

1998
THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Minister for Urban Services)

**Motor Traffic (Amendment) Bill (No. 5)
1998**

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A BILL

FOR

An Act to amend the *Motor Traffic Act 1936*

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

1. Short title

5 This Act may be cited as the *Motor Traffic (Amendment) Act (No. 5) 1998*.

2. Commencement

(1) Sections 1, 2 and 3 commence on the day on which this Act is notified in the *Gazette*.

10 (2) The remaining provisions commence on a day, or respective days, fixed by the Minister by notice in the *Gazette*.

(3) If a provision referred to in subsection (2) has not commenced before the end of the period of 6 months commencing on the day on which this Act is notified in the *Gazette*, that provision, by force of this subsection, commences on the first day after the end of that period.

5 **3. Principal Act**

In this Act, "Principal Act" means the *Motor Traffic Act 1936*.¹

4. Interpretation

Section 4 of the Principal Act is amended—

10 (a) by omitting from paragraph (b) of the definition of "pedestrian crossing" in subsection (1) "inscribed with the word 'CROSSING' " and substituting "in accordance with sign No. R3-1A, R3-1B or R3-1C in Australian Standard 1742.10 as amended from time to time";

15 (b) by omitting the definition of "road marking" in subsection (1) and substituting the following definition:

" 'road marking' means a line, symbol, sign or other device marked by way of—

- 20 (a) paint,
(b) adhesive material;
(c) reflective material; or
(d) a different road surface;

on the carriageway or kerb of a public street, or on any part of an off-street parking area or loading area, in accordance with Part VII;";

25 (c) by inserting in subsection (1) the following definitions.

" 'marked footcrossing' has the same meaning as in section 26 of the *Traffic Act 1937*;

'stop line' means a road marking comprising a line that—

- 30 (a) is marked—
(i) across a carriageway of a public street; or
(ii) from 1 edge of the carriageway of a public street across the traffic lanes for the passage of vehicles travelling in 1 particular direction; and

35 (b) is not part of a school crossing (within the meaning of subsection 127 (1)) or a marked footcrossing;"; and

(d) by omitting from subsection (5) "180ZC" and substituting "180WA".

5. Learner licences and learner licence receipts

Section 7A of the Principal Act is amended—

- (a) by omitting from paragraph (9) (b) “or” (last occurring); and
(b) by omitting paragraph (9) (c) and substituting the following paragraphs:

- “(c) if it is towing any other vehicle or a trailer;
(d) if it has an engine capacity greater than 260 millilitres; or
(e) if it has a power-to-weight ratio greater than 150 kilowatts per tonne.”.

6. Provisional licences and endorsements

Section 7B of the Principal Act is amended—

- (a) by omitting from paragraph (22) (a) “or” (last occurring); and
(b) by omitting paragraph (22) (b) and substituting the following paragraphs:

- “(b) if it is towing any other vehicle or a trailer;
(c) if it has an engine capacity greater than 260 millilitres; or
(d) if it has a power-to-weight ratio greater than 150 kilowatts per tonne.”.

7. Insertion

After section 8 of the Principal Act the following section is inserted:

“8AA. Grant of probationary licences

“(1) The Registrar shall not grant a licence other than a probationary licence to a person where 12 or more relevant demerit points are recorded on the person’s relevant licence record.

“(2) In this section—

‘relevant demerit points’ has the same meaning as in Part XIB;

‘relevant licence record’ has the same meaning as in Part XIB.”.

8. Special probationary driving licence

Section 11A of the Principal Act is amended—

- (a) by omitting from subsection (4) “by” and substituting “to”; and
(b) by omitting from paragraph (6) (h) “180ZC (1)” and substituting “180WA (1)”.

