

REGULATIONS 1979, No. 35*

Regulations under the *Traffic Act*

I, JOHN ARMSTRONG ENGLAND, the Administrator of the Northern Territory of Australia, acting with the advice of the Executive Council, hereby make the following Regulations under the *Traffic Act*.

Dated this eleventh day of December, 1979.

J. A. ENGLAND
Administrator

AMENDMENTS OF THE TRAFFIC REGULATIONS

Commencement

1.(1) Regulations 1, 2 and 4 of these Regulations shall come into operation on the date on which Part II of the *Traffic Act (No. 2) 1979* comes into operation.†

(2) Regulation 3 of these Regulations shall come into operation on the date on which Part III of the *Traffic Act (No. 2) 1979* comes into operation.†

2. Regulations 45A and 45B of the Traffic Regulations are repealed and the following regulations substituted:

Prescribed breath analysis instrument

“45A. For the purposes of section 8L(1) of the Act, a device for the carrying out of breath analyses, being a device that—

- (a) is, or apparently is, of a type known as Breathalyzer; and
- (b) was manufactured, or apparently manufactured, under United States Patent Number 2824789,

is a prescribed breath analysis instrument.

Breath analysis

“45B.(1) A person shall not, at any time, use a prescribed breath analysis instrument for the purposes of the Act unless he has prepared it for use at that time.

“(2) To prepare a prescribed breath analysis instrument for use at a particular time, a person shall, shortly before that time—

- (a) flush out with air the chamber in which air or breath is collected for testing in the device to be used in the breath analysis;
- (b) then pump air into that chamber through a solution of standard alcohol and carry out a test of that air by means of the device as if it were a breath analysis and record the temperature of the solution of standard alcohol and the results of the test expressed as a percentage of alcohol in blood as shown on the device; and
- (c) then flush out that chamber with air.

*Notified in the *Northern Territory Government Gazette* on 20 December, 1979.

†That date was 1 February, 1980.

“(3) A person shall not carry out a breath analysis of a sample of a person’s breath for the purposes of the Act unless, shortly before the person submitting to the breath analysis gives a sample of his breath, the temperature recorded by the thermometer forming part of the device used in the breath analysis is not below 47 degrees Celsius and not above 53 degrees Celsius.

“(4) A person shall not carry out a breath analysis of a sample of a person’s breath for the purposes of the Act unless he is satisfied that that person has not consumed any intoxicating liquor within the period of 15 minutes immediately preceding the giving of the sample.

“45C.(1) A person who has used a prescribed breath analysis instrument for the purposes of the Act shall, within a reasonable time after so using it, carry out the procedures referred to in regulation 45B(2)(a) and (b).

Testing instrument after use

“(2) It is a sufficient compliance with sub-regulation (1) if the person who has used the instrument prepares it for further use for the purposes of the Act.

“45D. For the purposes of section 8J of the Act, a form or certificate set out in the Third Schedule may be used by the person and on the occasion indicated in the following table:

Forms

TABLE

Form	When and by whom used
1.	May be used by a person authorized by the Commissioner of Police to use a prescribed breath analysis instrument for the purposes of the Act after that person has completed a breath analysis using that instrument.
2.	May be used by a person authorized by the Commissioner of Police to use a prescribed breath analysis instrument for the purposes of the Act after a person— (a) refuses or fails to submit to a breath analysis proposed to be carried out by that authorized person using that instrument; or (b) refuses or fails to provide, in accordance with the directions of that authorized person, given for the purpose of carrying out a breath analysis using that instrument, a sample of his breath sufficient for the completion of the breath analysis.
3.	May be used by a member of the staff of a hospital after taking a sample of blood.
4.	May be used by a member of the staff of a hospital after a person— (a) refuses or fails to give a sample of his blood; or (b) refuses or fails to provide, in accordance with the directions of that member of the staff, a sample of his blood sufficient for the completion of a blood test to ascertain the concentration of alcohol in the blood of the person required to give the sample.
5.	May be used by an authorized analyst after carrying out a blood test.
6.	May be used by an authorized analyst after preparing a batch of standard alcohol solution.”.

3. After regulation 45D of the Traffic Regulations the following regulation is inserted:

“45E.(1) A member of the Police Force who sets up a breath testing station shall ensure that, at all times while the station is set up, a light is flashing on the vehicle that is parked at the station for the purpose of attracting the attention of motorists who are approaching the station.

