

THE LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY

MOTOR TRAFFIC (AMENDMENT) BILL (NO 2) 1995

EXPLANATORY MEMORANDUM

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Tony De Domenico MLA
Minister for Urban Services

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Outline

This is an amending Bill. It amends the Motor Traffic Act 1936, referred to in the Bill as the Principal Act.

The Bill reinstates a provision in the Principal Act, allowing non-public servants to be appointed as motor vehicle inspectors, medical testing officers, and motor traffic officers. This provision was inadvertently removed from the Principal Act when the Statutory Offices (Miscellaneous Provisions) Act 1994 (SOMP Act) was enacted in December 1994. The SOMP Act amended most ACT Acts to simplify the practice of having the Minister and the Chief Executive both creating, maintaining and filling public servant positions which had statutory officer functions.

The ability to appoint non-public servants under the Principal Act is essential for the operation of the Authorised Inspector Scheme. This scheme allows appointed private sector inspectors to inspect and certify vehicles as road worthy on behalf of the Registrar of Motor Vehicles. It is used to enable private garages to "clear" less serious defects and to certify motor vehicle gas conversions for registration purposes.

The inadvertent amendment to the Principal Act also impacts on the appointment of medical testing officers from the Australian Government Health Service (formerly the Commonwealth Medical Office) who are required to advise the Registrar of Motor Vehicles on the fitness of applicants for drivers licences. This amending Bill will reinstate the ability to authorise non (ACT Government) public servants as medical testing officers.

Revenue / Cost Implications

This Bill has no revenue or cost implications.

Formal Clauses

Clauses 1, 2 and 3 are formal requirements. They refer to the short title of the Bill, the Commencement and the definition of the Principal Act.

Saving of existing appointments of non-public servants

Clause 4 ensures that appointments made under the Principal Act prior to 15 December 1994 (when the SOMP Act commenced) are valid and deemed to have been made by the Chief Executive as if the Chief Executive had the power to make those appointments from that date onwards

Inspectors

Clause 5 amends Section 6B of the Principal Act to allow for non-public servants to be appointed by the Chief Executive as inspectors. This will allow private sector mechanics to be authorised as inspectors under the Authorised Inspector Scheme. The provision already existed for public servants to be automatically deemed to have the power to be an inspector if their duty statement specifies that they are an inspector under the Act.

Medical Testing Officers

Clause 6 amends Section 6C of the Principal Act to allow for non-public servants to be appointed by the Chief Executive as medical testing officers. This clause specifies that only persons who are entitled to practise as a medical practitioner under the Medical Practitioners Act 1930, or under a corresponding law of a State or another Territory, may be appointed as medical testing officers. This provides a safeguard, ensuring that only qualified medical practitioners can be authorised by the Chief Executive. Medical testing officers advise the Registrar of Motor Vehicles of the fitness of driver licence applicants. This clause also provides for the automatic appointment of public servants if their duty statement specifies that they are a medical testing officers under the Principal Act.

Motor Traffic Officers

Clause 7(a) amends Section 6D of the Principal Act to correct a minor drafting anomaly which occurred in the SOMP Act which was enacted in December 1994. By substituting “shall” for “may” this provision places a mandatory limitation on the powers of a motor traffic officer. The existing clause may have been open to some misinterpretation of greater flexibility in the duties of a motor traffic officer than was intended.

Clause 7 (b) amends the Principal Act to allow for non-public servants to be appointed by the Chief Executive to be motor traffic officers. Motor traffic officers can be authorised to perform functions under the Principal Act that the Registrar of Motor Vehicles deems appropriate. This provision is intended to apply to Parking Inspectors and motor dealer representatives under the Dealer Registration Scheme, a scheme that allows motor dealers to perform a limited number of registration functions on behalf of the Registrar of Motor Vehicles.