

Queensland



TRAFFIC AMENDMENT ACT 1991

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Traffic Amendment Act 1991

Act No. 80 of 1991

*An Act to amend the *Traffic Act 1949**

[Assented to 9 December 1991]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows.

Short title

1. This Act may be cited as the *Traffic Amendment Act 1991*.

Amended Act

2. The *Traffic Act 1949* is amended as set out in this Act.

Insertion of new s.16B

3. After section 16A—

insert—

'Notices to offenders for certain first offences

'16B.(1) If—

- (a) a police officer believes on reasonable grounds that a person has committed an offence against section 16(2); and
- (b) the concentration of alcohol in the person's blood is less than 150 milligrams of alcohol per 100 millilitres of blood;

the police officer may serve a notice on the person.

'(2) The notice may be served on the person only if the person has not within 5 years before the alleged offence been convicted of an offence against section 16 or 16A(11).

'(3) The notice must—

- (a) be in a form approved by the Commissioner; and
- (b) be identified by a serial number; and
- (c) specify the full name and address of the person; and
- (d) specify the time, date and place of the commission of the alleged offence; and
- (e) clearly indicate the nature of the alleged offence; and

(f) state the alleged concentration of alcohol in the person's blood; and

(g) specify the day of its issue; and

(h) state that, if the person does not wish the matter to be dealt with by a court, the person may pay to the department the amount of the prescribed penalty specified in the notice within 21 days after issue of the notice; and

(i) state that if the person acts in accordance with paragraph (h) the person—

(i) will be disqualified from holding or obtaining a driver's licence for the prescribed period; and

(ii) must surrender to a Superintendent every driver's licence held by the person on the day after the day on which the disqualification takes effect.

‘(4) Subject to subsections (12) and (14), if the notice under subsection (1) is served and, within 21 days after the issue of the notice, the amount of the prescribed penalty is paid in accordance with the notice and received by the department—

(a) any liability of the person to a penalty in relation to the alleged offence is discharged and no further proceedings may be taken in relation to the alleged offence; and

(b) if the alleged offence is in relation to a motor vehicle, the person is disqualified from holding or obtaining a driver's licence for the prescribed period starting from—

(i) the end of 21 days after the day of issue of the notice; or

(ii) if the person makes an application under subsection (7) and the court refuses to direct the issue of a provisional licence to the person—the day of the refusal;

whichever is the later; and

(c) the person is taken, for the purposes of another offence against section 16 or 16A(11), to have been convicted of the alleged offence on the day on which the amount is received by the department.

‘(5) A person who, under this section, is disqualified from holding or obtaining a driver's licence must on the day after the day on which the

disqualification takes effect, surrender every driver's licence held by the person to a Superintendent.

‘(6) Section 56 (Delivery of cancelled or suspended licences, or licences for endorsement), other than subsection (1), applies, with all necessary modifications and any prescribed modifications, to a person who is disqualified from holding or obtaining a driver's licence under this section and to any licence held by the person.

‘(7) If, under this section, a person is disqualified from holding or obtaining a driver's licence from a particular day, the person may, before that day, apply to a court in accordance with the regulations for an order directing that the person be issued with a provisional licence.

‘(8) A person who applies under subsection (7) must immediately give a copy of the application to the department.

‘(9) An applicant—

- (a) must attend the court; and
- (b) if required by the court—must give evidence in respect of matters relevant to the application; and
- (c) is liable to cross-examination.

‘(10) Witnesses may also be called and cross-examined.

‘(11) Section 20A (Issue of provisional licence to disqualified person), other than subsections (1) and (2), applies, with all necessary modifications and any prescribed modifications, in relation to an application under subsection (7) as if it were an application under section 20A(1).

‘(12) If a District Superintendent is of the opinion that—

- (a) an offence in respect of which a notice under subsection (1) was issued to a person is not an offence in respect of which such a notice could be issued; or
- (b) prescribed circumstances exist in relation to the alleged offence;

the District Superintendent may withdraw the notice by serving on the person a withdrawal notice in a form approved by the Commissioner.

‘(13) The District Superintendent must give written reasons in the notice for the decision to withdraw under subsection (12).

‘(14) A District Superintendent may withdraw a notice issued under

subsection (1) for the purpose of—

- (a) issuing a fresh notice; or
- (b) taking no further action;

in respect of the offence alleged in the withdrawn notice.

‘(15) If a notice is withdrawn—

- (a) the period (if any) of disqualification specified in the notice up to the withdrawal is valid; and
- (b) under subsection (12)—the person may, with the approval of a District Superintendent, be proceeded against in relation to the alleged offence; and
- (c) any penalty paid by the person is to be refunded.

‘(16) A court that convicts a person of an offence alleged in a notice under subsection (1) after the notice has been withdrawn under subsection (12) or (14) must take into account any period of disqualification of the person that resulted from the operation of the notice that had passed before the withdrawal of the notice.

‘(17) If more than one notice is served on a person under subsection (1) in relation to the same alleged offence, the total period of disqualification of the person is not to exceed the period prescribed in relation to the offence alleged in the last or latest notice.

‘(18) If a notice under subsection (1) is served on a person and the prescribed penalty is not paid within 21 days after the day of issue of the notice, nothing in this section prejudices the institution or prosecution of a proceeding for the alleged offence to which the notice relates.’.