

1993

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

MOTOR TRAFFIC (AMENDMENT) BILL (NO.3) 1993

EXPLANATORY MEMORANDUM

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MOTOR TRAFFIC (AMENDMENT) BILL (NO.3) 1993

Explanatory Memorandum

The Motor Traffic (Amendment) Bill (No.3) 1993 ("the Bill") amends the *Motor Traffic Act 1936* ("the Act") to give effect to a range of driver licensing initiatives agreed upon by the Australian Transport Advisory Council (ATAC).

The Motor Traffic Act 1936

The Act regulates various motor traffic and motor vehicle matters including, in particular, the licensing of persons to drive motor vehicles and the imposition of penalties where a person commits a traffic offence.

The Motor Traffic (Amendment) Bill (No.3) 1993

The Bill amends the provisions of the Act dealing with the granting of licences to drive motor vehicles by replacing existing provisions with new provisions which establish a graduated licence system comprising learner licences, provisional licences and full licences. The graduated licence scheme provides for a decreasing level of restrictions upon drivers as they increase their driving experience.

Whereas the Act currently enables the holder of a learner's permit to drive a motor vehicle or a motor cycle to apply for a full licence at any time after obtaining the permit, provided that the person satisfies minimum age requirements, the new licensing system will require a learner to hold a learner's licence for a minimum period before the person may apply for a provisional licence.

After holding a provisional licence for three years a driver will graduate to a full licence.

The restrictions applying to a driver in relation to matters such as his or her permissible blood alcohol concentration, the number of passengers who may travel in the vehicle with the driver and whether the driver may tow a trailer will depend upon the type of licence held, the class of vehicle involved and the driving experience of the driver.

The Bill also gives effect to the ATAC agreement to limit each driver in Australia to one current driver's licence by requiring that where a person who holds or applies for an ACT licence also holds a corresponding inter-State licence, that person must surrender the corresponding licence.

The one person - one licence policy is intended to reduce the incidence of multiple licence holders using licences to spread demerit points incurred across those licences, so avoiding the suspension or cancellation of a licence or, where one licence is eventually suspended or cancelled, using a remaining licence from another State to continue to drive.

The inclusion of these provisions is essential to ensure that the provisions of new Part XIB in the Act, which establishes a system for demerit points to be recorded on licences, are effective and consistent with similar provisions in the legislation of the States and the Northern Territory.

The provisions of new Part XIB require that where the holder of a licence commits a traffic offence demerit points are incurred and recorded on the licence of that person. If a sufficient number of demerit points are incurred within a specified period the licensee may have his or her licence suspended or cancelled. The number of demerit points and the period within they must be incurred in order to result in the imposition of such a penalty depends upon the type of licence held by the licensee. For example, only when the holder of a full licence incurs 12 or more demerit points within a 3 year period will the person's licence be liable to suspension or cancellation, whereas a provisional licence must be suspended where 8 or more demerit points are incurred in respect of the licence within a 3 year period.

The number of demerit points which will be incurred in respect of a particular offence will be prescribed in the *Motor Traffic Regulations*.

New Part XIB also includes provisions which enable a person whose full licence has been cancelled as a result of having incurred demerit points to be granted a probationary licence.

These amendments give effect to elements of the package of road safety initiatives, agreed upon by ATAC, to ensure uniformity in licensing laws.

Financial implications

There are no direct financial implications arising from the Bill.

Details of the Bill are included in the Attachment.

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Clauses 1 and 2 - Formal provisions

Clauses 1 and 2 are formal provisions dealing with the short title and commencement of the Bill, respectively.

Clauses 3 and 4 - Interpretation provisions

Clause 3 is an interpretation provision which establishes that references in the Bill to the term "Principal Act" are references to the *Motor Traffic Act 1936*.

Clause 4 is an interpretation provision which amends section 4 of the Act by varying the definitions of a number of terms defined in that section and inserting definitions for a number of new terms used in the Bill.

Paragraphs 4(a) and (b) amend the definitions of two terms in section 4 consequentially upon amendments effected by *paragraphs 4(d) and (e)* to the definition of other terms to reflect current terminology.

Paragraph 4(c) omits the definition of "learner" and inserts a new definition which is consequential upon the provisions effected by *clause 6*.

Paragraph 4(d) omits the definitions of "equipment motor lorry" and "motor lorry". These terms are replaced by new terms which reflect current terminology and definitions of these terms are inserted by *paragraph 4(e)*.

In addition, *paragraph 4(e)* inserts definitions for new terms used in the Bill, consequential upon the main amendments effected by the Bill.

Clause 5 - Design rules

Clause 5 is a consequential amendment to section 7A of the Act, dealing with design rules for motor vehicles, which makes the terms used in that section consistent with the new terms and definitions used in the Act.

Clause 6 - Repeal and substitution

Clause 6 repeals sections 9 and 10 of the Act providing for, respectively, the licensing of learner drivers and the licensing of drivers, generally, and substitutes new sections 9, 9A, 9B, 10, 10A and 10B, relating to the classes of licences which may be granted.

Classes of licences

New section 9 enables the Minister to, by instrument, declare that a specified class of licence entitles a licensee to drive a specified class of motor vehicle.

New subsection 9(2) provides that such an instrument is disallowable. Consequently, it will be of no effect if it fails to satisfy the notification and tabling requirements of section 10 of the *Subordinate Laws Act 1989* and it will be subject to scrutiny and disallowance by the Legislative Assembly.

Learner licences and learner licence receipts

New section 9A provides for the licensing of learners. A person will only ever need to acquire learner experience in relation to light vehicles, on the one hand, and motor cycles, on the other hand.

New subsection 9A(1) permits the Registrar to grant a learner licence to a person who does not hold another licence and to grant a learner licence receipt to a person who holds a full, provisional or probationary licence, in relation to a class of vehicles specified on the licence or receipt and to renew the licence or receipt.

The Registrar's capacity to grant a learner's licence or receipt is subject to the other provisions of the Act and the provisions of the *Motor Traffic (Alcohol and Drugs) Act 1977*.

New subsection 9A(2) provides that before granting a learner licence or receipt the Registrar must require the applicant to pass a test approved by the Registrar.

New subsection 9A(3) prohibits the Registrar from granting a learner licence or receipt to an applicant unless specified requirements as to age and driving experience are satisfied.

Where the applicant seeks a licence or receipt to drive a motor cycle he or she must be at least 16 years and 9 months of age and have, within the 3 months prior to applying for the licence or receipt, successfully completed a motor cycle rider training course approved by the Registrar by notice in the *Gazette*.

Where the applicant seeks a licence or receipt to drive a light vehicle other than a taxi or private hire car he or she must be at least 16 years of age.

