

**TASMANIA**

TRAFFIC AMENDMENT ACT 1993

No. 58 of 1993

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**TRAFFIC AMENDMENT ACT 1993**

No. 58 of 1993

AN ACT to amend the *Traffic Act 1925***[Royal Assent 17 September 1993]**

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:—

Short title

1—This Act may be cited as the *Traffic Amendment Act 1993*.

Commencement

2—This Act commences on a day to be proclaimed.

Principal Act

3—In this Act, the *Traffic Act 1925** is referred to as the Principal Act.

Section 38 amended (Effect of disqualification)

4—Section 38 of the Principal Act is amended by omitting subsection (1B).

Section 43AA inserted

5—Before section 43B of the Principal Act, the following section is inserted in Part IVA:—

Interpretation of Part

43AA—In this Part—

“interstate demerit point” means a demerit point awarded against a person for an interstate offence;

“interstate offence” means an offence, under a law of another State or a Territory of the Commonwealth, that corresponds to an offence that is prescribed for the purposes of this Part or Part IVB.

Section 43E amended (Liability for disqualification on accumulation of demerit points)

6—Section 43E of the Principal Act is amended as follows:—

(a) by omitting from subsection (1) “9” and substituting “12”;

(b) by inserting in subsection (1A) “in any period of 12 months or less” after “more”;

* 16 Geo. V No. 38. For this Act, as amended to 1 October 1979, see the continuing Reprint of Statutes. Subsequently amended by No. 76 of 1979, Nos. 10, 11, 74 and 107 of 1980, Nos. 13, 19, 34, 61 and 69 of 1981, No. 99 of 1982, Nos. 9 and 19 of 1983, Nos. 29, 55 and 80 of 1984, Nos. 101 and 102 of 1985, Nos. 10, 35 and 108 of 1986, Nos. 34, 41 and 73 of 1987, Nos. 3, 5 and 40 of 1990, No. 9 of 1991 and Nos. 54 and 62 of 1992.

- (c) by inserting the following subsection after subsection (1A):—
- (1B) The offences and aggregate number of demerit points referred to in subsections (1) and (1A) are inclusive of any interstate offences and any interstate demerit points respectively.
- (d) by inserting in subsection (2) “and section 43EA” after “section”;
- (e) by inserting in subsection (3A) “and section 43EA” after “and (4B)”;
- (f) by omitting from subsection (4) “Where” and substituting “Subject to subsection (4A) and section 43EA, where”;
- (g) by omitting from subsection (4) “, subject to subsection (4A),”;
- (h) by omitting from subsection (4AA) (a) “90 days” and substituting “3 months”;
- (i) by omitting from subsection (4B) (a) “14” and substituting “21”.

Sections 43EA and 43EB inserted

7—After section 43E of the Principal Act, the following sections are inserted:—

Electable alternative to disqualification

43EA—(1) In this section—

“**eligible person**” means a person who holds a driver’s licence other than a provisional licence and who has been served with a disqualification notice under section 43E (4) that provides for a disqualification period of 3 months;

“**demerit point period**” means the period of 3 years or less referred to in section 43E (1);

“**probationary period**” means the period of 12 months referred to in subsection (2).

(2) An eligible person may, as an alternative to being disqualified under section 43E (4), elect to retain his or her driver’s licence on a probationary basis for a period of 12 months commencing on the day on which he or she would otherwise have been disqualified under that section.

(3) If an eligible person who exercises a right of election under subsection (2)—

(a) is not awarded any demerit points in respect of the probationary period; or

(b) is awarded no more than one demerit point in respect of that period—

the registering authority is, by notice served on the eligible person, to cancel all the demerit points that were awarded against that person in respect of the demerit point period.

(4) If an eligible person who exercises a right of election under subsection (2) is awarded more than one demerit point in respect of the probationary period the registering authority is, by notice served on the eligible person, to—

(a) disqualify that person from obtaining or holding a driver's licence for a period of 6 months; and

(b) cancel all the demerit points recorded against that person as at the date of the notice.

