



Australian Capital Territory

Road Transport (Safety and Traffic Management) Amendment Act 2001 (No 3)

No 86 of 2001

Contents

	Page
Part 1	
Preliminary	
1 Name of Act	2
2 Commencement	2
3 Act amended	2
4 Powers of police officers to seize and impound vehicles used in committing certain offences	
Section 10B (1)	2
5 Powers of police officers to seize and impound vehicles used in committing certain offences	
Section 10B	3
6 New sections 10C and 10D	3

Contents

		Page
7	New sections 10F and 10G	5
8	Failure to prosecute Section 10I	7
9	Seizure, impounding and forfeiture of vehicles for certain offences Division 2.3	7



Australian Capital Territory

Road Transport (Safety and Traffic Management) Amendment Act 2001 (No 3)

No 86 of 2001

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

[Notified in ACT Gazette No. S66: 10 September 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 (No 3)*.

2 Commencement

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

3 Act amended

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

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

substitute

- (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 been used by a person in committing an offence against section 5A (Races, attempts on speed records, speed trials etc) or section 5B (Burnouts and other prohibited conduct); or
 - (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).

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

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

renumber subsections under Legislation Act 2001 when Act next republished

6 New sections 10C and 10D

insert

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 section 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), section 5B (Burnouts and other prohibited conduct) or section 8 (Menacing driving) involving a motor vehicle, the chief police officer must give notice of the prosecution to—
- (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
 - (c) 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
 - (d) 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 s 10B (1) (a)
(MTA s 139N (3), NSW RT (Gen) sch 1, cl 3)

- (1) If a motor vehicle is seized under section 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 (Vehicles seized under s 10B (1) (a)—release by chief police officer) or section 10G (Vehicles seized under s 10B (1) (a)—release by 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.

7 New sections 10F and 10G

insert

10F Vehicles seized under s 10B (1) (a)—release 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 section 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—
 - (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 Vehicles seized under s 10B (1) (a)—release by 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 section 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.

8 Failure to prosecute

Section 10I

substitute

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 section 10B (1) (a) or (b) (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.

9 Seizure, impounding and forfeiture of vehicles for certain offences

Division 2.3

renumber sections of division under Legislation Act 2001 when Act next republished

Endnote

Act amended

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

[Presentation speech made in Assembly on 22 August 2001]

© Australian Capital Territory 2001