

**MOTOR TRAFFIC (BLOOD SAMPLES) AMENDMENT
ACT 1988 No. 73**

NEW SOUTH WALES



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2. Commencement
3. Amendment of Motor Traffic Act 1909 No. 5

SCHEDULE 1—AMENDMENTS



MOTOR TRAFFIC (BLOOD SAMPLES) AMENDMENT ACT 1988
No. 73

NEW SOUTH WALES



Act No. 73, 1988

An Act to amend the Motor Traffic Act 1909 with respect to blood samples taken after a road accident. [Assented to 23 November 1988]

Motor Traffic (Blood Samples) Amendment 1988

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the Motor Traffic (Blood Samples) Amendment Act 1988.

Commencement

2. This Act commences on the date of assent.

Amendment of Motor Traffic Act 1909 No. 5

3. The Motor Traffic Act 1909 is amended as set out in Schedule 1.

SCHEDULE 1—AMENDMENTS

(Sec. 3)

(1) Section 4F (**Blood samples to be taken in certain cases**)—

Section 4F (1), (11) (b)—

After “street” wherever occurring, insert “(whether in New South Wales or elsewhere)”.

(2) Section 4G (**Analysis of samples of blood**)—

(a) Section 4G (3A)—

After section 4G (3), insert:

(3A) A medical practitioner who, in another State or Territory, takes a sample of blood—

(a) from a person attended by the medical practitioner in consequence of an accident in New South Wales; and

(b) in accordance with provisions of a law of that State or Territory that substantially correspond to the provisions of section 4F,

may arrange for a portion of the sample to be submitted for an analysis by an analyst to determine the concentration of alcohol in the blood.

(b) Section 4G (7)—

After “Any”, insert “power or”.

(c) Section 4G (7)—

Before “performed” wherever occurring, insert “exercised or”.

(d) Section 4G (11A)—

After section 4G (11), insert:

Motor Traffic (Blood Samples) Amendment 1988

SCHEDULE 1—AMENDMENTS—*continued*

(11A) In proceedings for an offence under section 4E (1D), (1E), (1F), (1G) or (1L) a certificate purporting to be signed by a person who, in another State or Territory—

- (a) took a blood sample; or
- (b) analysed a blood sample,

in accordance with provisions of a law of that State or Territory that substantially correspond to the provisions of section 4F or of this section is prima facie evidence of the particulars certified in and by the certificate, and an analysis to which any such certificate relates shall be taken to be an analysis under this section.

[*Minister's second reading speech made in—
Legislative Assembly on 19 October 1988
Legislative Council on 16 November 1988*]







**MOTOR TRAFFIC (BLOOD SAMPLES) AMENDMENT
BILL 1988**

NEW SOUTH WALES



EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

The object of this Bill is to amend the Motor Traffic Act 1909—

- (a) to make it clear that section 4F of that Act (in so far as that section imposes duties and liabilities, and confers certain immunities, on medical practitioners in relation to the taking of blood samples) applies to persons involved in accidents outside New South Wales; and
- (b) to provide for the analysis, for the purposes of evidence in drink-drive prosecutions, of blood samples taken in accordance with an interstate law from persons involved in accidents in New South Wales; and
- (c) to permit certain certificates made out in accordance with an interstate law to be given in evidence in drink-drive prosecutions in New South Wales in the same manner, and so as to have the same weight, as a similar certificate given in accordance with the law of this State.

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on the date of assent.

Clause 3 is a formal provision that gives effect to the Schedule of amendments.

SCHEDULE 1—AMENDMENTS

Schedule 1 (1) amends section 4F (1) and (11) (b) of the Principal Act.

Section 4F (1), which requires a medical practitioner at a hospital who is attending a person injured in a road accident to take a blood sample from the person, is amended to make it clear that that requirement applies irrespective of whether the accident occurred in New South Wales or elsewhere.

Motor Traffic (Blood Samples) Amendment 1988

Section 4F (11) provides immunity from suit to medical practitioners in respect of the taking of a blood sample from a person in the reasonable belief that section 4F required it. The subclause is amended so as to provide that the immunity extends to a doctor who believes that the person was injured in a road accident outside the State.

Schedule 1 (2) (a) amends section 4G of the Principal Act by inserting a new subsection (3A), which deals with blood samples taken, in another State or Territory of the Commonwealth, in the manner prescribed by a law of that State or Territory relating to the taking of blood samples for purposes similar to the purposes of section 4F of the Principal Act. The new subsection enables a portion of the sample to be forwarded for analysis in New South Wales. (Evidence of the results of the analysis may then be given, in a drink-drive prosecution, in the same manner as if the blood sample had been taken in this State.)

Schedule 1 (2) (b) and (c) make consequential amendments.

Schedule 1 (2) (d) amends section 4G of the Principal Act by inserting a new subsection (11A), which deals with certificates given by persons who, in another State or Territory of the Commonwealth, took or analysed a blood sample in the manner prescribed by a law of that State or Territory relating to the taking and analysis of blood samples for purposes similar to the purposes of section 4F or 4G of the Principal Act. The new subsection provides for admissibility of such a certificate as evidence in a drink-drive prosecution in New South Wales. The certificate is prima facie evidence of what it declares, and has the same force and effect as a certificate under section 4G of the Principal Act.

MOTOR TRAFFIC (BLOOD SAMPLES) AMENDMENT BILL 1988

NEW SOUTH WALES



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SCHEDULE 1—AMENDMENTS

**MOTOR TRAFFIC (BLOOD SAMPLES) AMENDMENT
BILL 1988**

NEW SOUTH WALES



No. , 1988

A BILL FOR

An Act to amend the Motor Traffic Act 1909 with respect to blood samples taken after a road accident.

Motor Traffic (Blood Samples) Amendment 1988

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the Motor Traffic (Blood Samples) Amendment Act 1988.

5 Commencement

2. This Act commences on the date of assent.

Amendment of Motor Traffic Act 1909 No. 5

3. The Motor Traffic Act 1909 is amended as set out in Schedule 1.

SCHEDULE 1—AMENDMENTS

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(Sec. 3)

(1) Section 4F (**Blood samples to be taken in certain cases**)—

Section 4F (1), (11) (b)—

After “street” wherever occurring, insert “(whether in New South Wales or elsewhere)”.

15 (2) Section 4G (**Analysis of samples of blood**)—

(a) Section 4G (3A)—

After section 4G (3), insert:

(3A) A medical practitioner who, in another State or Territory, takes a sample of blood—

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(a) from a person attended by the medical practitioner in consequence of an accident in New South Wales; and

(b) in accordance with provisions of a law of that State or Territory that substantially correspond to the provisions of section 4F,

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may arrange for a portion of the sample to be submitted for an analysis by an analyst to determine the concentration of alcohol in the blood.

(b) Section 4G (7)—

After “Any”, insert “power or”.

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(c) Section 4G (7)—

Before “performed” wherever occurring, insert “exercised or”.

(d) Section 4G (11A)—

After section 4G (11), insert:

Motor Traffic (Blood Samples) Amendment 1988

SCHEDULE 1—AMENDMENTS—*continued*

(11A) In proceedings for an offence under section 4E (1D), (1E), (1F), (1G) or (1L) a certificate purporting to be signed by a person who, in another State or Territory—

(a) took a blood sample; or

(b) analysed a blood sample,

in accordance with provisions of a law of that State or Territory that substantially correspond to the provisions of section 4F or of this section is prima facie evidence of the particulars certified in and by the certificate, and an analysis to which any such certificate relates shall be taken to be an analysis under this section.

