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Dated 4 March 2022



TASMANIA

ROAD SAFETY (ALCOHOL AND DRUGS) ACT 1970

No. 77 of 1970

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SCHEDULE 2 –



**ROAD SAFETY (ALCOHOL AND DRUGS) ACT
1970**

No. 77 of 1970

An Act to protect the public against the risks inherent in the driving of vehicles after consumption of intoxicating liquor or drugs; and for related purposes

[Royal Assent 11 January 1971]

Be it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:

PART I – PRELIMINARY

1. Short title and commencement

- (1) This Act may be cited as the *Road Safety (Alcohol and Drugs) Act 1970*.
- (2) This Act shall commence on a date to be fixed by proclamation.

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2. Interpretation

(1) In this Act, unless the contrary intention appears

—

approved analyst means a person appointed as an approved analyst under section 3;

approved operator has the meaning assigned to that expression by section 3(5);

breath analysing instrument means any apparatus that is designed for ascertaining, by analysis of a person's breath, the concentration of alcohol present in his breath (being apparatus of a type approved by the Minister by notice in the *Gazette*);

breath analysis means a procedure carried out by a breath analysing instrument for the purpose of ascertaining, by analysis of a person's breath, the concentration of alcohol present in his breath;

breath test means a test for the purpose of indicating the concentration of alcohol present in a person's breath or blood, carried out on that person's breath by means of a device (not being a breath analysing instrument) of a type approved for the purposes of such a test by the Minister by notice in the *Gazette*;

crash has the same meaning as in the *Road Rules*;

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Director, MPES means the Director, Monetary Penalties Enforcement Service appointed under section 8 of the *Monetary Penalties Enforcement Act 2005*;

GVM has the same meaning as in the *Vehicle and Traffic Act 1999*;

oral fluid analysis means –

- (a) a procedure carried out, by means of a device of a type approved for the purposes of such an analysis by the Minister by notice in the *Gazette*; or
- (b) such other procedure as is prescribed –

for the purpose of ascertaining, by analysis of a person's oral fluid, whether a prescribed illicit drug is present in that fluid;

oral fluid test means a test, for the purpose of indicating whether a prescribed illicit drug is present in a person's oral fluid, carried out on that person's oral fluid by means of a device of a type approved for the purposes of such a test by the Minister by notice in the *Gazette*;

prescribed concentration means a concentration of 0.05 of a gram of alcohol in 210 litres of breath or a

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concentration of 0.05 of a gram of alcohol in 100 millilitres of blood;

prescribed illicit drug means a drug prescribed in the regulations as an illicit drug;

qualified nurse means a registered nurse or an enrolled nurse;

qualified person includes –

- (a) a medical practitioner and a qualified nurse; and
- (b) a person who holds a qualification, or has the experience, prescribed for the purposes of this definition; and
- (c) any other person, or class of persons, as is prescribed;

relevant time – see section 2A;

road safety disqualification notice means a notice given in respect of an offence committed in the circumstances set out in section 18B(1);

supervision, of an action, includes the direct or indirect supervision of that action and does not require the person who is supervising the action to be at the location while the action is being performed;

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trace particle detection test means a test for the purpose of detecting traces of a prescribed illicit drug carried out by means of a device approved for the purpose of such a test by the Minister by notice in the *Gazette*.

(2) In this Act –

Australian driver licence has the same meaning as in the *Vehicle and Traffic Act 1999*;

foreign driver licence has the same meaning as in the *Vehicle and Traffic Act 1999*;

full licence has the same meaning as in the *Vehicle and Traffic Act 1999*;

international driving permit has the same meaning as in the *Vehicle and Traffic Act 1999*;

learner licence has the same meaning as in the *Vehicle and Traffic Act 1999*;

motor vehicle has the same meaning as in the *Vehicle and Traffic Act 1999*;

provisional licence has the same meaning as in the *Vehicle and Traffic Act 1999*;

public street has the same meaning as in the *Traffic Act 1925*;

restricted driver licence has the same meaning as in the *Vehicle and Traffic Act 1999*;

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vehicle has the same meaning as in the *Traffic Act 1925*.

- (2A) In this Act, **prescribed vehicle** means –
- (a) a motor vehicle that is being used to operate a passenger transport service within the meaning of the *Passenger Transport Services Act 2011*; or
 - (b) a vehicle, other than a vehicle referred to in paragraph (a), that is designed and constructed primarily for the carriage of 13 or more adult passengers, including the driver; or
 - (c) a vehicle that is not designed and constructed primarily for the carriage of passengers but has a GVM exceeding 4.5 tonnes; or
 - (d) a vehicle that is being used to transport dangerous goods within the meaning of the *Dangerous Goods (Road and Rail Transport) Act 2010*.
- (3) A reference in this Act to the liability of a person to submit to a breath analysis, oral fluid analysis, medical examination or the taking of a sample of blood is a reference to such a liability arising, or a requirement made, in respect of the person under section 7A, 7B, 8, 8A or 9.
- (3A)

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- (4) For the purposes of this Act, a reference to the driving of a vehicle or a motor vehicle includes any of the following acts or omissions:
- (a) having charge of the vehicle or motor vehicle;
 - (b) being in control of the vehicle or motor vehicle;
 - (c) having control of the steering, braking or other system on the vehicle, or motor vehicle, including while it is being towed;
 - (d) attempting to drive the vehicle or motor vehicle;
 - (e) an act or omission –
 - (i) done, or made, with the intention to drive; and
 - (ii) that forms part of a series of events that, if it were not interrupted, would constitute the actual act of driving.
- (5) For the purposes of subsection (4), a person may be taken to be driving a vehicle or motor vehicle even if –
- (a) the vehicle or motor vehicle is stationary at the time the relevant act or omission under subsection (4) occurred; or
 - (b) the person leaves, or is removed from, the vehicle or motor vehicle after the

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relevant act or omission under
subsection (4) occurred.

- (6) For the purposes of subsection (4), if the holder of a learner licence is driving a vehicle, or motor vehicle, within the meaning of that subsection, each of the following persons is taken to be driving the vehicle or motor vehicle at the time:
- (a) the holder of the learner driver licence;
 - (b) the holder of an Australian driver licence who is or was –
 - (i) seated in or on the vehicle or motor vehicle; and
 - (ii) instructing the holder of the learner driver licence to drive the vehicle or motor vehicle;
 - (c) if the holder of the learner driver licence is undertaking a test or assessment for the purposes of the *Vehicle and Traffic Act 1999*, the person who is or was –
 - (i) seated in or on the vehicle or motor vehicle; and
 - (ii) testing or assessing the holder of the learner driver licence for the purposes of that Act.
- (7) It is a defence to an offence under this Act if the holder of an Australian driver licence referred to in subsection (6)(b) proves that, while in the vehicle or motor vehicle with the learner driver –

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- (a) he or she did not consent to being in the vehicle or motor vehicle while the holder of the learner driver licence was driving the vehicle or motor vehicle; or
- (b) he or she did not know, and could not have reasonably been expected to have known, that the person driving the vehicle or motor vehicle did not hold a full licence, or provisional licence, for the vehicle or motor vehicle.

2A. Meaning of relevant time

- (1) For the purposes of this Act, a reference to a relevant time in relation to a person who becomes liable to submit to a test, analysis or medical examination is a reference to the time of the last act of driving by the person before the person became so liable.
- (2) For the purposes of subsection (1), if the last act of driving cannot be ascertained with reasonable accuracy, the time of the last act of driving by a person is taken to be –
 - (a) if the person becomes liable to submit to the test or analysis under section 8(1) or 8A(1), the time when the person is first found by a police officer after becoming so liable; or
 - (b) if the person becomes liable to submit to the test, analysis or medical examination as a result of a crash –

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- (i) the time at which the person is found by a police officer after the crash –
 - (A) at, or near, the place of the crash; or
 - (B) at, or being conveyed to, a place for the purpose of receiving medical treatment; or
- (ii) if the person is found by a police officer after the crash in any other place, the time of the crash.

2B. Person liable to submit to analysis, examination, &c., to comply with police requirements

- (1) For the purposes of this Act, if a person becomes liable, or elects, to submit to a breath analysis, oral fluid analysis, medical examination or provide a blood sample under this Act, he or she must comply with any reasonable requirement made of him or her by a police officer until –
 - (a) the analysis or medical examination is performed in accordance with this Act; or
 - (b) a sample of blood is taken in accordance with this Act.
- (2) For the purposes of subsection (1), a requirement under that subsection may include, but is not

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limited to, either or both of the following requirements:

- (a) the person is to remain in a specific location until directed otherwise;
 - (b) the person is to remain under supervision as directed.
- (3) A person who fails to comply with a requirement under subsection (1) is guilty of an offence.

3. Approved analysts and approved operators

- (1) The Minister may, with the approval of the Head of a State Service Agency, appoint a State Service officer or State Service employee employed in that Agency to be an approved analyst for the purposes of this Act, and such officer or employee may hold office as an approved analyst in conjunction with State Service employment.
- (2) The Minister may appoint a person to be an approved analyst for the purposes of this Act and such person may hold office as an approved analyst in conjunction with any other employment.
- (3) The Minister is not to appoint a person as an approved analyst under subsection (1) or (2) unless the Minister is satisfied that the person to be appointed holds the prescribed qualifications, and prescribed experience, for an approved analyst.

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- (4) An approved analyst has such functions and powers as may be prescribed.
- (5) For the purposes of this Act, an approved operator is a person of a prescribed class who is authorised by the Commissioner of Police, as prescribed, to administer a test or analysis under this Act.

3A. Delegation

- (1) A police officer may delegate any of his or her functions or powers under this Act, other than his or her functions as an approved operator, to any other police officer.
- (2) An approved analyst may delegate any of his or her functions or powers under this Act to –
 - (a) any other approved analyst; or
 - (b) a person who is qualified to perform the function or exercise the power and is doing so under the supervision of an approved analyst.
- (3) A police officer, or approved analyst, may delegate a function or power under this section in relation to a matter regardless of whether he or she has performed a previous function, or exercised a previous power, in respect of the same matter.

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**PART II – OFFENCES RELATED TO THE TAKING OF
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THEREOF**

Division 1 – Driving under the influence of alcohol or drugs

4. Driving while under the influence of alcohol, drugs, &c., prohibited

A person who drives a vehicle, whether or not the vehicle is on a public street, while under the influence of one or more of the following substances to the extent that he or she is incapable of having proper control of the vehicle is guilty of an offence:

- (a) intoxicating liquor;
- (b) a drug.

5. Powers of arrest, &c.

(1) If a police officer has reasonable grounds to suspect that a person has committed an offence against section 4, 14(1B) or 19A(1), the police officer may exercise either or both of the following powers:

- (a) arrest the person without warrant;
- (b) impound the vehicle driven by the person and have it removed to a convenient place for safe-keeping.

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(1AA) A police officer may –

- (a) arrest without warrant a person who, without reasonable excuse, fails or refuses to comply with a requirement or direction, as the case may be, made to that person by the police officer under section 10(4) or 10A(1); and
- (b) impound the vehicle driven by the person and have it removed to a convenient place for safe-keeping.

(1AB) A police officer may use reasonable force when arresting a person in accordance with this section.

