

ACT GOVERNMENT

Paper Type **Road Transport Legislation Amendment Bill 2011**

Decision No. 11/142/CAB

28 March 2011

- 1) The Cabinet agreed:
 - a) the Minister for Transport present the Road Transport Legislation Amendment Bill 2011 to:
 - i) amend the *Road Transport (General Act) 1999* and the regulations under the Act to:
 - (A) clarify police powers in relation to false, unlawful, cancelled or suspended driver licences and public vehicle driver authority cards under section 59;
 - (B) clarify that an immediate licence suspension notice ceases to have effect when police notify that they have decided to discontinue charges and that suspended licences must be returned as soon as practicable;
 - (C) amend the provisions dealing with suspensions for non-payment of court fines to provide for suspension of an interstate or unlicensed driver's right to drive in the ACT;
 - (D) relocate the offence of driving while a person's right to drive is suspended, in section 44 (8), to the *Road Transport (Driver Licensing) Act 1999* and expand it to cover other circumstances in which a person's right to drive has been suspended;
 - ii) amend the *Road Transport (Driver Licensing) Act 1999* to:
 - (A) allow for more time under sections 19 and 21 to elect to be of good behaviour in lieu of a licence suspension or period of licence ineligibility for excessive demerits points;
 - (B) create a new offence of driving while a person's right to drive in the ACT has been suspended to replace the offence in section 44 (8) of the *Road Transport (General) Act 1999*;

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- (C) clarify that driver licence photos and signatures, which may be used for the purpose of the 'road transport legislation' may also be used for the purposes of the Dangerous Goods (Road Transport) Act 2009;
- iii) amend the *Road Transport (Vehicle Registration) Act 1999* to:
 - (A) clarify the power to seize stolen, forged or fraudulently altered number plates and registration documents; and
 - (B) allow a police officer to enter a vehicle in order to exercise the power to seize registration-related documents.



Secretary to Cabinet

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CABINET DECISION
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Chief Minister's Cabinet Brief

Cabinet Meeting Date: 28 March 2011

Title of Submission: Road Transport Legislation Amendment Bill 2011

Minister: Minister for Transport

Context and Consultation

The submission seeks Cabinet agreement to introduce the Road Transport Legislation Amendment Bill 2011.

The Bill makes technical amendments to the *Road Transport (Driver Licensing) Act 1999*, the *Road Transport (General) Act 1999*, the *Road Transport (General) Regulation 2000*, the *Road Transport (Offences) Regulation 2005* and the *Road Transport (Vehicle Registration) Act 1999*.

All agencies have been consulted through the Cabinet circulation process.

There are no financial implications to the Bill.

Issues/Comment

The amendments proposed in the Bill are operational in nature and have been identified as necessary or desirable by ACT Policing or the Road Transport Authority to clarify existing provisions, address gaps, increase flexibility for clients or streamline the administration of the legislation. None of the proposed amendments change the substance of existing policy.

Submission Recommendations

SUPPORT the submission.

Recommended Outcome / Deliverables

The Bill is introduced into the Legislative Assembly.

BRIEF



PDMS No	201100264
Schedule No	2011JDS00611

Date 17 March 2011

To Minister for Transport

- Chief Executive 17/3/11
- Executive Director, Transport and Infrastructure Division 17.3.11

From Director, Transport Regulation 17/3/2011

Subject Agreement to circulate Cabinet Submissions: Road Transport Legislation Amendment Bill 2011 and Road Transport (Alcohol and Drugs) Legislation Amendment Bill 2011

Critical date and reason

Urgent: the Submissions are scheduled for Cabinet consideration on 28 March 2011 for presentation of the Bills in the Legislative Assembly on 31 March 2011.

Purpose

To seek your agreement to circulate the attached Cabinet Submissions for Cabinet consideration on 28 March 2011 and presentation of the Bills in the Legislative Assembly on 31 March 2011.

Background

You previously agreed to the inclusion of these two Bills in the Department's legislation program for presentation in March 2011 when it became evident that the point-to-point speed camera legislation could not be finalised for introduction in March, as forecast earlier (copy of brief attached).

Issues

These two Bills contain a range of technical and operational amendments to a suite of road transport legislation. The amendments consolidate and clarify existing Government policies. In several instances, they address inadvertent gaps in the current road transport legislation. Many of these amendments have been identified as necessary for operational reasons in light of discussions with ACT Policing.

(i) Road Transport Legislation Amendment Bill 2011

The amendments in this Bill:

- amend the *Road Transport (General Act) 1999* and the regulations under the Act to:
 - clarify police powers in relation to false, unlawful, cancelled or suspended driver licences and public vehicle authority cards;
 - clarify that an immediate licence suspension notice ceases to have effect when police notify that they have decided to discontinue charges and that suspended licences must be returned as soon as practicable;
 - amend the provisions dealing with suspensions for non-payment of court fines to provide for suspension of an interstate or unlicensed driver's right to drive in the ACT;

- relocate the offence in section 44 (8) to the *Road Transport (Driver Licensing) Act 1999* and expand it to cover other circumstances in which a person's right to drive has been suspended;
- amend the *Road Transport (Driver Licensing) Act 1999* to:
 - allow for more time under sections 19 and 21 to elect to be of good behaviour in lieu of a licence suspension or period of licence ineligibility for excessive demerits points;
 - create a new offence driving while a person's right to drive in the ACT has been suspended to replace the offence in section 44 (8) of the *Road Transport (General) Act 1999*;
 - clarify that driver licence photos and signatures, which may be used for the purpose of the 'road transport legislation' may also be used for the purposes of the *Dangerous Goods (Road Transport) Act 2009*;
- amend the *Road Transport (Vehicle Registration) Act 1999* to:
 - clarify the power to seize stolen, forged or fraudulently altered number plates and registration documents; and
 - allow a police officer to enter a vehicle in order to exercise the power to seize registration-related documents.

