



Australian Capital Territory

# Road Safety Legislation Amendment Act 2023

A2023-19

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Australian Capital Territory

# Road Safety Legislation Amendment Act 2023

**A2023-19**

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An Act to amend legislation about road safety, and for other purposes

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

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J2022-1089

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## Part 1 Preliminary

### 1 Name of Act

This Act is the *Road Safety Legislation Amendment Act 2023*.

### 2 Commencement

- (1) This Act (other than part 3) 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)).

- (2) Part 3 commences 12 months after this Act's notification day.

### 3 Legislation amended

This Act amends the following legislation:

- *Road Transport (Alcohol and Drugs) Act 1977*
- *Road Transport (Driver Licensing) Act 1999*
- *Road Transport (General) Act 1999*
- *Road Transport (Offences) Regulation 2005*
- *Road Transport (Safety and Traffic Management) Act 1999*.

**Part 2**                      **Road Transport (Alcohol and  
Drugs) Act 1977**

**4**                      **Permitted use of samples  
Section 18B (d)**

*before*

section 7

*insert*

section 5A (Races, attempts on speed records, speed trials etc) or

## Part 3                      Road Transport (Driver Licensing) Act 1999

### 5                      Driver licensing system New section 28 (2) (da)

*insert*

- (da) require the production of information by health practitioners relating to a person's fitness to drive a motor vehicle; and

### 6                      New section 28 (2) (pa)

*insert*

- (pa) provide for the disclosure of information about a person's fitness to drive a motor vehicle to an entity of another jurisdiction that corresponds to the road transport authority; and



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## Part 4 Road Transport (General) Act 1999

### 7 Definitions—div 4.2 Section 61A, definition of *immediate suspension offence*, new paragraph (ca)

*insert*

- (ca) the *Road Transport (Alcohol and Drugs) Act 1977*, section 22A (Refusing to provide oral fluid sample);

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

*insert*

- (ga) the *Road Transport (Road Rules) Regulation 2017*, section 20 (Obeying speed limit), if the driver exceeds the speed limit applying to the driver by more than 45km/h;

### 9 Section 61A, definition of *immediate suspension offence*, new paragraph (i)

*insert*

- (i) the *Road Transport (Safety and Traffic Management) Act 1999*, section 7 (Furious, reckless or dangerous driving), if the offence is an aggravated offence.

### 10 Meaning of *first offender* and *repeat offender*—div 4.2 Section 61AA (2), new note

*insert*

*Note* **Found guilty**, of an offence, includes having the offence taken into account under the *Crimes (Sentencing) Act 2005*, s 57 (Outstanding additional offences taken into account in sentencing) (see [Legislation Act](#), dict, pt 1).

**11 Section 61AA (3), definition of *relevant offence* and note**

*substitute*

*relevant offence* means any of the following:

- (a) an offence of culpable driving;
- (b) an offence mentioned in section 63 (1).

**12 Immediate suspension of licence  
Section 61B (2) (d)**

*substitute*

- (d) particulars of the suspension offence to which the notice relates and—
  - (i) if the offence is against the *Road Transport (Alcohol and Drugs) Act 1977*, section 19 (Prescribed concentration of alcohol in blood or breath)—the concentration of alcohol alleged to be present in the person’s blood or breath; and
  - (ii) if the offence is against the *Road Transport (Road Rules) Regulation 2017*, section 20 (Obeying speed limit)—the speed at which the person is alleged to have been driving;

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

*insert*

- (h) an offence against the *Road Transport (Road Rules) Regulation 2017*, section 20 (Obeying speed limit), if the driver exceeds the speed limit applying to the driver by more than 45km/h.

## Part 5 Road Transport (Offences) Regulation 2005

### 14 Short descriptions, penalties and demerit points Schedule 1, part 1.12, items 1 to 4

*substitute*

1	5A (1) (a)				
1.1	<ul style="list-style-type: none"> <li>repeat offender or aggravated offence</li> </ul>	organise/promote/take part in race with another vehicle—repeat offender or aggravated offence	100pu/ 12 months prison/both	-	-
1.2	<ul style="list-style-type: none"> <li>in any other case</li> </ul>	organise/promote/take part in race with another vehicle—in any other case	50	700	3

**Part 5**

## Road Transport (Offences) Regulation 2005

## Section 14

2	5A (1) (b)				
2.1	<ul style="list-style-type: none"> <li>repeat offender or aggravated offence</li> </ul>	organise/promote/take part in attempt to break vehicle speed record—repeat offender or aggravated offence	100pu/ 12 months prison/both	-	-
2.2	<ul style="list-style-type: none"> <li>in any other case</li> </ul>	organise/promote/take part in attempt to break vehicle speed record—in any other case	50	700	3
3	5A (1) (c)				
3.1	<ul style="list-style-type: none"> <li>repeat offender or aggravated offence</li> </ul>	organise/promote/take part in trial of vehicle's maximum speed/acceleration—repeat offender or aggravated offence	100pu/ 12 months prison/both	-	-
3.2	<ul style="list-style-type: none"> <li>in any other case</li> </ul>	organise/promote/take part in trial of vehicle's maximum speed/acceleration—in any other case	50	700	3

