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

**MOTOR TRAFFIC (AMENDMENT) BILL (No. 5) 1998**

**EXPLANATORY MEMORANDUM**

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Minister for Urban Services**

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## EXPLANATORY MEMORANDUM

### Outline

The objective of the Bill is to amend the *Motor Traffic Act 1936* (the Act) to provide for the following.

1. Novice motorcycle rider restrictions

The Act is to be amended to place restrictions on novice motorcycle riders by limiting the engine capacity and the power to weight ratio of motorcycles ridden by learner riders and by provisional riders during the first year the provisional licence is held. The restrictions will prohibit novice motorcycle riders from towing another vehicle. Transitional arrangements have been included to allow learner and provisional riders who own motorcycles which do not comply with the new laws at the time of commencement, to continue to use those motorcycles.

2. Multi bay Parking Meters

This amendment will allow the use of a single meter to control a number of identified parking bays whereas previously a single meter was needed to control each metered parking place.

3. Marked footcrossings

The Act is to be amended to align the current pelican crossings provisions with both the NSW provisions and the proposed Australian Road Rules. The amendment defines these crossings as "marked footcrossings" so that confusion with pedestrian crossings cannot occur. Pedestrian crossings have "zebra markings" and do not require traffic lights to function. Marked footcrossings do not need zebra markings as they are controlled by traffic lights. Marked footcrossings will have the same stopping and parking provisions as apply to pedestrian and school crossings.

4. Cancellations due to payment with dishonoured cheques

This amendment will allow the Registrar of Motor Vehicles (the Registrar) to cancel a licence issued, or registration granted, if a cheque tendered as payment is dishonoured. The amendment allows a licence or registration to be suspended 14 days after notification that the cheque has been dishonoured, followed by cancellation after a further 14 day notification period.

5. Consistency in decisions relating to vehicle roadworthiness

The Act is to be amended to make consistent the grounds on which a defect may be issued, and a registration suspended, cancelled or refused.

6. Allocation of demerit points to unlicensed drivers

This amendment is to remove an anomaly in the allocation of demerit points. Current provisions require that demerit points be placed on the record of the holder of a licence. If a licence has expired, or for some other reason a person is no longer the holder of a licence, the amendment will allow demerit points to be placed on a person's licence record. However, if no licence record is held, a separate record will not be created.

**Financial Implications**

There will be some implementation costs associated with the amendments due to the need to program changes to TRIPS. However, these costs will be offset by savings achieved through the ability to cancel transactions paid for with dishonoured cheques.

**Commencement and Citation**

**Clause 1** cites the Act as the Motor Traffic (Amendment) Act (No ) 1998

**Subclause 2 (1)** provides the commencement provisions for sections (1), (2) and (3).

**Subclause 2 (2)** provides that the remaining provisions may commence on a day, or respective days, fixed by the Minister by notice in the *Gazette*.

**Subclause 2 (3)** provides that any provisions which have not already been commenced will commence automatically six months after the day on which the Act is notified in the *Gazette*.

**Clause 3** provides that the "Principal Act" means the *Motor Traffic Act 1936*

**Clause 4** inserts amendments to the Interpretations in section 4 the Principal Act.

**Subclause 4 (a)** is a housekeeping amendment which updates the definition in section 4 of a pedestrian crossing by removing the reference to a sign displaying the word "crossing" and substituting reference to an Australian Standards sign, which is the internationally used walking symbol.

**Subclause 4 (b)** is a further housekeeping amendment which omits the existing definition of a "road marking" and inserts a new definition which better reflects current engineering practices.

**Subclause 4 (c)** inserts a definition of a "marked foot crossing" as meaning the same as in section 26 of the *Traffic Act 1937*. Section 26 of the *Traffic Act 1937* is amended in the Traffic (Amendment) Bill 1998 as part of this package of amendments to address marked footcrossings. It further inserts in the Principal Act a definition of a "stop line" to ensure that there is a clear difference between a stop line and the lines marking the boundary of a marked foot crossing.