(ii) *Road Transport (Alcohol and Drugs) Legislation Amendment Bill 2011*

The amendments in this Bill:

- provide for the enforcement of the zero blood alcohol concentration (BAC) introduced last year for driver supervisors, assessors and instructors when accompanying a learner driver;
- ensure that random drug testing powers introduced last year also apply to driver supervisors, assessors and instructors when accompanying a learner driver;
- provide that foreign licence holders from countries that are recognised by Austroads as having driver licence standards equivalent to Australian requirements will be subject to the same BAC as the ACT equivalent licence class, while drivers from non-recognised countries will be regarded as special drivers, and subject to a zero BAC;
- reduce pressure on hospital staff by allowing blood samples to be taken by a doctor or nurse at a sampling facility as an alternative to a hospital;
- update terminology in line with the road transport legislation by replacing the concepts of *public street* and *public place* with *road* and *road related area*;
- clarify police powers to search persons taken into custody for alcohol or drug testing and allow police to remove weapons or other dangerous items that could harm the driver or other people at the police station, hospital or sampling facility;
- clarify that where a person is suspected of the offence of driving while intoxicated, the person may be asked to provide a body sample under section 16 for testing for the presence of a prescribed drug even though it has not been practicable to carry out a drug screening test first;
- make minor amendments to the *Road Transport (Driver Licensing) Regulation 2000* to explain that it is only foreign drivers who hold a licence from a country recognised by Austroads that are regarded as holding a licence that corresponds to an ACT licence of an equivalent class; and
- make consequential amendments.

Consultation

A number of the amendments have been developed in close consultation with ACT Policing. Other agencies which have been provided with an opportunity to comment on the proposed amendments include the Director of Public Prosecutions, the Government Solicitor's Office, the ACT Magistrates Court and the Department of Justice and Community Safety.

Financial

There are no financial impacts associated with any of the proposed amendments in either of the Bills.

Media

The amendments in the two Bills are very technical in nature and are not likely to attract media attention. It is proposed to write to the driver trainer industry when the amendments to enforce the zero BAC for driver trainers commence to advise that zero BAC, which was applied to them by amendments introduced last year, is now enforceable when a driver trainer is accompanying a learner driver.

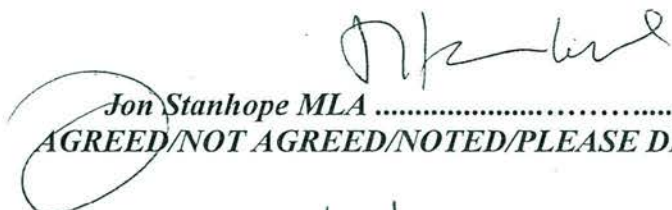
Recommendation

That you:

- (a) agree to the circulation of the Submission relating to the Road Transport Legislation Amendment Bill 2011 for Cabinet consideration on 28 March 2011; and


Jon Stanhope MLA / /
AGREED/NOT AGREED/NOTED/PLEASE DISCUSS

- (b) agree to the circulation of the Submission relating the Road Transport (Alcohol and Drugs) Legislation Amendment Bill 2011 for Cabinet consideration on 28 March 2011.


Jon Stanhope MLA / /
AGREED/NOT AGREED/NOTED/PLEASE DISCUSS


Karen Greenland 17/3/2011

18/3/11

Contact Officer: Amanda Casimir
Phone: x54188

BRIEF

COMPLETED



URGENT



PDMS No	201100116
Schedule No	2011JDS00297

Date February 2011

To Chief Minister and Minister for Transport

- Chief Executive *10/15/11*
- Executive Director, Transport and Infrastructure Division *14/2/11*

From Director, Transport Regulation *11/2/2011*

Subject Autumn Legislation program: two additional transport Bills and rescheduling of Point to Point (P2P) Speed Camera Bill

Critical date and reason

Urgent: we have been advised there is a shortage of Bills for introduction in March and April 2011. The two additional proposed Bills contain a range of minor and technical amendments to the road transport legislation that will not require system changes to rego.ACT or additional financial resources to implement, and can therefore be brought forward quickly.

Purpose

To seek your in principle agreement to draft two Bills for presentation in the 2011 Autumn Sitzings, following the process outlined in paragraph 5.17 of the Cabinet Paper Drafting Guide.

Background

Transport Regulation has previously forecast that it would be developing Bills for presentation during the 2011 Autumn Sitzings, in addition to its program of amendments to regulations. The Bills under development include:

- legislation to support Point to Point (P2P) speed cameras;
- amendments arising from the ACT Taxi Industry Review Report;
- amendments to the *Road Transport (General) Act 1999* dealing with known and unknown user declarations (following concerns about misuse of the statutory declaration provisions to avoid fines and demerit points, including the conviction of a former judge in NSW for making a false declaration); and
- amendments to establish an alcohol interlock scheme for convicted drink drivers and other amendments to drink driving legislation, including new offences related to drinking while driving and having open containers of alcohol in a vehicle.

These existing forecast Bills involve new matters of policy that may give rise to complex human rights issues for discussion and resolution with the Department of Justice and Community Safety.

In the case of the P2P speed camera legislation, there are detailed technical issues to be resolved relating to the specifications of the technology. These issues include the information that will be contained in 'images' captured by the camera device and how the information will be recorded or stored. These issues must be resolved before drafting can

be finalised, not least so that the privacy implications of the proposed laws can be properly assessed. You may wish to note that it is proposed to seek agreement from the Legislation Steering Committee to reschedule the presentation of this Bill to June 2011, once the technical details of the new system have been fully settled.

In relation to the proposed alcohol interlock scheme, funding options to subsidise low-income earners are being explored as part of the development of the Cabinet Submission proposal - noting that subsidies for extreme financial hardship cases are offered in all other Australian jurisdictions with interlock programs and there will be pressure to offer a similar subsidy here.

Issues

To meet the Government's need for Bills for presentation in March while continuing to develop and draft the previously forecast Bills, Transport Regulation has discussed with Parliamentary Counsel and the Cabinet Office the possible development of two further Bills containing a range of minor and technical amendments to the road transport legislation. Parliamentary Counsel has indicated that it has the capacity to draft these Bills and the Cabinet Office is agreeable to the inclusion of the additional items in the legislation program for Autumn 2011. Subject to your agreement, Parliamentary Counsel has scheduled these Bills for introduction on 31 March 2011.