However, new subsection 9A(4) permits the Registrar to grant a learner licence, in respect of a class of vehicle specified in the licence, to a person to whom the Registrar would be prevented from granting such a licence by the operation of new subsection 9A(3), where the Registrar is satisfied that special circumstances exist to justify the granting of the licence.

New subsection 9A(5) enables a licence granted under new subsection 9A(4) to be granted subject to such conditions, specified in the licence, as are necessary to ensure that the licensee does not drive a motor vehicle otherwise than for purposes in connection with the special circumstances justifying the granting of the licence.

New subsection 9A(6) requires a person to whom a licence is granted under new subsection 9A(4) to comply with any conditions imposed upon the licence pursuant to new subsection 9A(5).

New subsection 9A(7) provides that a learner licence or receipt is valid for 15 months commencing upon the date of grant.

New subsection 9A(8) prohibits a learner driver from driving a light vehicle on a public street -

- unless seated next to the learner is the holder of a full licence for the class of vehicle being driven by the learner or a person who is submitting the person to an authorised driving test;
- unless a learner's sign in accordance with the description set out in new paragraph 9A(8)(b) is displayed in the vehicle in accordance with the requirements of that paragraph; or

- where a trailer is attached to the vehicle - the manufacturer's gross vehicle mass of the trailer does not exceed 750 kilograms.

New subsection 9A(9) similarly prohibits a learner from driving a motor cycle on a public street -

- unless the motor cycle is carrying only the learner or, if another person is carried on the motor cycle, that person holds a full licence to drive a motor cycle and is safely seated in a sidecar attached to the motor cycle;
- unless a learner's sign in accordance with the description set out in **new paragraph 9A(9)(b)** is displayed on the motor cycle in accordance with the requirements of that paragraph; or
- where a trailer is attached to the motor cycle.

New subsection 9A(10) prohibits the owner or a person in charge of a motor vehicle from causing, permitting or failing to take reasonable precautions to prevent a contravention of **new subsections 9A(8) or (9)** in connection with the vehicle.

Provisional licences and endorsements

New section 9B provides for the granting of provisional licences and the making of provisional endorsements. In general, provisional licensing entitlements are conferred on persons who have acquired learner driver experience under **new section 9A**, but **new section 9B** also recognises that persons can obtain provisional driving entitlements for one class of vehicle by virtue of the experience gained while licensed to drive a different class of vehicle.

New subsection 9B(1) permits the Registrar to -

- grant or renew a provisional licence to drive a specified class of vehicles to a person who does not hold a provisional or full licence; or
- make or renew a provisional endorsement on a provisional or full licence entitling the licensee to drive a specified class of vehicles that he or she is not already entitled to drive.

The Registrar's discretion to grant a provisional licence or make a provisional endorsement is subject to the other provisions of the Act and the provisions of the *Motor Traffic (Alcohol and Drugs) Act 1977*.

New subsection 9B(2) prohibits the Registrar from granting a provisional licence or making a provisional endorsement unless the applicant -

- in the case of a licence or endorsement to drive a motor cycle, has held a learner licence, a corresponding licence or a learner receipt to drive a motor cycle for a period of, or periods totalling, not less than 3 months;
- in the case of a licence or endorsement to drive a light vehicle, has held a learner licence, a corresponding licence or a learner receipt to drive a light vehicle for a period of, or periods totalling, not less than 6 months;
- in the case of a licence to drive a rigid truck, a rigid motor omnibus, public motor vehicle or private hire car, has held a licence, a provisional endorsement or a corresponding licence to drive a light vehicle for a period of, or periods totalling, not less than 12 months;
- in the case of a licence to drive an articulated vehicle, heavy trailer combination or an articulated motor omnibus, has held a licence or a corresponding licence to drive a rigid truck or rigid motor omnibus (other than a small motor omnibus) for a period of, or periods totalling, not less than 12 months;
- in the case of a licence to drive a road train or B-double, has held a licence or a corresponding licence to drive a heavy articulated vehicle or a heavy trailer combination the manufacturer's gross combination mass of which exceeds 24 tonnes or that has more than 3 axles, for a period of, or periods totalling, not less than 12 months.

New subsection 9B(3) provides that a reference to the term "corresponding licence" is to be taken to be a reference to a corresponding licence that, in the opinion of the Registrar, is equivalent to the licence referred to in the provision. "Corresponding licence" is defined in section 4 as amended by *paragraph 4(e)*.

New subsection 9B(4) provides that in calculating the time for which a person has held a licence any period during which the licence has been suspended shall be disregarded.

New subsection 9B(5) prohibits the Registrar from granting a provisional licence or making a provisional endorsement unless the applicant satisfies the age requirements set out in respect of various classes of vehicle in **new paragraphs 9B(5)(a) to (d)**.

New subsection 9B(6) prohibits the Registrar from granting a provisional licence unless the applicant -

- surrenders any other licence or corresponding licence that he or she may be holding and provides a declaration that he or she holds no other licence or corresponding licence; or
- provides a declaration that he or she holds no licence or corresponding licence.

New subsection 9B(7) provides that subject to the Act and the provisions of the *Motor Traffic (Alcohol and Drugs) Act 1977* a provisional licence or endorsement is valid for such period as is stated on it and a provisional endorsement ceases to be valid if the licence on which it is made is cancelled, suspended or expires.

New subsection 9B(8) restricts the duration of a provisional licence granted under this section to a maximum of three years. However, the subsection provides that a licence may be extended in accordance with **new subsection 9B(23)**.

New subsection 9B(9) restricts the duration of a provisional endorsement to a maximum of 12 months. However, the subsection provides that an endorsement may be extended in accordance with **new subsection 9B(23)**.

New subsection 9B(10) requires that where a provisional licence is granted to a person for a period less than 3 years the fee payable on the grant of the provisional licence is a pro rata amount reflecting the period for which the licence is granted in relation to the fee for a licence issued for the maximum period of 3 years.

New subsection 9B(11) permits the Registrar to grant a provisional licence to a person to whom the Registrar would be prevented from granting such a licence by

the operation of new subsections 9B(2) and (5), where the Registrar is satisfied that special circumstances exist to justify the granting of the licence.

New subsection 9B(12) enables a licence granted under new subsection 9B(11) to be granted subject to such conditions, specified in the licence, as are necessary to ensure that the licensee does not drive a motor vehicle otherwise than for purposes in connection with the special circumstances justifying the granting of the licence.

New subsection 9B(13) requires a person to whom a licence is granted under new subsection 9B(11) to comply with any conditions upon the licence imposed pursuant to new subsection 9B(12).

