

2015

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Minister for Justice)

Road Transport Legislation Amendment Bill 2015 (No 2)

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Road Transport Legislation Amendment Bill 2015 (No 2)

A Bill for

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

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

1 **Part 1 Preliminary**

2 **1 Name of Act**

3 This Act is the *Road Transport Legislation Amendment Act 2015*
4 (*No 2*).

5 **2 Commencement**

6 This Act commences on the day after its notification day.

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

9 **3 Legislation amended**

10 This Act amends the following legislation:

- 11 • [Crimes Act 1900](#)
- 12 • [Road Transport \(Alcohol and Drugs\) Act 1977](#)
- 13 • [Road Transport \(Driver Licensing\) Act 1999](#)
- 14 • [Road Transport \(General\) Act 1999](#)
- 15 • [Road Transport \(Offences\) Regulation 2005](#).

1 **Part 2** **Crimes Act 1900**

2 **4** **Power to enter premises to arrest offender**
3 **Section 220 (4), definition of *relevant offence*,**
4 **paragraph (b) (iv)**

5 *omit*

Part 3 Road Transport (Alcohol and Drugs) Act 1977

5 New section 10A

in division 2.2, insert

10A Power to enter premises for alcohol screening test

- (1) This section applies if a police officer—
- (a) suspects on reasonable grounds that a person—
 - (i) was the driver of a vehicle that was involved in an accident on a road or road related area; or
 - (ii) failed to comply with a police officer's request or signal to stop a vehicle the person was driving on a road or road related area; and
 - (b) suspects on reasonable grounds that the person has committed an offence against section 19 (Prescribed concentration of alcohol in blood or breath), section 20 (Prescribed drug in oral fluid or blood—driver or driver trainer) or section 24 (Driving under the influence of intoxicating liquor or a drug); and
 - (c) requires the person to undergo 1 or more alcohol screening tests under this division; and
 - (d) believes on reasonable grounds that the person is on any premises.
- (2) The police officer may enter the premises, using the force that is necessary and reasonable in the circumstances, for the purpose of requiring the person to undergo 1 or more alcohol screening tests.
- (3) A police officer who enters premises under this section must not remain at the premises for longer than is necessary to conduct the required screening tests.

6 New section 13CA

in division 2.4, insert

13CA Power to enter premises for drug screening test

- (1) This section applies if a police officer—
- (a) suspects on reasonable grounds that a person—
 - (i) was the driver of a vehicle that was involved in an accident on a road or road related area; or
 - (ii) failed to comply with a police officer's request or signal to stop a vehicle the person was driving on a road or road related area; and
 - (b) suspects on reasonable grounds that the person has committed an offence against section 19 (Prescribed concentration of alcohol in blood or breath), section 20 (Prescribed drug in oral fluid or blood—driver or driver trainer) or section 24 (Driving under the influence of intoxicating liquor or a drug); and
 - (c) requires the person to undergo 1 or more drug screening tests under this division; and
 - (d) believes on reasonable grounds that the person is on any premises.
- (2) The police officer may enter the premises, using the force that is necessary and reasonable in the circumstances, for the purpose of requiring the person to undergo 1 or more drug screening tests.
- (3) A police officer who enters premises under this section must not remain at the premises for longer than is necessary to conduct the required screening tests.

**7 Automatic driver licence disqualification—first offenders,
s 19
New section 32 (4)**

before the table, insert

- (4) For the *Magistrates Court Act 1930*, section 208 (1) (g), an automatic disqualification from holding or obtaining a driver licence under this section is taken to be an order of the court to disqualify a person from holding or obtaining a driver licence.

**8 Automatic driver licence disqualification—repeat
offenders, s 19
New section 33 (4)**

before the table, insert

- (4) For the *Magistrates Court Act 1930*, section 208 (1) (g), an automatic disqualification from holding or obtaining a driver licence under this section is taken to be an order of the court to disqualify a person from holding or obtaining a driver licence.

**9 Automatic driver licence disqualification—offences other
than s 19
New section 34 (3)**

after the note, insert

- (3) For the *Magistrates Court Act 1930*, section 208 (1) (g), an automatic disqualification from holding or obtaining a driver licence under this section is taken to be an order of the court to disqualify a person from holding or obtaining a driver licence.

10 Automatic driver licence disqualification—immediate suspension period
Section 35 (2)

substitute

(2) The period for which the person is disqualified under this part from holding or obtaining a driver licence (including any period of minimum disqualification under section 32 or section 33) is reduced by the period that—

(a) if the person is the holder of a driver licence—the person's driver licence was suspended under the *Road Transport (General) Act 1999*, section 61B; or

(b) if the person is the holder of an interstate driver licence or an external driver licence—the person's right to drive in the ACT was suspended under the *Road Transport (General) Act 1999*, section 61B.

11 New part 22

insert

Part 22 Transitional—Road Transport Legislation Amendment Act 2015 (No 2)

111 Meaning of *commencement day*—pt 22

In this part:

commencement day means the day the *Road Transport Legislation Amendment Act 2015 (No 2)*, section 3 commences.

- 1 **112 Existing automatic driver licence disqualification**
- 2 (1) This section applies if, before the commencement day, a person is
- 3 automatically disqualified from holding or obtaining a driver licence
- 4 under section 32 (Automatic driver licence disqualification—first
- 5 offenders, s 19), section 33 (Automatic driver licence
- 6 disqualification—repeat offenders, s 19) or section 34 (Automatic
- 7 driver licence disqualification—offences other than s 19).
- 8 (2) Section 32, section 33 and section 34, as in force immediately
- 9 before the commencement day, continue to apply to the automatic
- 10 disqualification.
- 11 **113 Expiry—pt 22**
- 12 This part expires 2 years after the commencement day.
- 13 *Note* Transitional provisions are kept in the Act for a limited time.
- 14 A transitional provision is repealed on its expiry but continues to have
- 15 effect after its repeal (see [Legislation Act](#), s 88).