(5) A notice under subsection (4) may be served, and has effect, whether or not the probationary period has expired.

(6) Subject to subsection (7), the period of disqualification referred to in subsection (4) commences on the expiration of the period of 14 days after the date on which the notice referred to in that subsection is served on the eligible person.

(7) Nothing in subsection (6) prevents an eligible person who has been awarded more than one demerit point in respect of his or her probationary period from surrendering his or her licence to a police officer or authorized officer or to the Commission at any time before the expiration of the 14 day period referred to in that subsection and, in any such case, the 6 month period of disqualification commences at the time at which the licence was surrendered.

Election procedures, &c.

43EB—(1) For the purposes of section 43EA, a disqualification notice served on an eligible person is to—

(a) inform the person of his or her right of election and of the consequences of exercising or failing to exercise that right; and

- (b) explain what the person must do to exercise the right of election; and
- (c) include, either as an attachment to or as a severable part of the notice, a form of election.

(2) Subject to subsection (3), an eligible person who wishes to exercise a right of election under section 43EA (2) must serve written notice of the exercise of the right of election on the registering authority, on the form provided or otherwise, as soon as practicable after he or she receives a disqualification notice.

(3) If the registering authority does not receive written notice of the exercise of a right of election from an eligible person before the expiration of a period of 10 days after a disqualification notice is served on that person, he or she is taken, unless the registering authority in its discretion determines otherwise, to have chosen not to exercise the right of election.

(4) The registering authority is—

- (a) within 10 days after it receives written notice of the exercise of a right of election by an eligible person, to serve on that person written acknowledgement of the receipt of that notice; and
- (b) as soon as practicable but not later than 10 days after the expiration of the 10 day period referred to in subsection (3), to serve written notice on an eligible person who has not notified the authority that he or she wishes to exercise the right of election that he or she is taken to have chosen to undergo a period of disqualification under section 43E (4) as from the expiration of the 21 day period referred to in subsection 43E (4B).

(5) A notice under subsection (4) may be served on a person in the same manner as a disqualification notice may be served under section 43E (4C).

(6) Section 43E (5) applies to an eligible person who has been disqualified under section 43EA (4) from obtaining or holding a driver's licence in the same manner as if he or she were a person referred to in section 43E.

Section 43F amended (Records of demerit points)

8—Section 43F of the Principal Act is amended as follows:—

(a) by inserting the following subsection before subsection (1):—

(1AA) In this section, “visiting driver” means a person who—

(a) holds a licence or other authority to drive a motor vehicle issued by the licensing authority of another State or a Territory of the Commonwealth; or

(b) does not hold a licence or other authority to drive a motor vehicle under this Act, or under a law of another State or a Territory of the Commonwealth, but whose principal or usual place of residence is in another State or a Territory of the Commonwealth.

(b) by inserting the following subsections after subsection (2):—

(3) The record kept under subsection (1) is to include such particulars of any demerit points awarded against the person referred to in that subsection for interstate offences as may be communicated to the Commission by other licensing authorities.

(4) The Commission is to provide particulars of any demerit points awarded against a visiting driver under this Act to—

(a) if the visiting driver holds a licence or other authority to drive a motor vehicle issued under a law of another State or a Territory of the Commonwealth—the licensing authority of that State or Territory; or

(b) if the visiting driver does not hold a licence or other authority to drive a motor vehicle—the licensing authority of the State or Territory in which the visiting driver maintains his or her principal or usual place of residence.

**Schedule 2 amended (Maximum fees that may be prescribed
in respect of vehicles and drivers)**

9—Schedule 2 to the Principal Act is amended by inserting in item 2 the following item after item 2.2:—

- 2.3 Additional processing fee for the issue
of a licence to a person whose previous
licence has been cancelled \$25

*[Second reading presentation speech made in:—
House of Assembly on 15 June 1993
Legislative Council on 24 August 1993]*