9. Insertion

After section 102 of the Principal Act the following section is inserted:

“103. Fee paid by dishonoured cheque

“(1) The Registrar shall give a written dishonour notice to a person where the person pays the whole or any part of any of the following fees by cheque and the cheque is dishonoured:

- 5 (a) a determined fee payable in respect of the registration or the renewal of registration of a motor vehicle;
- (b) a determined fee payable in respect of the examination or inspection of a motor vehicle;
- (c) a road rescue fee payable in respect of a motor vehicle;
- 10 (d) a determined fee payable in respect of the registration or the renewal of registration of a trailer,
- (e) a determined fee payable in respect of the examination or inspection of a trailer;
- 15 (f) a determined fee payable in respect of the grant, renewal or extension of a licence;
- (g) a determined fee payable in respect of the grant or renewal of a learner licence receipt.

“(2) A dishonour notice shall—

- 20 (a) contain a statement to the effect that the cheque was dishonoured; and
- (b) indicate the consequences under subsection (3) if the amount of the dishonoured cheque is not paid within 14 days after the date of the notice.

“(3) Where a person who has been given a dishonour notice in accordance with subsection (2) does not pay the amount of the dishonoured cheque within 14 days after the date of the notice, the Registrar shall give the person a written suspension notice and shall suspend—

- 25 (a) in the case of a fee referred to in paragraph (1) (a), (b) or (c)—the registration of the relevant motor vehicle;
- 30 (b) in the case of a fee referred to in paragraph (1) (d) or (e)—the registration of the relevant trailer;
- (c) in the case of a fee referred to in paragraph (1) (f)—the relevant licence; or
- 35 (d) in the case of a fee referred to in paragraph (1) (g)—the relevant learner licence receipt.

“(4) A suspension notice shall—

- (a) contain a statement to the effect that payment has not been received in accordance with the dishonour notice;

- (b) contain a statement to the effect that the Registrar has suspended the relevant motor vehicle registration, trailer registration, licence or learner licence receipt; and
- (c) indicate the consequences under subsection (5) if the amount of the dishonoured cheque is not paid within 14 days after the date of the notice.

“(5) Where a person who has been given a suspension notice in accordance with subsection (4) does not pay the amount of the dishonoured cheque within 14 days after the date of the notice, the Registrar shall give the person a written cancellation notice and shall cancel—

- (a) in the case of a fee referred to in paragraph (1) (a), (b) or (c)—the registration of the relevant motor vehicle;
- (b) in the case of a fee referred to in paragraph (1) (d) or (e)—the registration of the relevant trailer;
- (c) in the case of a fee referred to in paragraph (1) (f)—the relevant licence; or
- (d) in the case of a fee referred to in paragraph (1) (g)—the relevant learner licence receipt.

“(6) A cancellation notice shall contain a statement to the effect that—

- (a) payment has not been received in accordance with the suspension notice; and
- (b) the Registrar has cancelled the relevant motor vehicle registration, trailer registration, licence or learner licence receipt.”.

10. Refusal, cancellation or suspension of licences or registration

Section 104 of the Principal Act is amended—

- (a) by omitting paragraph (2) (c) and substituting the following paragraph:

“(c) refuse to register a motor vehicle or trailer, or cancel or suspend for such period as he or she thinks fit the registration of a motor vehicle or trailer, where—

- (i) the vehicle or trailer, or any of the parts or equipment of the vehicle or trailer, does not comply with this Act or the Manual; or

- (ii) by reason of its condition, design or construction, the Registrar considers that the vehicle, trailer, part or equipment is likely to be a source of danger or annoyance to the public;”;

- (b) by omitting subsections (6) and (7).

11. Defect notices

Section 108B of the Principal Act is amended by omitting from paragraphs (1) (b) and (2) (b) "regulations" and substituting "Manual".

12. Vehicles in dangerous condition

5 Section 108C of the Principal Act is amended—

- (a) by omitting from subparagraph (1) (b) (i) "regulations" and substituting "Manual"; and
- (b) by omitting from paragraph (2) (b) "regulations" and substituting "Manual".

10 **13. Powers of Registrar, inspectors and authorised examiners**

Section 108E of the Principal Act is amended—

- (a) by omitting from subsection (2) "regulations" and substituting "Manual";
- 15 (b) by omitting from paragraph (4) (a) "regulations" and substituting "Manual"; and
- (c) by omitting from subsection (8) "regulations" and substituting "Manual".