4	5A (1) (d)				
4.1	<ul style="list-style-type: none"> <li>repeat offender or aggravated offence</li> </ul>	organise/promote/take part in trial of driver skill/reliability of/mechanical condition of vehicle—repeat offender or aggravated offence	100pu/ 12 months prison/both	-	-
4.2	<ul style="list-style-type: none"> <li>in any other case</li> </ul>	organise/promote/take part in trial of driver skill/reliability of/mechanical condition of vehicle—in any other case	50	700	3

## Part 6 Road Transport (Safety and Traffic Management) Act 1999

### 15 Meaning of *first offender* and *repeat offender*—div 2.1 Section 5AB (1) and (2)

*omit*

failing to stop

*substitute*

dangerous driving

### 16 Section 5AB (3)

*substitute*

(3) In this section:

***dangerous driving offence*** means—

- (a) an offence of culpable driving; or
- (b) an offence against section 5A (Races, attempts on speed records, speed trials etc); or
- (c) an offence against section 5B (Improper use of motor vehicle); or
- (d) an offence against section 5C (Failing to stop motor vehicle for police); or
- (e) an offence against section 7 (Furious, reckless or dangerous driving); or
- (f) an offence against section 8 (Menacing driving); or

- (g) an offence against the *Road Transport (Alcohol and Drugs) Act 1977*, section 19 (Prescribed concentration of alcohol in blood or breath); or
- (h) 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; or
- (i) an offence against the *Road Transport (Road Rules) Regulation 2017*, section 20 (Obeying speed limit), if the person exceeded the speed limit applying to the person by more than 45km/h.

**17 Races, attempts on speed records, speed trials etc  
Section 5A (1), penalty**

*substitute*

Maximum penalty:

- (a) for an offence by a repeat offender or an aggravated offence—100 penalty units, imprisonment for 12 months or both; or
- (b) in any other case—50 penalty units.

**18 New sections 5AAA and 5AAB**

*after section 5A, insert*

**5AAA Aggravated offence—races, attempts on speed records, speed trials etc**

- (1) An offence committed by a person against section 5A (the *current offence*) is an *aggravated offence* if any of the following circumstances existed at the time of the current offence:
  - (a) the person failed to comply, as soon as practicable, with a request or signal given by a police officer to stop the motor vehicle;

- (b) the person was driving—
  - (i) with the prescribed concentration of alcohol in their blood or breath; or
  - (ii) with a prescribed drug in their oral fluid or blood; or
  - (iii) while under the influence of intoxicating liquor or of a drug to such an extent as to be incapable of having proper control of the vehicle; or
  - (iv) at a speed that exceeded the speed limit applying to the person by more than 30%; or
  - (v) in a way that put at risk the safety of a vulnerable road user; or
  - (vi) with a person younger than 17 years old in the vehicle.
- (2) For subsection (1) (b) (i), evidence may be given of the concentration of alcohol in the person's blood or breath based on—
  - (a) for proof of the concentration of alcohol in the person's blood or breath—an analysis of a sample of the person's breath carried out in accordance with the *Road Transport (Alcohol and Drugs) Act 1977*; or
  - (b) for proof of the concentration of alcohol in the person's blood—an analysis of the sample of the person's blood carried out at an approved laboratory and certified accurate by an analyst in accordance with the *Road Transport (Alcohol and Drugs) Act 1977*.
- (3) For subsection (1) (b) (ii), evidence may be given that a person has a prescribed drug in the person's oral fluid or blood based on—
  - (a) for proof of presence of a prescribed drug in the person's oral fluid—an analysis of a part of a sample of the person's oral fluid under the *Road Transport (Alcohol and Drugs) Act 1977*, section 13G (Oral fluid—confirmatory analysis) that indicates that a prescribed drug is present in the sample; or



- (b) for proof of the presence of a prescribed drug in the person's blood—an analysis of a part of a sample of the person's blood under the *Road Transport (Alcohol and Drugs) Act 1977*, section 15A (Analysis of blood samples) that indicates that a prescribed drug is present in the sample.

**5AAB Alternative verdicts—races, attempts on speed records, speed trials etc—aggravated offence**

- (1) This section applies if, in a prosecution for an aggravated offence against section 5A, the trier of fact—
- (a) is satisfied beyond reasonable doubt that the defendant committed an offence against section 5A; but
  - (b) is not satisfied that the defendant committed the aggravated offence.
- (2) The trier of fact may find the defendant guilty of an offence against section 5A but not guilty of the aggravated offence charged, but only if the defendant has been given procedural fairness in relation to that finding of guilt.

