on, above or near a road or road related area, or on a vehicle on, above or near a road or road related area, is clearly visible during the day or night in normal weather conditions, or during the day in normal weather conditions, to the drivers or pedestrians it applies to;
  - (e) that a stated prescribed traffic control device on, above or near a road or road related area, or on a vehicle on, above or near a road or road related area, was operating correctly at the time of the offence.
- (2) The defendant must give written notice of the challenge to the prosecution at least 7 days before the day fixed for the hearing.
- (3) The notice must—
- (a) state the defendant's full name and address; and
  - (b) state—
    - (i) if an infringement notice for the offence has been served on the person—the number of the infringement notice and the date of service of the infringement notice; or
    - (ii) if an infringement notice for the offence has not been served on the person—sufficient details of the offence to allow the prosecution to identify the offence; and
  - (c) clearly identify the stated prescribed traffic control device and the matter the defendant intends to challenge; and
  - (d) outline the grounds of the challenge.

## PART 6—TRAFFIC OFFENCE DETECTION DEVICES

### 23 What is a camera detection device? (MTA s 180ZE)

(1) A *camera detection device* is a device designed to do either or both of the following:

- (a) take images complying with subsection (2) (except subparagraph (b) (iv)) of vehicles being driven in contravention of traffic light signals;
- (b) measure the speed at which vehicles are travelling and take images complying with subsection (2) (except subparagraph (b) (iii)) of vehicles being driven over speed limits.

(2) An image of a vehicle taken by a device complies with this subsection if—

- (a) it is a photograph, or an electronic image recorded on a magneto-optical write once read many (WORM) disk; and
- (b) the image (either by itself or with other images taken by the device)—
  - (i) indicates (by a code or other information)—
    - (A) the device; and
    - (B) the date and time when, and place where, the image was taken; and
    - (C) the person responsible for the use of the device when the image was taken; and
  - (ii) shows the vehicle and its numberplate; and
  - (iii) if the vehicle is being driven in contravention of a provision of the regulations about traffic lights—indicates the direction and lane in which the vehicle is travelling and the number of seconds the traffic light concerned has been displayed when the image is taken; and
  - (iv) if the vehicle is being driven over the speed limit—indicates the speed limit where the vehicle is, and the speed of the vehicle, when the image is taken.

(3) Subsection (2) does not limit the matters that may be indicated or shown by an image taken by a camera detection device.

**24 Regulations about traffic offence detection devices**  
(MTA s 180ZF)

(1) The regulations may make provision for or with respect to the testing, sealing, maintenance and use of traffic offence detection devices, including the approval by the road transport authority of people to test, seal, maintain or use traffic offence detection devices.

(2) The regulations may also make provision about the meaning of codes and other information indicated on images produced by approved camera detection devices.

**25 Evidentiary certificates etc** (MTA s 180ZG)

(1) This section applies to a proceeding against a person for an offence against this Act involving a vehicle.

(2) A certificate that appears to be signed by a police officer or the road transport authority, and states a matter relevant to either of the following, is evidence of the matter:

- (a) the use of a device in relation to the vehicle;
- (b) anything done or not done in relation to the device under the regulations made for this Part.

(3) Without limiting subsection (2), a certificate given under that subsection may state any of the following matters:

- (a) that the device is—
  - (i) an approved camera detection device; or
  - (ii) an approved speed measuring device; or
  - (iii) a traffic offence detection device;
- (b) that the device has been maintained, tested, sealed or used as required or permitted under the regulations made for this Part;
- (c) the condition of the device at a stated time or at any time during a stated period, including, for example, that it was accurate (or accurate to a stated extent) and operating properly at that time or during that period;
- (d) if the device is an approved camera detection device—that a stated image is an accurate copy of an image taken by the device at a stated date, time and place or is an accurate copy of 1 of a series of images taken by the device at a stated place during a stated period;