(1A) Where a police officer has, as a result of a breath analysis, reasonable grounds for believing that a person has committed an offence against section 6 he may arrest that person without warrant, and may impound the vehicle driven by the person and have it removed to a convenient place for safe-keeping.

(1B) A person entitled to possession of an impounded vehicle may collect the vehicle, or have it collected, from the place to which it has been removed for safe-keeping on payment of the reasonable cost of impounding and removing the vehicle and of its safe-keeping.

(2) Upon the hearing of any proceedings against a person who has been arrested under this section in respect of the circumstances occasioning the arrest, a court may order the person to pay the

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reasonable cost of impounding and removing the vehicle and of its safe-keeping.

- (3) Nothing in this section prejudices or affects the operation of section 41A of the *Traffic Act 1925*.
- (4) A police officer may, for the purpose of performing any function or exercising any power under this Act, enter a motor vehicle using such force as is necessary and reasonable.

5A. Powers in relation to vehicles

- (1) If a police officer has reasonable grounds to suspect that a person is driving, is attempting to drive, has driven or has attempted to drive a vehicle in contravention of this Act, the police officer may require the person to immediately hand over all keys to any vehicle that are in the possession of the person at the time –
 - (a) to the police officer or another police officer; or
 - (b) to another person, if the police officer is satisfied that the other person –
 - (i) is authorised to drive the vehicle on a public street; and
 - (ii) at the time of receiving the keys, is able to lawfully drive the vehicle on a public street.
- (2) A police officer may make a requirement under subsection (1) in respect of a person if satisfied

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that the requirement is in the interests of public safety and may do so whether or not the person has been, or is to be, charged with an offence under this Act or any other Act.

- (3) If a person hands over keys to a vehicle to a police officer under subsection (1)(a), the police officer may take any steps that he or she considers appropriate and practicable, in order to ensure that the vehicle is not causing an obstruction and is secure, including –
 - (a) moving the vehicle to a more suitable or secure place; and
 - (b) authorising another person to move the vehicle, including towing the vehicle, to a more suitable or secure place.
- (4) A police officer may retain keys to a vehicle handed over to the police officer under subsection (1)(a) for as long as is reasonable in the circumstances.
- (5) A person who fails to comply with a requirement made of the person under subsection (1) is guilty of an offence.

6. Driving with excessive concentration of breath or blood alcohol

- (1) Any person who drives a motor vehicle while alcohol is present in his or her breath or blood in a concentration greater than the prescribed concentration is guilty of an offence.

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- (2) A person to whom, by virtue of subsection (3) or (4), this subsection applies who drives a motor vehicle while alcohol is present in his body is guilty of an offence.
- (3) Subsection (2) applies to a person –
- (a) who does not hold an Australian driver licence, foreign driver licence or international driving permit; or
 - (ab) who holds a learner licence, a provisional licence or an equivalent licence issued under the law of another Australian jurisdiction; or
 - (ac) who is driving under the authority of an Australian driver licence that requires the holder of the licence to have no alcohol present in his or her body while driving a motor vehicle; or
 - (b) who is driving a prescribed vehicle; or
 - (c) who has, after the commencement of the *Road Safety (Alcohol and Drugs) Amendment Act 1991*, been convicted of–
 - (i) the crime of manslaughter arising out of the driving of a motor vehicle; or
 - (ii) the crime of causing death by dangerous driving–

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- (a) whose driver licence, within the meaning of the *Vehicle and Traffic Act 1999*, is suspended under Part 6 of the *Monetary Penalties Enforcement Act 2005*; or
 - (b) who is ineligible to hold such a driver licence by reason of Part 6 of the *Monetary Penalties Enforcement Act 2005* but would otherwise be eligible to hold such a driver licence –

is taken to hold an Australian driver licence.

- (4) Subsection (2) applies to a person if –
 - (a) the person has been convicted within any 10 year period of 3 or more offences under this Act arising from at least 3 separate incidents; and
 - (b) at least one of those offences was committed on or after 12 December 1991; and
 - (c) either –
 - (i) less than 10 years has passed since the last of those convictions was recorded; or
 - (ii) 10 or more years have passed since the last of those convictions was recorded and the person has not provided to the Registrar of Motor Vehicles the certificate of a medical practitioner or a

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obtained and administered in accordance with
the *Poisons Act 1971*.

(3 - 4)

7. Consumption, &c., of intoxicating liquor in motor vehicles

- (1) No person shall drive a motor vehicle while he is consuming intoxicating liquor.
- (2) No person shall drive a motor vehicle while any person in the vehicle is, to his knowledge, consuming intoxicating liquor.
- (3) No person shall, in a motor vehicle that is in motion, consume any intoxicating liquor.
- (3A) Subsections (2) and (3) do not apply to a person in a motor vehicle that is being used to operate a passenger transport service within the meaning of the *Passenger Transport Services Act 2011* if there is a liquor permit in force under Division 3 of Part 2 of the *Liquor Licensing Act 1990* in respect of that motor vehicle.
- (4) A person who contravenes any provision of this section is guilty of an offence.

Division 2 – Examination of persons for alcohol or drugs

7AA. Application of Part

If –

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may, if necessary, direct that person, by signal or otherwise, to stop his vehicle.

- (2) A requirement or direction under subsection (1) may be made by a police officer whether or not he has grounds for suspecting that a person may have consumed intoxicating liquor.
- (3) Where under subsection (1) a police officer requires a person to undergo a breath test, that person shall comply with the requirement in the presence of that officer or another police officer and in accordance with such directions as may be given by that officer or that other officer.
- (4) Where, after requiring a person to undergo a breath test in accordance with this section, a police officer reasonably believes that alcohol may be present in that person's breath or blood, whether as a result of such a test or not –
 - (a) the police officer may require the person to undergo another breath test; and
 - (b) whether or not a further breath test is required under paragraph (a), the person becomes liable to submit to a breath analysis.
- (5)

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7B. Power of police officer to require driver of motor vehicle to undergo oral fluid test

- (1) A police officer may require any person who is driving a motor vehicle on a public street to undergo, at or near the place where the requirement is made, an oral fluid test.
- (2) For the purpose of making a requirement under subsection (1), the police officer may direct the person, by signal or otherwise, to stop the vehicle.
- (3) Where a police officer requires a person to undergo an oral fluid test under subsection (1), that person must comply with the requirement in the presence of that officer or another police officer and in accordance with such directions as may be given by that officer or that other officer.
- (4) A requirement or direction under this section may be made by a police officer whether or not the officer has grounds for suspecting that a person may have a prescribed illicit drug in his or her oral fluid.
- (5) Where, after requiring a person to undergo an oral fluid test in accordance with this section, a police officer reasonably believes that an illicit drug has been consumed by, or administered to, the person, whether as a result of such a test or not –
 - (a) the police officer may require the person to undergo another oral fluid test; and

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- (b) whether or not a further oral fluid test is required under paragraph (a), the person becomes liable to submit to an oral fluid analysis.

7C. Liability to provide blood sample following oral fluid test

- (1) If a police officer requires a person to undergo an oral fluid test in accordance with section 7B or 8A and –
 - (a) the police officer reasonably believes that an illicit drug has been consumed by, or administered to, the person, whether as a result of such a test or not; or
 - (b) the person refuses to undergo the oral fluid test –

the police officer may require that person to submit to the taking, by a qualified person, of a sample of blood for analysis.

- (2) A police officer may only require a person to submit to the taking of a sample of blood for analysis if the officer reasonably believes that the sample can be taken within 5 hours of the relevant time.
- (3) Where a police officer requires a person to submit to the taking of a sample of blood for analysis under subsection (1), that person must comply with the requirement in the presence of that officer or another police officer and in

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that person becomes liable to submit to a breath analysis.

- (2) Where a police officer reasonably believes that, while a motor vehicle was in motion, an offence under section 167A of the *Criminal Code*, or an offence under this Act, the *Traffic Act 1925* or the *Vehicle and Traffic Act 1999*, was committed, the person (if any) who was driving the vehicle when it was in motion becomes liable to submit to a breath analysis.
- (2A) Where the driver of a vehicle that has been involved in a crash cannot be immediately identified, any person who was in the vehicle at the time of the crash becomes liable to submit to a breath analysis.
- (3) Where a police officer reasonably believes that, while a motor vehicle was in motion, the vehicle became involved in a crash, the person (if any) who was driving the vehicle at the time of the crash becomes liable to submit to a breath analysis.
- (4) Without affecting the generality of subsection (1), a police officer may, for the purpose of forming the suspicion referred to in that subsection, deduce from the manner in which the person concerned was behaving at the time when the police officer found him that that person may have had alcohol in his body at that time.
- (5) Where a motor vehicle continues in motion after the commission of an offence referred to in

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that that person drove a motor vehicle while that drug was so present, the police officer may require the person to undergo an oral fluid test or oral fluid analysis.

- (2) Where a police officer reasonably believes that, while a motor vehicle was in motion, a crime under section 167A of the *Criminal Code*, or an offence under the *Traffic Act 1925* or the *Vehicle and Traffic Act 1999*, was committed, the police officer may require the person (if any) who was driving the vehicle when it was in motion to undergo an oral fluid test or oral fluid analysis.
- (3) Where a police officer reasonably believes that, while a motor vehicle was in motion, the vehicle became involved in a crash, the police officer may require the person (if any) who was driving the vehicle at the time of the crash to undergo an oral fluid test or oral fluid analysis.
- (4) Without affecting the generality of subsection (1), a police officer may, for the purpose of forming the suspicion referred to in that subsection, deduce from the manner in which the person concerned was behaving at the time when the police officer found him or her that that person may have had a prescribed illicit drug in his or her oral fluid at that time.
- (5) Where a motor vehicle continues in motion after the commission of a crime or an offence referred to in subsection (2) or after the occurrence of a crash referred to in subsection (3), the police officer concerned may, if necessary, direct the

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person who is driving the vehicle, by signal or otherwise, to stop the vehicle.

- (5A) Where a person has become liable to undergo an oral fluid analysis by virtue of this section, a police officer may first require that person to undergo an oral fluid test at or near the place where the requirement was made.
- (6) Where a police officer requires a person to undergo an oral fluid test under subsection (1), (2) (3) or (5A) that person must comply with the requirement in the presence of that officer or another police officer and in accordance with such directions as may be given by that officer or that other officer.
- (7) Where under subsection (5A) a police officer requires a person to undergo an oral fluid test, that person must comply with that requirement in the presence of that officer or another police officer and in accordance with such directions as may be given by that officer or that other officer.

9. Liability for medical examination where condition may not be due to alcohol

- (1) Where a police officer reasonably believes that a person drove a motor vehicle in a public street while he was in such a condition as to be incapable of driving that vehicle without risk of danger to other persons and is of the opinion (as the result of a breath test or a breath analysis or otherwise) that that condition did not arise, or did not wholly arise, from the presence of

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alcohol in his body, the police officer may require that person to undergo a medical examination, and, for the purpose of enabling him to make such a requirement, the police officer may direct that person, by signal or otherwise, to stop his vehicle.