**Subclause 4 (d)** amends subsection (5) by substituting the reference to section 180ZC with 180WA. Section 180ZC has been relocated and renumbered as 180WA. This is a component of the allocation of demerit points amendment.

**Clause 5** introduces restrictions on learner motorcycle riders.

**Subclauses 5 (a) and 5 (b)** amends section 7A by placing motorcycle engine capacity and power to weight ratio restrictions, and a total prohibition on towing, on the holders of learner licences and learner licence receipts.

**Clause 6** introduces restrictions on motorcycle riders with provisional licences or provisional licence endorsements.

**Subclauses 6 (a) and 6 (b)** amend section 7B by placing engine capacity and power to weight ratio restrictions, and a total prohibition on towing, on the holders of provisional licences or provisional licence endorsements, for the first year such licences or licence endorsements are held.

**Clause 7** inserts a new section 8AA (Grant of probationary licences). This section prohibits the Registrar from granting a licence other than a probationary licence to a person who is unlicensed, and has accrued 12 or more demerit points on his or her licence record.

**Clause 8** amends section 11A (special probationary licences) by substituting the reference in (6) to section 180ZC with a reference to section 180WA. Section 180WA is the former section 180ZC, relocated and renumbered (see Clause 42 Relocation). This amendment will continue to allow an application to be made for a special probationary licence following the cancellation of a probationary licence.

**Clause 9** inserts a new section 103 (Fee paid by dishonoured cheque). The section inserts provisions requiring the Registrar to cancel the registration of a motor vehicle or trailer, or a licence, issued upon payment by a cheque which is dishonoured.

The section provides a process which requires that, when a cheque is dishonoured, the Registrar must provide written notice that the cheque has been dishonoured, and that the registration or licence will be suspended if payment is not received within 14 days of the date of the notice.

If payment is not received at the end of that period, the Registrar must give notice of the suspension in writing (and the effect of the suspension). The notice also advises the person that if payment is not received within a further 14 day period, the relevant registration or licence will be cancelled. Written notice of the cancellation will be sent if the payment is not made by the end of this 14 day period.

**Clause 10** amends section 104 (Refusal, cancellation or suspension of licences or registration). The section is to be amended to address inconsistencies in the grounds for the Registrar's decisions relating to granting or renewing registration, or cancelling or suspending the registration of a motor vehicle or trailer.

**Subclause 10 (a)** omits the existing paragraph (2) (c) which provided reasons why the Registrar could refuse to register, cancel or suspend the registration of any motor vehicle or trailer. The provision is substituted with a new paragraph (c) which will include in the Registrar's reasons for refusing to register, and cancelling or suspending a registration, a vehicle's failure to comply with the provisions of the Act or the Manual. Currently only vehicles that are likely to cause a source of danger and annoyance to the public may have their registration cancelled or suspended

**Subclause 10 (b)** omits subsections 104 (6) and (7) which relate to appeals provisions. Section 104(6) is omitted because section 41 of the *Administrative Appeals Tribunal Act 1989* can be used where there is genuine dispute about the condition of the vehicle or where there is good reason why a stay on the Registrar's decision should be granted. Subsection 104 (7) exempted decisions under paragraphs 104 (2) (b), (c) and (d) from the provisions of subsection 104(6) and is therefore no longer needed.

**Clause 11** amends section 108B (Defect notices) and applies the same grounds for decisions relating to registration or the ability of the Registrar to refuse, suspend or cancel a registration, to the issuing of defect notices for reasons of consistency. The amendment to section 108B makes those reasons consistent by substituting "Manual", which applies the technical standards, in place of "regulations" in paragraphs (1) (b) and (2) (b).

**Clause 12** amends section 108C (Vehicle in dangerous condition) by inserting the same substitutions referred to in Clause 11, in subparagraphs (1) (b) (i) and (2) (b).