- (e) if the device is an approved speed measuring device—a measurement of speed obtained by the use of the device.
- (4)** An image stated by a certificate given under subsection (2) to be an accurate copy of an image taken by an approved camera detection device is evidence of everything indicated or shown in the image.
- (5)** Without limiting subsection (4), the image is evidence of the following matters:
- (a) that the vehicle shown in the image was being driven when and where (the *relevant time and place*) the image was taken by the device;
  - (b) if the image indicates a speed limit—that the speed limit applied to the person driving the vehicle at the relevant time and place;
  - (c) if the image indicates the speed of the vehicle—that the vehicle was driven at that speed at the relevant time and place;
  - (d) if the image indicates the direction or lane in which the vehicle was travelling—that the vehicle was travelling in that direction or lane;
  - (e) if the image indicates the number of seconds a traffic light had been displayed—that the traffic light had been displayed for that number of seconds before the image was taken.
- (6)** If an image mentioned in subsection (4) is a copy of 1 of a series of images taken by an approved camera detection device during a period, subsections (4) and (5) apply to the image considered by itself and to the image considered with other images in the series.
- (7)** If the defendant is the responsible person (or a responsible person) for the vehicle, it is to be presumed (unless evidence to the contrary is presented) that the defendant was the driver of the vehicle at the relevant time and place.
- (8)** Evidence may be given by a police officer or authorised person about any matter mentioned in subsections (2) and (3).
- (9)** Without limiting subsection (8), evidence by a police officer or authorised person of the speed a vehicle was moving as measured by a traffic offence detection device is evidence that the vehicle was being driven at that speed when and where the measurement was taken.

(10) Evidence of the condition of a traffic offence detection device is necessary only if evidence is given that the device was not accurate or operating properly.

(11) This section does not limit evidence that can be presented apart from this section.

**26 Interfering with traffic offence detection devices (MTA s 180ZH)**

A person must not, without lawful authority, knowingly or recklessly interfere with—

- (a) a traffic offence detection device or its operation; or
- (b) a seal on a traffic offence detection device; or
- (c) anything produced by a traffic offence detection device.

Maximum penalty: 30 penalty units.

**27 Inspection and copies of images produced by traffic offence detection devices (MTA s 180ZI)**

(1) This section applies to—

- (a) the responsible person for a vehicle shown in an image taken by a traffic offence detection device; or
- (b) a person nominated under section 38 (Illegal user declarations), 39 (Known user declarations) or 40 (Sold vehicle declarations) of the *Road Transport (General) Act 1999* by the responsible person for a vehicle shown in an image taken by a traffic offence detection device.

(2) The road transport authority must—

- (a) make a copy of the image available for inspection by a person this section applies to; and
- (b) give a copy of the image to the person on payment of the determined fee.

**28 Notice of intention to challenge certain issues (MTA s 180ZJ)**

(1) This section applies if a defendant in a proceeding for an offence against this Act intends to challenge the maintenance, testing, sealing, use, accuracy or operating condition of a traffic offence detection device.

(2) The defendant must give written notice of the challenge to the prosecution at least 7 days before the day fixed for the hearing.



*Road Transport (Safety and Traffic Management) Act 1999*

- (3)** The notice must—
- (a) state the defendant's full name and address; and
  - (b) state—
    - (i) if an infringement notice for the offence has been served on the person—the number of the infringement notice and the date of service of the infringement notice; or
    - (ii) if an infringement notice for the offence has not been served on the person—sufficient details of the offence to allow the prosecution to identify the offence; and
  - (c) outline the grounds on which the defendant intends to challenge the maintenance, testing, sealing, use or condition of the traffic offence detection device.

**29 Expiry of pt 6 (MTA s 180ZK)**

This Part expires on 6 October 2001.