- (2) Where a requirement is made of a person under subsection (1), that person becomes liable to submit to a medical examination.
- (3) The medical examination referred to in this section is an examination by a medical practitioner directed to ascertaining whether the condition of the person submitting to the examination arises wholly or partially from the taking or administration of drugs, and, if such be the case, the nature of those drugs.
- (3A) A police officer may request that, as part of a medical examination referred to in this section, the medical practitioner by whom it is being carried out enable a qualified person to take a sample of blood for analysis under this Act from the person being examined.
- (4) Where in the course of such a medical examination as is referred to in this section the medical practitioner by whom the examination is being carried out informs the person submitting to the examination that it is necessary or desirable in order to effect the purpose of the examination for an analysis to be made of a sample of the blood of that person, or a request has been made under subsection (3A) in respect

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of the person, the obligation of that person to submit to that examination shall be deemed to include an obligation to submit to the taking of a sample of his blood.

10. Enforcement of obligation to provide blood sample or submit to breath analysis or medical examination

- (1) A police officer may require a person who is liable under this Part to submit to the taking of a sample of blood for analysis or submit to a breath analysis, oral fluid analysis or a medical examination to proceed to such place or into such vehicle by such means and with such person as the officer may indicate and there submit himself or herself to the taking of that sample or to that analysis or that examination.
- (2) If a person fails or refuses to comply with a requirement made under subsection (1), or is in such a condition or behaves in such a manner as to give reasonable grounds for believing that he will not comply with the requirement, a police officer may take him into custody and convey him or cause him to be conveyed to some appropriate place, and there detain him or cause him to be detained, for so long as is necessary to enable a direction to be given to him under subsection (4).
- (3) A police officer shall not exercise his powers under subsection (2) in respect of any person unless that officer has reasonable cause to believe that the taking of the sample of blood for

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analysis, or the taking of a sample of oral fluid for oral fluid analysis, or the breath analysis or medical examination can be carried out, within 5 hours after the relevant time, at or near the place to which that person is to be, is being, or has been conveyed in the exercise of those powers.

- (4) Where a person who is liable to submit to the taking of a sample of blood for analysis, or the taking of a sample of oral fluid for oral fluid analysis, or submit to a breath analysis or a medical examination is at a place where, or in a vehicle in which, that sample can forthwith be taken or that analysis or medical examination can forthwith be carried out, a police officer may direct him or her there to submit to the taking of the sample or to the analysis or examination.
- (4A) Where a person who is liable to submit to a breath analysis is at a place where, or in a vehicle in which, that analysis can be carried out forthwith and that person fails or refuses to comply with a direction given to him in accordance with subsection (4), the approved operator of the breath analysing instrument at that place or in that vehicle shall inform that person that he may elect to submit to the taking of a sample of his blood for analysis instead of submitting to a breath analysis, but only if the taking of that sample can be begun within 5 hours after the relevant time.
- (4AB) Where a person who has been informed in accordance with subsection (4A) declines to submit to the taking of a sample of blood –

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- (a) the approved operator concerned is to inform the person of the consequences of declining to submit to the taking of the sample; and
 - (b) if the person does not elect to submit to the taking of the sample as soon as practicable after being informed of the consequences of declining to submit –
 - (i) the person is taken to have declined to submit to the taking of the sample; and
 - (ii) the deemed decision to decline to submit to the taking of the sample is final.
- (4B) Where a person who has been informed in accordance with subsection (4A) elects to submit to the taking of a sample of blood under subsection (4A) or (4AB), the approved operator concerned shall forthwith cause arrangements to be made for such a sample to be taken by a qualified person.
- (5) Where a person is at a hospital for medical treatment or is being attended by a medical practitioner for medical treatment, a police officer shall not direct that person to submit to a breath analysis unless he notifies the medical practitioner in charge of that treatment of his intention to make the direction and that medical practitioner does not object on the grounds that compliance therewith, would, in his opinion, be

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prejudicial to the proper care or treatment of that person.

- (6) Where a person is liable to submit to a breath analysis a police officer, if –
- (a) a medical practitioner has objected to the submission of that person to such an analysis on the grounds referred to in subsection (5);
 - (b) it appears to that officer that it may be dangerous to that person's medical condition to submit to the analysis; or
 - (c) it appears to that officer that, by reason of that person's condition, it is not practicable for that person to submit to the analysis –

may direct that person to submit to the taking of a sample of his blood for analysis.

- (7) No direction shall be given under this section to a person requiring him to submit to a breath analysis or oral fluid analysis, or to a medical examination, or to the taking of a sample of his blood, after the expiration of 5 hours after the relevant time and a person is not required under this section to submit to a breath analysis or oral fluid analysis, or to the taking of a sample of his blood, or to a medical examination that is begun after the expiration of that period.
- (8) Where a motor vehicle is involved in a crash in a public street a police officer may place on, or

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elected to provide a sample of blood in accordance with section 10.

10B. Subsequent testing and samples in certain cases

- (1) A police officer may require a person, who is liable under this Part to submit to a breath test, oral fluid test, breath analysis or oral fluid analysis, to submit to a further test or analysis if –
 - (a) the previous breath test, oral fluid test, breath analysis or oral fluid analysis of the person was unable to be completed due to an error by, or a malfunction of, an instrument, or thing, used as part of the test or analysis; and
 - (b) it is still within the relevant time in respect of the act of the person, or the act of driving by the person, that resulted in that liability of the person.
- (2) Nothing in subsection (1) alters the relevant time in respect of an act of the person or an act of driving by the person.
- (3) For the purposes of subsection (1), a police officer may direct the person to another location for the purpose of a subsequent test or analysis.

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- (4) A person who makes an election under section 10(4A) or a request under subsection (3) of this section is not liable under section 30A for the cost incurred in making arrangements for taking a sample of blood in consequence of that person's election or request.

12. Examination, &c., of persons incapable of consenting

- (1) If a police officer is informed by a medical practitioner attending a person for medical treatment that the person is by reason of his or her physical condition incapable of giving consent –
- (a) to the taking of a sample of his or her blood; or
 - (b) to a medical examination –

to which, under this Division, the person has or could be directed to submit, the police officer may request the medical practitioner to take a sample of the person's blood or to carry out the medical examination.

- (2) A medical practitioner must comply with a request made to him or her in accordance with subsection (1) unless the medical practitioner is of the opinion that to do so would be prejudicial to the proper care or treatment of the person.
- (3) Where a request is made of a medical practitioner under subsection (1) in respect of

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- (1A) For the purposes of this section, a sample of blood may be divided into 3 parts at the time it is taken or given or at any subsequent time.
- (2) Where a medical practitioner has refused to take, or refrained from taking, a sample of the blood of a person for the purposes of this Act, or has refused to make, or refrained from making, a medical examination of a person for those purposes, on the grounds that to do so would, in his opinion, be prejudicial to the proper care or treatment of that person, he shall, if so requested by a police officer –
 - (a) express an opinion on the question whether that person has or, if he is in hospital, had, at the time of his admission to the hospital, alcohol or a prescribed illicit drug or other drug in his blood; and
 - (b) to the best of his ability answer any relevant questions put to him by the police officer in relation to that question.
- (3) If a qualified person takes a sample of a person's blood for analysis for the purposes of this Act, it is the duty of the qualified person to ensure that the following provisions of this section are complied with in respect of the taking of the sample so far as they are applicable.
- (4) Where regulations under this Act prescribe the manner in which a sample of blood is to be taken that sample shall be taken in that manner.

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- (4A) Where regulations under this Act prescribe an amount of blood which constitutes a sample, less than that amount may be taken if a qualified person certifies that it was not possible to obtain the prescribed amount due to the medical condition of the patient at the time.
- (4B) If a sample of blood that is less than the prescribed amount is taken in accordance with subsection (4A), that smaller sample is to be taken to be sufficient for the purposes of this Act.
- (5) The sample of blood is to be divided into 3 parts, each part being –
 - (a) enclosed in a container of a type approved by the Minister by notice in the *Gazette*; and
 - (b) labelled in such manner as may be prescribed.
- (5A)
- (5B) One of the containers containing a part of the sample of the blood is to, as soon as practicable after it has been taken, be tendered to the person from whom it was taken or, if he or she is in custody, to a police officer who was present while it was taken.
- (5C) The containers containing the other 2 parts of the sample of blood is to, within 10 days, be delivered to an approved analyst.

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(6) If a sample of blood is taken from a person in accordance with section 12(1) (person incapable of consenting), a police officer must–

- (a) give written notice to the person that the sample was taken; and
- (b) tender to the person the part of the sample referred to in subsection (5B); and
- (c) give written notice to the person that he or she may object to the sample being analysed, but in that case the person will be guilty of an offence under this Act–

as soon as the police officer considers it is practical to do so having regard to the person’s physical condition.

(7 - 9)

13A. Retention of blood sample during detention in custody

- (1) Where a container containing part of a sample of blood is delivered to a police officer as mentioned in section 13(5B), it shall be kept in such manner as may be prescribed.
- (2) If the person from whom the sample was taken is released from custody within 24 hours from the time at which the sample was taken, the container shall be tendered to him on his release from custody.

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the sample was taken and an Australian legal practitioner acting on behalf of the Crown.

- (2) Where a part of the sample of the blood taken from a person has been analysed under subsection (1), an approved analyst must ensure a copy of the report of the analysis, within 21 days after the completion of the report –
 - (a) if the analysis was made on request by, or on behalf of, that person and an Australian legal practitioner as referred to in subsection (1), is given to the person specified by the Australian legal practitioner in the request; and
 - (b) if such a request was not made, is provided to a police officer.
- (2A) If a police officer is provided with a copy of a report under subsection (2)(b), the police officer is to ensure that a copy of the report is given to the person from whom the sample of the blood was taken.
- (3) The report referred to in subsection (2) made in respect of a sample of blood shall state the concentration of alcohol in the part of the sample analysed, expressed in grams of alcohol in 100 millilitres of blood, as determined by that analysis, unless the sample was taken pursuant to an obligation arising under section 7C, 9 or 10A.
- (4)

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13C. Analysis of oral fluid samples by approved analyst

- (1) If a sample of a person's oral fluid is taken for analysis for the purposes of this Act –
 - (a) the sample is to be taken in accordance with the prescribed requirements and delivered to an approved analyst; and
 - (b) an approved analyst may analyse the sample.
- (2) If a sample of oral fluid taken from a person has been analysed under subsection (1)(b), an approved analyst must ensure that a copy of the report of the analysis is provided to a police officer within 21 days after the completion of the report.
- (3) A police officer provided with a copy of a report under subsection (2) is to ensure that a copy of the report is given to the person who provided the sample of oral fluid.
- (4) The report referred to in subsection (2) made in respect of a sample of oral fluid is to state whether or not an illicit drug was present in the part of the sample analysed.

14. Offences under Division 2

- (1) Any person who, without reasonable excuse, fails or refuses –

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-
- (a) to comply with a requirement made to him by a police officer under section 7A(1), 7C, 8(6) or 8A;
 - (b) to comply with a direction made to him by a police officer under section 7A(1), 7B, 8(5), or 9(1); or
 - (c) to comply with section 7A(3) or 8(7) –

is guilty of an offence.

(1A) Any person who, without reasonable excuse, fails or refuses to comply with a requirement made to him by a police officer under section 10(1) or section 10A(1) or (1A) is guilty of an offence.

