

1996  
THE LEGISLATIVE ASSEMBLY  
FOR THE AUSTRALIAN CAPITAL TERRITORY

---

(As presented)

(Minister for Urban Services)

**Motor Traffic (Amendment) Bill (No. 2)  
1996**

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(Minister for Urban Services)

**Motor Traffic (Amendment) Bill (No. 2)  
1996**

**A BILL  
FOR**

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

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

**Short title**

- 5 1. This Act may be cited as the *Motor Traffic (Amendment) Act (No. 2) 1996*.

**Commencement**

- 10 2. (1) Sections 1, 2 and 3 commence on the day on which this Act is notified in the *Gazette*.
- (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.

### **Principal Act**

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

### **5 Interpretation**

4. Section 4 of the Principal Act is amended by inserting in subsection (1) the following definitions:

" 'certificate of competency' means a certificate referred to in paragraph 13R (b);

10 'learner driver log book' means a learner driver log book referred to in section 13R;".

### **Substitution**

5. The heading to Part II of the Principal Act is omitted and the following heading substituted:

15 "PART IA—DRIVING LICENCES".

### **Relocation**

6. Sections 7, 7A, 8 and 8A of the Principal Act are relocated so that they appear before section 16 of the Principal Act and are renumbered 14, 14A, 15 and 15A respectively.

### **20 Renumbering**

7. Sections 9, 9A, 9B, 10, 10A, 10B, 11, 12, 13, 13A, 14, 14A and 15 of the Principal Act are renumbered 7, 7A, 7B, 8, 8A, 8B, 9, 10, 11, 11A, 12, 12A and 13 respectively.

### **Learner licences and learner licence receipts**

25 8. Section 7A of the Principal Act as renumbered by this Act is amended by inserting after subsection (1) the following subsection:

30 "(1A) Where the Registrar grants a person a learner licence, or a learner licence receipt, in relation to a light vehicle other than a motor tractor or a motor implement, the Registrar shall issue to the person a learner driver log book."

### **Provisional licences and endorsements**

9. Section 7B of the Principal Act as renumbered by this Act is amended by inserting after subsection (14) the following subsection:

“(14A) For the purpose of satisfying himself or herself as to the capabilities of an applicant under subsection (14), the Registrar shall have regard to any certificate of competency in relation to the applicant.”

**Insertion**

5       **10.** After section 13 of the Principal Act as renumbered by this Act the following Part and heading are inserted:

**“PART IB—ACCREDITATION OF DRIVING INSTRUCTORS**

**Interpretation**

“13A. In this Part, unless the contrary intention appears—

- 10       ‘accredited’ means accredited under this Part;
- ‘approved training course’ means a course approved under section 13Y;
- ‘certificate of accreditation’ means a certificate issued under subsection 13D (1);
- ‘light vehicle’ does not include a motor tractor or a motor implement;
- 15       ‘medical practitioner’ means a person who is entitled to practise as a medical practitioner under the *Medical Practitioners Act 1930* or a corresponding law of a State or another Territory;
- ‘relevant offence’ means an offence under—
- (a) the *Motor Traffic (Alcohol and Drugs) Act 1977*;
- 20       (b) a law of the Territory, the Commonwealth, a State or another Territory in relation to dishonesty, bribery, misrepresentation or blackmail;
- (c) a law of the Territory, a State or another Territory, being a sexual offence or an offence in relation to actual or
- 25       threatened violence;
- (d) this Act, or a law of a State or another Territory, in relation to reckless driving or driving at a speed, or in a manner, dangerous to the public; or
- 30       (e) a law of a State or another Territory in relation to the driving of a motor vehicle while affected by alcohol or drugs.

### Accreditation

“13B. (1) On receiving an application in accordance with the approved form, the Registrar shall accredit the applicant, or renew the applicant’s accreditation, as a driving instructor if the applicant—

- 5           (a) is not less than 21 years of age;
- (b) holds a full licence for a light vehicle;
- (c) is medically fit to undertake driver instruction and examination;
- (d) has not been convicted of a relevant offence within the period of 3 years immediately preceding the date of application;
- 10           (e) in relation to an application for accreditation where the applicant has not been accredited within the period of 5 years immediately preceding the date of application—has satisfactorily completed an approved training course; and
- (f) in relation to an application for accreditation where the applicant
- 15           has been accredited within the period of 5 years immediately preceding the date of application—
- (i) is not disqualified from being accredited; and
- (ii) has satisfactorily completed any course of training required to be undertaken under section 13N.

20           “(2) A person is not entitled to apply for a renewal of accreditation earlier than 1 month before the expiration of the person’s accreditation.