In summary, the first Bill would:

- amend the *Road Transport (General Act) 1999* to
 - clarify existing police powers in relation the seizure of seize driver licences under section 59;
 - clarify that an immediate licence suspension notice ceases to have effect when a police officer decides not to continue with a matter after a charge has been laid;
 - clarify that a person's driver licence must be returned if an immediate suspension notice is withdrawn or a court orders a stay of the suspension notice;
 - amend the provisions dealing with suspensions for non-payment of court fines to provide for suspension of an interstate or unlicensed driver's right to drive in the ACT;
 - omit the offence in section 44 (6) relating to driving while a right to drive has been suspended; this offence would be relocated to the Road Transport (Driver Licensing) Act and expanded to cover a broader range of circumstances in which a person's right to drive has been suspended;
- amend the *Road Transport (Driver Licensing) Act 1999*, to:
 - allow an extension of time under sections 19 and 21 in which to make an election to be of good behaviour, in lieu of a licence suspension or period of licence ineligibility for excessive demerits points;
 - create a new offence driving while a person's right to drive in the ACT has been suspended to replace the offence in section 44 (6) of the *Road Transport (General) Act 1999*;

- clarify that driver licence photos and signatures, which may be used for the purpose of the 'road transport legislation' may also be used for the purposes of the Dangerous Goods (Road Transport) Act 2009;
- amend the *Road Transport (Vehicle Registration) Act 1999* to:
 - clarify the power to seize stolen, forged or fraudulently altered number plates and registration documents; and
 - allow a police officer to direct a person to remove or destroy an expired, false or otherwise misleading registration label; and if the person fails to comply, to allow the police officer to enter the vehicle to remove or destroy the label.

The second Bill would primarily deal with technical and operational amendments to the *Road Transport (Alcohol and Drugs) Act 1977*. These amendments would:

- clarify the blood or breath alcohol concentration (BAC) applying to drivers who hold licences from other countries. As a consequence, drivers with a foreign driver licence recognised by Austroads as equivalent to an Australian driver licence of a corresponding class will be subject to same BAC that applies to that class; all other foreign driver licence holders will be treated as 'special drivers' and subject to a zero BAC;
- provide for the enforceability of the zero BAC for driver instructors, assessors and supervisors - the 2010 amendments provided that these people are special drivers but did not specifically amend the Act to make them subject to breath testing while accompanying a learner driver, or apply the drink driving offences to them while accompanying a learner driver;
- amend the defence for special drivers, which incorrectly uses the expression "not more than 0.02g" instead of "less than 0.02g", which has the effect of permitting a special driver to use the defence even if the driver records a BAC of 0.02g. This amendment would bring the defence into line with the NSW provision on which it was based;
- provide that blood tests for alcohol and drugs can be taken from uninjured drivers at places other than hospitals, to relieve pressure on emergency departments;
- replace references to "public street" and "public place" with "road" and "road related area", to align the Act with the rest of the road transport legislation;
- clarify the power of police to search people who are in custody for drug or alcohol testing, so that police can locate and remove any weapons or other dangerous items from them while they are in a police vehicle or in a police station for breath or drug analysis. ACT Policing have advised that knives and other weapons are frequently found on intoxicated persons, which presents obvious safety and security risks, as well as increasing scope for distressed clients to self-harm. The proposed amendment is based on the search power under the *Intoxicated Persons (Care and Protection) Act 1994*, modified for use in this context.

If you agree to the development of the Bills, then in accordance with paragraph 5.17 of the Cabinet Paper Drafting Guide a first pass final Cabinet Submission will be prepared seeking Cabinet's agreement to the presentation of the Bills in the Assembly on 31 March 2011.

Consultation

The Cabinet Office, the Office of Parliamentary Counsel, ACT Policing and the Department of Justice and Community Safety (DJACS) have been consulted. All agencies support the development of the Bills. Drafts of the Bills will be circulated to DJACS for detailed criminal law and human rights scrutiny, and to ACT Policing for operational comments.

Financial

There are no financial impacts.

Media

Many of the amendments are technical in nature or relate to police operational aspects of the road transport legislation, and are not expected to attract significant media attention.

The provisions relating to enforcing the zero alcohol limit for driving instructors, assessors and supervisors will need to be explained to professional driving assessors and instructors, and advertised to the community. A communications strategy for these amendments will be developed in time for their passage and commencement.

Recommendation

That you:

- (a) give your in principle agreement to the development of the two Bills outlined in this Brief; and

Jon Stanhope *MLA* / /
 AGREED/NOT AGREED/NOTED/PLEASE DISCUSS

- (b) note that, in accordance with paragraph 5.17 of the Cabinet Paper Drafting Guide, a first pass final Cabinet Submission will be prepared seeking Cabinet's agreement to the presentation of the Bills in the Assembly on 31 March 2011;

Jon Stanhope *MLA* / /
 NOTED/NOT NOTED/PLEASE DISCUSS

- (c) note that it is proposed to seek agreement from the Legislation Steering Committee to reschedule the presentation of this Bill to June 2011.

Jon Stanhope *MLA* / /
 NOTED/NOT NOTED/PLEASE DISCUSS

Karen Greenland
 Karen Greenland
 11/2/2011

Contact Officer: Amanda Casimir
 Phone: 5418

17/2

For Cabinet

11/142

Road Transport Legislation Amendment Bill 2011

Minister for Transport, Jon Stanhope MLA

Purpose	<p>To seek Cabinet's agreement to the Road Transport Legislation Amendment Bill 2011, which will</p> <ul style="list-style-type: none"> • amend the <i>Road Transport (General Act) 1999</i> (the Act) and the regulations under the Act; • amend the <i>Road Transport (Driver Licensing) Act 1999</i>; • amend the <i>Road Transport (Vehicle Registration) Act 1999</i>.
Timing	For presentation in the Legislative Assembly on 31 March 2011
Impact:	
• Social	No impact
• Environment	No impact
• Economic	No impact
• Intergovernmental	No
• Regulatory Impact	No
Consultation	<p><i>All Agencies</i> <i>There is/is not agreement.</i></p>
Legislation Change	<p><i>Road Transport (Driver Licensing) Act 1999</i> <i>Road Transport (General) Act</i> <i>Road Transport (General) Regulation 2000</i> <i>Road Transport (Offences) Regulation 2005</i> <i>Road Transport (Vehicle Registration) Act 1999</i></p>
Implementation Reporting	No
Budget Impact: Treasury Agreement: Yes/No	Nil impact

Recommendations

11/142

Road Transport Legislation Amendment Bill 2011

Minister for Transport, Jon Stanhope MLA

- 1) I recommend Cabinet agree:
 - a) the Minister for Transport present the Road Transport Legislation Amendment Bill 2011 to:
 - i) amend the *Road Transport (General Act) 1999* and the regulations under the Act to:
 - (A) clarify police powers in relation to false, unlawful, cancelled or suspended driver licences and public vehicle driver authority cards under section 59;
 - (B) clarify that an immediate licence suspension notice ceases to have effect when police notify that they have decided to discontinue charges and that suspended licences must be returned as soon as practicable;
 - (C) amend the provisions dealing with suspensions for non-payment of court fines to provide for suspension of an interstate or unlicensed driver's right to drive in the ACT;
 - (D) relocate the offence of driving while a person's right to drive is suspended, in section 44 (8), to the *Road Transport (Driver Licensing) Act 1999* and expand it to cover other circumstances in which a person's right to drive has been suspended;
 - ii) amend the *Road Transport (Driver Licensing) Act 1999* to:
 - (A) allow for more time under sections 19 and 21 to elect to be of good behaviour in lieu of a licence suspension or period of licence ineligibility for excessive demerits points;
 - (B) create a new offence of driving while a person's right to drive in the ACT has been suspended to replace the offence in section 44 (8) of the *Road Transport (General) Act 1999*;
 - (C) clarify that driver licence photos and signatures, which may be used for the purpose of the 'road transport legislation' may also

