

1997
THE LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN
CAPITAL TERRITORY

Motor Traffic (Amendment) Bill (No.2) 1997

EXPLANATORY MEMORANDUM

**Circulated by the authority of
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ACT GOVERNMENT

Motor Traffic (Amendment) Bill (No.2) 1997

OUTLINE

The objective of this Bill is to amend the *Motor Traffic Act 1936* to implement a range of measures to reform the law concerning the cancellation of licences, the disqualification of a driver and the grant of special licences. The reforms are intended to be consistent with changes made to the *Motor Traffic (Alcohol and Drugs) Act 1977*.

Revenue Cost Implications

The measures in this Bill and related amendments to the *Motor Traffic (Alcohol and Drugs) Act 1977* are expected to result in a decrease in fines collected in the order of \$100,000 pa.

DETAILS OF THE BILL

PART I—PRELIMINARY

Formal provisions Section 1, 2 and 3 provide for formal provisions for the short title, commencement and the definition of the principal act, the *Motor Traffic Act 1936*

PART II—AMENDMENTS OF PRINCIPAL ACT

Interpretation This is a formal provision. In particular, it corrects the reference to offence of culpable driving and ensures that a "probationary licence" does not include a reference to a special licence.

Grant of full or provisional licence to former probationary licensee

This provision permits the Registrar to grant a licence to a person where the person has held a probationary licence for at least 12 months after cancellation of their licence or disqualification from driving. The grant is subject to the ordinary provisions dealing with the Registrar's discretion to issue a licence and require a medical examination.

Conditions on licences

Under the principal act, the Registrar may impose conditions on a licence. The Registrar's discretion has been clarified so as to not permit the Registrar to impose a condition inconsistent with one imposed or resulting from a court order.

Refusal of licences to certain persons

Under the principal act, the Registrar may exercise a discretion to refuse to issue a licence where a person has been convicted of a certain offence. The Registrar's discretion has been removed in relation to the grant of a special licence.

Substitution: special probationary driving licences

This amendment substitutes new provisions which provide for an application for a special licence, a court order for a special licence and the grant of a special licence. It is an offence to contravene conditions imposed on a special licence.

In particular, it provides that a court may only make an order for a special licence if it is satisfied that exceptional circumstances warrant the making of the order. Such circumstances might exist where a person requires a licence in order to discharge their employment and it would be unreasonable to require

the person to use public transport. Such circumstances might exist where a person requires a licence in order to care for a family member and it would be unreasonable to require the person to use public transport.

Residents with interstate licenses

The Registrar may declare certain people who hold a corresponding driving licence to be exempt from holding an ACT driving licence. Such a declaration has no effect in relation to a person who is disqualified from holding a driving licence

Driving licence to be produced on demand

It is an offence to fail to produce a driving licence on demand. A requirement that, in such a case, the driver had to produce the licence at a later stage has been deleted from the legislation.

Suspension or cancellation of full licence

The amendment requires the Registrar to give written notice of a suspension of a licensee.

Probationary licences

The amendment permits the Registrar to exercise a discretion to grant a probationary licence to a person after they cease to be disqualified.

Cancellation etc. - special licenses

The amendment details the effect of the cancellation of a special licence under the principal act. A suspended licence is cancelled and the person is disqualified from holding another special licence for the period of the original disqualification.

Effect of cancellation of probationary licence The amendment prevents a person who has had a probationary licence cancelled from holding a special licence

Insertion: Right to drive after conviction Where a court convicts a person of certain offences (culpable driving, dangerous driving and negligent driving), the person's licence is cancelled and the person is disqualified from driving for various periods. A person may, while disqualified, be granted a special licence. If a special licence is cancelled, a further special licence may not be granted. A court may order a further extraordinary disqualification.

It is a criminal offence for a person to drive while suspended or disqualified (not holding a special licence)

Repeal Existing provisions in Part XIII of the Principal Act dealing with cancellation and suspension of licences are repealed.

Schedule 7 Refusing to grant a probationary licence (section 180V(1A) is subject to provisions dealing with notice (section 217C) and is reviewable by the AAT (section 217D)

PART III—TRANSITIONAL

This part makes transitional provision in relation to existing penalties.

PART IV—AMENDMENT OF CRIMES ACT

The power to suspend a licence is removed from section 432 of the *Crimes Act 1900*.