14. Substitution

20 Section 112A of the Principal Act is repealed and the following section substituted:

"112A. Driving a motor vehicle at traffic lights

Where—

- 25 (a) a person driving a motor vehicle on a public street approaches, or stops immediately in front of, traffic lights at a stop line; and
- (b) the traffic lights facing the direction opposite to which the motor vehicle is facing are displaying a light of a description specified in the table in subsection 112B (1);

30 the person shall not drive the motor vehicle so that there is a contravention of the directions specified in that table corresponding to the description of that light."

15. Meanings indicated by traffic lights

Section 112B of the Principal Act is amended—

- 35 (a) by omitting from subsection (1) all the words from and including "For the purposes" to and including "that driver." and substituting:
"(1) The following table applies for the purposes of section 112A.";

(b) by omitting from the second column of item 2A of the table in subsection (1) “pedestrian crossing” and substituting “marked footcrossing”;

5 (c) by omitting from column 3 in each of the following items in the table in subsection (1) “the road marking applicable in relation to the light” and substituting “the relevant stop line”.

Items 1, 2, 2A, 3, 4, 5, 6, 7, 8, 14 and 15; and

(d) by omitting subsection (2) and substituting the following subsection:

10 “(2) In the table in subsection (1), a reference to the relevant stop line shall be read as a reference to the stop line at, near or below the traffic light referred to in subsection (1).”.

16. Defences

15 Section 112BA of the Principal Act is amended by omitting from paragraphs (1) (b) and (2) (b) “road marking” and substituting “stop line”.

17. Certain lines not to constitute road markings

Section 112F of the Principal Act is amended by omitting “road marking comprising a line marked across or partly across a public street” and substituting “stop line”.

20 18. Overtaking

Section 118 of the Principal Act is amended by omitting subsection (6) and substituting the following subsection:

“(6) The driver of a motor vehicle upon a public street shall not overtake a vehicle which has reduced speed, or has stopped, at—

- 25 (a) a marked footcrossing in pursuance of section 112A;
(b) a pedestrian crossing in pursuance of section 126; or
(c) a school crossing in pursuance of section 127.”.

19. Stop signs

30 Section 128 of the Principal Act is amended by omitting from paragraph (1) (b) “a road marking comprising a line marked across or partly across the carriageway” and substituting “a stop line”.

20. Interpretation

Section 149 of the Principal Act is amended—

(a) by inserting in subsection (1) the following definition:

35 “‘multi-bay parking meter’ means a parking meter that applies to more than 1 designated parking place;” and

- (b) by omitting subsection (8) and substituting the following subsection:

“(8) A parking meter is to be taken to be near a designated parking place if—

- 5 (a) in the case of a parking meter which applies to a single designated parking place—it is alongside and not more than 1 metre from the designated parking place, or
- 10 (b) in the case of a multi-bay parking meter—it is the nearest parking meter on the same side of the street in the direction of the arrow marked in or adjacent to the designated parking place under section 163BA ”.

21. Off-street parking and loading zones—further regulation

Section 156 of the Principal Act is amended by omitting “(3)”.

22. Other parking offences

- 15 Section 158 of the Principal Act is amended by inserting after paragraph (1) (j) the following paragraph:

“(ja) within 6 metres of a marked footcrossing;”.

23. Insertion

- 20 Before section 163B of the Principal Act the following section is inserted in Division 7 of Part X:

“163A. Multi-bay parking meter—display of word ‘expired’

- 25 In this Division, a reference to the display by a parking meter of the word ‘expired’, where it applies to a multi-bay parking meter, is to be taken to include a reference to the display of the word ‘expired’ upon the pressing of a button that relates to a particular designated parking place.”.