## **PART 7—TRAFFIC MANAGEMENT**

### **30 Road or road related area may be closed temporarily to traffic** (NSW s 74)

- (1) A police officer may—
- (a) close a road or road related area to traffic during a temporary obstruction or danger to traffic or for any temporary purpose; and
  - (b) give directions to prevent the traffic of any vehicles, people or animals in or on a road or road related area closed to traffic under paragraph (a) or under the authority of another Act.
- (2) A person must not, without reasonable excuse, contravene a direction of a police officer under this section.

Maximum penalty: 20 penalty units.

### **31 Removal of dangers and obstructions to traffic** (NSW s 75, MTA s 202 (3))

- (1) If a danger or obstruction to traffic on a road or road related area is caused by—
- (a) a vehicle that is involved in a traffic accident or is broken down;  
or
  - (b) anything that has fallen, escaped or been removed from a vehicle;  
or
  - (c) a container used for transporting materials or rubbish (including a building skip) or anything else left or placed on a road or road related area;

a police officer or authorised person may remove the vehicle, thing or container and take other steps necessary to protect the public and assist the free flow of traffic.

- (2) The road transport authority may recover the cost of action taken under subsection (1) as a debt payable to the Territory by—
- (a) for a vehicle—the driver of, or responsible person for, the vehicle at the time of the traffic accident or breakdown; or
  - (b) for anything that has fallen, escaped or been removed from a vehicle—the driver of, or responsible person for, the vehicle at the time of the fall, escape or removal; or

- (c) for anything else left or placed on a road or road related area—the person who left or placed it, or had possession of it when it was left or placed.

(3) A certificate given by or on behalf of the road transport authority, and stating that a stated amount is the cost of taking stated action under subsection (1), is evidence of the facts stated.

**32 Removal of unattended vehicles from certain places** (NSW s 76, MTA s 202 (3))

(1) A police officer or authorised person may move an unattended vehicle from a road or road related area to a retention area—

- (a) if the vehicle is unlawfully parked; or
- (b) if the police officer or authorised person believes on reasonable grounds that the vehicle is causing, or is likely to cause, a danger to the public or an unreasonable obstruction to other users of the road or road related area; or
- (c) in any other circumstances prescribed under the regulations.

(2) As soon as practicable after moving the vehicle to a retention area, the police officer or authorised person must report the action to the police officer in charge of the closest police station and ask that the responsible person for the vehicle (or other person entitled to possession of the vehicle) be told where it has been moved to.

(3) A vehicle moved to a retention area is taken to be uncollected goods under the *Uncollected Goods Act 1996* and—

- (a) the road transport authority is taken to be the possessor of the vehicle under that Act; and
- (b) the responsible person for the vehicle is taken to be the owner of the vehicle; and
- (c) the road transport authority may dispose of the vehicle in accordance with Part 3 of that Act; and
- (d) reasonable costs of the possessor in complying with that Act are taken to include the cost of moving the vehicle to the retention area.

(4) However, the responsible person for the vehicle is not required to pay costs under paragraph 26 (2) (a) or (b) of the *Uncollected Goods Act*

*Road Transport (Safety and Traffic Management) Act 1999*

*1996* if the person satisfies the road transport authority that the vehicle was stolen or illegally taken or used at the relevant time.

*Note* Paragraphs 26 (2) (a) and (b) of the *Uncollected Goods Act 1996* require the owner to pay the reasonable costs incurred by the possessor in complying with that Act and the possessor's reasonable costs in storing and maintaining the goods before they are collected.