**Part 4 Road Transport (Driver
Licensing) Act 1999**

12 New section 19A

insert

19A Notice of suspension confirmation notice

(1) This section applies if—

(a) the road transport authority—

(i) serves a notice of licence suspension on a person under section 18 (Licence suspension), and the person has not elected, under section 19 (Good behaviour alternative to licence suspension), to be of good behaviour for a 12-month period; or

(ii) serves a notice of licence suspension on a person under section 19; and

(b) a police officer stops the person while the person is driving a motor vehicle; and

(c) the police officer tells the person that the person's driver licence is suspended.

(2) The person is taken to know that the person's driver licence is suspended.

1 **Part 5** **Road Transport (General)**
2 **Act 1999**

3 **13** **Definitions—pt 3**
4 **Section 21A, definitions of *illegal user declaration* and**
5 ***known user declaration***

6 *after*
7 statutory declaration
8 *insert*
9 or online declaration

10 **14** **Section 21A, new definition of *online declaration***

11 *insert*
12 ***online declaration*** means a declaration made by a person using a
13 website approved by the road transport authority.

14 *Note* It is an offence to make a false or misleading statement, give false or
15 misleading information or produce a false or misleading document (see
16 [Criminal Code](#), pt 3.4).

17 **15** **Section 21A, definition of *sold vehicle declaration***

18 *after*
19 statutory declaration
20 *insert*
21 or online declaration

16 New section 44B*insert***44B Notice of suspension confirmation notice**

(1) This section applies if—

(a) the road transport authority sends a suspension confirmation notice to a person under section 44 (Suspension for nonpayment of infringement notice penalties) or section 44A (Suspension for non-compliance with infringement notice management plan); and

(b) a police officer stops the person while the person is driving a motor vehicle; and

(c) the police officer tells the person that the person's driver licence is suspended.

(2) The person is taken to know that the person's driver licence is suspended.

17 New section 57*in division 3.6, insert***57 Approval of website for online declarations**

(1) The road transport authority may approve a website for giving an online declaration.

(2) An approval is a notifiable instrument.

Note A notifiable instrument must be notified under the [Legislation Act](#).

18 Dictionary, new definition of *online declaration**insert*

online declaration, for part 3 (Infringement notices for certain offences)—see section 21A.

1 **Part 6** **Road Transport (Offences)**
2 **Regulation 2005**

3 **19 Infringement notices—service—Act, s 24 (2)**
4 **Section 12 (2) (b) and note**

5 *substitute*

6 (b) if it is not reasonably practicable to serve the notice on the
7 suspected offender personally—by sending the notice to the
8 offender—

9 (i) by prepaid post addressed to the offender, at—

10 (A) the offender's home address or business address; or

11 (B) if the offender has an address for service in a record
12 or register kept under the road transport legislation,
13 *Heavy Vehicle National Law (ACT)* or a
14 corresponding law—the recorded address for
15 service; or

16 *Note* **Corresponding law**—see the *Road Transport*
17 *(Vehicle Registration) Act 1999*, dictionary.

18 (ii) by an electronic means if—

19 (A) the electronic means is approved by the chief police
20 officer or the road transport authority; and

(B) the offender has given the authorised person an electronic address at which service may be effected by the electronic means.

Examples—electronic means

- email address
- mobile telephone number

Note An example is part of the regulation, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see [Legislation Act](#), s 126 and s 132).

20 Section 12 (3) (b), except notes

substitute

(b) if it is not reasonably practicable to access the vehicle—by sending the notice to the responsible person—

(i) by prepaid post addressed to the person, at—

(A) the person's home address or business address; or

(B) if the person has an address for service in a record or register kept under the road transport legislation, [Heavy Vehicle National Law \(ACT\)](#) or a corresponding law—the recorded address for service; or

(ii) by an electronic means if—

(A) the electronic means is approved by the chief police officer or the road transport authority; and

(B) the responsible person has given the authorised person an electronic address at which service may be effected by the electronic means.

Examples—electronic means

- email address
- mobile telephone number

Section 21

21 New section 12 (3A) and (3B)

after the note, insert

(3A) If the sender has no reason to suspect that an infringement notice served by electronic means was not received by the recipient when sent, the notice is presumed to be served when sent unless evidence sufficient to raise doubt about the presumption is given.

(3B) For subsection (3A), the sender has reason to suspect that an infringement notice served by electronic means was not received by the recipient when sent only if, on the day the notice was sent or on the next working day, the equipment the sender used to send the notice indicated by way of a signal or other message that—

(a) the equipment did not send the notice when the equipment was used to send the notice; or

(b) for an email—the address to which the email was sent was not an email address of the recipient; or

(c) for a mobile telephone—the number to which the notice was sent was not a mobile telephone number of the recipient.

22 New section 12 (5)

after the note, insert

(5) In this section:

recipient, for an infringement notice, means the person on whom the notice is intended to be served.

sender, for an infringement notice served, or to be served, by electronic means, means the person sending, or seeking to send, the notice.

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 29 October 2015.

2 Notification

Notified under the [Legislation Act](#) on 2015.

3 Republications of amended laws

For the latest republication of amended laws, see www.legislation.act.gov.au.
