



AUSTRALIAN CAPITAL TERRITORY

Road Transport (Safety and Traffic) Management) Amendment Act 2001

No 29 of 2001

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AUSTRALIAN CAPITAL TERRITORY

Road Transport (Safety and Traffic Management) Amendment Act 2001

No 29 of 2001

An Act to amend the *Road Transport (Safety and Traffic Management) Act 1999*, and for other purposes

[Notified in ACT Gazette No. 21: 24 May 2001]

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

PART 1—PRELIMINARY

1 Name of Act

This Act is the *Road Transport (Safety and Traffic Management) Amendment Act 2001*.

2 Commencement

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

PART 2—AMENDMENTS OF ROAD TRANSPORT (SAFETY AND TRAFFIC MANAGEMENT) ACT 1999

3 Act amended in pt 2

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

4 Insertion

Before section 10A insert the following section:

“10AA Impounding of vehicles used for menacing driving on court order before conviction etc

“(1) If a police officer believes on reasonable grounds that a person has committed an offence against section 8 (Menacing driving), the police officer may apply to the Magistrates Court for an order that the motor vehicle used by the person to commit the offence be impounded.

“(2) The application may be made whether or not the person has been charged with the offence.

Note Subsection (10) provides that this section does not apply if a court convicts or finds a person guilty of an offence against section 8. In that case, the court would deal with the person under section 10A.

“(3) If the court is satisfied on the balance of probabilities that the person committed the offence, the court must order the motor vehicle is to be impounded for 3 months, unless the court otherwise orders under subsection (4).

“(4) The court may, by order, specify a shorter period of impounding or dispense with the period of impounding to avoid excessive hardship or other injustice to anyone.

“(5) In deciding whether to make an order under subsection (4), 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 a police officer about the circumstances of the offence.

“(6) Subsection (5) does not limit, by implication, the matters to which the court may have regard or prevent the person from presenting evidence about the circumstances of the offence.

“(7) 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.

“(8) If the court makes an order under this section and the motor vehicle has not already been impounded under section 10B, the court may order the responsible person for the vehicle to surrender the motor vehicle to the chief police officer within a stated time and in a stated way.

“(9) The court may also make an order authorising any police officer to seize the vehicle from any place if the order under subsection (8) is not complied with.

“(10) This section does not apply if a court convicts the person, or finds the person guilty, of an offence against section 8 (Menacing driving).”.

5 Impounding or forfeiture of vehicles used in committing certain offences

Section 10A is amended—

- (a) by omitting the heading and substituting the following heading:

“**10A Impounding or forfeiture of vehicles on conviction etc for certain offences** (MTA s 139L, NSW RT (Gen) s 40)”; and

- (b) by omitting from subsection (1) “or 5B (Burnouts and other prohibited conduct)” and substituting “, section 5B (Burnouts and other prohibited conduct) or section 8 (Menacing driving)”; and
- (c) by inserting in subsection (5) “section 10AA (Impounding of vehicles used for menacing driving on court order before conviction etc) or” after “impounded under”; and
- (d) by omitting from paragraph (6) (a) “section 5A or 5B” and substituting “section 5A, 5B or 8”; and
- (e) by omitting from subsection (10) “section 5A or 5B” and substituting “section 5A, 5B or 8”.

6 Powers of police officers to seize and impound vehicles used in committing certain offences

Section 10B is amended—

- (a) by omitting subsection (1) (a); and
- (b) by omitting paragraph (1) (b) and substituting the following paragraphs:
 - “(b) the vehicle is subject to impounding under section 10AA (Impounding of vehicles used for menacing driving on court order before conviction etc); or
 - (c) the vehicle is subject to impounding or forfeiture under section 10A (Impounding or forfeiture of vehicles on conviction etc for certain offences).”; and
- (c) by renumbering subsections (2) to (7) as subsections (3) to (8); and
- (d) by omitting from subparagraph (2) (b) (ii) “subsection 10A (7)” and substituting “subsection 10AA (9) or 10A (7)”; and
- (e) by omitting from subsection (4) “subsection (3)” and substituting “subsection (4)”.

7 Registered operator and interested persons to be notified

Section 10C is amended—

- (a) by omitting from subsection (1) “paragraph 10B (1) (a)” and substituting “paragraph 10B (1) (a) or (b)”; and
- (b) by omitting from subsection (2) “or 5B (Burnouts and other prohibited conduct)” and substituting “, section 5B (Burnouts and other prohibited conduct) or section 8 (Menacing driving).”.

8 Keeping of vehicles seized under par 10B (1) (a)

Section 10D is amended—

- (a) by omitting the heading and substituting the following heading:

“10D Keeping of vehicles seized under par 10B (1) (a) or (b)

(MTA s 139N (3), NSW RT (Gen) sch 1, cl 3)”; and

- (b) by omitting from subsection (1) “paragraph 10B (1) (a)” and substituting “paragraph 10B (1) (a) or (b)”.

9 Keeping of vehicles impounded or forfeited under s 10A

Section 10E is amended—

- (a) by omitting the heading and substituting the following heading:

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

- (b) by omitting “section 10A (Impounding or forfeiture of vehicles used in committing certain offences)” and substituting “section 10AA (Impounding of vehicles used for menacing driving on court order before conviction etc) or section 10A (Impounding or forfeiture of vehicles on conviction etc for certain offences)”.

10 Release of vehicles by chief police officer

Section 10F is amended by omitting from subsection (1) “paragraph 10B (1) (a)” and substituting “paragraph 10B (1) (a) or (b)”.

11 Release of vehicles by order of Magistrates Court

Section 10G is amended by omitting from subsection (1) “paragraph 10B (1) (a)” and substituting “paragraph 10B (1) (a) or (b)”.

12 Failure to prosecute

Section 10I is amended by omitting “paragraph 10B (1) (a)” and substituting “paragraph 10B (1) (a), (b) or (c)”.

PART 3—AMENDMENTS OF ROAD TRANSPORT (SAFETY AND TRAFFIC MANAGEMENT) REGULATIONS 2000

13 Regulations amended in pt 3

This Part amends the *Road Transport (Safety and Traffic Management) Regulations 2000*.

14 Disposal of impounded or forfeited vehicles

Regulation 112 is amended by omitting from subregulation (1) “section 10A (Impounding or forfeiture of vehicles used in committing certain offences) or” and substituting “section 10AA (Impounding of vehicles used for menacing driving on court order before conviction etc), section 10A (Impounding or forfeiture of vehicles on conviction etc for certain offences) or section”.

Endnotes

Act amended—pt 2

- 1 Republished as in force on 1 March 2000 (Republication No 1). See also SL 2000 No 33.

Regulations amended—pt 3

- 2 Republished as in force on 1 March 2000 (Republication No 1). See also SL 2000 Nos 21 and 33.

[Presentation speech made in Assembly on 7 December 2000]