24. Insertion

After section 163B of the Principal Act the following section is inserted:

“163BA. Multi-bay parking meters

- 30 “(1) A designated parking place to which a multi-bay parking meter applies shall be marked—

- (a) with a number; and
- (b) with an arrow indicating the direction of the parking meter;

in or adjacent to the relevant designated parking place.

- 35 “(2) A multi-bay parking meter shall identify by number each designated parking place to which it applies.”.

25. Expired parking meter

Section 163F of the Principal Act is amended—

- (a) by adding at the end of subsection (1) “in respect of that designated parking place”;
- 5 (b) by inserting in paragraph (2) (b) “in respect of that designated parking place” after “‘expired’ ”; and
- (c) by omitting from subsection (2) all the words after “subsection (1)”.

26. Authorised removal of parking meter hoods

10 Section 163MB of the Principal Act is amended—

- (a) by omitting from paragraph (a) “bears” and substituting “bearing”;
- (b) by omitting from paragraph (b) all the words after “parked on” and substituting “a designated parking place to which the parking meter applies”; and
- 15 (c) by inserting “in respect of that designated parking place” after “operate”.

27. Circumstances in which certain provisions not contravened

20 Section 164 of the Principal Act is amended by omitting from subsection (2) “158 (a)” and substituting “158 (1) (a)”.

28. Interpretation

Section 180NA of the Principal Act is amended—

- (a) by omitting the definition of “relevant demerit points” and substituting the following definition:
 - 25 “ ‘relevant demerit points’, in relation to a licence record, means the demerit points incurred by the person who holds, or has held, the licence in relation to offences that have occurred within any period of 3 years, being demerit points that have been recorded on the licence record;”;
- 30 (b) by omitting the definition of “register”;
- (c) by inserting the following definitions:
 - “ ‘licence record’ means the record kept by the Registrar under section 194 in respect of the grant of a licence or licences to a person;
 - 35 ‘relevant licence record’ means—
 - (a) in the case of a person who is unlicensed—the record relating to the licence most recently held by that person; and

- (b) in the case of a person who is licensed—the record relating to that licence.”.

29. Demerit points

Section 180NB of the Principal Act is amended—

- 5 (a) by omitting from subsection (1) “A holder of a licence” and substituting “A person who has held a licence and does not hold a corresponding licence, or a person who holds a licence,”; and
- 10 (b) by omitting from subsection (2) “A holder of a corresponding licence” and substituting “A person who does not hold, and has not held, a licence and does not reside in the Territory, or a person who holds a corresponding licence,”

30. Recording of demerit points

Section 180P of the Principal Act is amended—

- 15 (a) by omitting subsection (1),
- (b) by inserting in subsection (2) “under subsection 180NB (1)” after “more demerit points”;
- (c) by omitting from subsection (2) “, in relation to that person’s licence” and substituting “on the relevant licence record”,
- 20 (d) by omitting from subsection (3) “licensee is convicted shall not be made until the licensee’s” and substituting “person is convicted shall not be made until the person’s”, and
- (e) by omitting from subsection (5) “the relevant” (wherever occurring) and substituting “a relevant”.

31. Interstate licensees who obtain licences

25 Section 180Q of the Principal Act is amended—

- (a) by omitting paragraph (1) (b) and substituting the following paragraph:
- 30 “(b) seek from the interstate Registrar particulars of any demerit points that are recorded by that Registrar against the corresponding licence, including particulars in relation to offences committed before the commencement of this Part; and”; and
- (b) by omitting from paragraph (1) (c) “in the register” and substituting “on the relevant licence record”.

35 **32. Transfer of recordings on grant of new licence**

Section 180R of the Principal Act is amended—

- (a) by omitting from subsection (1) all the words after “record” and substituting “on the new licence record the number and relevant

details of any demerit points recorded on the previous licence record”; and

- (b) by adding at the end the following subsection:

5 “(3) Where a licence is granted to a person who has held a licence, the Registrar shall record on the new licence record the number and relevant details of any demerit points recorded on the previous licence record.”.