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be used for the purposes of the Dangerous Goods (Road Transport) Act 2009;

- iii) amend the *Road Transport (Vehicle Registration) Act 1999* to:
 - (A) clarify the power to seize stolen, forged or fraudulently altered number plates and registration documents; and
 - (B) allow a police officer to enter a vehicle in order to exercise the power to seize registration-related documents.

Final Agency Comments

The following agencies commented on the final paper.

CMD	Supported
TSY	Supported
DET	Supported
DECCEW	Supported
DHCS	Supported
HEALTH	Supported
JACS	Supported
TAMS	Supported
ACTPLA	Supported
CIT	Supported

SUPPORTING ARGUMENT

BACKGROUND

1) This Bill makes miscellaneous technical amendments to the *Road Transport (Driver Licensing) Act 1999*, the *Road Transport (General) Act 1999*, the *Road Transport (General) Regulation 2000*, the *Road Transport (Offences) Regulation 2005* and the *Road Transport (Vehicle Registration) Act 1999*.

ISSUES & OPTIONS

2) The amendments proposed in the Bill are operational in nature and have been identified as necessary or desirable by ACT Policing or the Road Transport Authority to clarify existing provisions, address gaps, increase flexibility for clients or streamline the administration of the legislation. None of the proposed amendments changes the substance of existing policy.

3) The amendments to the *Road Transport (Driver Licensing) Act 1999* will:

- a) extend the time frame in which a person who faces a period of licence suspension or licence ineligibility for incurring excessive demerit point may instead elect to be of good behaviour for 12 months, so that the 'good behaviour' election can be made after the suspension period or licence ineligibility period has commenced;
- b) clarify that driver licence photos and signatures on the driver licence database may be used for the purposes of the *Dangerous Goods (Road Transport) Act 2009*. Currently, driver licence photos and signatures may be used for the purposes of the road transport legislation. While the *Dangerous Goods (Road Transport) Act 2009* is legislation is closely interlinked with the road transport legislation, it is not formally part of that legislation. The amendments are desirable for streamlining the processing of applications for transporting goods and other administrative systems;
- c) the offence of 'driving while right to drive suspended' is relocated from section 44 of the *Road Transport (General) Act 1999*. This offence applies where action has been taken to suspend the right of person, who does not hold an ACT driver licence, to drive in the ACT - for example because the person has not paid an ACT infringement notice penalty or court fine. As the person does not hold an ACT driver licence, the

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offence in section 32 (2), which deals with driving while the person's licence is suspended - cannot apply as 'licence' in this context means an ACT driver licence only. The relocation of the 'drive while right to drive suspended' offence from the *Road Transport (General) Act 1999* to the *Road Transport (Driver Licensing) Act 1999* will assist in clarifying the relationship between the two offences and ensuring the correct charges are laid when a person is detected driving after suspension action is taken.

- 4) The amendments to the *Road Transport (General) Act 1999*:
 - a) omit the offence in section 44 (8), as consequence of its relocation to the *Road Transport (Driver Licensing) Act 1999*;
 - b) clarify existing police powers in section 59 to seize false, fraudulent, expired, cancelled or suspended driver licences, and ensure the seizure powers will cover public vehicle driver authority cards issued to bus and taxi drivers under amendments made last year to the *Road Transport (Driver Licensing) Regulation 2000*. Those amendments require public vehicle drivers to display their authority cards while driving professionally.
 - c) amend the requirement in section 59 to give seized items to the road transport authority as soon as practicable (and within 14 days); the current provision requires the police to give the item immediately to the authority. This requirement is impracticable as the authority is not staffed on a 24 hour/7 day basis; also, immediately delivering items to the authority may be inconsistent with other police priorities, such as complying with the legislated time frame for conducting a breath analysis under the *Road Transport (Alcohol and Drugs) Act 1977*. The maximum period of 14 days is consistent with the period for delivering suspended licences to the authority under section 61B of the *Road Transport (General) Act 1999*;
 - d) amend section 61B, which deal with immediate suspension notices for certain drink driving offences, to provide that a suspension notice ceases when the Chief Police Office or the DPP notifies the suspended person that charges will be withdrawn. While the legislation already provides for a suspension notice to cease when the charges for the relevant offence are formally discontinued, the actual decision to discontinue may have

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been taken weeks before the Court officially dismisses the matter. It does not seem fair that a driver's licence should continue to be suspended while the charges are waiting to be formally dismissed by the Court; the proposed amendment will enable the licence suspension to cease when person is given notice of the decision by the police or DPP to drop the relevant charges;

- e) amend section 61B by inserting new subsection (6), to require the road transport authority to return a suspended licence as soon as practicable when an immediate licence suspension ceases to have effect;
- f) amend section 84, which deals with licence and vehicle registration sanctions for non-payment of court fines, to allow for suspension of a non-ACT licence holder's right to drive in the ACT. The current provision provides for disqualifying a person from obtaining a ACT driver licence. In practice, this is not an effective sanction for interstate driver licence holders, as there is no nationally agreed process for enforcing interstate licence disqualifications. This amendment, in combination with the relocation of the offence of 'driving while right to drive while suspended', will fix a gap in the scheme for enforcing infringement notice penalties and fines against non-ACT driver licence holders.

5) The amendments to the *Road Transport (General) Regulation 2000* provide for the ways in which a specimen signature may be obtained for the purposes of section 59 (2) of the *Road Transport (General) Act 1999*, to compare with the purported signature on a person's Australian or external driver licence. Currently, there is no form prescribed for this purpose under section 225 of that Act, nor has any way been prescribed under section 59. The amendments will fill this procedural gap.

6) The amendments to the *Road Transport (Offences) Regulation 2005* amend the table in Part 1.5 of Schedule 1, to include a new item 10A. This item includes a reference to the new offence in section 31A, which has been relocated from section 44 (8) of the *Road Transport (General) Act 1999*, and a consequential amendment is made to Part 1.7 of Schedule 1 to reflect the omission of the offence from the *Road Transport (General) Act 1999*.

