

1997
THE LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN
CAPITAL TERRITORY

Motor Traffic (Amendment) Bill (No.#) ³ 1997

EXPLANATORY MEMORANDUM

Circulated by the authority of
Trevor Kaine MLA
Minister for Urban Services



ACT GOVERNMENT

Motor Traffic (Amendment) Bill (No.#) 1997**OUTLINE**

The objective of this Bill is to amend the *Motor Traffic Act 1936* to implement arrangements for the introduction of private sector competition into vehicle inspection

Revenue Cost Implications

Currently, the provision of vehicle inspection services including those parts of the vehicle safety task that are Community Service Obligations of the Government costs approximately \$1.5M

Outsourcing of vehicle inspection services is expected to result in some savings over time due to a reduction in staff costs. The end result will depend on the impact of introducing competition into vehicle inspection services including individual client decisions. One scenario based on costings by consultants Price-Waterhouse is shown below.

	1997/98	1998/99	1999/2000
	\$'000	\$'000	\$'000
Revenue	1125.0	590.0	343.8
Expenditure	<u>814.3</u>	<u>371.2</u>	<u>318.4</u>
Nett (Rev-Exp)	310.7	218.8	25.4

DETAILS OF THE BILL

Formal provisions Sections 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*

Interpretation This is a formal provision. In particular, it inserts a definition for the term 'Manual' which is a new term used in the principal act

Vehicle Inspection Manual

This provision requires the Registrar of Motor Vehicles to prepare and maintain a Manual which specifies the technical requirements with which a motor vehicle or trailer and its parts and equipment must comply

Due to the technical nature of the Manual, it has not been made a disallowable instrument. Making the Vehicle Inspection Manual an instrument rather than a disallowable instrument ensures that the ACT remains consistent with other States and Territories with regard to vehicle standards issues

Provisions are also included to allow the Registrar of Motor Vehicles to make amendments to the Manual. The Minister and the proprietors of all authorised premises must be advised of any changes within 7 days of the change

The Registrar is required to keep a copy of the Manual at each office and to provide access to members of the Public at their request. The office copy of the Manual will be accepted as evidence in any proceedings.

Registration fees

This provision currently requires payment of the determined fee prior to the registration or renewal of registration of any motor vehicle. Provision (a) is amended to include trailers because section 8 which previously covered trailers, is repealed. Provision (c) is amended to delete the reference to section 17 which is also being repealed

Registration of motor vehicles and trailers

This provision is amended to introduce new requirements for inspecting vehicles. Vehicles over 4.5 tonnes (trucks, buses and trailers), public vehicles (buses, taxis and hire cars) and vehicles outside the

scope of the Vehicle Inspection Manual are required to attend the Government inspection station (Dickson) for inspection. All other inspections may be undertaken at either the Government inspection station or an authorised premises.

There is also a provision included which allows the Minister to determine a class of vehicles, in writing, which must be inspected by the Government inspection station.

Design rules

Subsections (4), (5) and (5A) are repealed because they conflict with the Vehicle Inspection Manual. The reference to section 17 in subsection (8)(a) is amended to reflect the new vehicle inspection requirements in section 14A(6).

Repeal

The existing section 8 dealing with the registration and renewal of registration of trailers is repealed. The requirement to pay the determined fee prior to registration or renewal of registration is now covered under section 14 of the principal act. The inspection requirements are now dealt with under the amended section 14.

The existing section 17 is repealed because section 14 now defines inspection requirements.

Insertion: Part IIAA - Inspection of motor vehicles and trailers for registration

This part sets out the requirements for approving authorised examiners and authorised premises, and the general duties of examiners and proprietors of authorised premises.

Interpretation

This is a formal provision. In particular, it inserts definitions for the terms 'authorised examiner', 'authorised inspector', 'authorised premises', 'owner', 'proprietor', and 'Register' for the purposes of the new part.

Issue of identity cards to inspectors

This provision requires the Minister to issue identity cards, containing the inspectors name and photograph, to all authorised inspectors. The inspector is required to return the identity card on ceasing to be an inspector or a penalty applies.

Register of authorised examiners

This provision requires the Registrar to maintain a register of authorised examiners and proprietors of authorised premises. It also defines the information the Registrar of Motor Vehicles must keep in the register.

Division 2 - Appointment of authorised examiners

This Division provides for the Registrar to appoint a person as an authorised examiner for a period of 12 months. It defines the application requirements and provides for a fee to accompany the application.

A provision is included to require the Registrar to issue to the authorised examiner a certificate specifying the name of the person and the class or classes of vehicles the person is entitled to inspect.

