

**MOTOR TRAFFIC (ALCOHOL RELATED OFFENCES)
AMENDMENT ACT, 1980, No. 155**

New South Wales



ANNO VICESIMO NONO

ELIZABETHÆ II REGINÆ

Act No. 155, 1980.

An Act to amend the Motor Traffic Act, 1909, to provide that the minimum prescribed concentration of alcohol referred to in that Act shall be 0.05, instead of 0.08, grammes of alcohol in 100 millilitres of blood; to provide, in respect of an offence committed by a person by reason of his having a prescribed concentration of alcohol in his blood, different penalties according to the concentration; and for other purposes. [Assented to, 11th December, 1980.]

Motor Traffic (Alcohol Related Offences) Amendment.

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

1. This Act may be cited as the "Motor Traffic (Alcohol Short title. Related Offences) Amendment Act, 1980".

2. This Act shall commence on 15th December, 1980.

Commence-
ment.

3. The Motor Traffic Act, 1909, is referred to in this Act as the Principal Act.

Principal
Act.

4. The Principal Act is amended in the manner set forth in Schedule 1.

Amendment
of Act No.
5, 1909.

5. A reference in any Act or instrument to—

Saving.

(a) section 10 (3A) (a) of the Principal Act shall be construed as a reference to section 10 (3A) of that Act, as amended by this Act;

(b) section 10 (3A) (b) of the Principal Act shall be construed as a reference to section 10 (3AA) of that Act, as amended by this Act; or

(c) section 10 (3A) (c) of the Principal Act shall be construed as a reference to section 10 (3AB) of that Act, as amended by this Act.

Motor Traffic (Alcohol Related Offences) Amendment.

Sec. 4.

SCHEDULE 1.

AMENDMENTS TO THE PRINCIPAL ACT.

- (1) (a) Section 2 (1), definition of “Higher prescribed concentration of alcohol”—

After the definition of “Driver”, insert :—

“Higher prescribed concentration of alcohol” means a concentration of 0.08 grammes or more of alcohol in 100 millilitres of blood.

- (b) Section 2 (1), definition of “Lower prescribed concentration of alcohol”—

After the definition of “Licensed”, insert :—

“Lower prescribed concentration of alcohol” means a concentration of 0.05 grammes or more, but less than 0.08 grammes, of alcohol in 100 millilitres of blood.

- (c) Section 2 (1), definition of “Prescribed concentration of alcohol”—

Omit the definition.

- (2) (a) Section 4E (1)—

Omit “the prescribed”, insert instead “the higher prescribed”.

- (b) Section 4E (1A)–(1D)—

After section 4E (1), insert :—

(1A) If, on a prosecution of a person for an offence under subsection (1), the court is satisfied that, at the time the person did the act referred to in subsection (1) (a) or (b), as the case may be, there was not present in his blood the higher prescribed concentration of alcohol but there was

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

present in his blood the lower prescribed concentration of alcohol, the court may convict the person of an offence under subsection (1B).

(1B) Any person who whilst there is present in his blood the lower prescribed concentration of alcohol—

- (a) drives a motor vehicle; or
- (b) occupies the driving seat of a motor vehicle and attempts to put the motor vehicle in motion,

shall be guilty of an offence under this Act and shall be liable to a penalty not exceeding—

- (c) in the case of a first offence, \$400; or
- (d) in the case of a second or subsequent offence, \$1,000.

(1C) For the purposes of subsection (1B), a person is guilty of a second or subsequent offence under that subsection only if within a period of 5 years immediately before his being convicted of that offence, he was convicted of an offence referred to in section 10 (3A).

(1D) It is not a defence to a prosecution for an offence under subsection (1B) if the defendant proves that, at the time he did the act referred to in subsection (1B) (a) or (b), as the case may be, there was present in his blood a concentration of alcohol of 0.08 grammes or more in 100 millilitres of his blood.

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SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(c) Section 4E (3) (a)—

Omit “the prescribed concentration of alcohol”, insert instead “a concentration of alcohol of not less than 0.05 grammes in 100 millilitres of his blood”.

(d) Section 4E (11)—

After “(1)”, insert “or (1B)”.

(e) Section 4E (11)—

Omit “was less than 0.08 grammes of alcohol in 100 millilitres of his blood”, insert instead :—
was—

(a) in the case of an offence under subsection (1), less than 0.08 grammes of alcohol in 100 millilitres of his blood; or

(b) in the case of an offence under subsection (1B), less than 0.05 grammes of alcohol in 100 millilitres of his blood,

but nothing in this subsection affects the operation of subsection (1A).

(f) Section 4E (12) (a)—

After “(1)” insert “or (1B)”.

(g) Section 4E (13) (a)—

After “(1)” insert “, (1B)”.

(3) (a) Section 10 (3A) (a)—

Omit “(a)”.

Motor Traffic (Alcohol Related Offences) Amendment.

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(b) Section 10 (3A) (a)—

After “4E (1)” insert “, (1B)”.

(c) Section 10 (3A) (a) (i)—

Omit “(i)”, insert instead “(a)”.

(d) Section 10 (3A) (a) (i)—

Omit “period of one year from the date of such conviction for holding a driver’s license under this Act or under the Transport Act, 1930, or where the court upon such conviction thinks fit to order a shorter (but not shorter than 3 months) or longer period of disqualification he shall be disqualified for such period as may be specified in such order”, insert instead :—
period—

- (i) except as provided in subparagraph (ii)—of 1 year from the date of such conviction for holding a driver’s license under this Act or under the Transport Act, 1930, or where the court upon such conviction thinks fit to order a shorter (but not shorter than 3 months) or longer period of disqualification he shall be disqualified for such period as may be specified in such order; or
- (ii) where the conviction is for an offence under section 4E (1B)—of 6 months from the date of such conviction for holding a driver’s license under this Act or the Transport Act, 1930, or where the court upon such conviction thinks fit to order a shorter period of disqualification he shall be disqualified for such shorter period as may be specified in such order.

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SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

- (e) Section 10 (3A) (a) (ii)—
Omit “(ii)”, insert instead “(b)”.
- (f) Section 10 (3A) (a) (ii)—
Omit “period of three years from the date of such conviction for holding a driver’s license under this Act or under the Transport Act, 1930, or where the court upon such conviction thinks fit to order a shorter (but not shorter than 6 months) or longer period of disqualification he shall be disqualified for such period as may be specified in such order ”, insert instead :—
period—
- (i) except as provided in subparagraph (ii)—
of 3 years from the date of such conviction for holding a driver’s license under this Act or under the Transport Act, 1930, or where the court upon such conviction thinks fit to order a shorter (but not shorter than 6 months) or longer period of disqualification he shall be disqualified for such period as may be specified in such order; or
 - (ii) where the conviction is for an offence under section 4E (1B)—of 1 year from the date of such conviction for holding a driver’s license under this Act or under the Transport Act, 1930, or where the court upon such conviction thinks fit to order a shorter (but not shorter than 3 months) or longer period of disqualification he shall be disqualified for such period as may be specified in such order.
- (g) Section 10 (3A) (b)—
Omit “(b)”, insert instead “(3AA)”.

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(h) Section 10 (3A) (b)—

Omit “paragraph (a)”, insert instead “subsection (3A) (a) or (b)”.

(i) Section 10 (3A) (c)—

Omit “(c)”, insert instead “(3AB)”.

(j) Section 10 (5)—

After “4E (1)” insert “, (1B)”.