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- 7) The amendments to the *Road Transport (Vehicle Registration) Act 1999* clarify existing police powers in relation to the seizure of false, fraudulently altered, expired and suspended numberplates and associated registration documents. These amendments will bring the powers of police in relation to registration documents into line with police powers in relation to driver licences and public vehicle driver authority cards
- 8) The amendments in the Bill are not expected to have any significant human rights implications as they clarify existing provisions and powers. To the extent, if any, that amendments relating to the seizure of false or otherwise unlawful licence and registration documents could be seen as limiting human rights, any limitation of those rights is justified by the need to ensure that all vehicles and drivers using ACT roads are properly licensed and registered, in order to maintain essential road safety standards for drivers and vehicles.
- 9) To the extent, if any, that the amendment to suspend the right of a person to drive in the ACT for non-payment of a court-fine could be seen as limiting a person's rights, it should be noted firstly that the 'right to drive' is not a human right that is protected by the *Human Rights Act 2004*. Secondly, the purpose of the amendment is to achieve the same practical effect as the existing provisions - that is, to preclude the person involved from driving in the ACT. They take account of the reality that, at present, the administrative mechanisms for enforcing disqualifications between jurisdictions are ineffective. These amendments will support the criminal justice system by making the scheme for enforcing court fines through licence and vehicle registration sanctions more effective in relation to interstate offenders.

CONSULTATION

- 10) All agencies were consulted in the development of this cabinet paper.

FINANCIAL IMPACT

- 11) There will be no financial impacts.

Minister's signature _____ Date ____/____/____

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This draft is supplied in confidence and should be given appropriate security in accordance with the Cabinet and Legislation Handbooks.

Cabinet Copy

(Prepared by Parliamentary Counsel's Office)

Road Transport Legislation Amendment Bill 2011

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(Prepared by Parliamentary Counsel's Office)

**Road Transport Legislation Amendment
Bill 2011**

A Bill for

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

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 2011*.

2 Commencement

- (1) This Act (other than section 18) commences on a day fixed by the Minister by written notice.

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

Note 2 A single day or time may be fixed, or different days or times may be fixed, for the commencement of different provisions (see Legislation Act, s 77 (1)).

Note 3 If a provision has not commenced within 6 months beginning on the notification day, it automatically commences on the first day after that period (see Legislation Act, s 79).

- (2) Section 18 commences on the later of—
- (a) the commencement of the *Road Transport (General) Amendment Act 2010*, section 7; and
 - (b) the commencement of this Act, section 10.

3 Legislation amended

This Act amends the following legislation:

- *Road Transport (Driver Licensing) Act 1999*
- *Road Transport (General) Act 1999*
- *Road Transport (General) Regulation 2000*
- *Road Transport (Offences) Regulation 2005*
- *Road Transport (Vehicle Registration) Act 1999*.

Part 2 Road Transport (Driver Licensing) Act 1999

4 New section 5A

in part 1, insert

5A Offence against this Act—application of Criminal Code etc

Other legislation applies in relation to an offence against this Act.

Note 1 Criminal Code

The Criminal Code, sch 2 applies to the following offence against this Act (see Code, pt 2.1):

- s 31A (Offence—driving while right to drive suspended).

The chapter sets out the general principles of criminal responsibility (including burdens of proof and general defences), and defines terms used for an offence to which the Code applies (eg *conduct*, *intention*, *recklessness* and *strict liability*).

Note 2 Penalty units

The Legislation Act, s 133 deals with the meaning of offence penalties that are expressed in penalty units.

5 Good behaviour alternative to licence suspension Section 19 (1) and (2)

substitute

- (1) If a person is served with a notice of licence suspension under section 18, the person may elect, as an alternative to undergoing the period of licence suspension applying under the notice, to be of good behaviour for a 12-month period.

- (2) The election must be made by notice given to the road transport authority in the period that—
- (a) begins on the day the notice of licence suspension was served on the person; and
 - (b) ends the day before the person's licence suspension ends.

Note For how documents may be served, see the Legislation Act, pt 19.5.

- (2A) The 12-month period of good behaviour under this section begins—
- (a) for a person who makes an election on or before the day on which the suspension of their licence is to begin—the day the person's licence suspension would have begun; or
 - (b) for a person who makes an election after the day on which the suspension of their licence is to begin—the day the authority receives notice of the election.

6**Good behaviour alternative to licence ineligibility
Section 21 (1) and (2)**

substitute

- (1) If a person is served with a notice of licence ineligibility under section 20, the person may elect, as an alternative to undergoing the period of licence ineligibility applying under the notice, to be of good behaviour for a 12-month period.
- (2) The election must be made by notice given to the road transport authority in the period that—
 - (a) begins on the day the notice of licence ineligibility was served on the person; and
 - (b) ends the day before the person's licence ineligibility ends.

Note For how documents may be served, see the Legislation Act, pt 19.5.

- (2A) The 12-month period of good behaviour under this section begins—
- (a) for a person who makes an election on or before the day on which the period of licence ineligibility is to begin—the day the person's licence ineligibility would have begun; or
 - (b) for a person who makes an election after the day on which the period of licence ineligibility is to begin—the day the authority receives notice of the election.

7 New section 31A

insert

31A Offence—driving while right to drive suspended

- (1) A person commits an offence if—
- (a) the person's right to drive is suspended under a law of the territory; and
 - (b) the person drives a vehicle in the ACT.
- Maximum penalty: 20 penalty units.
- (2) An offence against this section is a strict liability offence.

8 Use of photographs and signatures

Section 36 (1) (e)

omit

road transport legislation;

substitute

Dangerous Goods (Road Transport) Act 2009 or the road transport legislation;

9 Disclosure of photographs and signatures by road transport authority
Section 37 (1) (c)

omit

road transport legislation or

substitute

Dangerous Goods (Road Transport) Act 2009, the road transport legislation or

Part 3 Road Transport (General) Act 1999

10 Suspension for nonpayment of infringement notice penalties Section 44 (8)

omit

11 Seizure of licences Section 59 (1)

substitute

- (1) A police officer or authorised person may, with no authority other than this section, seize an Australian driver licence, public vehicle driver authority card or external driver licence, or anything resembling an Australian driver licence, public vehicle driver authority card or external driver licence, if—
- (a) it is produced to the police officer or authorised person by someone representing it to be the person's Australian driver licence, public vehicle driver authority card or external driver licence; and
 - (b) the police officer or authorised person suspects on reasonable grounds—
 - (i) that it has been obtained in contravention of the *Road Transport (Driver Licensing) Act 1999*, section 29 (Obtaining licence by false statements etc), a corresponding law (within the meaning of that Act) or the law of an external territory or foreign country; or
 - (ii) that it is unlawfully in the person's possession; or

- (iii) that it is required to be returned or surrendered to the road transport authority under the road transport legislation; or
- (iv) that it is defaced or altered.