There is also provision for the Registrar to revoke an appointment in certain circumstances and sets time limits during which an application for appointment cannot be made on a sliding scale. For a first offence a person will not be able to reapply for 6 months, for a second offence 12 months and for a third or subsequent offence the period set is 2 years.

Division 3 - Approval of authorised premises

This Division provides the Registrar with the ability to approve a premises as an authorised premises. It defines application requirements and provides for a fee to accompany the application.

A provision in this Division allows the Minister to make a regulation defining the equipment requirements of a premises prior to authorisation.

The Registrar is required to issue a certificate to the proprietor of the authorised premises specifying the name of the proprietor, the address of the premises and the class or classes of vehicles the person is entitled to inspect.

An authorised inspector may inspect the authorised premises at any reasonable time. The inspector must produce his/her identity card when requested.

There is also provision in this Division for the Registrar to revoke an appointment in certain circumstances and

sets time limits during which an application for appointment cannot be made on a sliding scale. For a first offence a person will not be able to reapply for 6 months, for a second offence 12 months and for a third or subsequent offence the period set is 2 years

Division 4 - Inspections and tests of motor vehicles and trailers.

This Division sets out the duties of the proprietor of an authorised premises and authorised examiners, in relation to the inspection of motor vehicles and trailers

The proprietor of an authorised premises, or an authorised examiner, may not refuse to inspect a vehicle on request without a reasonable excuse, if they are authorised to inspect that class of vehicles

The authorised examiner must complete and provide to the client a certificate of inspection in relation to the vehicle inspected. A copy of the certificate must be retained at the authorised premises and a copy must be sent to the Registrar of Motor Vehicles

Penalty provisions are included for:

- . the proprietor of an authorised premises allowing a person to inspect vehicles if they are not authorised,
- . for the proprietor holding themselves out to be an authorised inspection station when it is not, for a person holding themselves out to be an authorised examiner when they are not, and
- . for a person inspecting vehicles for the purposes of the act if not authorised

A provision is included in this Division to provide for the proprietor of an authorised premises to pay a fee to the Territory per motor vehicle inspected. A further provision prevents the proprietor from charging a fee for an inspection of a vehicle in excess of the fee fixed by the Minister and notified in the Gazette

Division 5 - General duties of authorised examiners and proprietors of authorised premises

This section defines the general duties of authorised examiners and proprietors of authorised premises.

The proprietor of an authorised premises is required to

maintain up-to-date copies of the Vehicle Inspection Manual, the Australian Design Rules and any instrument or document which amends these

documents,
 display the certificate of approval provided by the Registrar,
 advise the Registrar of changes to the proprietor's name, and
 advise the Registrar when a proprietor ceases to be the proprietor of the premises

All authorised examiners and proprietors of authorised premises must renew their authorisation annually

Division 6 - Review of Decisions

This part provides for the Registrar to review a decision made by an authorised examiner certifying a motor vehicle or trailer as not complying with the Vehicle Inspection Manual.

Division 7 - Miscellaneous

This part provides for various miscellaneous amendments to the principle act

An inspector authorised by the Registrar may inspect and make copies of any documents held by the proprietor of an authorised premises in relation to the inspection of motor vehicles or trailers at any reasonable time

A copy of a certificate issued to an authorised examiner or proprietor of authorised premises may be issued by the Registrar

This part also allows the Minister to fix the maximum fees which may be charged by the proprietor of an authorised premises for carrying out an inspection or tests of motor vehicles or trailers for the purposes of the Act. The fees must be published by notice in the Gazette.

Interpretation

This is a formal provision which defines an authorised examiner for the purposes of Part VIA of the principle act

Defect notices

Amendments have been made to these sections of the principle act to allow an authorised examiner to inspect a motor vehicle or trailer which has been issued with a

defect notice The authorised examiner may issue a further defect if the case warrants it

General offences

As the penalty for committing an offence against sections 26AM and 26AN is revocation of authorisation, these offences are excluded from the general penalty section of the principle act

Schedule 7

Items 9 and 10 are removed from Schedule 7 Part II because the relevant sections of the principle act have been repealed

The following sections are subject to provisions dealing with notice (section 217C) and are reviewable by the AAT:

- subsection 26AD(1) - refusing to appoint a person as an authorised examiner,

- section 26AE - refusing to amend the class or classes of motor vehicles or trailers in respect of which an appointment under section 26AD is made,

- section 26AF - revoking the appointment of a person as an authorised examiner,

- section 26AG - refusing an application for approval in respect of a premises,

- section 26AG - cancelling an approval in respect of premises,

- subsection 26AG(5) - refusing to specify a class or classes of motor vehicles or trailers, and

- section 26AH - refusing to amend a class or classes of motor vehicles or trailers in respect of which an approval under section 26AG is made