**PART 8—REGULATIONS ABOUT SAFETY AND TRAFFIC  
MANAGEMENT**

***Division 8.1—General***

- 33 General regulation-making power** (Cwth s 7, NSW s 71, MTA s 218)
- (1) The Executive may make regulations for the purposes of this Act.
  - (2) The regulations may create offences punishable by maximum penalties of not more than 30 penalty units.
  - (3) The regulations may provide defences for offences against the regulations and provide who bears the onus of proof for the defences.
  - (4) In addition to a penalty mentioned in subsection (2), the regulations may provide for a person who is convicted or found guilty by a court of an offence against this Act to be disqualified by order of the court from holding or obtaining a driver licence for the period the court considers appropriate.
  - (5) The regulations may provide for a person who is prosecuted for an aggravated form of an offence against the regulations to be found guilty by a court of a lesser offence if the court is not satisfied that the elements of the aggravated offence have been proven, but is satisfied that the elements of the lesser offence have been proven.
  - (6) The regulations may provide that a document that is signed or purports to be signed on behalf of the road transport authority (or someone else prescribed under the regulations), and stating any matter relevant to the speed limit applying to a road or road related area (including the operation of any device that sets the speed limit), is evidence of the matter in a proceeding before a court or tribunal.
- 34 Regulations may apply certain documents etc** (Cwth s 7, NSW s 71, MTA s 218)
- (1) The regulations—
    - (a) may apply, adopt or incorporate, entirely or in part and with or without changes, publications of the National Road Transport Commission approved, or of matters approved, by the Australian Transport Council or any other publication (including an Act or

*Road Transport (Safety and Traffic Management) Act 1999*

regulation of another jurisdiction), as in force at a stated time or from time to time; and

- (b) may apply to a provision of the regulations, entirely or in part and with or without changes, the provisions of the Criminal Code set out in the Schedule to the *Criminal Code Act 1995* (Cwlth).
- (2) For the regulations, the regulations may define a word or expression (or apply, adopt, or incorporate a definition of a word or expression in a publication mentioned in subsection (1) (a)) defined by this Act—
- (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 word or expression as defined by this Act; or
  - (c) by reference to a combination of matters included in the word or expression as defined by this Act and in any other word or expression defined by this Act (but not in a way that exceeds the power to make regulations about those matters); or
  - (d) for applying, adopting or incorporating a publication of the National Road 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) If a regulation applies, adopts or incorporates a publication (or provision of a publication) of the National Road Transport Commission approved, or of matters approved, by the Australian Transport Council, evidence of the publication or provision may be given in a proceeding—
- (a) by the production of a document purporting to be a copy of it and purporting to be published by or on behalf of the National Road Transport Commission; or
  - (b) by the production of a document purporting to be a copy of it and purporting to be printed by the government printer or by the authority of the Government of any jurisdiction.
- (4) In this section, a reference to a ***publication of the National Road Transport Commission*** includes a reference to a document published on behalf of the National Road Transport Commission.

**35 Regulations may exclude vehicles, people and animals from Act**  
(Cwth s 10, NSW s 72, MTA s 218 (ag))

- (1) The regulations may—
  - (a) exempt a vehicle, person or animal prescribed under the regulations from this Act (or a stated provision of this Act); or
  - (b) authorise the road transport authority to exempt a vehicle, person or animal prescribed under the regulations from this Act (or a stated provision of this Act).
- (2) An exemption given under a regulation mentioned in subsection (1) may be conditional.
- (3) The regulations may provide for the road transport authority to—
  - (a) suspend the operation of a regulation mentioned in paragraph (1) (a) in the way and circumstances prescribed under the regulations; or
  - (b) suspend the operation of an exemption given by the authority to a vehicle, person or animal in the way and circumstances prescribed under the regulations.

***Division 8.2—Safety***

**36 Regulations about safety generally** (NSW sch 1, cl 1 (i)-(j))

The regulations may make provision for or with respect to the regulation or prohibition of traffic, people and animals on roads and road related areas, including provision about—

- (a) the use of safety equipment by drivers, riders, passengers and other people; and
- (b) standards of conduct for safety purposes.

**37 Regulations about safe operation of vehicles** (NSW sch 1, cl 3)

The regulations may make provision for or with respect to the safe operation of vehicles on roads and road related areas, including provision about—

- (a) the loading and unloading of vehicles and securing of loads; and
- (b) the regulation of vehicles with a size, mass or load greater than limits prescribed under the regulations; and

- (c) the keeping and production of records and other information in relation to vehicles used on roads or road related areas.