New subsection 9B(14) prohibits the Registrar from granting a provisional licence, making a provisional endorsement or renewing a provisional licence unless satisfied that the applicant is capable of driving, with safety to the public, a motor vehicle of the class specified in the licence or endorsement.

New subsection 9B(15) prohibits the Registrar, where he or she requires an applicant to undergo a driving test for the purposes of new subsection 9B(14), from fixing the date and time for the test unless the applicant has paid the determined fee.

New subsection 9B(16) entitles an applicant who pays a fee pursuant to new subsection 9B(15) to a refund of the fee if the driving test is cancelled by the Registrar.

New subsection 9B(17) entitles an applicant who pays a fee pursuant to new subsection 9B(15) to a refund of the fee, less a determined amount, if the applicant notifies the Registrar that he or she does not intend to undergo the test at the time fixed, provided the applicant so notifies the Registrar not less than 48 hours before the time fixed for the test.

New subsection 9B(18) allows the amount of the refund to which an applicant is entitled under new subsection 9B(16) or new subsection 9B(17) to be applied in full or partial satisfaction of the fee for a driving test under new subsection 9B(15). The purpose of this provision is to avoid the need to make a refund to an applicant where the applicant, on cancelling a driving test, fixes an alternative time to take the test and therefore becomes liable to pay the determined fee under new subsection 9B(15).

New subsection 9B(19) requires the Registrar to refuse to grant a provisional licence to drive a public motor vehicle, a private hire car or a licensed goods motor vehicle to a person who fails to produce to the Registrar a certificate of good character signed by at least two persons of good repute.

New subsection 9B(20) also gives the Registrar a discretion to refuse to grant a provisional licence to drive a vehicle of the kind referred to in **new subsection 9B(19)** unless the applicant satisfies the Registrar that he or she is fit and proper to hold the licence and is able to speak, read and write the English language.

New subsection 9B(21) prohibits a person who has held a provisional licence or endorsement to drive a light vehicles for less than 12 months from driving a motor vehicle in that class on a public street -

- . unless a provisional driver's sign as described is displayed on the motor vehicle in accordance with the requirements of that new subsection; and
- . where a trailer is attached to the vehicle - if the manufacturer's gross vehicle mass of the trailer exceeds 750 kilograms.

New subsection 9B(22) prohibits a person who has held a provisional licence or endorsement to drive a motor cycle for less than 12 months from driving on a public street a motor cycle -

- . unless a provisional driver's sign as described is displayed on the motor cycle in accordance with the requirements of that new subsection; and
- . to which a trailer is attached.

New subsection 9B(23) requires that where the Registrar receives an appropriate application he or she must grant to a person whose provisional licence or endorsement has been suspended under this Act or any other Territory law, an extension of the period of validity of the licence or endorsement equivalent to the duration of the period of suspension.

Full licences

New section 10 provides for the granting of full licences. In general, full licences are granted to persons who have acquired provisional driver experience in the class of vehicle to which the full licence relates.

New subsection 10(1) permits the Registrar to grant a full licence to a person to drive a specified class of motor vehicles and to renew such a licence.

The Registrar's discretion to grant a full licence is subject to the other provisions of the Act and the provisions of the *Motor Traffic (Alcohol and Drugs) Act 1977*.

New subsection 10(2) prohibits the Registrar from granting a full licence unless the applicant -

- . has held a full licence or holds or has held a corresponding licence ; or
- . has held a provisional licence, probationary licence or a corresponding licence, for a period of, or periods totalling, not less than 3 years.

New subsection 10(3) prohibits the Registrar from granting a full licence unless the applicant -

- . in the case of a licence to drive a rigid truck, rigid motor omnibus, public motor vehicle or private hire car, has held a licence or provisional endorsement or a corresponding licence to drive a light vehicle for a period of, or periods totalling, not less than 12 months;
- . in the case of a licence to drive an articulated vehicle, a heavy trailer combination or an articulated motor omnibus, has held a licence or a corresponding licence to drive a rigid truck or rigid motor omnibus (other than a small motor omnibus) for a period of, or periods totalling, not less than 12 months;
- . in the case of a licence to drive a road train or B-double, has held a licence or a corresponding licence to drive a heavy articulated vehicle or a heavy trailer combination the manufacturer's gross combination mass of which exceeds 24 tonnes or that has more than 3 axles for a period of, or periods totalling, not less than 12 months.

New subsection 10(4) provides that a reference to the term "corresponding licence" is to be taken to be a reference to a corresponding licence that, in the opinion of the Registrar, is equivalent to the licence referred to in the provision. "Corresponding licence" is defined in section 4 as amended by *paragraph 4(e)*.

New subsection 10(5) provides that in calculating the time for which a person has held a licence any period during which the licence has been suspended shall be excluded.

New subsection 10(6) prohibits the Registrar from granting a full licence unless the applicant satisfies the age requirements set out in respect of various classes of vehicles in new paragraphs 10(6)(a) to (c).

New subsection 10(7) prohibits the Registrar from granting a full licence unless the applicant -

- surrenders any other licence or corresponding licence that he or she may be holding and provides a declaration that he or she holds no other licence or corresponding licence; or
- provides a declaration that he or she holds no licence or corresponding licence.

New subsection 10(8) permits the Registrar to grant a full licence to a person to whom the Registrar would be prevented from granting such a licence by the operation of new subsections 10(3) and (6) where the Registrar is satisfied that special circumstances exist to justify the granting of the licence.

New subsection 10(9) enables a licence granted under new subsection 10(8) to be granted subject to such conditions, specified in the licence, as are necessary to ensure that the licensee does not drive a motor vehicle otherwise than for purposes in connection with the special circumstances justifying the granting of the licence.

New subsection 10(10) requires a person to whom a licence is granted under new subsection 10(8) to comply with any conditions upon the licence imposed pursuant to new subsection 10(9).

New subsection 10(11) prohibits the Registrar from granting or renewing a full licence unless satisfied that the applicant is capable of driving, with safety to the public, a motor vehicle of the class specified in the licence.

New subsection 10(12) prohibits the Registrar, where he or she requires an applicant to undergo a driving test for the purposes of **new subsection 10(11)**, from fixing the date and time for the test unless the applicant has paid the determined fee.

New subsection 10(13) entitles an applicant who pays a fee pursuant to **new subsection 10(12)** to a refund of the fee if the driving test is cancelled by the Registrar.

New subsection 10(14) entitles an applicant who pays a fee pursuant to **new subsection 10(12)** to a refund of the fee, less a determined amount, if the applicant notifies the Registrar that he or she does not intend to undergo the test at the time fixed, provided the applicant so notifies the Registrar not less than 48 hours before the time fixed for the test.