12 Section 59 (4)

substitute

- (4) The grounds on which a suspicion may be formed, sufficient to authorise the seizure of an Australian driver licence, public vehicle driver authority card or external driver licence or anything else (the *licence or article*) under this section, include (but are not limited to) any 1 or more of the following:
 - (a) a lack of resemblance between the person shown in a photograph attached to or forming part of the licence, card or article, purporting to be a photograph of the holder, and the person who produced it;
 - (b) a lack of resemblance between a signature on the licence or article, purporting to be the signature of the holder, and a specimen signature provided by the person who produced the licence or article;
 - (c) a refusal by the person, after producing the licence or article, to comply with a requirement under subsection (2).

13 Section 59 (5)

substitute

- (5) An Australian driver licence, public vehicle driver authority card, external driver licence or anything else seized under this section must be given to the road transport authority as soon as practicable (but within 14 days) after the seizure.

14 Section 59 (6)*after*

Australian driver licence

insert

, public vehicle driver authority card

15 New section 59 (8)*insert*

- (8) In this section:

public vehicle driver authority card—see the *Road Transport (Driver Licensing) Regulation 2000*, dictionary.

**16 Immediate suspension of licence
New section 61B (5) (aa)***insert*

- (aa) the chief police officer, or the DPP, gives written notice to the person served with the suspension notice that states that the proceeding for the suspension offence for which the suspension notice was issued is to be withdrawn or discontinued; or

17 New section 61B (6)*insert*

- (6) If a person has surrendered their driver licence under a suspension notice and the suspension notice ceases to have effect under subsection (5) the road transport authority must return the driver licence to the person as soon as practicable.

**18 Suspension of driver licence, registration etc for default
of court imposed fine
New section 84 (5) (d)**

insert

- (d) if the person is the holder of an interstate driver licence or an external driver licence—suspend the person's right to drive a vehicle in the ACT.

Part 4 **Road Transport (General)
Regulation 2000**

19 **New section 9C**

in part 3, insert

9C **Specimen signature—Act, s 59 (2)**

The following are prescribed as ways in which a police officer may require a person to provide a specimen of his or her signature—

- (a) in the police officer's official notebook; or
- (b) on any other paper on which a signature can be reasonably written.

Part 5 Road Transport (Offences) Regulation 2005

20 Schedule 1, part 1.5, new item 10A

insert

10A	31A	driving while right to drive suspended	20	427	
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21 Schedule 1, part 1.7, Item 5

omit

Part 6 Road Transport (Vehicle Registration) Act 1999

22 Section 30

substitute

30 Seizure of numberplates, registration labels etc

- (1) A police officer or authorised person may on reasonable grounds seize—
- (a) a numberplate or registration label attached to, or located in, a registrable vehicle if the registration of the vehicle—
 - (i) has expired more than 15 days earlier; or
 - (ii) is cancelled; or
 - (b) a numberplate used in contravention of a regulation prescribed for this section; or
 - (c) a numberplate, registration label or other document attached to, or located in, a registrable vehicle if the numberplate, registration label or other document is—
 - (i) not properly issued; or
 - (ii) properly issued for another registrable vehicle; or
 - (iii) fraudulently changed; or
 - (iv) changed in a way calculated to deceive; or
 - (d) anything resembling a numberplate, registration label or other document that is attached to, or located in, a registrable vehicle and is calculated to deceive.
- (2) A police officer or authorised person may enter or access a vehicle for the purpose of seizing something under subsection (1).

- (3) A numberplate, other document, or anything resembling a numberplate or other document seized under subsection (1) must—
- (a) if likely to be required as evidence in a proceeding—be retained for use as evidence; or
 - (b) in any other case—be given to the road transport authority as soon as practicable.
- (4) If something is given to the road transport authority under subsection (3) the road transport authority may deal with the thing in the way the authority considers appropriate.
- (5) In this section:

other document—

- (a) means any document that relates to, or purports to relate to, the registration of a vehicle; but
- (b) does not include a registration label or anything resembling a registration label.

Example—*other document*

a registration certificate under the *Road Transport (Vehicle Registration) Regulation 2000*, s 40

Note An example is part of the Act, 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).

properly issued means issued—

- (a) by the road transport authority under this Act; or
- (b) under a corresponding law.

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 2011.

2 Notification

Notified under the Legislation Act on 2011.

3 Republications of amended laws

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

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2011

**THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY**

**ROAD TRANSPORT LEGISLATION
AMENDMENT BILL 2011**

EXPLANATORY STATEMENT

Circulated by authority of
Jon Stanhope MLA
Minister for Transport

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Road Transport Legislation Amendment Bill 2011

Outline

This Bill makes a range of technical and operational amendments to the road transport legislation, including the *Road Transport (Driving Licensing) Act 1999*, the *Road Transport (General) Act 1999*, the *Road Transport (General) Regulation 2000*, the *Road Transport (Offences) Regulation 2005* and the *Road Transport (Vehicle Registration) Act 1999*.

The amendments in the Bill:

- amend the *Road Transport (General Act) 1999*, the *Road Transport (General) Regulation 2005* and the *Road Transport (Offences) Regulation 2005* to:
 - clarify police powers in relation to false, unlawful, cancelled or suspended driver licences and public vehicle driver authority cards, and provide for ways that specimen signatures may be given to compare with licence signatures;
 - provide that an immediate licence suspension notice ceases to have effect when police propose to discontinue charges and oblige the road transport authority to return a suspended licence as soon as practicable after a suspension notice ceases to have effect under section 61B (5);
 - amend the provisions dealing with suspensions for non-payment of court fines, to provide for suspension of a person's right to drive in the ACT;
 - relocate the offence in section 44 (8) to the *Road Transport (Driver Licensing) Act 1999* and expand it to cover other circumstances in which a person's right to drive has been suspended;
- amend the *Road Transport (Driver Licensing) Act 1999* to:
 - allow for more time under sections 19 and 21 to elect to be of good behaviour in lieu of a licence suspension or period of licence ineligibility for excessive demerits points;
 - create a new offence driving while a person's right to drive in the ACT has been suspended, which replaces the offence in section 44 (8) of the *Road Transport (General) Act 1999*;
 - clarify that driver licence photos and signatures, which may be used for the purpose of the 'road transport legislation' may also be used for the purposes of the *Dangerous Goods (Road Transport) Act 2009*;
- amend the *Road Transport (Vehicle Registration) Act 1999* to:
 - clarify the power to seize stolen, forged or fraudulently altered number plates and registration documents; and

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- allow a police officer to enter a vehicle in order to exercise the power to seize registration-related documents.