33. Provision of information to interstate Registrars

Section 180S of the Principal Act is amended—

- 10 (a) by omitting subsection (1) and substituting the following subsection:

“(1) Where a person who holds a corresponding licence incurs demerit points under subsection 180NB (2), the Registrar shall notify the relevant interstate Registrar of—

- 15 (a) the date of the commission of the offence in respect of which the demerit points are incurred;
(b) the date of the conviction or payment of the penalty; and
(c) the number of demerit points recorded in respect of each offence.”; and

- 20 (b) by omitting from subsection (2) “in the register in relation to a licence” and substituting “on a person’s licence record”

34. Warning notice

Section 180T of the Principal Act is amended—

- 25 (a) by inserting before paragraph (1) (a) the following paragraph:
“(aa) a person is the holder of a full licence;”;
(b) by omitting from paragraph (1) (a) “in the register in relation to a full licence” and substituting “on the relevant licence record”;
(c) by omitting from paragraph (1) (b) “in relation to that licence” and substituting “on that licence record”;
30 (d) by omitting from paragraph (1) (c) “in relation to the licence” and substituting “on the licence record”; and
(e) by omitting from subsection (1) “in the register in relation to that licence” and substituting “on that licence record”.

35. Suspension or cancellation of full licence

35 Section 180U of the Principal Act is amended—

- (a) by omitting from subsection (1) all the words from and including “Where” to and including “full licence” and substituting “Where a

person is a full licensee and 12 or more relevant demerit points are recorded on the relevant licence record”,

- (b) by omitting paragraph (1) (a) and substituting the following paragraph:

5 “(a) sets out the particulars of those demerit points;”; and

- (c) by omitting from subsection (6) “register the relevant” and substituting “relevant licence record the”.

36. Probationary licences

Section 180V of the Principal Act is amended—

- 10 (a) by inserting after subsection (1A) the following subsection

“(1B) The Registrar may, on application and payment of the determined fee, grant a probationary licence to a person for not more than 12 months where—

- 15 (a) the person’s relevant licence record relates to a full licence;
(b) 12 or more relevant demerit points are recorded on that licence record; and
(c) the person was not the holder of a full licence at the date on which the twelfth such demerit point was incurred.”;

20 and

- (b) by omitting subsection (5) and substituting the following subsection:

25 “(5) Upon granting a probationary licence to a person under subsection (1A) or (1B), the Registrar shall delete all relevant demerit points from the relevant licence record.”.

37. Cancellation of probationary licences

Section 180W of the Principal Act is amended—

- 30 (a) by omitting from subsection (1) all the words from and including “Where” to and including “probationary licence” and substituting “Where a person is a probationary licensee and 2 or more relevant demerit points are recorded on the relevant licence record”;

- (b) by omitting paragraph (1) (a) and substituting the following paragraph:

35 “(a) sets out the particulars of the relevant demerit points recorded on that licence record;”; and

- (c) by omitting from paragraph (2) (b) “register” and substituting “former licensee’s relevant licence record”.

38. Suspension of provisional licences

Section 180X of the Principal Act is amended—

- 5 (a) by omitting from subsection (1) all the words from and including “Where” to and including “provisional licence” and substituting “Where a person is a provisional licensee and 8 or more relevant demerit points are recorded on the relevant licence record”;
- (b) by omitting paragraph (1) (a) and substituting the following paragraph:
- 10 “(a) sets out the particulars of the relevant demerit points recorded on that licence record;”; and
- (c) by omitting from paragraph (2) (b) “register the relevant” and substituting “relevant licence record the”.

39. Suspension of learner licences

Section 180Y of the Principal Act is amended—

- 15 (a) by omitting from subsection (1) all the words from and including “Where” to and including “learner licence” and substituting “Where a person is a learner licensee and 12 or more relevant demerit points are recorded on the relevant licence record”;
- (b) by omitting paragraph (1) (a) and substituting the following paragraph:
- 20 “(a) sets out the particulars of the relevant demerit points recorded on that licence record;”; and
- (c) by omitting from paragraph (2) (b) “register the relevant” and substituting “relevant licence record the”.