**Clause 13** amends section 108E (Powers of Registrar, inspectors and authorised examiners) with similar substitutions. This section relates to inspections of vehicles following the issue of defect notices under sections 108B and 108C, and provides that if the vehicle remains defective either because of failure to carry out suitable repairs or because more defects are found, a further defect notice may be issued under the section. The amendments, as in Clauses 11 and 12, makes the grounds for issuing defects under the section, consistent by substituting "Manual", which applies the technical standards, in place of "regulations".

**Subclauses 13 (a)** substitutes "regulations" with "Manual" in subsection (2) in the grounds for issuing a further defect notice following an inspection for a defect issued under section 108B.

**Subclause 13 (b)** substitutes "regulations" with "Manual" in paragraph (4) (a) in the grounds for issuing a further notice following an inspection for a defect issued under section 108C.

**Subclause 13 (c)** substitutes "regulations" with "Manual" in subsection (8) so that a notice of revocation of the defect will now specify that the vehicle complies with the Act and the Manual.

**Clause 14** is consequential to the introduction of marked footcrossings. The amendment repeals the existing section 112A (Driving a motor vehicle at traffic lights) substitutes a new section which makes clearer that drivers of motor vehicles must comply with the directions in the table of section 112B in relation to traffic lights. The section is being amended to cover, the use of stop lines applying to traffic lights.

**Clause 15** amends section 112B (Meanings indicated by traffic lights), in relation to marked footcrossings and the use of stop lines applying to traffic lights.

**Subclause 15 (a)** inserts a new subsection (1) to simplify the linkage between the requirement in section 112A to obey the directions applying to traffic lights and the table in section 112B which specifies those directions.

**Subclause 15 (b)** omits the reference in the second column of item 2A in the table to "pedestrian crossing" and substitutes "marked footcrossing".

**Subclause 15 (c)** substitutes the term "the relevant stop line" for the reference to "the road marking applicable in relation to the light" in column three of the table for items 1, 2, 2A, 3, 4, 5, 6, 7, 8, 14 and 15 of the table.

**Subclause 15 (d)** omits subsection 2 and substitutes a new subsection which refers to stop lines at, near or below the traffic light referred to in subsection (1). This amendment is intended to clarify the location of stop lines at traffic lights.

**Clause 16** is a consequential amendment to the defence provisions contained in section 112BA. It substitutes the term "stop line" for the references in 1(b) and 2(b) to "road marking".

**Clause 17** is a further consequential amendment to section 112F. It substitutes the term "stop line" for the reference to "a road marking comprising a line marked across or partly across a public street".

**Clause 18** applies to with marked footcrossings in the same overtaking prohibitions which already apply to vehicles stopped or preparing to stop at pedestrian or school crossings in pursuance of sections 126 and 127.

**Clause 19** amends section 128 by substituting the term "stop line" for the reference to "a road marking comprising a line marked across or partly across a public street".

**Clause 20** amends Part X (Rules relating to parking) by introducing multi-bay parking meters

**Clause 20 (a)** amends section 149 (Interpretation) in subsection (1) by inserting a definition of a "multi-bay parking meter".

**Clause 20 (b)** amends section 149 by replacing subsection 8 which specified that a meter must be located within one metre of a designated parking space. The new

subsection 8 allows for the operation of multi-bay meters controlling a number of designated parking places, and a meter controlling a single designated parking place

**Clause 21** is a formal housekeeping change to section 156.

**Clause 22** deals with marked footcrossings by amending section 158 which prohibits parking in certain areas, including within 6 metres of pedestrian crossings. The amendment inserts a prohibition on parking within 6 metres of marked footcrossings.

**Clause 23** deals with multi-bay parking meters by inserting a new section 163A (Multi-bay parking meter - display of the word expired). This section addresses the functioning of multi-bay meters in that the display of the word "expired" upon the pressing of a button, relates only to the numbered place for which the button was pressed.