New subsection 10(15) allows the amount of the refund to which an applicant is entitled under **new subsection 10(13)** or **new subsection 10(13)** to be applied in full or partial satisfaction of the fee for a test under **new subsection 10(12)**. The purpose of this provision is to avoid the need to make a refund to an applicant where the applicant, on cancelling a driving test, fixes an alternative time to take the test and therefore becomes liable to pay the determined fee under **new subsection 10(12)**.

New subsection 10(16) requires the Registrar to refuse to grant a full licence to drive a public motor vehicle, a private hire car or a licensed goods motor vehicle to a person who fails to produce to the Registrar a certificate of good character signed by at least two persons of good repute.

New subsection 10(17) gives the Registrar a discretion to refuse to grant a full licence to drive a public motor vehicle, private hire car or licensed goods motor vehicle unless the applicant satisfies the Registrar that he or she is fit and proper to hold the licence and is able to speak, read and write the English language.

Grant of licence to a person who had held a probationary licences

New section 10A requires that once a person has held a probationary licence for 12 months the Registrar must grant to that person a licence of the type which the person held prior to holding the probationary licence.

New subsection 10A(1) requires that where an applicant who has held a probationary licence for a period of, or periods totalling, at least 12 months the Registrar must grant to the applicant -

- a full licence if the applicant held a licence of that type prior to holding the probationary licence; or
- a provisional licence if the applicant held a licence of that type prior to holding the probationary licence.

New subsection 10A(2) requires that a licence granted under new section 10A must specify the class of vehicles that the probationary licence had specified and be subject to the conditions to which the probationary licence had been subject.

New subsection 10A(3) requires the Registrar to transfer any provisional endorsement on the licence held prior to the probationary licence to a licence granted under new section 10A.

New subsection 10A(4) provides that in calculating the time for which a person has held a probationary licence any period during which the licence has been suspended shall be excluded.

New subsection 10A(5) provides that new sections 9B and 10, dealing with learner and provisional licensees, do not apply in respect of an applicant for a licence under new section 10A.

New subsection 10A(6) defines the term "prior licence" which is used in new section 10A.

Conditions on licences

New section 10B provides for the imposition of conditions upon licences.

New subsection 10B(1) permits the Registrar, where he or she believes on reasonable grounds that it is in the interests of road safety, to grant a licence subject to a condition or to impose a condition on a licence, to give the applicant or licensee written notice -

- specifying the interests and stating the facts and circumstances that constitute the basis for the Registrar's belief; and
- inviting the applicant or licensee to show cause, within a specified time, why the conditions specified in the notice should not be imposed on the licence.

New subsection 10B(2) permits the Registrar, after the expiry of the period in which the applicant or licensee may show cause, taking into consideration any representation made by the applicant or licensee, to grant a licence subject to a condition or to vary the conditions imposed upon the licence if satisfied on reasonable grounds that it is in the interests of road safety to do so.

New subsection 10B(3) requires that the Registrar, in order to vary a licence, give written notice, together with the notice required under new subsection 10B(1) to the holder of the licence, requiring that the licence be forwarded to the Registrar within 14 days after the date of the notice.

Where a licence has not been forwarded to the Registrar within the period required under new subsection 10B(3), the effect of new subsection 10B(4) is that the licence becomes subject to the condition specified in the notice, at the end of that period.

New subsection 10B(5) permits the Registrar to vary a licence by imposing, altering or omitting a condition or to refuse to vary a licence, where the licensee has applied, and the Registrar is satisfied on reasonable grounds that to do so is desirable in the interests of road safety.

New subsection 10B(6) requires the holder of a licence that is subject to a condition to comply with the condition.

New subsection 10B(7) makes it clear that new section 10B does not limit the Registrar's powers to impose conditions under new sections 9A, 9B and 10 and it does not empower the Registrar to vary a licence by altering or omitting a condition or limitation imposed by, or as a result of, an order of a court.

New subsection 10B(8) is an interpretation provision which indicates some of the restrictions or requirements relating to a licence which are included within the meaning of the term "condition" and defines "licence" to include a learner licence receipt.

Clauses 7 and 8 - References to the terms "taxi" and "motor omnibus"

Clauses 7 and 8 amend sections 11 and 12 of the Act, respectively, by replacing references to "a taxi" and "a motor omnibus" with a reference to "a public motor vehicle" as the term "public motor vehicle" is defined in section 4 of the Act to include a motor omnibus and a taxi.

Clause 9 - Driver wearing corrective lenses

Clause 9 amends section 13 of the Act which requires that where a person undergoing a driving test wears spectacles during the test the person's licence should be endorsed to indicate that the person wears spectacles by replacing references to "spectacles" with references to "corrective lenses" so that the provision also applies to persons who wear contact lenses for corrective purposes.

Clause 10 - Special licences to drive

Clause 10 amends section 13A of the Act which enables a person to apply to the Court, in particular circumstances, for a special licence to drive.

Paragraph 10(a) omits subsection 13A(4) and substitutes a new subsections 13A(3) and (4) to the, respective, effects that -

- before the Registrar is required to comply with an order of the Court to grant a special licence, the relevant fee must be paid pursuant to section 14 of the Act; and
- a special licence granted to a person whose licence has been suspended is subject to any condition to which the suspended licence is subject.

Paragraph 10(b) amends subsection 13A(5) in recognition of the fact that although the Court may not have ordered that conditions be specified in a special licence there may nevertheless be other conditions which apply to the licence and which must be observed.

Clause 11 - Fees

Clause 11 amends section 14 of the Act which requires the payment of the determined fee before a vehicle is registered or registration is renewed, before a

licence to drive is granted or renewed or before a vehicle may be inspected prior to registration.

Paragraph 14(b) is replaced by a new paragraphs 14(b) and (ba) reflecting the new licensing regime by requiring the payment of fees for the granting of learner licences or learner licence receipts and the extension of provisional or probationary licences.

Clause 12 - Cancellation of licence of holder of corresponding licence

Clause 12 inserts new section 14A in the Act to permit the Registrar to cancel a corresponding licence where such a licence is held by a licensee. New section 14A is intended to promote the objective of ensuring that a licensee possesses only one licence. The practice of drivers escaping the consequences of poor driving records by using an inter-State licence to continue to drive after an ACT licence is cancelled or suspended is one of the key targets of the Bill.

New subsection 14A(1) requires the Registrar, where he or she is notified by an inter-state Registrar that the holder of a driver's licence has obtained a corresponding licence and of the date of obtaining the corresponding licence, to cancel the driver's licence.