25 **40. Cancellation of special licences**

Section 180Z of the Principal Act is amended—

- (a) by omitting from subsection (1) all the words from and including “Where” to and including “special licence” and substituting “Where a person is a special licensee and 2 or more relevant demerit points are recorded on the relevant licence record”;
- 30 (b) by omitting paragraph (1) (a) and substituting the following paragraph:
- “ (a) sets out the particulars of the relevant demerit points recorded on that licence record;”; and
- 35 (c) by omitting from paragraph (2) (b) “register” and substituting “relevant licence record”.

41. Suspension of provisional endorsements

Section 180ZA of the Principal Act is amended—

- 5 (a) by omitting from subsection (1) all the words from and including “Where” to and including “endorsement to a licence” and substituting “Subject to sections 180U and 180X, where a person holds a licence on which there is a provisional endorsement and 4 or more relevant demerit points are recorded on the relevant licence record after the date on which the endorsement was granted”,
- (b) by omitting paragraph (1) (a) and substituting the following paragraph:
10 “(a) sets out the particulars of the relevant demerit points recorded on that licence record;”; and
- (c) by omitting from subsection (6) “register” and substituting “relevant licence record”.

42. Relocation

15 Section 180ZC of the Principal Act is relocated after section 180W of that Act and renumbered as section 180WA.

43. Substitution

Section 184 of the Principal Act is repealed and the following section substituted:

“184 Position of light

20 Any person who drives on a public street any motor vehicle having a lamp carried at the rear of the vehicle so affixed as to be capable of being extinguished by any person while in or on the vehicle while leaving the headlamp or headlamps of the vehicle lighted shall be guilty of an offence”.

44. No refund of driving licence fee

25 Section 191R of the Principal Act is amended by omitting paragraph (2) (b) and substituting the following paragraph:

“(b) a cancellation under section 180U.”.

45. Insertion

30 After section 216 of the Principal Act the following section is inserted:

“216A. Surrender of licence or other thing

35 Where a provision of this Act requires that a licence or other thing be surrendered, a person is to be taken to have surrendered the licence or other thing for the purposes of the provision if the person satisfies the Registrar that the licence or other thing has been lost, stolen or destroyed or that it is otherwise impracticable in the circumstances to surrender the licence or other thing.”.

46. Schedule 7

Schedule 7 to the Principal Act is amended by inserting after item 61 of Part II the following item:

61A	Section 216A	Failing to be satisfied that a licence or other thing has been lost, stolen or destroyed or that it is otherwise impracticable in the circumstances to surrender the licence or other thing
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47. Transitional

- 5 (1) For the period of 2 years after the date of commencement of section 5 of this Act, paragraphs 7A (9) (d) and (e) of the Principal Act as amended by this Act do not apply in relation to a motor cycle driven by a learner if, immediately before that date, the learner was the owner of the motor cycle.
- 10 (2) For the period of 2 years after the date of commencement of section 6 of this Act, paragraphs 7B (22) (c) and (d) of the Principal Act as amended by this Act do not apply in relation to a motor cycle driven by a person if, immediately before that date, the person was the owner of the motor cycle.
- 15 (3) Where, immediately before the date of commencement of section 28, demerit points have been recorded in the demerit points register in relation to offences by the holder of a driver's licence that have occurred within the period of 3 years before that date, the demerit points are, for the purposes of the Principal Act as amended by this Act, to be taken to have been recorded on the relevant licence record in relation to the offences.

NOTES

Principal Act

1 Reprinted as at 2 March 1998 See also Acts Nos 26, #, # and #, 1998

Section headings

On the day on which sections 1, 2 and 3 of the *Motor Traffic Act 1936* are amended by this Act, in addition to any alteration of section headings indicated in the text of this Act, headings to sections of the Principal Act are altered as set out in the following table

Section	Alteration
12	Omit the heading, substitute the following heading Fees for registration, licences, examinations and inspections
180ZB	Omit "by court"