



Australian Capital Territory

# Road Transport Legislation Amendment Act 2016 (No 2)

A2016-14

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Australian Capital Territory

# Road Transport Legislation Amendment Act 2016 (No 2)

A2016-14

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An Act to amend legislation about road transport

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

## Part 1 Preliminary

### 1 Name of Act

This Act is the *Road Transport Legislation Amendment Act 2016 (No 2)*.

### 2 Commencement

This Act commences on the day after its notification day.

*Note* The naming and commencement provisions automatically commence on the notification day (see [Legislation Act](#), s 75 (1)).

### 3 Legislation amended

This Act amends the following legislation:

- [Road Transport \(General\) Act 1999](#)
- [Road Transport \(Offences\) Regulation 2005](#)
- [Road Transport \(Safety and Traffic Management\) Act 1999](#)
- [Road Transport \(Safety and Traffic Management\) Regulation 2000](#).

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## Part 2                      Road Transport (General) Act 1999

### 4                      Police officer or authorised person may require people to disclose identity of driver Section 60 (1), penalty

*substitute*

Maximum penalty:

- (a) for an offence against the *Road Transport (Safety and Traffic Management) Act 1999*, section 5C (Failing to stop motor vehicle for police), for a first offender—100 penalty units, imprisonment for 12 months or both; or
- (b) for an offence against the *Road Transport (Safety and Traffic Management) Act 1999*, section 5C, for a repeat offender—300 penalty units, imprisonment for 3 years or both; or
- (c) in any other case—20 penalty units.

### 5                      New section 60A

*insert*

#### 60A                      Meaning of *first offender* and *repeat offender*—s 60

- (1) A person who is convicted or found guilty of a failing to identify or stop offence is a *first offender* in relation to the offence if the person is not a repeat offender in relation to the offence.

*Note*                      *Found guilty*, of an offence—see the [Legislation Act](#), dictionary, pt 1.

- (2) A person who is convicted or found guilty of a failing to identify or stop offence (the *relevant offence*) is a *repeat offender* in relation to the offence if—
- (a) the person has been convicted or found guilty of a failing to identify or stop offence at any time before the relevant offence was committed (whether or not the person has been convicted or found guilty of the failing to identify or stop offence when the person committed the relevant offence); or
  - (b) the person is convicted or found guilty of 1 or more failing to identify or stop offences concurrently with being convicted of the relevant offence, and 1 or more of the identification offences were committed before the relevant offence.
- (3) In this section:
- failing to identify or stop offence* means—
- (a) an offence against section 60 (1) (which is about requiring people to disclose the identity of a driver), if the requirement is to give information about the driver of a motor vehicle who is alleged to have committed an offence against the *Road Transport (Safety and Traffic Management) Act 1999*, section 5C (Failing to stop motor vehicle for police); or
  - (b) an offence against the *Road Transport (Safety and Traffic Management) Act 1999*, section 5C (which is about failing to stop a motor vehicle when asked or signalled to do so by a police officer).



**6**      **Definitions—div 4.2**  
**Section 61A, definition of *automatic disqualification provision*, new paragraph (aa)**

*before paragraph (a), insert*

- (aa) section 60 (which is about requiring people to disclose the identity of a driver), if the requirement is to give information about the driver of a motor vehicle who is alleged to have committed an offence against the *Road Transport (Safety and Traffic Management) Act 1999*, section 5C (Failing to stop motor vehicle for police);

**7**      **Section 61A, definition of *immediate suspension offence***

*omit*

of the *Road Transport (Alcohol and Drugs) Act 1977*

**8**      **Section 61A, definition of *immediate suspension offence*, new paragraph (aa)**

*before paragraph (a), insert*

- (aa) section 60 (Police officer or authorised person may require people to disclose identity of driver), if the requirement is to give information about the driver of a motor vehicle who is alleged to have committed an offence against the *Road Transport (Safety and Traffic Management) Act 1999*, section 5C (Failing to stop motor vehicle for police);

**9**      **Section 61A, definition of *immediate suspension offence*, paragraphs (a) to (e)**

*before*

section

*insert*

the *Road Transport (Alcohol and Drugs) Act 1977*,

**10 Section 61A, definition of *immediate suspension offence*, new paragraph (g)**

*insert*

- (g) the *Road Transport (Safety and Traffic Management) Act 1999*, section 5C (Failing to stop motor vehicle for police).