New subsection 14A(2) provides that the cancellation takes effect from the day when the corresponding licence was obtained.

New subsection 14A(3) enables the Registrar, where he or she believes on reasonable grounds that the holder of a driver's licence also holds a corresponding licence, to give the holder of the driver's licence written notice advising the licensee that his or her licence may be cancelled unless, within 14 days after the date of the notice, he or she shows cause why the licence should not be cancelled or surrenders the corresponding licence.

New subsection 14A(4) requires the Registrar to cancel the licence of a licensee who fails to comply with new subsection 14A(3) and **new subsection 14A(5)** requires the Registrar to give a receipt to a person who surrenders a corresponding licence.

New subsection 14A(6) establishes the type of information upon which the Registrar is entitled to rely for the purposes of new section 14A.

Clause 13 - Change of name or address

Clause 13 repeals section 97 of the Act requiring a holder of a licence or registration to advise the Registrar of a change of name or address and substitutes a new section 97.

New section 97 differs from the repealed provision, most significantly, by requiring that a person who notifies of a change of name must attend the Registrar's office personally, furnish such evidence of the change as is required and surrender the certificate of registration or the licence. In the case of a change of address it is sufficient merely to notify the Registrar accordingly. A penalty of \$500 is provided for a failure to comply with this subsection.

New subsection 97(2) requires that where the Registrar is advised of a change of name or address he or she must vary the certificate or licence, appropriately.

Clause 14 - Lost certificates

Clause 14 amends section 98 of the Act to the effect that where a licence or certificate of registration has been lost, instead of a licensee or holder of a certificate of registration being required to forward to the Registrar a statutory declaration notifying of the loss, notification to the Registrar, in writing, will suffice.

Clause 15 - Refusal, cancellation or suspension of licences or registrations

Clause 15 amends section 104 of the Act which enables the Registrar to refuse, cancel or suspend licences or registrations in particular circumstances.

Paragraph 15(a) inserts new paragraph 104(2)(ea) to the effect that the Registrar may cancel a driving licence that was granted or renewed in error or an endorsement on a driving licence that was made in error.

Paragraph 15(b) amends paragraph 104(2)(f) to the effect that the Registrar may cancel the registration or licence of a motor vehicle or trailer where the vehicle or trailer has been registered in error or where the circumstances of subparagraphs 104(2)(f)(i) to (iii) apply.

Clause 16 - Duration of licences and registrations

Clause 16 is a consequential amendment to section 105 of the Act, dealing with the duration of a licence and registration, to reflect the new types of licences which may be granted under the Act.

Clause 17 - Repeal of section 106

Clause 17 repeals section 106 of the Act which provides that where motor vehicles registered in the ACT are able to be taken temporarily into other jurisdictions the Registrar may grant to a licensed driver of such a vehicle a visiting motorist's pass and a visiting motorist's label. This provision is now obsolete.

Clause 18 - Inter-state licences

Clause 18 inserts new section 107A into the Act to enable the Registrar to exempt a class of persons or a specified person from the requirement to hold a licence under the Act.

New subsection 107A(1) provides that the section applies to a person who resides in the Territory and holds a corresponding licence.

New subsection 107A(2) provides that such an exemption may be declared, by notice, of the Registrar's own motion or on receipt of a written application.

New subsection 107A(3) provides that a notice declaring a class of persons exempt is a disallowable instrument for the purposes of section 10 of the *Subordinate Laws Act 1989*.

Consequently, it will be of no effect if it fails to satisfy the notification and tabling requirements of section 10 of the *Subordinate Laws Act 1989* and it will be subject to scrutiny and disallowance by the Legislative Assembly.

The effect of **new subsection 107A(4)** is that the requirements of the Bill or any Act that a person hold a driving licence do not apply to a person in respect of whom a declaration under **new subsection 107A(2)** is in effect.

Clause 19 - Load limits in public streets

Clause 19 amends section 133A of the Act, dealing with load limits in public streets.

Paragraphs 19(a) and (b) amend section 133A so that the terms used in that section are consistent with the new terms and definitions used in the Act and **paragraph 19(c)** removes words from subsection 133A(6) which do not add to the meaning of the provision.

Clause 20 - Repeal of section 145

Clause 20 repeals section 145 which sets a speed limit of 100 kilometres per hour for certain heavy vehicles. This provision is unnecessary as the maximum speed permissible on public streets in the ACT, for any vehicle, is 100 kilometres per hour.

Clause 21 - Unauthorised use of farm vehicles

Clause 21 amends section 169 of the Act so that the terms used in that section are consistent with the new terms and definitions used in the Act.

Clause 22 - Unauthorised use of "L" and "P" plates

Clause 22 inserts new section 171A in the Act.

New subsection 171A(1) makes it an offence for a person other than a learner to drive, on a public street, a vehicle on which is displayed a sign, resembling a learner's sign, as described in new paragraph 9A(8)(b).

Similarly, **new subsection 171A(2)** makes it an offence for a person other than a provisional driver to drive, on a public street, a vehicle on which is displayed a sign, resembling a provisional driver's sign, as described in new subsection 9B(21).

Clause 23 - Licence and learner licence receipt to be produced on demand

Clause 23 amends section 172 of the Act which makes it an offence for a person to fail to produce his or her licence to drive a motor vehicle on demand, unless he or she has a reasonable excuse and within 3 days after being required to produce the licence, to produce the licence at the office of the Registrar or as directed.

New subsection 172(3), inserted by *clause 23*, makes it clear that a reference to a licence in this section includes a reference to a learner licence receipt and a corresponding licence.

Clause 24 - Driver to be licensed etc.

Clause 24 amends section 176 of the Act which makes it an offence for a person to drive a vehicle without an appropriate licence.

Paragraph 24(a) amends subsection 176(1) to reflect the new provisions enabling the Registrar to issue a learner licence receipt.

Paragraph 24(b) omits subsection 176(4) and (5) permitting a learner driver to drive a particular class of vehicles provided that the driver satisfies the age and other requirements set out in respect of that particular class of vehicle and substitutes new subsections 176(4), (5), (6) and (7).

New subsection 176(4) exempts a learner driver from the operation of section 176 where he or she complies with new section 9A relating to learner licences and receipt.

New subsection 176(5) is intended to make it clear that notwithstanding the general requirements of paragraphs 176(1)(a) and (b) that a person not drive a motor vehicle on a public street unless he or she holds a licence to drive that class of vehicle and that a person not cause or permit another person to drive a vehicle on a public street unless the driver holds a licence to drive that class of vehicle, no offence will be committed in respect of the vehicles referred to in new paragraphs 176(5)(a) to (d) if the driver of the vehicle is learning to drive and complies with the age and other requirements in relation to that class of vehicle as set out in new paragraphs 176(5)(f) to (l).