(1B) Any person who is liable to submit to a breath test, oral fluid test, breath analysis, oral fluid analysis or medical examination, or to provide a blood sample, under this Act and who, having been taken into custody –

- (a) escapes or attempts to escape from that custody; or
- (b) obstructs or hinders his or her conveyance to a place where the test, analysis or examination is to take place –

is guilty of an offence.

(1C)

(2) Any person who, having been directed under section 10(4) to submit to a breath analysis, fails

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or refuses, without reasonable excuse, to submit to a breath analysis in accordance with the directions of an approved operator is guilty of an offence.

(2AA) For the purposes of subsection (2), the fact that a person has a medical or physical condition is not a reasonable excuse for failing or refusing to submit to a breath analysis unless –

(a) that medical or physical condition is, or that person has a further medical or physical condition that is, a reasonable excuse for not having a sample of blood taken; or

(b) that person elected instead to the taking of a sample of blood for analysis and made himself or herself available so as to facilitate the taking of the sample within 5 hours after the relevant time but the sample was not taken within that 5-hour period.

(2A) It is a defence in any proceedings for an offence under subsection (2) for the defendant to show –

(a) that he elected to submit to the taking of a sample of his blood for analysis instead of a breath analysis; and

(b) that the taking of that sample was carried out, or could have been carried out, within 5 hours after the relevant time.

(3) Any person who –

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-
- (a) having been informed as referred to in section 9(4), fails or refuses without reasonable excuse to submit to the taking of a sample of blood; or
 - (ab) having been directed under section 10(4) to submit to an oral fluid analysis, fails or refuses, without reasonable excuse, to submit to that analysis; or
 - (b) having been directed under section 10(4) to submit to a medical examination, fails or refuses, without reasonable excuse, to submit to that examination or any part of it –

is guilty of an offence.

- (4) Any person who, having been directed under section 10(6), or required under section 7C, to submit to the taking of a sample of his blood for analysis, fails or refuses without reasonable excuse to submit to the taking of a sample of his blood in accordance with the direction is guilty of an offence.
- (5) A person who, on being notified under section 13(6) that a sample of his blood has been taken for analysis, objects, without reasonable excuse, to that sample being analysed is guilty of an offence.
- (6) Any person who, having been required under section 7A(1), section 7B(1), section 8(6) or section 8A(1), (2) or (3) to undergo a breath test or an oral fluid test, does anything before he or

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she undergoes that test with intent to alter the concentration of alcohol or a prescribed illicit drug in his or her breath, oral fluid or blood is guilty of an offence.

- (7) Any person who, having become liable to submit to a breath analysis, oral fluid analysis or to the taking of a sample of blood for analysis does anything, before he submits, in pursuance of that liability, to a breath analysis, oral fluid analysis or the taking of a sample of his blood, with intent to alter the concentration of alcohol or a prescribed illicit drug in his breath, oral fluid or blood is guilty of an offence.
- (8) A person is guilty of an offence, if the person –
- (a) becomes liable to submit to a breath test, oral fluid test, breath analysis, oral fluid analysis or to the taking of a sample of blood for analysis under this Act; or
 - (b) is the driver of a vehicle that has been involved in a crash –

and the person consumes an intoxicating liquor or drug, or administers a drug to himself or herself or has a drug administered to himself or herself, before all relevant tests, analyses and examinations have been performed under this Act in respect of the person's liability under this Act, or the crash.

- (9) Subsection (8) does not apply in respect of a drug that was obtained and administered in

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accordance with the *Poisons Act 1971* or was otherwise lawfully obtained and administered.

Division 3 – Supplementary provisions

15. Identification of offenders

- (1) A police officer may require a person to whom a request has been made, or a direction has been given, under Division 2 or whom that officer has reasonable grounds for believing has committed an offence under this Act to state his name, date of birth and the address of his place of abode.
- (2) A person who –
 - (a) refuses or fails to comply with a requirement made by a police officer under this section; or
 - (b) in response to any such requirement, furnishes that officer with information that is false –is guilty of an offence.
- (3) A police officer may arrest without warrant a person who, in response to the requirement of the police officer made under subsection (1) –
 - (a) refuses or fails to state his or her name, date of birth or the address of his or her place of abode; or

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- (i) impose a fine of an amount not less than the minimum amount shown in the Table and not more than the maximum amount shown in the Table; or
 - (ii) impose a term of imprisonment for a term not exceeding the term shown in the Table; or
 - (iii) impose both that fine and that term of imprisonment; and
- (b) must, in addition, disqualify the person from driving for a period not less than the minimum period shown in the Table and not more than the maximum period shown in the Table.
- (3A) When a court imposes a disqualification from driving under this section, it must suspend or cancel any Australian driver licence held by the person against whom the disqualification is imposed as required by section 17 of the *Vehicle and Traffic Act 1999*.
- (3B) Section 17(3) of the *Vehicle and Traffic Act 1999* does not apply to a suspension or cancellation of an Australian driver licence in accordance with subsection (3A).
- (4) For the purposes of subsection (3) –
- (a) the relevant fine, period of disqualification and term of imprisonment for a first offence specified

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TABLE
PART 1 - FIRST OFFENCE

Column 1	Column 2	Column 3	Column 4	Column 5
Section of Act or offence	Concentration of alcohol in breath in grams per 210 litres of breath or in blood in grams per 100 millilitres of blood	Fine	Period of disqualification	Term of imprisonment
Section 6 (2)	less than 0.05	Minimum 2 penalty units Maximum 10 penalty units	Minimum 3 months Maximum 12 months	3 months
Section 6	0.05 or more but less than 0.1	Minimum 2 penalty units Maximum 10 penalty units	Minimum 3 months Maximum 12 months	3 months
	0.1 or more but less than 0.15	Minimum 4 penalty units Maximum 20 penalty units	Minimum 6 months Maximum 18 months	6 months
	0.15 or more	Minimum 5 penalty units Maximum 30 penalty units	Minimum 12 months Maximum 36 months	12 months
Section 4 or 14 (5) or failure to comply with a requirement made under section 10 (4) or 10A (1)		Minimum 5 penalty units Maximum 30 penalty units	Minimum 12 months Maximum 36 months	12 months
Section 6A(1)	Not applicable	Minimum 2 penalty units Maximum 10 penalty units	Minimum 3 months Maximum 12 months	3 months

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TABLE

PART 2 - SUBSEQUENT OFFENCE

Column 1	Column 2	Column 3	Column 4	Column 5
Section of Act or offence	Concentration of alcohol in breath in grams per 210 litres of breath or in blood in grams per 100 millilitres of blood	Fine	Period of disqualification	Term of imprisonment
Section 6 (2)	less than 0.05	Minimum 4 penalty units Maximum 20 penalty units	Minimum 6 months Maximum 24 months	6 months
Section 6	0.05 or more but less than 0.1	Minimum 4 penalty units Maximum 20 penalty units	Minimum 6 months Maximum 24 months	6 months
	0.1 or more but less than 0.15	Minimum 8 penalty units Maximum 40 penalty units	Minimum 12 months Maximum 36 months	12 months
	0.15 or more	Minimum 10 penalty units Maximum 60 penalty units	Minimum 24 months Maximum 72 months	24 months
Section 4 or 14 (5) or failure to comply with a requirement made under section 10 (4) or 10A (1)		Minimum 10 penalty units Maximum 60 penalty units	Minimum 24 months Maximum 72 months	24 months
Section 6A(1)	Not applicable	Minimum 4 penalty units Maximum 20 penalty units	Minimum 6 months Maximum 24 months	6 months

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17A. Penalties for other offences

- (1) A person who is convicted of an offence under this Act, other than an offence referred to in section 6A or section 17, is liable to a fine not exceeding 10 penalty units or imprisonment for a term not exceeding 6 months.
- (2) A court that convicts a person of an offence referred to in subsection (1) may, in addition to any penalty imposed under that subsection, order the person to be disqualified from driving for a period not exceeding 3 years.

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18A. Traffic infringement notice may be issued in certain circumstances

- (1) In this section –

infringement offence means an offence against this Act, or the regulations under this Act, that is prescribed by the regulations to be an infringement offence.

- (2) A police officer may issue and serve an infringement notice on a person if he or she reasonably believes that the person has committed an infringement offence.
- (3) An infringement notice under this section –

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of alcohol in the person's blood or breath
(as the case requires) was –

- (i) if the person holds a full licence or a foreign driver licence –
 - (A) 0.15 grams or more per 100 millilitres of blood; or
 - (B) 0.15 grams or more per 210 litres of breath; or
- (ii) if the person does not hold a full licence or a foreign driver licence or holds a learner licence or provisional licence –
 - (A) 0.07 grams or more per 100 millilitres of blood; or
 - (B) 0.07 grams or more per 210 litres of breath; or
- (b) committed an offence that would be a subsequent offence within the meaning of section 17(1)(b) if the person were convicted; or
- (c) failed or refused to submit to a breath analysis, oral fluid analysis or to the taking of a sample of blood for analysis –

an approved operator may, as soon as practicable after that belief has been formed, issue a notice in the name of the person, known as a road safety disqualification notice.

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- (2) On the issue of a notice under subsection (1), a police officer is to give the notice to the person named in it.
- (3) If a road safety disqualification notice is given to a person –
 - (a) if he or she holds a restricted driver licence, that restricted driver licence is suspended; or
 - (b) in any other case, he or she is disqualified from driving.
- (4) A road safety disqualification notice must specify –
 - (a) if the accused holds a restricted driver licence, the fact that his or her licence is suspended due to the road safety disqualification notice; or
 - (b) in any other case, the fact that the accused is disqualified from driving and the period of that disqualification in accordance with subsection (5).
- (5) A person to whom a road safety disqualification notice is given is disqualified from driving pursuant to that notice until the sooner of the following:
 - (a) the charge has been determined by a court;

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- (b) the expiration of the minimum period after the notice is given, set out in Column 4 of the Table in section 17 –
 - (i) that corresponds to the breath or blood alcohol concentration in Column 2 of that Table that is stated in the notice; or
 - (ii) in the case of an offence against section 4 or 14(5) or failure to comply with a requirement made under section 10(4) or section 10A(1) or (1A), that corresponds to the reference to that offence or failure in Column 1 of that Table.
- (6) If, on the subsequent hearing of the charge, the accused is disqualified from driving, the court must take into account in fixing the period of disqualification the period of disqualification served under this section.
- (7) If a person is given a road safety disqualification notice and he or she holds a restricted driver licence –
 - (a) the licence is suspended under subsection (3)(a) as soon as the person is given the road safety disqualification notice; and
 - (b) the provisions of the *Vehicle and Traffic Act 1999*, other than section 17(3) of that Act, apply in respect of the suspension.

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- (3) If a person is disqualified from driving, in accordance with a road safety disqualification notice, and is before a court for any reason in relation to the alleged offence, the court may make an order cancelling the notice if it is satisfied that the person would suffer severe and unusual hardship if the order were not made or that, having regard to the public interest and any special circumstances of the case, it is appropriate to do so.
- (4) An order of the Magistrates Court under subsection (3) is final and conclusive and must be given effect to by the Registrar of Motor Vehicles.