Breath testing stations

Traffic Regulations

“(2) A member of the Police Force who is on duty at a breath testing station for the purpose of stopping motorists shall, subject to sub-regulation (3), wear uniform.

“(3) A person shall not be held to have been not wearing uniform for the purpose of sub-regulation (2) by reason only that the uniform was partly covered by another garment or that a minor item of uniform was missing or incorrectly worn.”.

Third Schedule

4. The Traffic Regulations are amended by adding at the end thereof the following Schedule:

“THIRD SCHEDULE

FORM 1

Regulation 45D

Statement No.

THE NORTHERN TERRITORY OF AUSTRALIA

Traffic Regulations

RESULT OF BREATH ANALYSIS

I,, a member of the Police Force
(name)
of the Northern Territory authorized by the Commissioner of Police to use for the purposes of the *Traffic Act* a prescribed breath analysis instrument, namely the Breathalyzer manufactured under U.S. Patent No. 2824789, completed a breath analysis of a sample of the breath of

.....
.....
(name and address)

on the day of, 19
at the time stated beneath my signature hereunder.

The result of the analysis expressed as a percentage of alcohol in blood as shown on the breath analysis instrument was %

.....
(signed)

..... a.m./p.m.
(time of completion)

THE NORTHERN TERRITORY OF AUSTRALIA

Traffic Regulations

CERTIFICATE ON COMPLETION OF BREATH ANALYSIS

I, the person who signed the above statement, a member of the Police Force of the Northern Territory authorized by the Commissioner of Police to use for the purposes of the Traffic Act a prescribed breath analysis instrument, namely the Breathalyzer manufactured under U.S. Patent No. 2824789, certify that the person, not being myself, named in the statement submitted to a breath analysis and, for that purpose, provided a sample of his breath, that I carried out the analysis, using a Breathalyzer manufactured under U.S. Patent No. 2824789, completing the analysis on the date and at the time specified in the statement, that the result of the analysis was the result specified in the statement and that I signed the statement and delivered the original to the person who provided the sample.

And I further certify that—

- (a) by the analysis I assessed that the person providing the sample had a concentration of alcohol in his blood of the number of grammes of alcohol per 100 millilitres of blood that is expressed as a percentage in the statement;
- (b) shortly before the analysis I carried out the procedure required by regulation 45B(2) of the Traffic Regulations, using a solution of standard alcohol supplied by an authorized analyst;
- (c) the temperature recorded by the thermometer forming part of the device, after each occasion on which I flushed out the chamber with air while carrying out that procedure was not below 47 degrees Celsius and not above 53 degrees Celsius;
- (d) before carrying out the analysis I satisfied myself that the person who provided the sample had not consumed any intoxicating liquor within the 15 minutes immediately preceding the giving of the sample;
- (e) I provided an unused mouthpiece for use in providing the sample; and
- (f) after completing the analysis and before the time stated beneath my signature hereunder I carried out the procedures referred to in regulation 45B(2)(a) and (b) of the Traffic Regulations.

Dated the day of, 19

.....
(signed)

..... a.m./p.m.
(time by which regulation 45C
was complied with)

FORM 2

THE NORTHERN TERRITORY OF AUSTRALIA

Traffic Regulations

CERTIFICATE ON REFUSAL OR FAILURE TO SUBMIT TO BREATH ANALYSIS

I, , a member of the Police Force (name) of the Northern Territory authorized by the Commissioner of Police to use for the purposes of the Traffic Act a prescribed breath analysis instrument, namely the Breathalyzer manufactured under U.S. Patent No. 2824789, certify that—

(a) on the day of , 19 at a.m./p.m. Constable of the Police Force of the Northern Territory identified to me (name and address) at (place)

(b) I addressed the person who had been identified to me as follows: I said "Are you suffering from any illness?" He said "....." I said "Are you suffering from any injuries?" He said "....." I said "Are you taking any tablets, drugs, insulin or medicine?" He said "....."

(c) I then prepared a Breathalyzer manufactured under U.S. Patent No. 2824789 for use— (i) first by verifying that the mouthpiece for use in providing a sample of breath had not been used before; and (ii) then by carrying out the procedure required by regulation 45B(2) of the Traffic Regulations, using a solution of standard alcohol supplied by an authorized analyst;

(d) by carrying out that procedure, I ascertained that— (i) the instrument was in good working order; and (ii) the temperature recorded by the thermometer forming part of the device, after each occasion on which I flushed out the chamber with air during the procedure, was not below 47 degrees Celsius and not above 53 degrees Celsius;

(e) I then satisfied myself that it was more than 15 minutes since the person who had been identified to me had last consumed any intoxicating liquor;

(f) I then said to the person who had been identified to me "This is a prescribed breath analysis instrument. I am authorized to use it for the purposes of the Traffic Act. It is in good working order and is ready for use. I require you to submit to a breath analysis";

FORM 3

(front of form)

Certificate No.