**Clause 24** deals with multi-bay parking meters by inserting a new section 163BA (Multi-bay parking meters). The section provides that each designated parking place controlled by the meter must be marked with a number, and an arrow indicating the direction of the controlling meter.

**Clause 25** amends section 163F (Expired parking meter) in relation to multi-bay parking meters.

**Subclause 25 (a)** amends subsection (1) to provide that the word "expired" displayed on a meter may refer to a designated parking place controlled by a parking meter, or a designated parking place controlled by a multi-bay parking meter.

**Subclause 25 (b)** amends subsection (2) which allows a vehicle to remain in a designated parking place, when the word expired is displayed, only while coins are being inserted in the meter. The amendment ensures that when a vehicle is in a designated place and the driver is inserting coins, or preparing to insert coins, the person is not committing an offence in respect of that designated parking place if the word "expired" is displayed in respect of that parking place, on the meter controlling that parking place.

**Subclause 25 (c)** is a formal amendment which removes repeated text from subsection (2).

**Clause 26** amends section 163MB (Authorised removal of parking meter hoods) to allow for multi-bay parking meters.

**Subclause 26 (a)** is a formal amendment substituting the word "bears" with "bearing".

**Subclause 26 (b)** amends paragraph (b) to link the parking meter with the designated parking places to which it applies.

**Subclause 26 (c)** is a consequential amendment which allows for multi-bay meters.

**Clause 27** is a housekeeping amendment to section 164 (Circumstances in which certain provisions not contravened)

**Clause 28** introduces amendments to Part XIB (Demerit Points and Probationary Licences).

**Subclause 28 (a)** replaces the existing definition of “relevant demerit points” in section 180NA (Interpretation) with a new definition which refers to points incurred by both the holder of a licence and a person who has previously held a licence

**Subclause 28 (b)** omits the definition of “register” as in practice a separate demerit points register is not maintained. Demerit point records will now, as a consequence of these amendments, be maintained as part of individual licence records, whether the licence is current or not.

**Subclause 28 (c)** inserts two new definitions relevant to Part XIB. The first is a definition of a “licence record” which clarifies the records maintained in respect of a licence by the Registrar under section 194. The second definition is of a “relevant licence record”. This is the record maintained in respect of a person who has previously held a licence or, in the case of a licence holder, the record relating to that licence.

**Clause 29** amends section 180NB (Demerit points) which specifies the circumstances under which demerit points may be issued, and the licences to which demerit points may be attached. The amendment covers a “corresponding licence” which is a licence issued in another jurisdiction.

**Subclause 29 (a)** amends subsection (1) so that both former and current licence holders may accrue demerit points

**Subclause 29 (b)** amends subsection (2) so that unlicensed drivers from outside the ACT, and current corresponding licence holders may accrue demerit points.

**Clause 30** amends section 180P (Recording of demerit points)

**Subclause 30 (a)** omits subsection (1) which required the Registrar to maintain a Demerit Points Register. In practice the records for demerit points are attached to, and form part of, a person’s licence record.

**Subclause 30 (b)** amends subsection (2) which refers to the allocation of demerit points, by including reference to 180NB(1) which is being amended to allow points to be accrued by former licence holders.

**Subclause 30 (c)** further amends subsection (2) by substituting the reference to recordings on “that person’s licence” with a reference to “on the relevant licence record”. This allows the recording of demerit points whether the person is the current



holder of a licence, or was previously the holder of a licence which has expired or been suspended or cancelled.

**Subclause 30 (d)** amends subsection (3) by substituting “person” for “licensee” as licensee implies the holder of a licence, and this may not be the case for former licence holders.

**Subclause 30 (e)** amends subsection (5) by substituting “a relevant” with “the relevant”. This is a syntax amendment.

**Clause 31** amends section 180Q (Interstate licensees who obtain licences).

**Subclause 31 (a)** amends subsection 1 (b) by substituting a new paragraph (b) which removes the reference to demerit points on the “register”, and replaces it with a reference to demerit points held on the person’s licence record.