18E. Appeal against road safety disqualification notice

- (1) A person to whom a notice is given under section 18B(1) may appeal against that notice to the Magistrates Court on the ground that the notice will cause the person severe and unusual hardship or that there are other special circumstances as to why the notice should not have been given.
- (2) A person who appeals under subsection (1) must, at least 14 days before the appeal is to be heard by the court, give written notice of the appeal (including particulars of the alleged severe and unusual hardship or other special circumstances) to the Commissioner of Police and a registrar of the Magistrates Court.

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- (3) In determining the appeal, the court must hear any relevant evidence tendered by the applicant or by the Commissioner of Police.
- (4) On an appeal under subsection (1), the court may make an order –
 - (a) confirming the notice; or
 - (b) cancelling the notice.
- (5) The Magistrates Court must not make an order under subsection (4) cancelling a notice unless it is satisfied that the applicant would suffer severe and unusual hardship if the order were not made or that it is appropriate to do so because of other special circumstances.

19. Special hardship orders

- (1) Except as provided by this section, section 18 of the *Vehicle and Traffic Act 1999* applies to the conviction of a person for an offence under this Act as it would apply if that offence were an offence under that Act.
- (1A) No order is to be made under section 18 of the *Vehicle and Traffic Act 1999* in respect of a conviction for an offence under this Act if–
 - (a) the offence was committed during any period of disqualification or within 3 years after the end of any period of disqualification imposed under this Act;
or

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- (b) the offence was under section 6 where the offender had alcohol in his or her breath or blood of a concentration equal to or greater than 0.15 of a gram of alcohol in 210 litres of breath or equal to or greater than 0.15 of a gram of alcohol in 100 millilitres of blood; or
- (c) the offence was under section 4; or
- (d) the offence was under section 14(5); or
- (e) except in the case of an offence against section 6A, the offender was the holder of a learner licence or a provisional licence; or
- (ea) except in the case of an offence against section 6A, at the time of the offence the offender was not authorised under an Australian driver licence to drive the vehicle in respect of which the offence was committed or cannot satisfy the court that he or she would, but for an unintentional failure to comply with an administrative requirement within the preceding 6-month period, have been so authorised to drive that vehicle at that time; or
- (f) the offender was driving a prescribed vehicle at the time of the offence; or
- (g) the offence was in respect of a failure to comply with a requirement made under section 10(4) or 10A(1).

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- (1B) If an order is made under section 18 of the *Vehicle and Traffic Act 1999* in respect of a conviction for an offence under this Act, the Court may increase the period of disqualification from driving remaining at the time the order is made by an amount not exceeding the period so remaining.
- (1C) The application of subsections (1A) and (1B) does not extend to an offence committed before the commencement of the *Road Safety (Alcohol and Drugs) Amendment Act 1991*.
- (2) Without prejudice to the generality of the provisions of section 18(5)(c) of the *Vehicle and Traffic Act 1999* it shall be deemed to be contrary to the public interest to make an order authorizing the granting of a restricted driver licence to a person suffering from alcohol dependency, and the court may refuse to make such an order in respect of a person who is disqualified from driving as a consequence of a conviction of an offence under this Act, section 41 of the *Traffic Act 1925* or section 53 of the *Vehicle and Traffic Act 1999* unless the court is satisfied on the evidence of a medical practitioner approved by the court that that person is not so suffering from alcohol dependency.
- (3) For the purposes of subsection (2), a report in writing purporting to be signed by a medical practitioner may be received in evidence without proof of the signature of the medical

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practitioner; but the court may in any case require him to be called to give oral evidence.

- (4) Where, in pursuance of the directions of the court, any such report as is referred to in subsection (3) is tendered in evidence, otherwise than by or on behalf of the person on whom it is made, then –
- (a) if that person is represented by counsel, a copy of the report shall be given to his counsel;
 - (b) if he is not so represented, the substance of the report shall be disclosed to him; and
 - (c) in any case, he, or the person by whom he is represented, may require the medical practitioner by whom the report is signed to be called to give oral evidence.
- (5) The court may order that the person on whom a report is made by a medical practitioner for the purposes of this section shall pay the whole or a portion of the costs of the report and the examination on which it is made, to the extent that those costs exceed such sum as may be prescribed, and shall specify in that order the person to whom those costs are to be paid; and that order has the like effect as if that person on whom the report was made and the person to whom the costs are ordered to be paid were

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Penalty: In the case of –

- (a) a first offence – a fine not exceeding 40 penalty units or imprisonment for a term not exceeding 6 months (or both) and a further period of disqualification (not exceeding 3 years) fixed by the court; and
- (b) a second or subsequent offence – a fine not exceeding 80 penalty units or imprisonment for a term not exceeding 12 months (or both) and a further period of disqualification (not exceeding 5 years) fixed by the court.

(3 - 4)

19B.

20. Concurrent offences not treated separately

Where arising from his driving a vehicle on any particular occasion a person is convicted of 2 or more offences, being offences under section 4, section 6 or section 6A or under section 41 of the *Traffic Act 1925* or section 53 of the *Vehicle and Traffic Act 1999*, those convictions shall for the purposes of this Division be treated as one single conviction.

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- (a) supplies a sample of blood taken in accordance with this Act, or causes or permits a sample to be supplied, to a person for prohibited analysis; or
 - (b) carries out, or causes or permits to be carried out, a prohibited analysis of a sample of blood taken in accordance with this Act; or
 - (c) includes, or causes or permits the inclusion of, information derived from a prohibited analysis on a DNA database.
- (3) For the purposes of this section –

DNA database includes –

- (a) a DNA database system within the meaning of the *Forensic Procedures Act 2000*; and
- (b) a database containing DNA data that is kept under a law of this, or any other, jurisdiction; and
- (c) such other database, or class of databases, as is prescribed;

prohibited analysis, in relation to a sample of blood, means analysis of the sample for a purpose other than a purpose for which the sample is permitted to be used under this Act.

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PART III – EVIDENTIARY PROVISIONS

Division 1 – Evidence in certain criminal proceedings

22. Application of Division 1

- (1) This Division applies to any proceedings in respect of any crime or offence specified in subsection (2) if one or more of the following matters is relevant to the proceedings:
 - (a) whether a person was or was not under the influence, or the extent to which a person was under the influence, of intoxicating liquor at the time of the commission of the crime or offence;
 - (b) the concentration of alcohol in the breath or blood of a person at the time of the commission of the crime or offence;
 - (c) whether or not a person failed or refused to submit to a breath analysis or oral fluid analysis;
 - (d) the presence of a prescribed illicit drug in a person's oral fluid or blood at the time of the commission of the crime or offence.
- (2) The following crimes and offences are the crimes and offences referred to in subsection (1), that is to say:
 - (a) the crime of manslaughter arising out of the driving of a motor vehicle;

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-
- (ab) the crime of causing death by dangerous driving;
 - (b) an offence under this Act;
 - (ba) an offence under section 12 of the *Vehicle and Traffic Act 1999*;
 - (c) an offence under section 32 of the *Traffic Act 1925*.
- (3) Nothing in this Division prevents one or more certificates under this Division from being issued as a single document.

23. Statutory presumptions with respect to breath analyses and blood tests, &c.

- (1) In any proceedings to which this Division applies, the concentration of alcohol in a sample of blood taken from a person in accordance with this Act shall be deemed to be the actual concentration of alcohol in his blood at the time at which the sample was taken, unless the contrary is proved.
- (2) In any proceedings to which this Division applies, the concentration of alcohol in the breath of a person as determined by a breath analysis that was properly carried out shall be deemed to be the actual concentration of alcohol in the breath of that person at the time at which he submitted to the analysis, unless it is shown on the balance of probabilities that the concentration of alcohol in his breath at the time

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was not greater than the prescribed concentration.

- (3) Where, in any proceedings to which this Division applies, there is a conflict between the evidence referred to in subsection (1) and that referred to in subsection (2) the former evidence shall prevail.
- (4) Where in any proceedings for an offence under section 6(1) it is shown that the concentration of alcohol in the breath or blood of a person who became liable to submit to a breath analysis was, at any time within 6 hours after the relevant time, equal to or not less than a particular concentration (being a concentration not less than the prescribed concentration), that particular concentration shall be deemed to have been the concentration of alcohol in his breath or blood at the time of the relevant act of driving unless it is shown that the concentration of alcohol in his breath or blood at the time of that act of driving was not greater than the prescribed concentration.
- (5) Where in any proceedings for an offence under section 6(2) it is shown that a person who became liable to submit to a breath analysis had alcohol in his breath or blood at any time within 6 hours after the relevant time it shall be presumed, unless the contrary is proved, that he had alcohol in his breath or blood at the time of the relevant act of driving.
- (6) Where in any proceedings to which this Division applies (other than proceedings for an offence

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under section 6), it is shown that the concentration of alcohol in the breath or blood of a person who became liable to submit to a breath analysis was, at any time within 6 hours after the relevant time, equal to or not less than a particular concentration, it shall be presumed, unless the contrary is proved, that the concentration of alcohol in the breath or blood of that person at the time of the relevant act of driving was not less than that particular concentration.

- (7) For the purposes of this section a breath analysis is properly carried out if it is carried out by means of a breath analysing instrument in proper working order operated by an approved operator in the manner prescribed.
- (7A) Where in any proceedings for an offence under this Act, a person has submitted to a breath analysis but has declined or refused a request under this Act to submit to a sample of blood being taken in respect of the same offence, the person may not rebut a statutory presumption, within this section, in respect of the breath analysis.
- (8) For the purposes of this section, *relevant act of driving*, in relation to a person against whom proceedings to which this Division applies are brought, means the act of driving alleged to be an ingredient of the crime or offence with which the person is charged in those proceedings.

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23A. Statutory presumptions with respect to prescribed illicit drugs

Where in any proceedings for an offence under section 6A it is shown that a prescribed illicit drug was present in the person's oral fluid or blood at any time within 6 hours after the relevant time, it is presumed, unless the contrary is proved, that he or she had the illicit drug in his or her oral fluid or blood at the relevant time.

24. Restrictions on admission of evidence of breath analysis

- (1) Evidence of the concentration of alcohol in the breath of a person as determined by a breath analysing instrument is not admissible in evidence in any proceedings to which this Division applies, unless—
 - (a) such a statement as is referred to in section 11 was read over to him and handed to him on the completion of the analysis; and
 - (b) if he made such a request as is referred to in subsection (3) of that section—
 - (i) a sample of his blood was taken by a qualified person in accordance with this Act and the taking of that sample began within 5 hours after the relevant time; or

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- (ii) he refused to submit to the taking of a sample of his blood after appropriate arrangements had been made under that section in response to that request.
- (2) Where the statement referred to in subsection (1)(a) indicates that the concentration of alcohol in the breath of the person submitting to the breath analysis, as determined by that analysis, exceeded the prescribed concentration, the statement shall be in such form as to draw his attention to his right to make the request referred to in section 11(3).
- (3) Without prejudice to the foregoing provisions of this section, in proceedings against a person for an offence under section 6(2) such evidence as is referred to in subsection (1) is inadmissible unless either –
 - (a) the statement referred to in subsection (1)(a) is in such a form as to draw the attention of that person to his right to make such a request as is referred to in section 11(3); or
 - (b) that person, before the statement was read over to him, represented to the approved operator by whom the analysis was carried out that he was not a person referred to in section 6(3) or did not, on inquiry made to him by the operator, inform the operator that he was such a person.