**38 Regulations about child safety** (NSW sch 1, cl 5)

(1) The regulations may make provision for or with respect to the duties of parents and other people responsible for children (other than children over 16 years and 9 months) in relation to the use of roads or road related areas (or vehicles on roads or road related areas).

(2) The regulations may make provision for or with respect to the establishment and conduct of schemes to assist children to cross roads and road related areas safely, including the following:

- (a) enabling the road transport authority to conduct, or authorise other people to conduct, the schemes;
- (b) enabling the road transport authority to—
  - (i) amend or replace the schemes; and
  - (ii) impose conditions on an authority to conduct schemes; and
  - (iii) revoke an authority to conduct schemes;
- (c) the signs to be displayed at crossings and how the signs are to be displayed;
- (d) the placement of barriers across or partly across a road or road related area near a crossing;
- (e) conditions about the wearing or display of insignias, badges, belts or other articles of uniform by anyone taking part in crossing schemes;
- (f) that evidence the sign was displayed as prescribed by a person at or near a crossing is evidence in a proceeding that the displaying of the sign by the person was authorised;
- (g) anything else necessary or convenient to be prescribed for the carrying out of the scheme.

***Division 8.3—Traffic management***

**39 Regulations about traffic management generally**  
(NSW sch 1, cl 1)

The regulations may make provision for or with respect to the regulation or prohibition of traffic, people and animals on roads and road related areas, including provision about—



*Road Transport (Safety and Traffic Management) Act 1999*

- (a) the places where and how vehicles or animals may or may not be driven or ridden; and
- (b) the use of roads and road related areas by people on foot and other people and by animals; and
- (c) speed limits for vehicles (including speed limits that may be varied electronically or otherwise); and
- (d) signs, signals, structures and other devices to control, direct or warn traffic; and
- (e) the marks that are to be used on the surface of roads and road related areas; and
- (f) the control and reduction of traffic congestion or danger in vehicle operation; and
- (g) the conduct of events on roads and road related areas that may disrupt traffic; and
- (h) complying with directions by police officers, authorised persons or other people prescribed under the regulations; and
- (i) the use of stalls or other ways of selling goods or services, or carrying out any business or trade, on a road or road related area.

**40 Regulations about seizure, impounding etc of vehicles**

(NSW sch 1, cl 8 (2))

The regulations may make provision for or with respect to—

- (a) the seizure and moving to a retention area of a vehicle that is—
  - (i) a danger to the public or an unreasonable obstruction to traffic; or
  - (ii) abandoned or left unattended on a road or road related area; or
  - (iii) parked unlawfully on a road or road related area where there is conspicuously displayed a sign including the words ‘tow away area’ or ‘vehicles impounded’ or other words indicating the vehicle may be seized; and
- (b) the conditions to be complied with before a vehicle can be seized; and
- (c) the application of the *Uncollected Goods Act 1996* to a vehicle seized and moved to a retention area.

**41 Regulations about towing fees** (NSW sch 1, cl 4)

The regulations may make provision for or with respect to—

- (a) the payment of a fee by the driver or responsible person for a vehicle for the towing of the vehicle because of the exercise of functions under this Act; and
- (b) the recovery of the fee by the road transport authority or anyone else as a debt payable to the Territory in a court of competent jurisdiction; and
- (c) the issue of certificates about towing and the cost of towing, and their use as evidence of those matters in proceedings.