             “(3) For the purposes of this section, an applicant is medically fit to undertake driver instruction and examination if—

- 25           (a) he or she has been examined by a medical practitioner during the period of 90 days immediately preceding the date of application; and
- (b) the medical practitioner certifies that—
- (i) on a specified date, he or she personally examined the applicant; and
- 30           (ii) in his or her opinion the applicant is medically fit to undertake driver instruction and examination.

### Further information

35           “13C. The Registrar may require an applicant for accreditation or renewal of accreditation to provide such further information as is necessary for the purposes of this Part.

**Certificate of accreditation**

“13D. (1) Where—

- (a) the Registrar accredits an applicant or renews the applicant’s accreditation; and
- 5 (b) in relation to accreditation of a person referred to in paragraph 13B (1) (f) or a renewal—the determined fee is paid;

the Registrar shall issue the applicant with a certificate of accreditation on which appears a recent photograph, and the signature, of the applicant.

“(2) A certificate of accreditation shall include the following particulars:

- 10 (a) a certificate number;
- (b) the period for which, under section 13E, the accreditation has effect.

**Duration of accreditation**

15 “13E. A person’s accreditation or renewal of accreditation has effect, unless sooner suspended or cancelled, for a period of 12 months.

**Production of certificate**

“13F. (1) An accredited driving instructor shall not, without reasonable excuse, fail to produce his or her certificate of accreditation when required to do so by an officer.

20 Penalty: 5 penalty units.

“(2) In subsection (1)—

‘officer’ means—

- (a) the Registrar;
- (b) an inspector;
- 25 (c) a motor traffic officer; or
- (d) a police officer.

**Display of certificate of accreditation**

30 “13G. An accredited driving instructor shall not, without reasonable excuse, fail to display his or her certificate of accreditation in any light vehicle used by him or her to instruct or examine a learner.

**Suspension or cancellation of accreditation**

“13H. (1) The Registrar may suspend for such period, not exceeding 9 months, as the Registrar thinks fit, or cancel, the accreditation of a driving instructor if satisfied that any of the following circumstances exist:

- 5 (a) the instructor obtained accreditation, or a renewal of accreditation, by a false statement or misrepresentation;
- (b) the instructor failed to comply with section 13G;
- 10 (c) the instructor has, without reasonable excuse, failed to satisfactorily complete any course of training required to be undertaken under section 13N within the period specified;
- (d) the instructor failed to comply with paragraph 13P (1) (a);
- (e) the instructor has provided a light vehicle for instruction or examination that does not comply with paragraphs 13P (1) (b), (c) and (d);
- 15 (f) the instructor has instructed or examined a learner in contravention of section 13Q;
- (g) the instructor has breached the code of practice.

“(2) The Registrar shall not suspend or cancel a driving instructor’s accreditation under subsection (1) unless the Registrar has—

- 20 (a) notified the instructor in writing of the grounds on which the Registrar believes the accreditation should be suspended or cancelled and that the instructor may show cause, within a specified period after the date of the notice (being not less than 14 days), why the accreditation should not be suspended or cancelled;
- 25 and
- (b) considered any representation made by the instructor within the specified period.

“(3) A notice under paragraph (2) (a) shall be posted to the accredited driving instructor at his or her last known place of residence.

30 “(4) A driving instructor’s accreditation is, by force of this subsection—

- (a) suspended during any period when the instructor’s driving licence is suspended; or
- (b) cancelled if the instructor’s driving licence is cancelled.

35 “(5) The Registrar shall cancel the accreditation of a driving instructor who is convicted of a relevant offence.



“(6) The Registrar shall cancel a driving instructor’s accreditation if the instructor requests the Registrar in writing to do so.

5 “(7) A suspension or cancellation under subsection (1) takes effect at the expiration of the period of 7 days after the date of the relevant notice under section 217C.

“(8) A cancellation under subsection (5) takes effect at the expiration of 7 days after the date of the written notice advising the driving instructor of cancellation.

10 “(9) A person shall not be taken to be accredited while his or her accreditation is suspended.

“(10) A person whose accreditation is suspended or cancelled (other than under subsection (6)) is not entitled to a refund of the fee or any part of the fee paid in respect of the issue of the certificate of accreditation.

#### **Further suspension or cancellation**

15 “13J. (1) Where, while a driving instructor’s accreditation is suspended, the instructor does a thing, or fails to do a thing, for which his or her accreditation could, had it been in force, have been suspended or cancelled, the Registrar may suspend the instructor’s accreditation for a further period not exceeding 9 months or cancel it.

