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**THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY**

**ROAD TRANSPORT (DRIVER LICENSING) AMENDMENT BILL
2002**

EXPLANATORY STATEMENT

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AUSTRALIAN CAPITAL TERRITORY

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Overview

The Road Transport (Driver Licensing) Amendment Bill 2002 (the Bill) applies several principles in relation to the suspension of driver licences when certain numbers of demerit points are reached or exceeded.

The principles, contained in the National Road Transport Commission's "Driver Licensing Policy – Primary Principles", are as follows.

- *Demerit points are recorded for the day on which the offence was committed.*
- *The authority must give a notice of licence suspension to the holder of a driver licence who incurs 12 or more demerit points within the previous 3 years. The previous 3 years is calculated from the offence date of the most recent offence recorded, regardless of the date that the offence is entered on the register.*
- *(For the holder of a good behaviour licence) The person would keep the current licence and continue driving on the condition that he or she does not incur 2 or more demerit points during the 12 month period. If a person on good behaviour incurs 2 or more demerit points during the good behaviour period, the driver licensing authority must suspend the person's existing driver licence for twice the original suspension period.*

These principles were approved by transport Ministers in November 1997. The *Motor Traffic Act 1936* (repealed) contained demerit point provisions that were consistent with the first two principles. 'Good behaviour' periods were introduced in the ACT in March 2000 as part of the national driver licensing scheme and the introduction of the Road Transport Legislation (which repealed the Motor Traffic Act). The present wording of the demerit point provisions in the *Road Transport (Driver Licensing) Act 1999* leads to some ambiguity regarding licence suspensions

when prescribed numbers of demerit points are incurred. The Bill seeks to remove the ambiguity.

Detail

New s13(A) replaces existing s13(2) and (4). Rather than specifying that a person incurs demerit points when certain events happen (eg the infringement penalty is paid, the person is convicted in court), the emphasis is moved to the road transport authority's recording demerit points when those certain events happen.

Section 13A(1)(c) is an additional provision which deals with the recording of demerit points in the situation where a person applies for extra time to pay an infringement penalty. Previously, the demerit points could not be applied until the extra time (which may be up to six months) had lapsed. The new provision allows the demerit points to be applied when the extra time is allowed. This will remove the possibility of a person using the option of seeking extra time to pay a penalty merely to gain an advantage in relation to the calculation of demerit points.

New section 13B provides the explanation that demerit points are taken to have been incurred on the day when the offence was committed. The demerit point provisions operate on the basis of a particular number of points being incurred within a certain period. Section 13B clarifies that points are incurred on the offence date, not the date the points are recorded on the register.

Section 22 provides the regulation making power in relation to provisions for suspending or cancelling a learner, probationary, provisional or restricted licence if the person incurs the prescribed number of demerit points. New s22(1)(b) provides that regulations may be developed about suspending another driver licence if a person reaches or exceeds the demerit point limit for a provisional, learner, probationary or restricted licence even though the person is no longer the holder of the provisional, learner, probationary or restricted licence. An example of a possible situation is when a provisional licence holder is served with a warning that the licence will be suspended in 21 days, due to demerit points, but when the licence is due to be suspended the person is on a full licence.