These amendments are not expected to have a significant impact on human rights as, in most instances, they clarify existing provisions rather than establishing new policy.

Some provisions, such as the amendments to allow people to elect to be of good behaviour after a period of suspension or licence ineligibility have begun, and the amendments to section 61B of the *Road Transport (General) Act 1999* to provide for the cessation of suspensions and the return of licences, have a positive impact for affected drivers.

The powers to seize driver licence, public vehicle drive authority and vehicle registration-related items might be seen as a limitation on the right to privacy under section 12 of the *Human Rights Act 2004*. If so, this limitation is justified for the purposes of section 28 of the *Human Rights Act 2004* by the need to ensure that all drivers (including public vehicle drivers) who drive on ACT roads are properly trained and licensed; and that all motor vehicles used on ACT roads are properly registered, are covered by third-party insurance and comply with the relevant vehicle standards, which include mandatory vehicle safety standards as well as standards relating to emissions and other environmental harms associated with motor vehicles. Statistically, unregistered vehicles and unlicensed drivers are more likely to be involved in motor vehicle accidents than licensed drivers and registered vehicles, particularly in accidents involving injury or death. Clarifying police powers to detect unlicensed drivers and unregistered vehicles is one way to assist in reducing motor vehicle accidents and the resultant costs, in social and economic terms, to the community.

Although the Bill inserts a new offence in the *Road Transport (Driver Licensing) Act 1999*, this provision replaces a substantially similar offence that is omitted from the *Road Transport (General) Act 1999*. The net effect on human rights is minimal.

Notes on clauses

Part 1 Preliminary

Clause 1 Name of Act

This clause is a formal provision that sets out the name of the legislation when enacted.

Clause 2 Commencement

This clause provides for the commencement of the Bill. Special arrangements are made for **clause 18** as this clause amends uncommenced provisions of the *Road Transport (General) Act 1999*. This commencement provision ensures that **clause 18** will not commence until the relevant provisions in the *Road Transport (General) Act 1999* have come into effect, to ensure that Act is amended in the correct sequence.

Clause 3 Legislation amended

This clause is a formal provision that lists all the legislation amended by the Bill.

Part 2 Road Transport (Driver Licensing) Act 1999

Clause 4 New section 5A

This clause is a standard provision include in ACT enactments that explains how the Criminal Code and other legislation relating to the criminal law apply to offence provisions in an Act. The *Road Transport (Driver Licensing) Act 1999* was passed before the Criminal Code commenced and its offence provisions have not been redrafted to reflect the Criminal Code. As a new offence provision (new section 31A) is to be inserted by this Bill, it is necessary to include this standard reference to the Criminal Code at the beginning of the *Road Transport (Driver Licensing) Act 1999*.

Clause 5 Good behaviour alternative to licence suspension Section 19 (1) and (2)

This clause amends section 19 of the *Road Transport (Driver Licensing) Act 1999*, which allows a person who faces a period of licence suspension as a consequence of incurring excessive demerit points instead to elect to be of good behaviour for a period of 12 months. For various reasons, including the person's absence from the ACT or simple inadvertence, the person may not be able to make the election before the suspension period commences. The current legislation does not permit the authority to accept a good behaviour election after the suspension period commences. The amendments will allow the person to make the election at any time before the period of licence suspension finishes. Regardless of when the person makes the election, the person must be of good behaviour for a full 12 months.

**Clause 6 Good behaviour alternative to licence ineligibility
Section 21 (1) and (2)**

This clause amends section 21 of the *Road Transport (Driver Licensing) Act 1999*, which allows a person who faces a period of licence ineligibility as a consequence of incurring excessive demerit points instead to elect to be of good behaviour for a period of 12 months. These amendments parallel the amendments made to section 19 of the Act, in relation to licence suspensions for excessive demerit points. The amendments will allow the person to make the election at any time before the period of licence ineligibility finishes. Regardless of when the person makes the election, the person must be of good behaviour for a full 12 months.

Clause 7 New section 31A

This clause inserts a new offence provision dealing with driving while right to drive suspended. This offence is, in effect relocated from section 44 (8) of the *Road Transport (General) Act 1999* by related amendments in this Bill (see also **clauses 10, 20 and 21**).

The 'driving while right to drive suspended' offence applies where action has been taken to suspend the right of person, who does not hold an ACT driver licence, to drive in the ACT - for example because the person has not paid an ACT infringement notice penalty or court fine. As the person does not hold an ACT driver licence, the offence in section 32 (2), which deals with driving while the person's licence is suspended - cannot apply, because 'licence' in this context means an ACT driver licence only.

The relocation of the 'drive while right to drive suspended' offence from the *Road Transport (General) Act 1999* to the *Road Transport (Driver Licensing) Act 1999* will assist in clarifying the relationship between the two offences and ensuring the correct charges are laid when a person is detected driving after suspension action is taken.

This offence is expressed to be a strict liability offence. This is consistent with the offence that it replaces (section 44 (8) of the *Road Transport (General) Act 1999*). It should be noted that offence pre-dated the enactment of the Criminal Code and therefore did not expressly include a statement about the application of strict liability. The defence of mistake of fact is available for strict liability offences.

**Clause 8 Use of photographs and signatures
Section 36 (1) (e)**

This clause makes a minor amendment to section 36 to clarify that driver licence photos and signatures on the driver licence database may be used for the purposes of the *Dangerous Goods (Road Transport) Act 2009*. Currently, driver licence photos and signatures may be used for the purposes of the road

transport legislation. While the *Dangerous Goods (Road Transport) Act 2009* is legislation is closely interlinked with the road transport legislation, it is not formally part of that legislation. The amendments are desirable for streamlining the processing of applications for transporting goods and other administrative systems.