**11 Meaning of *first offender* and *repeat offender*—div 4.2  
Section 61AA (5), definition of *relevant offence*, new paragraph (aa)**

*insert*

- (aa) an offence against section 60 (which is about requiring people to disclose the identity of a driver), if the requirement is to give information about the driver of a motor vehicle who is alleged to have committed an offence against the *Road Transport (Safety and Traffic Management) Act 1999*, section 5C (Failing to stop motor vehicle for police);

**12 Section 61AA (5), definition of *relevant offence*, new paragraph (ca)**

*insert*

- (ca) an offence against the *Road Transport (Safety and Traffic Management) Act 1999*, section 5C (Failing to stop motor vehicle for police);

**13 Automatic disqualification for certain other driving offences**  
**New section 63 (1) (aa)**

*before paragraph (a), insert*

- (aa) an offence against section 60 (which is about requiring people to disclose the identity of a driver), if the requirement is to give information about the driver of a motor vehicle who is alleged to have committed an offence against the *Road Transport (Safety and Traffic Management) Act 1999*, section 5C (Failing to stop motor vehicle for police);

**14 New section 63 (1) (ba)**

*insert*

- (ba) an offence against the *Road Transport (Safety and Traffic Management) Act 1999*, section 5C (which is about failing to stop a motor vehicle when asked or signalled to do so by a police officer);

**15 Dictionary, definitions of *first offender* and *repeat offender***

*substitute*

***first offender***—

- (a) for section 60 (Police officer or authorised person may require people to disclose identity of driver)—see section 60A; and
- (b) for division 4.2 (Licence suspension, disqualification and related matters)—see section 61AA.

*repeat offender*—

- (a) for section 60 (Police officer or authorised person may require people to disclose identity of driver)—see section 60A; and
- (b) for division 4.2 (Licence suspension, disqualification and related matters)—see section 61AA.

## Part 3 Road Transport (Offences) Regulation 2005

### 16 Short descriptions, penalties and demerit points Schedule 1, part 1.7, items 7 and 8

*substitute*

7	60 (1) (a)			
7.1	<ul style="list-style-type: none"> <li>for offence against <i>Road Transport (Safety and Traffic Management) Act 1999</i>, s 5C, for first offender</li> </ul>	responsible person/possessor not give particulars of driver/written signed statement required by police officer/authorised person—first offender	100pu/ 12 months prison/both	

**Part 3**

Road Transport (Offences) Regulation 2005

Section 16

7.2	<ul style="list-style-type: none"> <li>for offence against <i>Road Transport (Safety and Traffic Management) Act 1999</i>, s 5C, for repeat offender</li> </ul>	responsible person/possessor not give particulars of driver/written signed statement required by police officer/authorised person—repeat offender	300pu/ 3 years prison/both		
7.3	<ul style="list-style-type: none"> <li>in any other case</li> </ul>	responsible person/possessor not give particulars of driver/written signed statement required by police officer/authorised person	20	236	
8 8.1	<p>60 (1) (b)</p> <ul style="list-style-type: none"> <li>for offence against <i>Road Transport (Safety and Traffic Management) Act 1999</i>, s 5C, for first offender</li> </ul>	other person not give particulars of driver required by police officer/authorised person—first offender	100pu/ 12 months prison/both		

8.2	<ul style="list-style-type: none"> <li>for offence against <i>Road Transport (Safety and Traffic Management) Act 1999</i>, s 5C, for repeat offender</li> </ul>	other person not give particulars of driver required by police officer/authorised person—repeat offender	300pu/ 3 years prison/both		
8.3	<ul style="list-style-type: none"> <li>in any other case</li> </ul>	other person not give particulars of driver required by police officer/authorised person	20	236	

### 17 Schedule 1, part 1.12, new item 7A

*insert*

7A	5C				
7A.1	<ul style="list-style-type: none"> <li>first offender</li> </ul>	fail to stop motor vehicle for police—first offender	100pu/ 12 months prison/both		

**Part 3** Road Transport (Offences) Regulation 2005

Section 18

7A.2	<ul style="list-style-type: none"><li>repeat offender</li></ul>	fail to stop motor vehicle for police—repeat offender	300pu/ 3 years prison/both		
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**18 Schedule 1, part 1.12, item 9**