***Division 8.4—Parking***

**42 Regulations about parking** (NSW sch 1, cl 2)

(1) The regulations may make provision for or with respect to the regulation or prohibition of the parking of vehicles (including pay parking), and parked or stopped vehicles, on roads, road related areas and other places, including provision about the following:

- (a) the Territory and other entities establishing and operating pay parking schemes;
- (b) the Territory and other entities fixing and collecting parking fees, and the application of parking fees by the collector of the fees and the payments to be made to the road transport authority;
- (c) allocating the costs for pay parking schemes;
- (d) providing pay parking on a common payment basis;
- (e) installing and operating devices used for pay parking;
- (f) the road transport authority issuing guidelines for pay parking schemes and the legal effect of the guidelines;
- (g) the road transport authority granting approvals for the establishment and operation of pay parking schemes;
- (h) resolving disputes about pay parking;
- (i) the powers of police officers and authorised persons to remove vehicles parked or stopped in parking spaces and to close parking spaces;
- (j) parking vehicles on residential land, including for heavy vehicles—

*Road Transport (Safety and Traffic Management) Act 1999*

- (i) prescribing the circumstances in which the road transport authority may enter residential land; and
- (ii) prescribing the circumstances in which warrants may be issued for residential land; and
- (iii) prescribing maximum penalties of not more than 20 penalty units for each day a person contravenes a regulation in relation to the parking of a vehicle on residential land, including the day of a conviction for the contravention or a later day.

(2) Without limiting subsection (1), the regulations may make provision for or with respect to the powers that may be exercised by a police officer or an authorised person, who enters land under regulations made for paragraph (1)(j), including for example requiring a person in or on the land—

- (a) to give the police officer or authorised person information relevant to the exercise of his or her powers in relation to the land; or
- (b) to produce to the police officer or authorised person a document containing information relevant to the exercise of his or her powers in relation to the land.

(3) In this section—

*residential land* means land leased for residential purposes.

**43 Regulations about marking tyres** (NSW sch 1, cl 8 (1))

The regulations may make provision for or with respect to the marking of tyres on vehicles using crayon, chalk or a similar substance by police officers and authorised persons for any purpose connected with the enforcement of a provision of any Act or subordinate law.

**PART 9—MISCELLANEOUS**

**44 References to Motor Traffic Act, Traffic Act etc**

In any Act, instrument made under an Act or document, a reference to any of the following legislation is, in relation to anything to which this Act applies, a reference to this Act:

- (a) *Motor Traffic Act 1936*;
- (b) *Traffic Act 1937*;
- (c) *Motor Traffic Regulations 1934*.

## PART 10—TRANSITIONAL

### 45 Definitions for pt 10

In this Part, the following definitions apply:

*commencement* means the commencement of this Act.

*former Acts* means—

- (a) the *Motor Traffic Act 1936*; and
- (b) the *Traffic Act 1937*;

and includes the former regulations.

*former regulations* means the *Motor Traffic Regulations 1934*.

### 46 Transitional regulations (NSW s 78)

(1) The regulations may prescribe savings or transitional matters necessary or convenient to be prescribed because of the enactment of this Act.

(2) Without limiting the scope of subsection (1), the regulations may prescribe matters necessary or convenient to be prescribed for carrying out or giving effect to the provisions of this Act instead of the provisions of the former Acts.

(3) Regulations made for this section must not be taken to be inconsistent with this Act as far as they can operate concurrently with this Act.

(4) This section is additional to, and does not limit, section 47.

### 47 Modification of pt 10's operation

The regulations may modify the operation of this Part to make provision with respect to any matter that is not, or not adequately, dealt with in this Part.

### 48 Notices about radar detecting devices etc (NSW RT (Gen) sch 2, cl 18)

A notice under paragraph 164I (1) (d) of the *Motor Traffic Act 1936* that is in force immediately before the commencement, requiring a person to surrender a radar detecting device or radar jamming device to the chief

police officer, that provides for compliance within a time that ends after the commencement is taken, after the commencement—

- (a) to be a notice given under section 10; and
- (b) to require the person to surrender the device at the end of the same time and in the same manner as originally provided in the notice.

**49 Existing traffic signs taken to be approved prescribed traffic control devices** (NSW RT (Gen) sch 2, cl 9)

**(1)** An existing traffic sign that is also a prescribed traffic control device is taken to be installed or displayed with appropriate authority for Part 3—

- (a) on, above or near a road or road related area; or
- (b) on a vehicle on, above or near a road or road related area.