**Subclause 31 (b)** amends subsection (c) by requiring information to be recorded on the person’s licence record instead of being recorded in the “register”.

**Clause 32** amends section 180R (Transfer of recordings on the grant of a new licence).

**Subclause 32 (a)** amends subsection (1) in relation to the transfer of demerit points accrued on licences obtained in one jurisdiction to a licence now held in another jurisdiction. This is a consequential amendment resulting from the proposal to record demerit points on a person’s licence record instead of on a “demerit points register” (section 180P).

**Subclause 32 (b)** inserts a new subsection (3) to allow any relevant demerit points accrued on a previously held licence to be applied to the new licence record.

**Clause 33** consequentially amends section 180S (Provision of information to interstate Registrars) as a result of the amendments inserted in section 180NB.

**Subclause 33 (a)** substitutes a new subsection (1) which allows demerit points accrued on a corresponding licence to be transferred to the relevant interstate Registrar. It also specifies the level of detail to be transferred to that Registrar.

**Subclause 33 (b)** consequentially replaces the reference to records on the “register” with reference to the person’s licence record.

**Clause 34** amends section 180T (Warning notice) which provides a warning to holders of full licences that they have accrued 8 (or more) demerit points and that they face suspension of their licence if they accrue 12 or more points.

**Subclause 34 (a)** inserts a new subsection (aa) which specifies that a warning notice will only be sent to the holder of a full licence and not to a person who formerly held a full licence.

**Subclauses 34 (b) to (e)** are consequential to the amendment to section 180NA which substitutes the reference to placing demerit points on “the register” with placing them on the licence record. These amendments also ensure the records referred to are only those relevant to the full licence, referred to in the new subsection (aa)

**Clause 35** amends section 180U (Suspension or cancellation of a full licence) in relation to licence holders who accrue 12 or more demerit points.

**Subclause 35 (a)** amends subsection (1) to ensure that a notice of suspension for the accrual of too many demerit points will only be sent to a licensee, and not to a person who formerly held a full licence.

**Subclause 35 (b)** substitutes a new paragraph (1) (a) which provides that a notice shall give the particulars of the demerit points for which the licence is being suspended.

**Subclause 35 (c)** amends subsection (6) which requires the Registrar to delete the demerit points which caused the suspension, after suspending that person. Consequentially to the amendment to section 180NA, it removes reference to omitting the points from the “demerit points register” and substitutes a reference to the person’s licence record.

**Clause 36** amends section 180V (Probationary licences).

**Subclause 36 (a)** amends the provisions related to the granting of probationary licences by inserting a new subsection to allow the Registrar to grant a probationary licence to a person who formerly held a full licence, and who equalled or exceeded 12 demerit points during the period he or she was unlicensed.

**Subclause 36 (b)** substitutes a new subsection (5) which requires the Registrar to delete the demerit points which prevented the person from obtaining another full licence from the relevant licence record.

**Clause 37** amends section 180W (Cancellation of probationary licences). This occurs when two or more demerit points are recorded on a person’s licence record and the Registrar is required to serve notice of cancellation of that person’s licence.

**Subclause 37 (a)** is a consequential amendment which replaces the reference to the demerit points register, with reference to the relevant licence record.

**Subclause 37 (b)** substitutes paragraph 1 (a) which sets out in a notice the particulars of the demerit points recorded in relation to the licence, with a new paragraph which refers to demerit points recorded on the licence record, rather than the “register”. This is also a consequential amendment.

**Subclause 37 (c)** is again a consequential amendment. The Registrar is required to remove the recorded demerit points from the licence record after cancelling a licence.

This amendment removes reference to the “register” and substitutes reference to the former licensee’s relevant licence record

**Clause 38** amends section 180X (Suspension of provisional licences). This section requires the Registrar to send a notice of suspension of the provisional licence held by a person who accrues eight or more relevant demerit points.