**Clause 9 Disclosure of photographs and signatures by road
transport authority
Section 37 (1) (c)**

This clause makes a minor amendment to include a reference to clarify that driver licence photos and signatures on the driver licence database may be disclosed for the purposes of the *Dangerous Goods (Road Transport) Act 2009*. This amendment is related to the amendment in clause 8, discussed above.

Part 3 Road Transport (General) Act 1999

**Clause 10 Suspension for nonpayment of infringement notice
penalties
Section 44 (8)**

This clause omits the section, which contains the offence of 'driving while right to drive suspended'. The offence is, in effect, relocated to the *Road Transport (Driver Licensing) Act 1999* by Part 2 of this Bill.

**Clause 11 Seizure of licences
Section 59 (1)**

This clause replaces existing section 59 (1) in order to effect two changes. The first change ensures that the seizure powers extends to public vehicle driver authority cards issued to public vehicle drivers under the *Road Transport (Driver Licensing) Regulation 2000*. Public vehicle driver authority cards were introduced by amendments to the *Road Transport (Driver Licensing) Regulation 2000* in 2010. The card includes a photo of the driver - it is an official identification document for public vehicle drivers. The cards do not include the driver's signature. Drivers must display their card while driving their vehicle for hire or reward.

The second change is the inclusion of new subparagraphs (b) (iii) and (iv), which are specifically included in case there is ambiguity as to whether these grounds would be covered by the ground in subparagraph (b) (ii), namely 'that is unlawfully in the person's possession.' These grounds are that the item is required to be returned or surrendered to the authority under the road transport legislation, or that it is defaced or altered. These grounds will ensure that cancelled or otherwise unauthorised driver licenses or public vehicle driver authority cards do not continue to circulate in the community after they are detected by the police.

Clause 12 Section 59 (4)

Like clause 11, this clause ensures that the powers in relation to seized driver licences also cover public vehicle driver authority cards issued to public vehicle drivers under the *Road Transport (Driver Licensing) Regulation 2000*. It redrafts existing section 59 (4) so that it applies, where relevant, to public vehicle driver authority cards. It should be noted that as public vehicle driver authority cards do not include the driver's signature, some elements of this redrafted provision do not apply to those cards.

Clause 13 Section 59 (5)

This clause redrafts section 59 (5) to include references to public vehicle driver authority cards and to amend the requirement in section 59 to give seized items to the road transport authority as soon as practicable (and within 14 days). The current provision requires the police to give the seized item immediately to the authority. This requirement is impracticable as the authority is not staffed around the clock. In practice, it may also conflict with other police priorities, such as responding to a policy emergency call or transporting a suspected drink-driving offender to a hospital for a blood test within the statutory time frames for testing. The proposed amendment is consistent with the period for delivering suspended licences to the authority under section 61B of the *Road Transport (General) Act 1999*.

Clause 14 Section 59 (6)

This clause inserts references to *public vehicle driver authority card* in these provisions. This amendment is related to the amendments in clauses 11 and 12.

Clause 15 New section 59 (8)

This clause is a consequential amendment to include a definition of the term *public vehicle driver authority card* in section 59.

**Clause 16 Immediate suspension of licence
New section 61 (5) (aa)**

This clause amends section 61B, which deal with immediate suspension notices for certain drink driving offences. It inserts a new paragraph in section 61B (5), to provide that a suspension notice ceases when the Chief Police Office or the DPP notifies the suspended person that charges will be withdrawn. While the legislation already provides for a suspension notice to cease when the charges for the relevant offence are formally dismissed, in practice the decision to discontinue may have been taken by prosecuting authorities weeks ahead of a formal dismissal. The proposed amendment will enable the licence suspension to cease as soon as the person is given notice of the decision by the police or DPP to drop the relevant charges, instead of requiring the person to wait until the Court formally dismisses the charges.

Clause 17 New section 61B (6)

This clause also amends section 61B, to insert new subsection (6). This subsection requires the road transport authority to return a suspended licence as soon as practicable when an immediate licence suspension ceases to have effect.

**Clause 18 Suspension of driver licence registration etc for default of court imposed fine
New section 84 (5) (d)**

This clause amends section 84, which deals with licence and vehicle registration sanctions for non-payment of court fines, to allow for suspension of a non-ACT licence holder's right to drive in the ACT. The current provision provides for disqualifying a person from obtaining a ACT driver licence. In practice, this is not an effective sanction for interstate driver licence holders, as there is no nationally agreed process for enforcing interstate licence disqualifications and the disqualifications are rarely recorded against the person's licence by interstate road transport authorities. This means that in most instances the person cannot be charged with a 'drive while disqualified' offence if he or she continues to drive in the ACT. The proposed amendment, in combination with the relocation of the offence of 'driving while right to drive while suspended', which does not require implementation action by interstate road transport authorities in order to take effect, will fill a gap in the scheme for enforcing infringement notice penalties and fines against non-ACT driver licence holders.

Part 4 Road Transport (General) Regulation 2000

Clause 19 New section 9C

This clause inserts new section 9C into *Road Transport (General) Regulation 2000*. This amendment provides ways in which a specimen signature may be obtained for the purposes of section 59 (2) of the *Road Transport (General) Act 1999*. That provision deals with obtaining a specimen signature to compare with the purported signature on a person's Australian or external driver licence.

Part 5 Road Transport (Offences) Regulation 2005

**Clause 20 Schedule 1
Part 1.5
New item 10A**

The amendments to the *Road Transport (Offences) Regulation 2005* amend the table in Part 1.5 of Schedule 1, to include a new item 10A. This item includes a reference to the new offence in section 31A, which has been relocated from the *Road Transport (General) Act 1999*.

**Clause 21 Schedule 1
 Part 1.7
 Item 5**

This clause makes a consequential amendment to Part 1.7 of Schedule 1 to reflect the omission of the 'drive while right to drive suspended' offence from the *Road Transport (General) Act 1999*.

Part 6 Road Transport (Vehicle Registration) Act 1999

Clause 22 Section 30

This clause replaces section 30 of the *Road Transport (Vehicle Registration) Act 1999* to clarify police powers in relation to the seizure of false, fraudulently altered, expired and suspended numberplates and associated registration documents from vehicles. These amendments will bring the powers of police in relation to registration documents into line with police powers in relation to driver licences and public vehicle driver authority cards. In particular, police are given the power to 'enter' a vehicle to remove registration-related items such as expired registration labels or stolen numberplates. It should be noted that the requirement to give items to the road transport authority does not extend to expired registration labels, as these labels are usually damaged during removal and cannot be re-used, unlike numberplates. Returning expired labels to the authority would involve a waste of police and authority administrative resources.