**(2)** In this section—

*existing traffic sign* means a traffic sign as defined in subsection 4 (1) of the *Motor Traffic Act 1936*—

- (a) that was erected, placed or displayed in accordance with Part 7 of that Act before the commencement; and
- (b) continued to be erected or displayed immediately before the commencement.

**50 Expiry of pt 10**

This Part ceases to have effect 15 months after it commences.

**DICTIONARY**

(See s 4)

***another jurisdiction*** means a jurisdiction other than the ACT.

***approved camera detection device*** means a camera detection device approved under the regulations.

***approved speed measuring device*** means a speed measuring device approved under the regulations.

***Australian driver licence***—see the *Road Transport (Driver Licensing) Act 1999*, dictionary.

***Australian Transport Council*** means the Australian Transport Council mentioned in section 3 of the *National Road Transport Commission Act 1991* (Cwlth) or its successor.

***authorised person***, for a provision of this Act, means—

- (a) a person who is appointed as an authorised person under the *Road Transport (General) Act 1999* for the provision; or
- (b) a person who is, under the regulations made under this Act or the *Road Transport (General) Act 1999*, an authorised person for the provision.

***authority***—see ***road transport authority***.

***camera detection device***—see section 23.

***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***, of a vehicle, means the person who is driving the vehicle.

***driver licence***—see the *Road Transport (Driver Licensing) Act 1999*, dictionary.

***exercise*** a function includes perform a duty.

**DICTIONARY**—continued

**external driver licence**—see the *Road Transport (Driver Licensing) Act 1999*, dictionary.

*Note* An external driver licence is a foreign driver licence or an external Territory driver licence.

**function** includes power.

**infringement notice**—see the *Road Transport (General) Act 1999*, dictionary.

**installation**, of a prescribed traffic control device, includes the painting or formation of any marks or structure that forms, or forms part of, the device.

**jurisdiction** means a State, the Commonwealth or an internal Territory, including the ACT.

**loaded unsafely**, in Part 3 (Unsafe loads)—see section 11.

**motor vehicle** means a vehicle that is built to be propelled by a motor that forms part of the vehicle.

**National Road Transport Commission** means the National Road Transport Commission established by the *National Road Transport Commission Act 1991* (Cwlth) or its successor.

**prescribed traffic control device** means a device, line, marking, sign, signal or anything else that is prescribed under the regulations for this definition, and includes any board, device, plate, screen, word, and anything else, with a prescribed traffic control device that provides information about the application of the device.

**registered interest**, in relation to a motor vehicle, means an interest in the vehicle that is registered under the *Registration of Interests in Goods Act 1986* (NSW).

**registered operator**—see the *Road Transport (Vehicle Registration) Act 1999*, dictionary.

**responsible person**, for a vehicle—see the *Road Transport (General) Act 1999*, section 10.

**restricted licence**—see the *Road Transport (Driver Licensing) Act 1999*, dictionary.



**DICTIONARY**—continued

**retention area**—see the *Uncollected Goods Act 1996*, section 4.

**ride**, for the rider of a motorbike or an animal-drawn vehicle, includes be in control of the vehicle.

**rider**, of a vehicle that can be ridden, means the person who is riding the vehicle.

**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 an order under section 12 (Power to include or exclude areas in road transport legislation) of the *Road Transport (General) Act 1999* 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 an order under section 12 (Power to include or exclude areas in road transport legislation) of the *Road Transport (General) Act 1999* 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 an order under that section declares that this Act does not apply to the area.

**road transport authority** (or **authority**) means the Australian Capital Territory Road Transport Authority.

*Note* The chief executive of the department responsible for the *Road Transport (General) Act 1999* is the road transport authority (see *Road Transport (General) Act 1999*, s 16).

