



AUSTRALIAN CAPITAL TERRITORY

## Motor Traffic (Amendment) Act 1998

No. 26 of 1998

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AUSTRALIAN CAPITAL TERRITORY

## Motor Traffic (Amendment) Act 1998

No. 26 of 1998

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### **An Act to amend the *Motor Traffic Act 1936***

*[Notified in ACT Gazette S190: 10 July 1998]*

The Legislative Assembly for the Australian Capital Territory enacts as follows:

**1. Short title**

This Act may be cited as the *Motor Traffic (Amendment) Act 1998*.

**2. Commencement**

(1) Section 1 and this section commence on the day on which this Act is notified in the *Gazette*.

(2) The remaining provisions commence on the day on which the *Magistrates Court (Amendment) Act 1998*, other than sections 1 and 2, commences.

**3. Principal Act**

In this Act, “Principal Act” means the *Motor Traffic Act 1936*.<sup>1</sup>

**4. Interpretation**

Section 4 of the Principal Act is amended by omitting from the definition of “visiting motor vehicle” in subsection (1) “180F (1) (d) (iii) or (e) (ii)” and substituting “paragraph 180F (1) (e)”.

**5. Visiting motor drivers**

Section 107 of the Principal Act is amended by omitting from subsection (2) “180F (1) (d) (iii) or (iv)” and substituting “paragraph 180F (1) (e) or (f)”.

**6. Suspension of licences, registration etc.**

Section 162E of the Principal Act is amended—

- (a) by adding at the end of paragraph (1) (b) “or”;
- (b) by omitting from paragraph (1) (c) “or” (last occurring); and
- (c) by omitting paragraph (1) (d).

**7. Insertion**

After section 162EA of the Principal Act the following section is inserted:

**“162EB. Transfer of registration while suspended**

Where—

- (a) the registration of a motor vehicle is suspended under subparagraph 162E (1) (e) (ii) or (f) (i); and
- (b) the registration is transferred under section 22 so that the former owner ceases to own the vehicle;

the Registrar shall, on the transfer of registration, revoke the suspension.”.

**8. Revocation of suspension**

Section 162F of the Principal Act is amended by omitting “cancel” and substituting “revoke”.

**9. Reinstatement of licences, registration etc.**

Section 162H of the Principal Act is amended—

- (a) by omitting subsection (4) and substituting the following subsection:

“(4) Where the Court declares that a person is not liable in respect of a parking infringement, the Registrar shall revoke the relevant suspension by notice in writing given to the person.”;
- (b) by omitting from subsection (5) “or in pursuance of an order under subsection 23 (7A) of the *Magistrates Court Act 1930*”;
- (c) by omitting from subsection (6) “cancelled” and “cancellation” and substituting “revoked” and “revocation”, respectively; and

- (d) by omitting from subsection (7) “cancelled” and substituting “revoked”.

**10. Bodies corporate—recovery of penalties etc.**

Section 162J of the Principal Act is amended by omitting from subsection (2) “cancel” and substituting “revoke”.

**11. Suspension of licences, registration etc.**

Section 180F of the Principal Act is amended—

- (a) by omitting all the words before subparagraph (1) (d) (i) and substituting:

“(1) Where a person on whom a notice under section 180B has been served fails—

- (a) to pay to the Registrar the penalty for the traffic infringement and the administrative charge in accordance with the notice; or

- (b) to lodge a notice under subsection 180D (1) in accordance with the notice;

the Registrar shall, if the person—”; and

- (b) by renumbering subparagraphs (1) (d) (i), (ii), (iii) and (iv) as paragraphs (1) (c), (d), (e) and (f) respectively.

**12. Insertion**

After section 180FA of the Principal Act the following section is inserted:

**“180FB. Transfer of registration while suspended**

Where—

- (a) the registration of a motor vehicle is suspended under paragraph 180F (1) (d); and

- (b) the registration is transferred under section 22 so that the former owner ceases to own the vehicle;

the Registrar shall, on the transfer of registration, revoke the suspension.”.

**13. Revocation of suspension**

Section 180G of the Principal Act is amended by omitting “cancel” and substituting “revoke”.

**14. Reinstatement of licences, registration etc.**

Section 180H of the Principal Act is amended—

- (a) by omitting from paragraph (1) (b) “subparagraph 180F (1) (d) (iii) or (iv)” and substituting “paragraph 180F (1) (e) or (f)”;
- (b) by omitting subsection (4) and substituting the following subsection:

“(4) Where the Court declares that a person is not liable in respect of a traffic infringement, the Registrar shall revoke the relevant suspension by notice in writing given to the person.”;
- (c) by omitting from subsection (5) “or in pursuance of an order under subsection 23 (7A) of the *Magistrates Court Act 1930*”;
- (d) by omitting from subsection (6) “cancelled” and “cancellation” and substituting “revoked” and “revocation”, respectively;
- (e) by omitting from subsection (7) “cancelled” and substituting “revoked”;
- (f) by omitting from paragraph (7) (a) “subparagraph 180F (1) (d) (iii) or (iv)” and substituting “paragraph 180F (1) (e) or (f)”;
- (g) by omitting from paragraph (7) (b) “subparagraph 180F (1) (d) (iii)” and substituting “paragraph 180F (1) (e)”.