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25. Evidence as to carrying out of breath analysis

- (1) Where in any proceedings to which this Division applies evidence is given by any person—
 - (a) that at a specified time and place he carried out a breath analysis of a person by means of a breath analysing instrument;
 - (b) that he was at that time at which that breath analysis was carried out, an approved operator;
 - (c) that at that time the instrument was in proper working order; and
 - (d) that in carrying out the analysis he operated that instrument in the prescribed manner—

that evidence is admissible in those proceedings and is *prima facie* evidence of the particulars so stated and of the fact that, at the time the analysis was carried out, the instrument was in proper working order.

- (2) In any proceedings to which this Division applies a certificate certifying—
 - (a) that the person named therein submitted to a breath analysis carried out by the person by whom the certificate purports to have been signed;
 - (b) that, at the time the breath analysis was carried out, the person by whom the

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certificate purports to have been signed
was an approved operator;

- (c) that the apparatus used by him to carry out the breath analysis was a breath analysing instrument within the meaning of this Act and that that instrument was in proper working order;
- (d) that, in carrying out the analysis, he operated the instrument in the prescribed manner;
- (e) that the analysis was made on the day and completed at the time stated in the certificate;
- (f) that the concentration of alcohol, expressed in grams of alcohol in 210 litres of breath, as determined by the analysis to be present in the breath of the person who submitted thereto, is that specified in the certificate; and
- (g) that the statement required by section 11 to be read over to that person and handed to him, was so read over to and handed to him—

is admissible in those proceedings and is *prima facie* evidence of those particulars.

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25A. Evidence of matters related to refusal to submit to breath analysis

- (1) Where in any proceedings to which this Division applies evidence is given by any person—
 - (a) that at a specified time and place the person named therein failed or refused to submit to a breath analysis;
 - (b) that at that time and place a breath analysis could have been properly carried out by the person by means of a breath analysing instrument that he then had with him;
 - (c) that at that time a breath analysing instrument was in proper working order; and
 - (d) that at that time the person was an approved operator—

that evidence is admissible in those proceedings and is *prima facie* evidence of the facts so stated.

- (2) In any proceedings to which this Division applies a certificate stating—
 - (a) that at a particular time and place the person named therein was directed by the person by whom the certificate purports to be signed to submit to a breath analysis;

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- (b) that the person so named then failed or refused to submit to a breath analysis in accordance with the direction;
- (c) that at that time and place a breath analysis could have been properly carried out by the person by whom the certificate purports to have been signed by means of a breath analysing instrument he then had with him;
- (d) that at that time that breath analysing instrument was in proper working order; and
- (e) that at that time the person by whom the certificate purports to be signed informed the person named in the certificate that he or she could elect to submit to the taking of a sample of blood for analysis instead of submitting to a breath analysis;
- (f) that the person named in the certificate did not so elect to submit to the taking of a sample of blood for analysis; and
- (g) that at that time the person by whom the certificate purports to be signed was an approved operator –

is admissible in those proceedings and is *prima facie* evidence of the particulars contained in the certificate.

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26. Certificates and records of approved analyst and approved operators

In any proceedings to which this Division applies—

- (a) a certificate purporting to be a certificate signed by an approved analyst in accordance with regulations under this Act containing any particulars relating to a breath analysing instrument required to be contained therein under those regulations; and
- (b) any record purporting to be a record kept by an approved operator in accordance with those regulations containing any particulars relating to the performance by that operator of his functions under this Act—

is admissible in those proceedings and is *prima facie* evidence of those particulars.

27. Certificate in relation to taking of blood samples

- (1) In any proceedings to which this Division applies a certificate—
 - (a) stating that, on the day and at the time stated in the certificate, the person by whom the certificate purports to be signed took a sample of the blood of the person named therein;

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- (b) stating that when that sample was so taken the person by whom the certificate purports to be signed was a qualified person; and
- (c) containing particulars of the manner in which the sample was taken or of any action taken by that person consequent upon, or in relation to, the taking of that sample—

is admissible in those proceedings and is *prima facie* evidence of the particulars contained in the certificate.

- (2) In any proceedings to which this Division applies a certificate—
 - (a) stating that a container containing a part of a sample of blood taken from the person named in the certificate was kept at a particular place during a particular period;
 - (b) containing particulars of the manner in which it was so kept;
 - (c) stating that the person from whom the sample was taken was detained in custody during a particular period, and specifying the place at which he was so kept in custody;
 - (d) stating the time at which the container was delivered to any person and containing particulars of the request

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pursuant to which it was so delivered;
and

- (e) stating that the person by whom the certificate purports to be signed was a police officer at the time the container was kept as mentioned in the certificate—

is admissible in those proceedings and is *prima facie* evidence of the particulars stated in the certificate.

- (3) In any proceedings to which this Division applies a certificate—
 - (a) stating that at a particular time and place a container containing a part of a sample of blood was delivered by the person by whom the certificate purports to be signed to the person named in the certificate and stated therein to be an approved analyst, or a person authorised by an approved analyst to receive the sample;
 - (b) containing particulars with respect to the container or any label or marks thereon;
 - (c) containing particulars with respect to the manner in which it was kept or otherwise dealt with before being so delivered; and
 - (d) stating that the person by whom it was so delivered was at that time a police officer—

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is admissible in those proceedings and is *prima facie* evidence of the matters stated in the certificate.

27A. Certificate in relation to taking of certain oral fluid samples

- (1) In any proceedings to which this Division applies, a certificate –
 - (a) stating that, on the day and at the time stated in the certificate, the person by whom the certificate purports to be signed took a sample of the oral fluid of the person named therein for the purpose of oral fluid analysis; and
 - (b) stating that, when that sample was so taken, the person by whom the certificate purports to be signed was an approved operator; and
 - (c) containing particulars of the manner in which the sample was taken or of any action taken by that person consequent upon, or in relation to, the taking of that sample –

is admissible in those proceedings and is *prima facie* evidence of the particulars contained in the certificate.

- (2) In any proceedings to which this Division applies, a certificate –

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- (a) stating that, at a particular time and place, a container containing a part of a sample of oral fluid was delivered, by the person by whom the certificate purports to be signed –
 - (i) to the person named in the certificate and stated therein to be an approved analyst; or
 - (ii) to a person authorised by an approved analyst to receive the sample; and
- (b) containing particulars with respect to the container or any label or marks thereon; and
- (c) containing particulars with respect to the manner in which it was kept or otherwise dealt with before being so delivered; and
- (d) stating that the person by whom it was so delivered was at that time a police officer –

is admissible in those proceedings and is *prima facie* evidence of the matters stated in the certificate.

28. Certificates of analysis of blood samples

In any proceedings to which this Division applies a certificate containing–

- (a) particulars of the result of an analysis of a sample of blood carried out by, or

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under the supervision of, the person by whom the certificate is purported to be signed; and

- (b) particulars with respect to the container in which the sample was received by him, and any label or markings thereon—

and stating that at the time the analysis was carried out he was an approved analyst, is admissible in those proceedings and is *prima facie* evidence of the particulars set forth in the certificate.

28A. Certificates of analysis of oral fluid samples

In any proceedings to which this Division applies, a certificate containing –

- (a) particulars of the result of an analysis of a sample of oral fluid carried out by, or under the supervision of, the person by whom the certificate is purported to be signed; and
- (b) particulars with respect to the container in which the sample was received, and any label or markings thereon –

and stating that at the time when the analysis was carried out he or she was an approved analyst, is admissible in those proceedings and is *prima facie* evidence of the particulars set forth in the certificate.

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29. Limitation on tendering of certificates, &c., in evidence

(1) No certificate or record referred to in the foregoing provisions of this Division shall be tendered in evidence by, or on behalf of, any party to any proceedings unless, at least 14 days, or such lesser period as the court may approve, before the hearing of the proceedings, a copy thereof was served on the other party to the proceedings.

(1AA) If a report has been provided under section 13B(2)(a), 13B(2A) or 13C(3) to a person, the provision of that report under that section is taken to be service for the purposes of subsection (1).

(1A) Where such a certificate or record as is referred to in subsection (1) is endorsed with a certificate of service purporting to be signed by a person by whom a copy of that certificate or record was served, that certificate of service is *prima facie* evidence of the particulars stated therein.

(1B) A certificate of service referred to in subsection (1A) may relate to more than one certificate or document referred to in subsection (1).

(2) Subject to this section, a certificate or record referred to in subsection (1) may be tendered in evidence in proceedings to which this Division applies whether or not the person by whom the certificate or record was signed or made, or any person who, under the supervision of that first-

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mentioned person, was involved with the analysis to which the certificate or record relates is called as a witness in those proceedings.

- (2A) Where a person by whom a certificate or record referred to in subsection (1) was signed or made, or any person who, under the supervision of that first-mentioned person, was involved with the analysis to which the certificate or record relates is called by the defendant as a witness in proceedings to which this Division applies, that person may be cross-examined by the defendant as to the facts or matters set out in that certificate or record.
- (3) In any proceedings to which this Division applies no evidence shall be given by or on behalf of any person of the result of the analysis of a sample of his blood that was taken otherwise than in pursuance of a request or direction made under this Act unless, at least 4 days, or such lesser period as the court may approve, before the hearing, notice has been given in writing to the prosecutor or his agent stating the intention to give that evidence.
- (4) For the purposes of this section, *service* has the same meaning as in the *Acts Interpretation Act 1931*.

29A. Section 177A of the *Evidence Act 2001* not to apply

Section 177A of the *Evidence Act 2001* does not apply in relation to any certificate or record referred to in this Division.

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29B. Certificate as to alcohol dependency

A certificate purporting to be signed by a medical practitioner or person of a class prescribed for the purposes of section 6(4)(c)(ii) and certifying that the person named in it is not alcohol-dependent is evidence of the matters contained in it.

Division 2 – Restriction on use of certain evidence

30. Evidence as to analyses, &c., inadmissible in certain proceedings

- (1) Except as is otherwise expressly provided in this Act the fact that a person has been convicted of an offence under section 6, section 6A or section 14 is not admissible as evidence in any legal proceedings that that person was, at any time, drunk, or under the influence of intoxicating liquor or a prescribed illicit drug, or incapable of driving, or of exercising effective control over, a motor vehicle.
- (2) Notwithstanding anything in this or any other Act where a person, on being notified under section 13(6) that a sample of his blood has been taken for analysis, objects to the sample being analysed, no evidence as to the analysis is admissible in any legal proceedings to which he is a party.
- (2A) The fact that a prescribed illicit drug has been detected in a person's oral fluid or blood in accordance with this Act is not admissible as evidence in any legal proceedings against the

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person under the *Forensic Procedures Act 2000* or in respect of an offence against Division 3 of Part 3 of the *Misuse of Drugs Act 2001*, but is admissible in respect of an offence against Part 2, or Division 4 of Part 3, of the *Misuse of Drugs Act 2001* and may be taken into account in consideration of an application for a search warrant under the *Search Warrants Act 1997*.

- (3) The provisions of this section have effect notwithstanding any covenant, term, condition, or provision of, or contained in any contract of insurance, and any such covenant, term, condition, or provision therein is, to the extent that the operation of this section is excluded, limited, modified, or restricted, void.
- (4) References in this section to legal proceedings shall be construed as references to all legal proceedings, whether civil, criminal, or arbitral.