*substitute*

9 9.1	7 (1) <ul style="list-style-type: none"><li>first offender, for aggravated offence (fail to stop for police)</li></ul>	aggravated offence (fail to stop for police)—drive furiously/recklessly/at speed dangerous/in way dangerous—first offender	300pu/ 3 years prison/both		
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9.2	repeat offender, for aggravated offence (fail to stop for police)	aggravated offence (fail to stop for police)—drive furiously/ recklessly/at speed dangerous/in way dangerous—repeat offender	500pu/ 5 years prison/both		
9.3	<ul style="list-style-type: none"> <li>for other aggravated offence</li> </ul>	aggravated offence—drive furiously/ recklessly/at speed dangerous/in way dangerous	200pu/ 24 months prison/both		
9.4	<ul style="list-style-type: none"> <li>in any other case</li> </ul>	drive furiously/ recklessly/at speed dangerous/in way dangerous	100pu/ 12 months prison/both		

**19 Schedule 1, part 1.13, item 72***omit*

## Part 4 Road Transport (Safety and Traffic Management) Act 1999

### 20 Offences against Act—application of Criminal Code etc Section 5AA, note 1

*insert*

- s 5C (Failing to stop motor vehicle for police)

### 21 New section 5AB

*in division 2.1, before section 5A, insert*

#### 5AB Meaning of *first offender* and *repeat offender*—div 2.1

- (1) A person who is convicted or found guilty of a failing to stop offence is a *first offender* in relation to the offence if the person is not a repeat offender in relation to the offence.

*Note* *Found guilty*, of an offence—see the [Legislation Act](#), dictionary, pt 1.

- (2) A person who is convicted or found guilty of a failing to stop offence (the *relevant offence*) is a *repeat offender* in relation to the offence if—
- the person has been convicted or found guilty of a failing to stop offence at any time before the relevant offence was committed (whether or not the person has been convicted or found guilty of the failing to stop offence when the person committed the relevant offence); or
  - the person is convicted or found guilty of 1 or more failing to stop offences concurrently with being convicted of the relevant offence, and 1 or more of the failing to stop offences were committed before the relevant offence.

- (3) However, a person who is convicted or found guilty of a failing to stop offence that was committed before the commencement of the *Road Transport Legislation Amendment Act 2016 (No 2)*, section 21 (the ***pre-commencement offence***) is a ***repeat offender*** in relation to the offence only if—
- (a) the person has been convicted or found guilty of a failing to stop offence within 5 years before being convicted or found guilty of the pre-commencement offence; or
  - (b) the person is convicted or found guilty of 1 or more failing to stop offences concurrently with being convicted or found guilty of the pre-commencement offence, and 1 or more of the failing to stop offences were committed before the pre-commencement offence.
- (4) Subsection (3) and this subsection expire 5 years after the day this section commences.
- (5) In this section:
- failing to stop offence*** means—
- (a) an offence against section 5C (Failing to stop motor vehicle for police); or
  - (b) an offence against section 7 (Furious, reckless or dangerous driving) (the ***current offence***) that is an aggravated offence because a circumstance mentioned in section 7A (1) (a) (i) existed at the time of the current offence; or
  - (c) an offence against the *Road Transport (General) Act 1999*, section 60 (1) (which is about requiring people to disclose the identity of a driver), if the requirement is to give information about the driver of a motor vehicle who is alleged to have committed an offence against section 5C.

**22 New section 5C**

*insert*

**5C Failing to stop motor vehicle for police**

A person commits an offence if—

- (a) the person is driving a motor vehicle; and
- (b) a police officer asks or signals the person to stop the motor vehicle; and
- (c) the person fails to comply with the police officer's request or signal as soon as practicable.

Maximum penalty:

- (a) for an offence by a first offender—100 penalty units, imprisonment for 12 months or both; or
- (b) for an offence by a repeat offender—300 penalty units, imprisonment for 3 years or both.

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

**23 Furious, reckless or dangerous driving  
Section 7 (1), penalty**

*substitute*

Maximum penalty:

- (a) for an aggravated offence by a first offender in which a circumstance mentioned in section 7A (1) (a) (i) exists—300 penalty units, imprisonment for 3 years or both; or
- (b) for an aggravated offence by a repeat offender in which a circumstance mentioned in section 7A (1) (a) (i) exists—500 penalty units, imprisonment for 5 years or both; or

- (c) for any other aggravated offence—200 penalty units, imprisonment for 2 years or both; or
- (d) in any other case—100 penalty units, imprisonment for 12 months or both.