**15. Insertion**

After section 191N of the Principal Act the following Division is inserted in Part XIII:

***“Division 1A—Fine defaulters***

**“191NA. Suspension of driving licence, registration etc.**

“(1) Where the Registrar is notified under subsection 153 (1) of the *Magistrates Court Act 1930* that a person has defaulted in payment of an outstanding fine, the Registrar shall—

- (a) suspend each driving licence held by the person;
- (b) if the person is not the holder of a driving licence but is the sole registered owner of 1 or more motor vehicles—
  - (i) in the case of only 1 vehicle—suspend the registration of the vehicle; or
  - (ii) in the case of 2 or more vehicles—in respect of each outstanding fine, suspend the registration of 1 of those vehicles; or

- (c) if the person is not the holder of a driving licence and is not the sole registered owner of a motor vehicle—disqualify the person from holding a driving licence.

“(2) Where subparagraph (1) (b) (ii) applies, the Registrar shall, as far as practicable, suspend the registration of the motor vehicle having the shorter or shortest unexpired period of registration.

**“191NB. Duration of suspension of driving licence, registration etc.**

“(1) A suspension or disqualification under subsection 191NA (1) takes effect in respect of a person on the day on which written notice of the action is given to the person by the Registrar.

“(2) A suspension of a driving licence under paragraph 191NA (1) (a) remains in force until—

- (a) the suspension is revoked under subsection 191NC (1); or
- (b) the licence expires or is cancelled or revoked;

whichever occurs first.

“(3) A suspension of a motor vehicle registration under paragraph 191NA (1) (b) remains in force until—

- (a) the suspension is revoked under subsection 191NC (1);
- (b) the suspension is revoked under section 162EB, 180FB or 191ND on the transfer of the registration; or
- (c) the registration expires or is cancelled or revoked;

whichever occurs first.

“(4) A disqualification of a person from holding a driving licence under paragraph 191NA (1) (c) remains in force until the disqualification is revoked under subsection 191NC (1).

“(5) A person whose motor vehicle registration is suspended under paragraph 191NA (1) (b), is not entitled to a refund of the registration fee, or any part of the fee, in respect of the period of suspension.

**“191NC. Revocation of suspension of driving licence, registration etc.**

“(1) Where—

- (a) the Registrar is notified under subsection 153 (2) of the *Magistrates Court Act 1930* that an arrangement for the payment of an outstanding fine has been approved; or
- (b) the Registrar is notified under subsection 153 (3) of the *Magistrates Court Act 1930* that—

- (i) an outstanding fine has been paid;
- (ii) a fine has been remitted;
- (iii) a person has completed serving a period of imprisonment in relation to an outstanding fine; or
- (iv) the conviction or order which gave rise to a person's liability to pay a fine has been quashed or set aside;

the Registrar shall revoke the relevant suspension or disqualification under subsection 191NA (1) and give the person written notice accordingly.

“(2) Revocation under subsection (1) of a suspension or disqualification does not affect—

- (a) any suspension of a driving licence;
- (b) any suspension of a motor vehicle registration; or
- (c) any disqualification from holding a driving licence;

in respect of the person concerned under any other law of the Territory.

**“191ND. Revocation of suspension on transfer of registration**

Where—

- (a) the registration of a motor vehicle is suspended under paragraph 191NA (1) (b); and
- (b) the registration is transferred under section 22 so that the fine defaulter ceases to own the vehicle;

the Registrar shall, on the transfer of registration, revoke the suspension.

**“191NE. Renewal etc. of driving licence or registration—prohibited**

“(1) Where a person's driving licence is suspended under paragraph 191NA (1) (a), the Registrar shall not renew the licence or grant another driving licence to the person unless the Registrar has subsequently been given a notice referred to in paragraph 191NC (1) (a) or (b) in respect of the person.

“(2) Where a motor vehicle registration in the name of a person is suspended under paragraph 191NA (1) (b), the Registrar shall not renew the registration of that vehicle in the name of the person unless the Registrar has subsequently been given a notice referred to in paragraph 191NC (1) (a) or (b) in respect of the person.

“(3) Where a person is disqualified from holding a driving licence under paragraph 191NA (1) (c), the Registrar shall not—

- (a) grant a driving licence to the person; or



(b) register a motor vehicle in the name of the person;

unless the Registrar has subsequently been given a notice referred to in paragraph 191NC (1) (a) or (b) in respect of the person.

“(4) A person who is not entitled to the grant or renewal of a driving licence because of subsection (1) or (3) is not entitled to a special licence.

“191NF. **Suspension to be concurrent**

“(1) The period for which a person’s driving licence is suspended under paragraph 191NA (1) (a) shall run concurrently with any uncompleted period of a driving licence suspension ordered in respect of the person under any other law of the Territory, subject to any order by a court in respect of the last mentioned suspension.

“(2) The period for which the registration of a motor vehicle is suspended under paragraph 191NA (1) (b) shall run concurrently with any uncompleted period for which the registration of that motor vehicle is suspended under any other law of the Territory, subject to any order by a court in respect of the last mentioned suspension.

“(3) The period for which a person is disqualified from holding a driving licence under paragraph 191NA (1) (c) shall run concurrently with any uncompleted period for which the person is so disqualified under any other law of the Territory, subject to any order by a court in respect of the last mentioned disqualification.”.

**16. Old parking and traffic offences—transitional**

Division 1A of Part XIII of the Principal Act, as amended by this Act, does not apply in relation to—

- (a) a parking offence committed before 14 February 1990, being a parking offence within the meaning of Division 2 of Part IX of the *Magistrates Court Act 1930* as in force immediately before the commencement of this Act other than sections 1 and 2; or
- (b) a traffic offence committed before 18 May 1992, being a traffic offence within the meaning of Division 2 of Part IX of the *Magistrates Court Act 1930* as in force immediately before the commencement of this Act other than sections 1 and 2.

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**NOTE**

**Principal Act**

1. Reprinted as at 2 March 1998.

*Motor Traffic (Amendment) Act 1998 No. 26, 1998*

*[Presentation speech made in Assembly on 30 April 1998]*

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