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PART IV – SUPPLEMENTARY PROVISIONS

30A. Costs of tests, analyses or examinations

Except as otherwise provided under this Act, a court may, in the case of a conviction for an offence under this Act –

- (a) assess the reasonable costs of –
 - (i) testing, analysing or examining a sample of breath, oral fluids or blood used as part of proceedings for the offence; and
 - (ii) if applicable, the attendance as part of those proceedings of the person who performed the test, analysis or examination if he or she is required to attend to give evidence; and
- (b) award either or both of those costs against the defendant.

31. Regulations

- (1) The Governor may make regulations under this Act and, in addition to any other purposes for which those regulations may be made, any such regulations may –
 - (a) prescribe the functions of an approved analyst in relation to the matters mentioned in section 3(4);

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- (b) prescribe the manner in which breath analysing instruments are to be tested, maintained, or used and the operations to be undertaken, or the precautions to be observed, in relation thereto;
- (c) impose duties on approved operators in relation to the maintenance, testing, or use of breath analysing instruments and require them to comply with instructions given by an approved analyst in relation to any matter prescribed in relation thereto;
- (d) require the making and keeping of records in relation to the maintenance, testing, or use of breath analysing instruments;
- (e) prescribe the qualifications to be possessed by, or the training to be undergone, by police officers who are authorized by the Commissioner of Police to operate breath analysing instruments;
- (f) prescribe the manner in which samples of blood are to be taken for the purposes of this Act, whether in relation to the nature or amount of the blood so taken or otherwise;
- (g) prescribe the fees to be paid to qualified persons in respect of the taking of samples of blood, or the carrying out of

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medical examinations, for the purposes of this Act; and

(h) require the issue of certificates with respect to any test carried out on a breath analysing instrument and prescribe the particulars to be contained in any such certificate; and

(i)

(2) If the Related Act expressly or impliedly provides, a regulation made pursuant to subsection (1) for in respect of any provision or matter under this Act may also be used and have application for the purposes of a corresponding provision or matter under the Related Act and, to that end, the regulation may, if necessary or expedient, be modified or adapted so as to enable the regulation to have such use or application.

(3) The regulations may be made so as to apply differently according to such factors as are specified in the regulations.

(4) The regulations may authorise any matter to be from time to time determined by the Commissioner of Police or an approved analyst.

(5) In this section –

Related Act means the *Marine Safety (Misuse of Alcohol) Act 2006*.

32. Protection from liability

- (1) A police officer acting in good faith is not liable for any of the following that may result from the moving, or impounding, of a vehicle in accordance with this Act:
 - (a) damage to the vehicle;
 - (b) depreciation in the value of the vehicle;
 - (c) loss of use of the vehicle;
 - (d) loss of the vehicle.
- (2) A police officer, or the Crown, is not liable for any damage, loss or depreciation in respect of a vehicle while it is being driven, towed or transported to, or impounded at, a holding yard as a result of this Act.

33. Destruction of samples

- (1) A sample of blood, or oral fluid, that has been taken for the purposes of this Act is to be destroyed 24 months after the sample was taken unless otherwise prescribed.
- (2) For the avoidance of doubt, this section applies to all samples whether taken before or after the commencement of the *Road Safety (Alcohol and Drugs) Amendment Act 2017*.

34. Savings and transitionals

- (1) In this section –

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Part IV – Supplementary provisions

amending Act means the *Road Safety (Alcohol and Drugs) Amendment Act 2017*.

- (2) For the purposes of this and any other Act, if, before the day on which section 5 of the amending Act commences, apparatus of a type was approved by the Governor as a breath analysing instrument by notice in the *Gazette* and that approval had not been revoked, apparatus of that type is taken, on and after that day, to be apparatus of a type approved by the Minister as a breath analysing instrument by notice in the *Gazette*.
- (3) For the purposes of this and any other Act, if, before the day on which section 6 of the amending Act commences, a person is an approved analyst, or a supervising analyst, under this Act, that person is taken, on and after that day, to be an approved analyst appointed by the Minister under this Act on the same terms and conditions.
- (4) For the purposes of this and any other Act, if, before the day on which section 33 of the amending Act commences, an excessive drink-driving notice has been issued, and is in force, under section 18B of this Act, that notice is taken, on and after that day, to be a road safety disqualification notice issued, and in force, under that section on the same terms and conditions.

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SCHEDULE 2 – CONSEQUENTIAL AMENDMENTS

Section 32

The amendments effected by this Schedule have been incorporated into the authorised version of the following Acts:

- (a) Evidence Act 1910;*
- (b) Traffic Act 1925.*

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NOTES

The foregoing text of the *Road Safety (Alcohol and Drugs) Act 1970* comprises those instruments as indicated in the following table. Any reprint changes made under any Act, in force before the commencement of the *Legislation Publication Act 1996*, authorising the reprint of Acts and statutory rules or permitted under the *Legislation Publication Act 1996* and made before 1 March 2022 are not specifically referred to in the following table of amendments.

Act	Number and year	Date of commencement
<i>Road Safety (Alcohol and Drugs) Act 1970</i>	No. 77 of 1970	1.2.1971 (see SR 1971 No. 5)
<i>Road Safety (Alcohol and Drugs) Act 1974</i>	No. 18 of 1974	16.5.1974
<i>Road Safety (Alcohol and Drugs) Act (No. 2) 1975</i>	No. 94 of 1975	23.12.1975 (remaining provisions) 1.3.1976 (s. 17)
<i>Road Safety (Alcohol and Drugs) Act 1976</i>	No. 33 of 1976	21.6.1976
<i>Statute Law Revision Order 1976</i>	S.R. 1976, No. 184	25.8.1976
<i>Criminal Code Act 1976</i>	No. 67 of 1976	11.11.1976
<i>Traffic Act (No. 2) 1976</i>	No. 96 of 1976	22.12.1976
<i>Road Safety (Alcohol and Drugs) Act 1977</i>	No. 51 of 1977	31.8.1977
<i>Road Safety (Alcohol and Drugs) Act 1978</i>	No. 83 of 1978	31.1.1979 (rest of Act) 1.2.1979 (ss. 4 and 8)
<i>Road Safety (Alcohol and Drugs) Amendment Act 1979</i>	No. 15 of 1979	16.5.1979
<i>Road Safety (Alcohol and Drugs) Amendment Act 1982</i>	No. 91 of 1982	6.1.1983
<i>Road Safety (Alcohol and Drugs) Amendment Act 1984</i>	No. 17 of 1984	16.5.1984
<i>Tasmanian State Service (Miscellaneous Amendments) Act 1984</i>	No. 29 of 1984	1.12.1985
<i>Penalty Units and Other Penalties Act 1987</i>	No. 13 of 1987	29.4.1987
<i>Evidence Amendment (Analysts'</i>	No. 27 of 1991	25.10.1991

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Act	Number and year	Date of commencement
<i>Certificates) Act 1991</i>		
<i>Road Safety (Alcohol and Drugs) Amendment Act 1991</i>	No. 44 of 1991	12.12.1991
<i>Road Safety (Alcohol and Drugs) Amendment Act 1997</i>	No. 68 of 1997	12.12.1991 (s. 6(1))
<i>Statute Law Revision Act 1991</i>	No. 46 of 1991	18.12.1991
<i>Statute Law Revision Act 1994</i>	No. 68 of 1994	28.11.1994
<i>Nursing Act 1995</i>	No. 100 of 1995	1.7.1996
<i>Road Safety (Alcohol and Drugs) Amendment Act 1997</i>	No. 68 of 1997	1.3.1998 (remaining provisions)
<i>Driving Offences (Miscellaneous Amendments) Act 2000</i>	No. 15 of 2000	28.4.2000
<i>Road Safety (Alcohol and Drugs) Amendment Act 2000</i>	No. 13 of 2000	28.4.2000
<i>Passenger Transport (Consequential and Transitional) Act 1997</i>	No. 53 of 1997	26.6.2000
<i>Vehicle and Traffic (Transitional and Consequential) Act 1999</i>	No. 90 of 1999	14.8.2000
<i>Road Safety (Alcohol and Drugs) Amendment Act (No. 2) 2000</i>	No. 71 of 2000	14.11.2000
<i>State Service (Consequential and Miscellaneous Amendments) Act 2000</i>	No. 86 of 2000	1.5.2001
<i>Traffic Control (Miscellaneous Amendments) Act 2001</i>	No. 104 of 2001	5.12.2001
<i>Evidence (Consequential Amendments) Act 2001</i>	No. 80 of 2001	1.7.2002
<i>Road Safety (Alcohol and Drugs) Amendment Act 2005</i>	No. 18 of 2005	1.7.2005
<i>Road Safety (Alcohol and Drugs) Amendment Act (No. 2) 2005</i>	No. 28 of 2005	1.2.2006
<i>Marine Safety (Misuse of Alcohol) Act 2006</i>	No. 25 of 2006	23.12.2006
<i>Legislation Publication Act 1996</i>	No. 17 of 1996	3.12.2007
<i>Road Safety (Alcohol and Drugs) Amendment Act 2007</i>	No. 68 of 2007	19.12.2007
<i>Monetary Penalties Enforcement (Transitional Arrangements and Consequential Amendments) Act 2007</i>	No. 72 of 2007	28.4.2008
<i>Road Safety (Alcohol and Drugs) Amendment Act 2008</i>	No. 9 of 2008	4.6.2008
<i>Legal Profession (Miscellaneous and Consequential Amendments) Act 2007</i>	No. 66 of 2007	31.12.2008
<i>Road Safety (Alcohol and Drugs)</i>	No. 84 of 2009	1.1.2010

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Act	Number and year	Date of commencement
<i>Amendment Act 2009</i>		
<i>Health Practitioner Regulation National Law (Tasmania) (Consequential Amendments) Act 2010</i>	No. 3 of 2010	1.7.2010
<i>Vehicle and Traffic and Related Legislation (Miscellaneous Amendments) Act 2010</i>	No. 38 of 2010	14.12.2010
<i>Monetary Penalties Enforcement (Miscellaneous Amendments) Act 2011</i>	No. 4 of 2011	1.6.2011
<i>Passenger Transport and Related Legislation (Consequential Amendments) Act 2011</i>	No. 60 of 2011	1.7.2013
<i>Criminal Code Amendment (Dangerous Driving) Act 2017</i>	No. 35 of 2017	19.9.2017
<i>Road Safety (Alcohol and Drugs) Amendment Act 2017</i>	No. 38 of 2017	3.12.2018
<i>Police Legislation Miscellaneous Amendments Act 2020</i>	No. 20 of 2020	28.9.2020
<i>Alcohol and Drug Dependency Repeal Act 2021</i>	No. 30 of 2021	1.3.2022