New subsection 176(6) provides that a requirement of new paragraphs 176(5)(f) to (i) does not apply where, on being satisfied of special circumstances which justify his or her doing so, the Registrar gives to the driver written authority to drive, specifying the requirement or paragraph which does not apply to that driver.

New subsection 176(7) makes it clear that a reference to a "licence" in section 176 includes a reference to a corresponding licence where the holder of the

licence is not a resident of the Territory, has resided in the Territory for less than 3 months or is exempt from holding a licence by virtue of new section 107A.

Clause 25- New Part XIB

Clause 25 inserts new Part XIB, entitled "DEMERIT POINTS AND PROBATIONARY LICENCES", consisting of new sections 180NA, 180NB, 180P, 180Q, 180R, 180S, 180T, 180U, 180V, 180W, 180X, 180Y, 180Z, 180ZA, 180ZB and 180ZC establishing a system for demerit points to be incurred in respect of drivers' licences and endorsements and for the granting of probationary licences.

Interpretation

New section 180NA is an interpretation provision which defines terms used in new Part XIB.

Demerit Points

New section 180NB provides for the holder of a licence to incur demerit points in specified circumstances.

New subsection 180NB(1) provides that where the holder of a licence -

- . is convicted of a prescribed offence;
- . pays a penalty in respect of a prescribed offence; or
- . is convicted of a corresponding offence or pays a penalty in respect of such an offence,

he or she incurs the prescribed number of demerit points.

The term "corresponding offence" is defined in new section 180NA to mean an offence under a law of a State or another Territory that corresponds to an offence prescribed for the purposes of new section 180NB.

New subsection 180NB(2) provides that the holder of a corresponding licence who is convicted of a prescribed offence or pays a penalty in respect of a prescribed offence incurs the prescribed number of demerit points.

Demerit Points Register

New section 180P requires the Registrar to keep a Demerits Points Register ("the register").

New subsection 180P(2) requires that where a person incurs 1 or more demerit points the Registrar must record, in relation to that person's licence -

- . the date of the commission of the offence in respect of which the demerit point is incurred;
- . the date of conviction or payment of the penalty; and
- . the number of demerit points recorded in respect of each offence.

New subsection 180P(3) requires the Registrar to wait until a licensee who has been convicted of an offence has exhausted his or her right of appeal and any appeal has been disposed of before recording the demerit points in respect of the conviction for the offence.

New subsection 180P(4) requires that where a person who incurs a demerit point holds a licence on which there is a provisional endorsement the Registrar must record the particulars relating to the demerit point in relation to the endorsement as well as the licence.

New subsection 180P(5) provides that a recording of a demerit point, unless deleted by the Registrar under new Part XIB, is not affected by the expiry of the period for which the relevant licence or provisional endorsement is in force or by the cancellation of the relevant licence on the application of the licensee.

Inter-state licensees who obtain Territory licences

New section 180Q provides for the exchange of information between the Territory and other jurisdictions concerning corresponding licences.

New subsection 180Q(1) requires that the Registrar, where a licence is granted to a person who holds or has held a corresponding licence -

- . notify the relevant inter-state Registrar of the grant of the licence;
- . seek from the inter-state Registrar particulars of entries in the register maintained by that Registrar, recorded against the corresponding licence, including entries made in relation to offences committed before the commencement of new Part XIB of the Act; and
- . record such particulars in the register.

This transfer of particulars is intended to result in demerit points incurred in other jurisdictions, in respect of a corresponding licence, being entered on the Territory register and therefore being counted for the purpose of determining whether a person has incurred sufficient demerit points to be liable to have his or her licence suspended or cancelled.

Transfer of recordings on grant of new licences

New section 180R is intended to ensure that recordings made in relation to a surrendered or cancelled licence are transferred to a replacement licence which is granted at the time of surrender or cancellation, or subsequently.

New subsection 180R(1) requires the Registrar to record, in relation to the new licence, the number and relevant details of any demerit points recorded in the register in relation to the previous licence.

However, the effect of **new subsection 180R(2)** is that these provisions do not apply where a person surrenders a learner licence and is granted a provisional licence. This provision makes allowance for the fact that learners will make mistakes and enables a person to start his or her provisional driving experience without any demerit points, which may have been incurred whilst he or she was a learner.

Provision of information to inter-state Registrars

New subsection 180S(1) requires the Registrar to notify the relevant inter-state Registrar where an entry recording demerit points, in relation to a corresponding licence granted under the law of another State or Territory, is made in the register.

New subsection 180S(2) requires the Registrar to notify an inter-state Registrar of particulars recorded in the register in relation to a specified licence where the inter-State Register makes a request for that information.

New subsection 180S(3) requires the Registrar to keep a record of all notifications made under the section.

Warning notice

New section 180T requires the Registrar to send a holder of a full licence a written notice indicating the number of relevant demerit points incurred in respect of the licensee's licence when the number of relevant demerit points increases from less than 7 to 7 or more.

This provision is intended to warn the licensee that he or she has incurred more than half the number of relevant demerit points which would warrant the cancellation or suspension of the licence under **new section 180U**.

The term "relevant demerit points" is defined in **new section 180NA** to mean the demerit points incurred by the holder of a licence in relation to offences that have occurred within any 3 year period, being demerit points that have been recorded in the register.

Suspension or cancellation of full licences

New section 180U requires that where 12 or more relevant demerit points are recorded in the register in relation to a full licence the Registrar must send written notice to the licensee -

- setting out the particulars of the relevant demerit points recorded in relation to that licence; and
- advising the licensee that the licence and any learner licence receipt held by the licensee will be suspended for 3 months unless the licensee within 14 days after the date of the notice attends the office of the Registrar in order to have the licence cancelled, surrender the licence and apply for a probationary licence for a period of 12 months; and

setting out the fee payable on the grant of a probationary licence.

New subsection 180U(2) requires the Registrar, where a licensee surrenders a full licence and applies for a probationary licence, to cancel the licence and refund to licensee the proportionate part of the fee paid on the grant of the licence.

New subsection 180U(3) requires the Registrar at the expiry of 14 days after the date of the notice to suspend for 3 months the licence and any learner licence receipt held by a licensee who has not surrendered his or her licence for cancellation and applied for a probationary licence.

New subsection 180U(4) provides that the validity of a notice under **new subsection 180U(1)** is not affected by failure to set out the particulars entered in the register in relation to the licence or the fee payable on grant of a probationary licence.