Certificate No.

THE NORTHERN TERRITORY OF AUSTRALIA

Traffic Regulations

CERTIFICATE ON TAKING OF BLOOD SAMPLE

I,
(name and designation)

a member of the staff of
(name of hospital)

certify that on the day of, 19

at the time first shown underneath my signature hereunder

(name and address or other description of person from whom sample taken)

- entered the hospital for examination or treatment of injuries that could have been received in a motor vehicle accident
- was brought to the hospital by a member of the Police Force of the Northern Territory for a sample of his blood to be taken under the *Traffic Act*

And I further certify that—

- (a) at the time second shown underneath my signature hereunder I took a sample of the blood of the person who so entered or was brought to the hospital;
- (b) I then placed
 - the sample
 - approximately half the sample in a container and sealed the container; and
- (c) I then further sealed the container with this certificate and placed the container so sealed in

.....
(signed)

..... a.m./p.m.
(time when person entered hospital)

..... a.m./p.m.
(time when person gave blood sample)

tick boxes applicable

FORM 3

(back of form)

A copy of sections 8G and 8H of the *Traffic Act* shall be printed on the back of form 3, preceded by the words "Section 8G and 8H of the *Traffic Act* provide as follows:".

FORM 4

(front of form)

THE NORTHERN TERRITORY OF AUSTRALIA

Traffic Regulations

CERTIFICATE ON REFUSAL OR FAILURE TO GIVE BLOOD SAMPLE

I, (name and designation)

a member of the staff of (name of hospital)

certify that on the day of, 19

at the time first shown underneath my signature hereunder

..... (name and address or other description of person involved)

- checkbox entered the hospital for examination or treatment of injuries that could have been received in a motor vehicle accident
checkbox was brought to the hospital by a member of the Police Force of the Northern Territory for a sample of his blood to be taken under the Traffic Act

And I further certify that—

- (a) at the time second shown underneath my signature hereunder I indicated to the person who so entered or was brought to the hospital that—
(i) I was a member of the staff of the hospital;
(ii) I had the power under section 8H of the Traffic Act to require him to give me a sample of his blood; and
(iii) I required him to give me a sample of his blood;
(b) I then gave him directions as to how he was to provide a sample of his blood sufficient for the completion of a blood test to ascertain the concentration of alcohol in his blood;

(c) he then said “

(d) he then (describe his actions if he is charged with failure to take an action)

..... (signed)

..... a.m./p.m. (time when person entered hospital)

Traffic Regulations

..... a.m./p.m.
(time when person refused or failed to give
blood sample)

tick box applicable

FORM 4

(back of form)

A copy of sections 8G and 8H of the *Traffic Act* shall be printed on the back of form 4, preceded by the words "Sections 8G and 8H of the *Traffic Act* provide as follows:".

There may also be printed on the back of the form an indication of the circumstances in which the blood of a passenger or pedestrian will not be tested.

FORM 5

THE NORTHERN TERRITORY OF AUSTRALIA

Traffic Regulations

CERTIFICATE ON COMPLETION OF BLOOD TEST

I,
(name)

an authorized analyst, certify—

- (a) that I took from
a container that was sealed with the certificate attached hereto;
- (b) that I examined the container and it appeared from my examination that the container was securely sealed and that the container and the certificate were in good condition and had not been interfered with;
- (c) that the container contained blood;
- (d) that I carried out a blood test on the blood to ascertain the concentration of alcohol in the blood and ascertained that that concentration was milligrams of alcohol per 100 millilitres of blood.

.....
(signed)

/ /
(date)

FORM 6

Batch No.

THE NORTHERN TERRITORY OF AUSTRALIA

Traffic Regulations

BATCH OF STANDARD ALCOHOL SOLUTION

I,
(name)

an authorized analyst, certify that—

- (a) on I placed or mixed a quantity
(date)
of a solution of standard alcohol in a container and sealed the container;
- (b) then I affixed to the container a label bearing, *inter alia*, the date and the identifying mark "Batch No"; and
- (c) then I placed the sealed container in

.....
(signed)