TABLE OF AMENDMENTS

Provision affected	How affected
The long title	Amended by No. 90 of 1999, Sched. 1
Section 2	Amended by No. 18 of 1974, s. 2, No. 94 of 1975, s. 2, No. 91 of 1982, s. 3, No. 44 of 1991, s. 4, No. 68 of 1994, s. 3 and Sched. 1, No. 100 of 1995, s. 97 and Sched. 7, No. 53 of 1997, Sched. 1, No. 68 of 1997, s. 4, No. 90 of 1999, Sched. 1, No. 18 of 2005, s. 4, No. 28 of 2005, s. 6, No. 68 of 2007, s. 4, No. 72 of 2007, Sched. 1, No. 9 of 2008, s. 4, No. 3 of 2010, Sched. 1, No. 38 of 2010, s. 4, No. 60 of 2011, Sched. 1 and No. 38 of 2017, s. 5
Section 2A	Inserted by No. 38 of 2017, s. 6
Section 2B	Inserted by No. 38 of 2017, s. 6
Section 3	Subsection (7) omitted by No. 94 of 1975, s. 3 Subsection (1) substituted by No. 29 of 1984, s. 3 and Sched. 1 Subsection (3) omitted by No. 29 of 1984, s. 3 and Sched. 1 Amended by No. 29 of 1984, s. 3 and Sched. 1, No. 86 of 2000, Sched. 1 Substituted by No. 38 of 2017, s. 6

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Provision affected	How affected
Section 3A	Inserted by No. 38 of 2017, s. 6
Section 4	Substituted by No. 68 of 1997, s. 5 Amended by No. 38 of 2017, s. 7
Section 5	Amended by No. 18 of 1974, s. 3, No. 94 of 1975, s. 4, No. 44 of 1991, s. 5, No. 46 of 1991, s. 4 and Sched. 2, No. 90 of 1999, Sched. 1, No. 9 of 2008, s. 5 and No. 38 of 2017, s. 8
Section 5A	Inserted by No. 38 of 2017, s. 9
Section 6	Amended by No. 94 of 1975, s. 5, No. 51 of 1977, s. 2, No. 44 of 1991, s. 6, No. 53 of 1997, Sched. 1, No. 68 of 1997, s. 6, No. 90 of 1999, Sched. 1, No. 28 of 2005, s. 7, No. 3 of 2010, Sched. 1, No. 4 of 2011, s. 49 and No. 38 of 2017, s. 10
Section 6A	Inserted by No. 18 of 2005, s. 5 Amended by No. 84 of 2009, s. 4 and No. 38 of 2017, s. 11
Section 7	Amended by No. 94 of 1975, s. 6, No. 71 of 2000, s. 4, No. 28 of 2005, s. 8 and No. 60 of 2011, Sched. 1
Section 7AA	Inserted by No. 38 of 2017, s. 12
Section 7A	Inserted by No. 91 of 1982, s. 4 Amended by No. 28 of 2005, s. 9 and No. 38 of 2017, s. 13
Section 7B	Inserted by No. 18 of 2005, s. 6 Amended by No. 38 of 2017, s. 14
Section 7C	Inserted by No. 18 of 2005, s. 6 Amended by No. 38 of 2017, s. 15
Section 7D	Inserted by No. 9 of 2008, s. 6 Amended by No. 38 of 2017, s. 16
Section 8	Substituted by No. 91 of 1982, s. 5 Amended by No. 90 of 1999, Sched. 1, No. 28 of 2005, s. 10, No. 68 of 2007, s. 5 and No. 38 of 2017, s. 17
Section 8A	Inserted by No. 18 of 2005, s. 7 Amended by No. 38 of 2017, s. 18
Section 9	Amended by No. 91 of 1982, s. 6 and No. 38 of 2017, s. 19
Section 10	Amended by No. 94 of 1975, s. 8, No. 91 of 1982, s. 7, No. 17 of 1984, s. 4, No. 18 of 2005, s. 8 and No. 38 of 2017, s. 20
Section 10A	Inserted by No. 44 of 1991, s. 7 Amended by No. 18 of 2005, s. 9, No. 68 of 2007, s. 6 and No. 38 of 2017, s. 21
Section 10B	Inserted by No. 38 of 2017, s. 22
Section 11	Amended by No. 94 of 1975, s. 9, No. 91 of 1982, s. 8, No. 28 of 2005, s. 11 and No. 38 of 2017, s. 23
Section 12	Amended by No. 91 of 1982, s. 9, No. 44 of 1991, s. 8, No. 25 of 2006, Sched. 2 and No. 38 of 2017, s. 24
Section 13	Amended by No. 94 of 1975, s. 10, No. 44 of 1991, s. 9, No. 46 of 1991, s. 4 and Sched. 2, No. 17 of 1996, No. 13 of 2000, s. 4, No. 86 of 2000, Sched. 1, No. 18 of 2005, s. 10, No. 68 of 2007, s. 7 and No. 38 of 2017, s. 25

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Provision affected	How affected
Section 13A	Inserted by No. 94 of 1975, s. 11 Amended by No. 66 of 2007, Sched. 1 and No. 38 of 2017, s. 26
Section 13B	Inserted by No. 94 of 1975, s. 11 Amended by No. 68 of 1997, s. 7, No. 18 of 2005, s. 11, No. 66 of 2007, Sched. 1, No. 68 of 2007, s. 8 and No. 38 of 2017, s. 27
Section 13C	Inserted by No. 38 of 2017, s. 28
Section 14	Amended by No. 94 of 1975, s. 12, No. 91 of 1982, s. 10, No. 44 of 1991, s. 10, No. 68 of 1997, s. 8, No. 18 of 2005, s. 12, No. 28 of 2005, s. 12, No. 68 of 2007, s. 9 and No. 38 of 2017, s. 29
Section 15	Amended by No. 68 of 1997, s. 9 and No. 38 of 2017, s. 30
Section 16	Substituted by No. 94 of 1975, s. 13
Section 17	Substituted by No. 94 of 1975, s. 14 Amended by No. 96 of 1976, s. 15, No. 13 of 1987, s. 5 Substituted by No. 44 of 1991, s. 11 Amended by No. 68 of 1994, s. 3 and Sched. 1, No. 90 of 1999, Sched. 1, No. 28 of 2005, s. 13, No. 68 of 2007, s. 10, No. 84 of 2009, s. 5 and No. 38 of 2017, s. 31
Section 17A	Inserted by No. 44 of 1991, s. 11 Amended by No. 90 of 1999, Sched. 1 and No. 18 of 2005, s. 13
Section 17B	Inserted by No. 44 of 1991, s. 11 Repealed by No. 68 of 2007, s. 11
Section 18	Inserted by No. 83 of 1978, s. 4 Amended by No. 90 of 1999, Sched. 1 Subsection (2) omitted by No. 90 of 1999, Sched. 1 Amended by No. 90 of 1999, Sched. 1 Subsection (5) omitted by No. 90 of 1999, Sched. 1 Amended by No. 90 of 1999, Sched. 1 Repealed by No. 38 of 2017, s. 32
Section 18A	Inserted by No. 44 of 1991, s. 12 Amended by No. 53 of 1997, Sched. 1, No. 90 of 1999, Sched. 1, No. 15 of 2000, s. 5, No. 28 of 2005, s. 14 Subsection (3) substituted by No. 72 of 2007, Sched. 1 Subsection (4) substituted by No. 72 of 2007, Sched. 1 Amended by No. 35 of 2017, s. 16 Substituted by No. 38 of 2017, s. 32
Section 18B	Inserted by No. 68 of 2007, s. 12 Amended by No. 38 of 2017, s. 33
Section 18C	Inserted by No. 68 of 2007, s. 12 Amended by No. 38 of 2017, s. 34
Section 18D	Inserted by No. 68 of 2007, s. 12 Amended by No. 38 of 2017, s. 35
Section 18E	Inserted by No. 68 of 2007, s. 12
Section 19	Substituted by No. 94 of 1975, s. 15 Amended by No. 96 of 1976, s. 15 and Sched. II, No. 44 of

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Provision affected	How affected
	1991, s. 13, No. 53 of 1997, Sched. 1, No. 68 of 1997, s. 10, No. 90 of 1999, Sched. 1, No. 18 of 2005, s. 14, No. 28 of 2005, s. 15, No. 38 of 2017, s. 36 and No. 30 of 2021, s. 9
Section 19A	Inserted by No. 94 of 1975, s. 15 Amended by No. 96 of 1976, s. 15 and Sched. II, No. 15 of 1979, s. 2, No. 91 of 1982, s. 11, No. 90 of 1999, Sched. 1 and No. 38 of 2017, s. 37
Section 19B	Repealed by No. 33 of 1976, s. 2
Section 20	Substituted by No. 94 of 1975, s. 16 Amended by No. 96 of 1976, s. 15 and Sched. II, No. 18 of 2005, s. 15 and No. 38 of 2017, s. 38
Section 21	Amended by No. 94 of 1975, s. 17, No. 28 of 2005, s. 16, No. 25 of 2006, Sched. 2 and No. 38 of 2017, s. 39
Section 21A	Inserted by No. 38 of 2017, s. 40
Section 22	Amended by No. 18 of 1974, s. 7, No. 67 of 1976, s. 9, No. 68 of 1997, s. 11, No. 15 of 2000, s. 5, No. 104 of 2001, s. 8, No. 18 of 2005, s. 16, No. 28 of 2005, s. 17 and No. 38 of 2017, s. 41
Section 23	Amended by No. 94 of 1975, s. 18, No. 91 of 1982, s. 12, No. 28 of 2005, s. 18 and No. 38 of 2017, s. 42
Section 23A	Inserted by No. 18 of 2005, s. 17 Amended by No. 38 of 2017, s. 43
Section 24	Amended by No. 83 of 1978, s. 5, No. 91 of 1982, s. 13, No. 28 of 2005, s. 19 and No. 38 of 2017, s. 44
Section 25	Amended by No. 91 of 1982, s. 14, No. 28 of 2005, s. 20 and No. 38 of 2017, s. 45
Section 25A	Inserted by No. 94 of 1975, s. 19 Amended by No. 68 of 1997, s. 12 and No. 38 of 2017, s. 46
Section 26	Amended by No. 38 of 2017, s. 47
Section 27	Amended by No. 94 of 1975, s. 20 and No. 38 of 2017, s. 48
Section 27A	Inserted by No. 20 of 2020, s. 17
Section 28	Substituted by No. 94 of 1975, s. 21 Amended by No. 27 of 1991, s. 5 and Sched. 1 and No. 38 of 2017, s. 49
Section 28A	Inserted by No. 38 of 2017, s. 50
Section 29	Amended by No. 94 of 1975, s. 22, No. 91 of 1982, s. 15, No. 27 of 1991, s. 5 and Sched. 1 and No. 38 of 2017, s. 51
Section 29A	Inserted by No. 27 of 1991, s. 5 and Sched. 1 Amended by No. 80 of 2001, Sched. 1
Section 29B	Inserted by No. 68 of 1997, s. 13 Amended by No. 3 of 2010, Sched. 1
Section 30	Amended by No. 83 of 1978, s. 6, No. 18 of 2005, s. 18 and No. 38 of 2017, s. 52
Section 30A	Inserted by No. 38 of 2017, s. 53

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Provision affected	How affected
Section 31	Amended by No. 83 of 1978, s. 7, No. 44 of 1991, s. 14 Substituted by No. 25 of 2006, Sched. 2 Amended by No. 38 of 2017, s. 54
Section 32	Inserted by No. 38 of 2017, s. 55
Section 33	Inserted by No. 38 of 2017, s. 55
Section 34	Inserted by No. 38 of 2017, s. 55