**19 Aggravated offence—furious, reckless or dangerous driving  
Section 7A (4), definitions of *prescribed concentration*,  
*prescribed drug* and *vulnerable road user***

*omit*

**20 Meaning of *first offender* and *repeat offender*—div 2.3  
Section 10AA (2), new note**

*insert*

*Note* **Found guilty**, of an offence, includes having the offence taken into account under the *Crimes (Sentencing) Act 2005*, s 57 (Outstanding additional offences taken into account in sentencing) (see [Legislation Act](#), dict, pt 1).

**21 Section 10AA (3)**

*substitute*

(3) In this section:

***impounding offence*** means 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); or
- (d) section 7 (Furious, reckless or dangerous driving); or
- (e) section 8 (Menacing driving); or
- (f) the *Road Transport (Road Rules) Regulation 2017*, section 20 (Obeying speed limit), if the person exceeded the speed limit applying to the person by more than 45km/h.

**22 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 impounding offence.

**23 Section 10B (7)**

*substitute*

- (7) A court may order the responsible person for a motor vehicle to surrender the vehicle to the chief police officer within a stated time and in a stated way if—
- (a) the court convicts a person, or finds a person guilty, of an impounding offence; and

- (b) the vehicle—
- (i) was used in committing the offence; and
  - (ii) is subject to impounding or forfeiture under this section; and
  - (iii) has not already been impounded under section 10A, section 10BA or section 10C.

**24 New section 10B (11)**

*insert*

- (11) In this section:

*impounding offence*—see section 10AA (3).

**25 Powers of police officers to issue surrender notices for motor vehicles  
New section 10BA (1) (d)**

*insert*

- (d) section 7 (Furious, reckless or dangerous driving) that is an aggravated offence.

**26 New section 10BA (1A)**

*insert*

- (1A) This section also applies to a motor vehicle if a police officer believes on reasonable grounds that—
- (a) the vehicle is being, or has been used, by a person in committing an offence against the *Road Transport (Road Rules) Regulation 2017*, section 20 (Obeying speed limit); and
  - (b) the person, in committing the offence, exceeded the speed limit applying to the person by more than 45km/h.

**27 Powers of police officers to seize and impound vehicles used in committing certain offences**  
**New section 10C (1) (a) (iv)**

*insert*

- (iv) section 7 (Furious, reckless or dangerous driving) that is an aggravated offence; or

**28 New section 10C (1) (aa)**

*insert*

- (aa) the police officer believes on reasonable grounds that—
- (i) the vehicle is being, or has been, used by a person in committing an offence against the *Road Transport (Road Rules) Regulation 2017*, section 20 (Obeying speed limit); and
  - (ii) the person, in committing the offence, exceeded the speed limit applying to the person by more than 45km/h; or

**29 Section 10C (2)**

*omit*

10 days

*substitute*

30 days

**30 Keeping of certain vehicles seized or surrendered**  
**Section 10E (6), definition of *relevant offence*, paragraph (d)**

*substitute*

- (d) section 7 (Furious, reckless or dangerous driving) that is an aggravated offence; or

- (e) section 8 (Menacing driving); or
- (f) the *Road Transport (Road Rules) Regulation 2017*, section 20 (Obeying speed limit), if the person exceeded the speed limit applying to the person by more than 45km/h.

### 31 Dictionary, note 3

*insert*

- offence of culpable driving

### 32 Dictionary, definition of *aggravated offence*

*substitute*

*aggravated offence*—

- (a) against section 5A (Races, attempts on speed records, speed trials etc)—see section 5AAA; and
- (b) against section 7 (Furious, reckless or dangerous driving)—see section 7A.

### 33 Dictionary, new definitions

*insert*

*prescribed concentration*, of alcohol in a person's blood or breath—see the *Road Transport (Alcohol and Drugs) Act 1977*, section 4C.

*prescribed drug*—see the *Road Transport (Alcohol and Drugs) Act 1977*, dictionary.

*vulnerable road user* means a road user other than the driver of, or passenger in, an enclosed motor vehicle.

**Examples—vulnerable road users**

- pedestrians
- cyclists

- motorcyclists
  - riders of animals
  - users of personal mobility devices
- 

## Endnotes

**1 Presentation speech**

Presentation speech made in the Legislative Assembly on 23 November 2022.

**2 Notification**

Notified under the [Legislation Act](#) on 21 June 2023.

**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 Safety Legislation Amendment Bill 2023, which originated in the Legislative Assembly as the Road Safety Legislation Amendment Bill 2022 and was passed by the Assembly on 7 June 2023.

Clerk of the Legislative Assembly