**Subclause 38 (a)** consequentially amends subsection (1) by removing reference to demerit points on the “register” and substituting reference to relevant demerit points recorded on the relevant licence record.

**Subclause 38 (b)** consequentially amends paragraph 1 (a) by replacing it with a new paragraph referring to the licence record, and removing reference to the “register”.

**Subclause 38 (c)** deals with the deletion of demerit points following licence suspension removing reference to the “register” and substituting reference to the licence record.

**Clause 39** amends section 180Y (Suspension of learner licences).

**Subclauses 39 (a)** consequentially amends subsection (1) to allow for relevant demerit points being recorded on a relevant licence record.

**Subclause 39 (b)** consequentially amends paragraph (1) (a) to refer to relevant demerit points to be recorded on the licence record.

**Subclause 39 (c)** consequentially amends paragraph (2) (b) to allow demerit points to be deleted from the licence record, not the previously used “register”.

**Clause 40** amends section 180Z (Cancellation of special licences).

**Subclauses 40 (a), (b) and (c)** are consequential amendments similar to those in Clauses 39 (a), (b) and (c).

**Clause 41** amends section 180ZA (Suspension of provisional endorsements). A licence endorsement is certification of a second licence type on a licence. This enables the Registrar to issue a car licence and a motorcycle licence on the same licence document, thus complying with a national agreement that no person shall be allowed to hold more than one driver’s licence.

**Subclause 41 (a)** amends subsection (1) to make it subject to any suspensions of a full licence under section 180U or of a provisional licences under 180X, that may occur at the same time as the suspension of a provisional endorsement. The amendment also specifies that a suspension of a provisional licence endorsement because of accrual of demerit points, only relates to demerit points accrued after the endorsement has been placed on the licence. The amendment also consequently amends subparagraph (1) by referring to relevant demerit points and relevant licence record.

**Subclauses 41 (b) and (c)** are consequential amendments similar to those in Clauses 39 (a), (b) and (c)

**Clause 42** relocates Section 180ZC to follow section 180W, and numbering it as section 180WA

**Clause 43** is a formal “housekeeping” amendment.

**Clause 44** amends section 191R (No refund of driving licence fee) The amendment inserts a new paragraph (2) (b) which omits the references to sections 162E and 180F, as the provisions of section 191R are already contained within 162E and 180F.

**Clause 45** inserts a new section 216A (Surrender of licence or other thing). This section is inserted to provide for cases where there is a valid reason why a licence or other thing, such as a number plate, cannot be surrendered to the Registrar of Motor Vehicles. In circumstances where the surrender of a licence or other thing is required by the Act, an offence is committed. This new section provides that the person is not committing an offence for not surrendering a licence or other thing, if the person satisfies the Registrar that the licence or other thing has been lost stolen or destroyed, or that it is otherwise impractical in the circumstances to surrender it.

**Clause 46** inserts in Schedule 7, a provision that where the Registrar fails to be satisfied that the surrender of a licence or other thing is not possible for reasons that it has been lost, stolen or destroyed, or that it is otherwise impractical in the circumstances to surrender the licence or other thing, such a decision shall be reviewable by the Administrative Appeals Tribunal.

**Clause 47** inserts transitional provisions in relation to novice motorcycle rider restrictions and the recording of demerit points

**Clause 47 (1)** provides that the restrictions on motorcycles do not apply for a period of two years in cases where a learner riding a motorcycle is the owner of that motorcycle immediately before the commencement of paragraph 7A (9) (d) and (e), as amended by this Act

**Clause 47 (2)** provides that the restrictions on motorcycles do not apply for a period of two years in cases where a provisional licensee riding a motorcycle, is the owner of that motorcycle immediately before the commencement of paragraph 7B (22) (c) and (d), as amended by this Act.

**Clause 47 (3)** provides that demerit points recorded on the demerit points register immediately before the commencement of section 180P, as amended by this Act, shall be taken to have been recorded on a person’s relevant licence record.