20 “(2) A suspension or cancellation under subsection (1) takes effect at the expiration of the period of 7 days after the date of the relevant notice under section 217C.

#### **Disqualification**

25 “13K. (1) Where the Registrar cancels a person’s accreditation, other than in accordance with subsection 13H (6), the Registrar may specify a period, being greater than 12 months but less than 24 months, during which the person shall be disqualified from being accredited.

30 “(2) Where the Registrar does not specify a period in accordance with subsection (1) in relation to a person the person shall be disqualified from being accredited for a period of 12 months.

“(3) A period of disqualification under subsection (1) or (2) commences on the date of cancellation.

“(4) Where—

- 35 (a) the Registrar suspends a person’s accreditation; and  
(b) the person’s accreditation expires before the expiration of the suspension;

the person shall be disqualified from being accredited until the expiration of the suspension.

**Return of certificate of accreditation**

5 “13M. (1) Where a person’s accreditation is suspended or cancelled, the person shall not, without reasonable excuse, fail to return his or her certificate of accreditation to the Registrar within 7 days after the day on which the suspension or cancellation takes effect.

Penalty: 5 penalty units.

10 “(2) After the expiration of a period for which a person’s accreditation has been suspended, the Registrar shall, on request, return the person’s certificate of accreditation unless—

- (a) the accreditation is further suspended or is sooner cancelled; or
- (b) the period for which the accreditation was in force has expired.

**Further training**

15 “13N. (1) The Registrar may, in writing, direct an accredited driving instructor to undertake an approved training course within the period specified.

“(2) A direction shall be posted to the accredited driving instructor at his or her last known place of residence.

20 “(3) In subsection (1)—

‘approved training course’ includes a course that a person could be required to undertake to be accredited.

**Use of vehicle for instruction**

25 “13P. (1) Where an accredited driving instructor is instructing or examining a learner in relation to a light vehicle, the instructor shall ensure that—

- (a) a sign is displayed on the vehicle in accordance with paragraph 7A (8) (b);
- (b) the vehicle is registered;
- 30 (c) the vehicle is equipped with—
  - (i) an internal mirror, in addition to a rear-vision mirror, placed so that the instructor can see traffic approaching from the rear; and

(ii) controls, in addition to those for use by the learner, that actuate the brake pedal and, in the case of a manual transmission vehicle, the clutch pedal; and

5 (d) the vehicle is not equipped with a foot-operated accelerator on the passenger side.

“(2) Subsection (1) applies to an accredited driving instructor whether the learner is being instructed or examined to obtain a certificate of competency or otherwise.

10 “(3) Paragraph (1) (c) does not apply if the vehicle in which the instruction or examination is taking place is provided by the learner.

### **Insurance**

15 “13Q. (1) An accredited driving instructor shall not instruct or examine a learner in relation to a light vehicle unless the instructor maintains an adequate policy of insurance which indemnifies the instructor against any action for damages arising from such instruction or examination by the instructor.

“(2) For the purposes of subsection (1), a policy is adequate if it is for not less than \$5,000,000 in relation to a single claim, or such higher amount as is prescribed.

### 20 **Learner driver log books**

“13R. A learner driver log book shall contain the following:

25 (a) the areas, as set out in the code of practice, in which a learner has to demonstrate competence in order to satisfy the Registrar that the learner is capable of driving a light vehicle with safety to the public;

(b) a form of certificate of competency to be completed by an accredited driving instructor and the learner once the learner has demonstrated proficiency in each area referred to in paragraph (a);

(c) such other matters as are prescribed.

### 30 **Completion of learner driver log books**

“13S. (1) A person, other than an accredited driving instructor, shall not complete a part of a learner driver log book required to be completed by an accredited driving instructor.

Penalty: 30 penalty units.

35 “(2) Subsection (1) does not apply to a learner who completes a part of the log book without intent to obtain fraudulently a certificate of competency.

**Holding out**

“13T. A person, other than an accredited driving instructor, shall not—

- (a) hold himself or herself out to be accredited; or
- (b) permit his or her name to be used in such a way as to suggest that he or she is accredited.

Penalty: 30 penalty units.

**Code of practice**

“13U. (1) The Registrar may, by instrument, approve a code of practice relating to accredited driving instructors, their vehicles and the manner and content of instructions and examinations.

“(2) The Registrar may, by instrument, vary a code of practice.

“(3) An instrument under this section is a disallowable instrument for the purposes of section 10 of the *Subordinate Laws Act 1989*.

**Notification and commencement of code**

“13V. (1) Notice of the approval of a code under subsection 13U (1) or variation of a code under subsection 13U (2) shall be published in the *Gazette* together with—

- (a) a statement about the commencement of the code or variation pursuant to subsection (2); and
- (b) a statement indicating where and when the code is available for inspection.