New subsection 180U(5) provides that where a licence is suspended for 3 months where a licensee fails to elect for cancellation of the licence and the grant of a probationary licence any learner licence receipt held by the licensee is suspended for the same period as the period for which the licence is suspended.

However, where a person elects for the cancellation of a licence and the grant of a probationary licence the validity and effectiveness of any learner licence receipt is not affected by that cancellation.

New subparagraph 180U(6) requires that where the Registrar suspends a person's licence or a person surrenders his or her licence for cancellation and applies for a probationary licence the Registrar must delete from the register the relevant demerit points by virtue of which the notice under **new subsection 180U(1)** was sent.

New subsection 180U(7) explains what is meant by a reference to a "proportionate part of the fee" in **new subsection 180U(2)**.

Probationary licences

New section 180V requires the Registrar to grant a probationary licence to a person -

whose full licence is surrendered and cancelled under **new section 180U**;

- who surrenders a corresponding licence that is equivalent to a probationary licence; or
- who having had his or her licence cancelled by a court, is declared by the Court to be a fit and proper person to hold a driving licence.

New subsection 180V(1) provides that the probationary licence is valid for a maximum of 12 months.

New subsection 180V(2) requires that a probationary licence be granted subject to such conditions as applied to last licence or surrendered corresponding licence held by the applicant.

New subsection 180V(3) requires that on receipt of an appropriate application the Registrar must grant to a person whose probationary licence has been suspended under the Act or any other law of the Territory an extension of the period of validity of that licence for a period of time equal to the period of the suspension.

New subsection 180V(4) requires that where the Registrar grants a probationary licence to a person who surrenders a corresponding licence and the probationary licence is granted for a period of time that is equal to the unexpired period of the surrendered licence the fee payable for the probationary licence is to be a pro rata amount having regard to the fee for a 12 month probationary licence.

New subsection 180V(5) requires that where a person is granted a probationary licence, having been declared by the Court to be fit and proper to hold a driving licence, the Registrar must delete from the register all demerit points recorded in relation to the cancelled licence.

Cancellation of probationary licences

New section 180W requires that where 2 or more demerit points are recorded in the register in relation to a probationary licence the Registrar must cancel the licence.

New subsection 180W(1) requires that where 2 or more demerit points are recorded in respect of a probationary licence the Registrar must send the licensee a written notice -

- setting out the particulars of the demerit points recorded in the register in relation to that licence;
- advising the licensee that 14 days after the date of the notice the probationary licence and any learner licence receipt held by him or her will be cancelled and the licensee will cease to be licensed and be disqualified from holding a licence for 6 months and requesting the licensee to surrender the licence and any learner licence receipt held by him or her to the Registrar as soon as possible after the expiry of the period of 14 days after the date of the notice.

New subsection 180W(2) requires the Registrar, at the expiry of the period of 14 days after the date of the notice, to cancel the licence and any learner licence receipt held by the licensee and to delete from the register the demerit points by virtue of which the notice under new subsection 180W(1) was sent.

New subsection 180W(3) provides that the validity of a notice under new subsection 180W(1) is not affected by failure to set out the particulars entered in the register in the notice.

Suspension of provisional licences

New section 180X requires the suspension of a provisional licence where 8 or more relevant demerit points are recorded in the register in relation to the licence.

New subsection 180X(1) requires that where 8 or more relevant demerit points are recorded in respect of a provisional licence the Registrar must send the licensee a written notice -

- setting out the particulars recorded in the register in relation to that licence;
- advising the licensee that 14 days after the date of the notice the licence and any learner licence receipt held by the licensee will be suspended for 3 months and requesting the licensee to surrender the licence and any learner licence receipt held by him or her to the Registrar as soon as possible after the expiry of the period of 14 days after the date of the notice.

New subsection 180X(2) requires the Registrar, at the expiry of the period of 14 days after the date of the notice, to suspend for 3 months the licence and any learner

licence receipt held by the licensee and to delete from the register the relevant demerit points by virtue of which the notice under **new subsection 180X(1)** was sent.

New subsection 180X(3) provides that the validity of a notice under **new subsection 180X(1)** is not affected by failure to set out the particulars entered in the register in the notice.

Suspension of learner licences

New section 180Y requires the suspension of a learner licence where 12 or more relevant demerit points are recorded in the register in relation to the licence.

New subsection 180Y(1) requires that where 12 or more relevant demerit points are recorded in respect of a learner licence the Registrar must send the licensee a written notice -

- setting out the particulars of the relevant demerit points recorded in the register in relation to that licence;
- advising the licensee that 14 days after the date of the notice the learner licence will be suspended for 3 months and requesting the licensee to surrender the licence to the Registrar as soon as possible after the expiry of the period of 14 days after the date of the notice.

New subsection 180Y(2) requires the Registrar, at the expiry of the period of 14 days after the date of the notice, to suspend the licence for 3 months and to delete from the register the relevant demerit points by virtue of which the notice under **new subsection 180Y(1)** was sent.

New subsection 180Y(3) provides that the validity of a notice under **new subsection 180Y(1)** is not affected by failure to set out the particulars entered in the register in the notice.

Cancellation of special licences

New section 180Z requires the cancellation of a special licence where 2 or more demerit points are recorded in the register in relation to the licence.

New subsection 180Z(1) requires that where 2 or more demerit points are recorded in respect of a special licence the Registrar must send the licensee a written notice -

- . setting out the particulars of the demerit points recorded in the register in relation to that licence;
- . advising the licensee that 14 days after the date of the notice the special licence will be cancelled and requesting the licensee to surrender the licence to the Registrar as soon as possible after the expiry of the period of 14 days after the date of the notice.

New subsection 180Z(2) requires the Registrar, at the expiry of the period of 14 days after the date of the notice, to cancel the licence and delete from the register the demerit points by virtue of which the notice under **new subsection 180Z(1)** was sent.

New subsection 180Z(3) provides that the validity of a notice under **new subsection 180Z(1)** is not affected by failure to set out the particulars entered in the register in the notice.

New subsection 180Z(4) applies the provisions of **new section 180Z** to special licences granted under section 37 of the *Motor Traffic (Alcohol and Drugs) Act 1977*.

Suspension of provisional endorsements

New section 180ZA requires the suspension of a provisional endorsement where 4 or more demerit points are recorded in the register in relation to the endorsement.

New subsection 180ZA(1) requires that where 4 or more demerit points are recorded in the register in respect of a provisional endorsement to a licence the Registrar must send the licensee a written notice -

- . setting out the particulars recorded in the register in relation to that endorsement;
- . advising the licensee that 14 days after the date of the notice the endorsement will be suspended for 3 months and requesting the licensee to surrender the licence to the Registrar for appropriate amendment as soon as possible after the expiry of the period of 14 days after the date of the notice.