**24      Aggravated offence—furious, reckless or dangerous driving**  
**Section 7A (1) (a) (i)**

*substitute*

- (i) the person failed to comply, as soon as practicable, with a request or signal given by a police officer to stop the motor vehicle;

**25      Meaning of *first offender* and *repeat offender*—div 2.3**  
**Section 10AA (5), definition of *impounding offence*, new paragraph (ba)**

*insert*

- (ba) section 5C (Failing to stop motor vehicle for police);

**26      Impounding or forfeiture of vehicles on conviction etc for certain offences**  
**Section 10B (1)**

*substitute*

- (1) This section applies if a court convicts a person, or finds a person guilty, of an offence against—
  - (a) section 5A (Races, attempts on speed records, speed trials etc); or
  - (b) section 5B (Improper use of motor vehicle); or
  - (c) section 5C (Failing to stop motor vehicle for police).

- (1A) 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).

**27 Section 10B (6) (a)**

*after*

section 5B

*insert*

, section 5C

**28 Powers of police officers to issue surrender notices for motor vehicles  
Section 10BA (1)**

*omit everything after*

committing

*substitute*

an offence against—

- (a) section 5A (Races, attempts on speed records, speed trials etc);  
or
- (b) section 5B (Improper use of motor vehicle); or
- (c) section 5C (Failing to stop motor vehicle for police).

**29 Powers of police officers to seize and impound vehicles used in committing certain offences**  
**Section 10C (1) (a)**

*omit everything after*

offence

*substitute*

against—

- (i) section 5A (Races, attempts on speed records, speed trials etc); or
- (ii) section 5B (Improper use of motor vehicle); or
- (iii) section 5C (Failing to stop motor vehicle for police); or

**30 Section 10C (3)**

*omit everything before paragraph (a), substitute*

- (3) The police officer may seize the motor vehicle from—

**31 New section 10C (3A) and (3B)**

*insert*

- (3A) If subsection (1) (a) (iii) applies, the police officer may seize the motor vehicle from a place other than a road or road related area or other public place without the consent of the owner or occupier of the place if the police officer believes on reasonable grounds that the motor vehicle is at the place, but in seizing the vehicle may not—
- (a) enter any building on the place, other than a garage, shed or other structure where the police officer believes on reasonable grounds that the motor vehicle is located; or
  - (b) remain at the place for longer than is necessary to seize the vehicle or determine that the vehicle is not at the property.

- (3B) For subsection (3A) the police officer may use the force that is necessary and reasonable in the circumstances to—
- (a) enter a place or structure where the police officer believes on reasonable grounds the motor vehicle is located; and
  - (b) seize the vehicle.

**32 Section 10C (8), new definition of *garage***

*insert*

*garage* includes a garage attached to a residential building.

**33 Registered operator and interested people to be notified  
Section 10D (2)**

*after*

section 5B (Improper use of motor vehicle)

*insert*

, section 5C (Failing to stop motor vehicle for police)

**34 Keeping of certain vehicles seized or surrendered  
Section 10E (6), definition of *relevant offence*, new  
paragraph (ba)**

*insert*

(ba) section 5C (Failing to stop motor vehicle for police); or



**35 Dictionary, definitions of *first offender* and *repeat offender***

*substitute*

***first offender***—

- (a) for division 2.1 (Speeding and other dangerous driving offences)—see section 5AB; and
- (b) for division 2.3 (Seizure, impounding and forfeiture of vehicles for certain offences)—see section 10AA.

***repeat offender***—

- (a) for division 2.1 (Speeding and other dangerous driving offences)—see section 5AB; and
- (b) for division 2.3 (Seizure, impounding and forfeiture of vehicles for certain offences)—see section 10AA.

**Part 5**                      **Road Transport (Safety and  
Traffic Management)  
Regulation 2000**

**36**            **Section 109 heading**

*substitute*

**109**           **Additional police powers—removing parked cars**

**37**            **Section 109 (1) and (2)**

*omit*

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## Endnotes

**1 Presentation speech**

Presentation speech made in the Legislative Assembly on 18 February 2016.

**2 Notification**

Notified under the [Legislation Act](#) on 17 March 2016.

**3 Republications of amended laws**

For the latest republication of amended laws, see [www.legislation.act.gov.au](http://www.legislation.act.gov.au).

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I certify that the above is a true copy of the Road Transport Legislation Amendment Bill 2016 (No 2), which originated in the Legislative Assembly as the Road Transport Legislation Amendment Bill 2016 and was passed by the Assembly on 8 March 2016.

Clerk of the Legislative Assembly

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