“(2) A provision of the code, or of a variation to the code, comes into effect on the day of publication in the *Gazette* of the relevant notice under subsection (1) or, if the relevant instrument specifies a later day for that purpose, the specified day.

**Public access to code**

“13W. (1) The Registrar shall ensure that the code is available for public inspection free of charge.

“(2) On application accompanied by the determined fee, the Registrar shall ensure that a copy of the code or any part of it is made available to the applicant.

**Territory not liable**

“13X. No action lies against the Territory in relation to an act done or omitted to be done by or on behalf of an accredited driving instructor.

**Approval of training courses**

“13Y. (1) The Registrar may, by notice in the *Gazette*, approve a training course for the purposes of this Part.

5 “(2) The Registrar shall not approve a course under subsection (1) unless satisfied that it will provide an adequate standard of theoretical and practical instruction.

**“PART II—REGISTRATION OF MOTOR VEHICLES”.**

**General offences**

11. Section 192 of the Principal Act is amended—

10 (a) by inserting in subsection (1) “13G, 13P, 13Q,” after “section”;  
and

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

“(3) Nothing in subsection (1) applies in relation to a duty imposed on the Registrar under this Act.”.

15 **Remission or refund of fees**

12. Section 209 of the Principal Act is amended—

(a) by omitting from paragraph (2) (d) “or” (last occurring);

(b) by inserting after paragraph (2) (d) the following paragraph:

20 “(da) who is accredited under Part IB and whose accreditation is cancelled under subsection 13H (6), an amount calculated in accordance with subsection (3) in respect of the accreditation; or”;

(c) by inserting in subsection (3) “, (da)” after “(d)”;

25 (d) by inserting in paragraph (3) (a) “, accreditation” after “licence” (first occurring);

(e) by inserting in paragraph (3) (a) “or accreditation” after “licence” (last occurring);

(f) by inserting in paragraph (3) (b) “or accreditation” after “licence”;  
and

30 (g) by inserting after subsection (5) the following subsection:

“(5A) The Registrar shall not make a refund under this section in respect of accreditation unless—

- (a) the certificate of accreditation is surrendered to the Registrar; or
- (b) the applicant—
- (i) satisfies the Registrar that he or she cannot comply with paragraph (a); and
- (ii) furnishes a written declaration that the certificate of accreditation has been lost, stolen or destroyed.”.

#### Schedule 7—Relocation

- 10 13. Items 1, 2, 3, 3A and 3B of Part II of Schedule 7 to the Principal Act are relocated so that they appear before item 11 and are renumbered 8, 9, 10, 10A and 10B respectively.

#### Schedule 7—Renumbering

- 15 14. Items 4, 4A, 4B, 5, 5A, 5B, 6, 6A, 6AA, 6B, 7, 7A, 7B, 8, 8A, 8AA, 8B, 8C, 8D, 9, 10 and 10A of Part II of Schedule 7 to the Principal Act are renumbered 1, 1A, 1B, 2, 2A, 2B, 3, 3A, 3AA, 3B, 4, 4A, 4B, 5, 5A, 5AA, 5B, 5C, 5D, 6, 7 and 7A respectively.

#### Schedule 7—Insertion

- 20 15. Schedule 7 to the Principal Act as renumbered by this Act is amended by inserting before item 8 of Part II the following items:

“7B	Paragraph 13B (1) (e), Subparagraph 13B(1) (f) (ii)	Refusing to accredit a person because he or she has not satisfactorily completed a course
7C	Subsection 13H (1)	Suspending or cancelling accreditation
7D	Subsection 13K (1)	Specifying a period of disqualification
7E	Subsection 13M (1)	Further suspending or cancelling accreditation
7F	Subsection 13N (1)	Directing an accredited driving instructor to undertake training”.

#### Amendment of cross-references

16. (1) Any provision of the Principal Act that refers to a section of that Act renumbered by section 6 or 7 is amended by omitting that reference and substituting a reference to the section as so renumbered.
- 25 (2) A reference in a provision of another law of the Territory made before the commencement of this section (whether or not that provision has commenced), or in any instrument or document, to a section of the Principal Act renumbered by section 6 or 7 shall (except as regards the operation of the section before it was so renumbered) be construed as a reference to that
- 30 section as so renumbered.

## NOTES

### **Principal Act**

1. Reprinted as at 28 February 1995. See also Acts Nos. 8, 17 and 46, 1995; Nos. 7, 26 and , 1996.

### **Penalty units**

See section 33AA of the *Interpretation Act 1967*.

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