**DICTIONARY**—continued

***road transport legislation***—see the *Road Transport (General) Act 1999*, section 6.

***speed measuring device*** means a device designed to measure the speed at which vehicles are travelling.

***the regulations*** made under this Act includes any publication applied, adopted or incorporated under the regulations, whether entirely or in part and with or without changes.

***this Act*** (or ***the Act***) includes the regulations under this Act.

***traffic*** includes vehicle and pedestrian traffic.

***traffic accident***—see section 15.

***traffic offence detection device*** means an approved camera detection device or approved speed measuring device.

***traffic offence evasion article*** means any device or substance (the ***article***) that is designed or adapted, or apparently designed or adapted, to be fitted to, applied to, or carried in a vehicle to detect, interfere with, or reduce the effectiveness of, a traffic offence detection device, whether or not the article is operating or in working order.

***trailer*** means a vehicle being towed, or built to be towed, by a motor vehicle, but does not include a motor vehicle being towed.

***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 under the regulations.

*Road Transport (Safety and Traffic Management) Act 1999*

**ENDNOTES**

**1 About this republication**

This is a republication of the Road Transport (Safety and Traffic Management) Act 1999 effective from 2 August 2000 to 13 December 2000.

Amending and modifying laws are annotated in the table of legislation and table of amendments. However, any modifications are not included in the republished Act but are set out in the endnotes.

**2 Abbreviation key**

Key to abbreviations in tables

am = amended	pres = present
amdt = amendment	prev = previous
ch = chapter	(prev...) = previously
cl = clause	prov = provision
def = definition	pt = part
dict=dictionary	r = rule/subrule
div = division	reg = regulation/subregulation
exp = expires/expired	renum = renumbered
Gaz = Gazette	reloc = relocated
hdg = heading	R[X] = Republication No
ins = inserted/added	s = section/subsection
LR = Legislation (Republication) Act 1996	sch = schedule
mod = modified	sdiv = subdivision
No = number	sub = substituted
notfd = notified	SL = Subordinate Law
o = order	sp = spent
om = omitted/repealed	* SL unless otherwise stated
orig = original	† Act or Ordinance unless otherwise stated
p = page	
par = paragraph	

*Road Transport (Safety and Traffic Management) Act 1999*

**3 Table of legislation**

Act†	Year and number†	Gazette Notification	Commencement	Transitional provisions
<i>Road Transport (Safety and Traffic Management) Act 1999</i>	1999 No 80	23 Dec 1999	1 Mar 2000 (see s 2 and Gaz 2000 No S5)	
<i>Road Transport Legislation Amendment Act 2000</i>	2000 No 4	1 Mar 2000	1 Mar 2000	—
<i>Road Transport Legislation Regulations Amendment</i>	SL 2000 No 33	2 Aug 2000	2 Aug 2000	—

**4 Table of amendments**

Provision	How affected†
ss 5A, 5B .....	ins 2000 No 4 s 6
div 2.3 (ss 10A-10J).....	ins 2000 No 4 s 7
ss 10A-10J.....	ins 2000 No 4 s 7
s 49A.....	mod SL 2000 No 33 reg 7 (exp 1/1/01)
dict .....	am 2000 No 4 s 8

**5 Table of earlier republications**

Republication No	Amendments to	Republication date
1	Act 2000 No 4	1 March 2000
1A	Act 2000 No 4	1 March 2000

**6 Modification of republished Act with temporary effect**

The following modification has not been included in this republication:

**Road Transport Legislation Regulations Amendment, SL 2000 No 33 (reg 7)**

**7 Modification of pt 10 of the Act**

Part 10 of the Act is modified by inserting the following section after section 49:

**“49A What is a camera detection device? (MTA s 180ZE)**

**“(1)** Despite sub-subparagraph 23 (2) (b) (i) (A), the image of a vehicle taken by a device complies with that sub-subparagraph if the image (either by itself or with other images taken by the device) indicates (by a code or other information) the speed measuring device component of the device instead of the digital camera detection device.

**“(2)** This section expires on 1 January 2001.”.

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