New subsection 180ZA(2) provides that the validity of a notice under new subsection 180ZA(1) is not affected by failure to set out the particulars entered in the register in the notice.

New subsection 180ZA(3) requires the Registrar, at the expiry of the period of 14 days after the date of the notice, to suspend for 3 months the validity of the endorsement and if the licence has been surrendered for the purpose of making of appropriate amendments, to make such amendments to the licence and return it to the licensee.

New subsection 180ZA(4) makes it an offence for a licensee to drive a vehicle of the class to which an endorsement relates and to obtain another provisional endorsement while the validity of the endorsement is suspended.

A penalty of \$10,000 imprisonment for 12 months, or both, is provided.

New subsection 180ZA(5) requires the Registrar, upon the expiry of the period of suspension of the validity of a provisional endorsement to, on surrender of the licence for the purpose, reinstate the provisional endorsement.

New subsection 180ZA(6) requires that upon the expiry of the period of suspension of the validity of a provisional endorsement the Registrar must delete from the register the demerit points by virtue of which the endorsement has been suspended.

Demerit suspension of licence already suspended by court

New section 180ZB provides that where the Registrar would be required under the provisions of new Part XIB to send a licensee a notice, due to demerit points having been incurred, if the licence is already suspended by virtue of an order of a court, the Registrar must not send the notice until the expiry of that period of suspension of the licence.

Cancellation of probationary licence under Part XIB

New section 180ZC deals with the effect of cancellation of a probationary licence.

New subsection 180ZC(1) provides that where a probationary licence is cancelled under new Part XIB the person who had been the licensee is disqualified from holding a driving licence, other than a special licence, or a learner licence receipt for a period of 6 months.

New subsection 180ZC(2) provides that where a probationary licence is cancelled under new Part XIB the person who had been the licensee is prohibited for the period of 6 months immediately following the cancellation from obtaining a driving licence, other than a special licence, or a learner licence receipt or driving a motor vehicle, except where he or she is the holder of a special licence.

A penalty of \$10,000 or 12 months imprisonment, or both, is provided for a contravention of this provision.

Clause 26 - Motorcyclists to wear safety helmets

Clause 26 amends section 190A of the Act which requires a motorcyclist to wear a safety helmet by removing from subsection 190A(3) the defence of travelling at less than 40 kilometres per hour and establishing that in the written opinion of a medical practitioner it is undesirable on medical grounds or by reason of the physical characteristics of a person that he or she wear a safety helmet.

Clause 27 - Pillion riding

Clause 27 amends section 191 of the Act regulating pillion riding consistent with the terms used in the new provisions of the Act providing for the grant of various types of licences.

Clause 28 - General offences

Clause 28 amends section 192 of the Act which makes a contravention of, or failure to comply with, specified provisions of the Act an offence by including a failure to advise the Registrar of a change of name or address, in accordance with new section 97, as such an offence.

Clause 29 - Suspension or cancellation of driving licences

Clause 29 amends section 193A of the Act dealing with the effect of the suspension and cancellation of a driving licence.

Paragraph 29(a) amends section 193A by inserting new subsection 193A(1AA) to the effect that the provisions of that section apply, subject to the provisions of new Part XIB.

Paragraph 29(b) inserts new subsection 193A(3), to the effect a person whose provisional or full licence is cancelled is not eligible to apply for another provisional or full licence until the person has held a probationary licence for a period of, or periods totalling, at least 12 months.

Paragraphs 29(c) and (d) amend penalties for contravention of provisions of section 193A by increasing the monetary penalty from \$2,000 to \$10,000.

Paragraph 29(e) amends subsection 193A(8) of the Act to make it clear that where a person's licence is suspended or cancelled the person has no entitlement to a refund of the fee or any part of the fee paid on the grant of the licence.

Clause 30 - Names on trucks and omnibuses

Clause 30 amends section 208 of the Act requiring certain information to be painted on trucks and omnibuses consistent with the new terms used and defined in the Act.

Clause 31 - Remission or refund of fees

Clause 31 amends section 209 of the Act providing for the remission or refund of fees by omitting subsections 209(2), (3) and (4) and substituting new subsections 209 (2), (3), (4), (5), (6) and (7).

New subsection 209(2) enables the Registrar to refund to a person -

- . any excess payment made by the person in respect of a matter under the Act;
- . any fee paid by the person in respect of an application for registration or renewal of registration for a motor vehicle or trailer, or the grant or renewal of a licence or the making of an endorsement on a licence where the relevant application is refused;
- . any fee paid in respect of -

- the erroneous grant or renewal of a licence or erroneous making or renewal of an endorsement where the licence or endorsement, as the case may be, has been cancelled; or
 - the erroneous registration or renewal of registration of a motor vehicle or trailer where the registration has been cancelled;
- who holds a driving licence that is cancelled at his or her request an amount calculated in accordance with the formula in **new subsection 209(3)**; or
- being a person in whose name a motor vehicle or trailer is registered or licensed, an amount calculated in accordance with the formula in **new subsection 209(3)**, where on the application of the person the registration or licensed is cancelled or the motor vehicle or trailer is re-registered on account of an alteration in its construction, equipment or use.

New subsection 209(3) sets out the method of calculating the amount to be refunded where a person's driving licence or the vehicle or trailer registration held by a person is cancelled at the person's request or where a motor vehicle or trailer is re-registered due to a change in its construction, equipment or use.

The effect of **new subsection 209(4)** is that only one determined fee may be deducted where refunds in respect of the registration and licence for the same vehicle or trailer is to be made where the vehicle or trailer is re-registered due to a change in its construction, equipment or use.

New subsection 209(5) prohibits the Registrar from making a refund in respect of a licence unless the licence is surrendered to the Registrar.

The effect of **new subsections 209(6) and (7)** is that the Registrar may not make a refund under section 209 unless the number plates and the registration certificate have been surrendered to the Registrar. However, where a number-plate or certificate of registration, as the case may be, has not been surrendered to the Registrar a refund may be made if the Registrar is satisfied that an applicant cannot return the plate or certificate and the applicant provides a written declaration to the effect that the number-plate or certificate has been lost, stolen or destroyed.

Clause 32 - Power of Minister to determine fees and amounts

Clause 32 amends section 217A of the Act which enables the Minister to determine fees for the purposes of the Act to enable the Minister to, also, determine amounts.

Clause 33 - Schedule 2

Clause 33 amends the Second Schedule to the Act so that it is consistent with the new terms which are used in the Act and defined in section 4.

Clause 34 - Schedule 7

Clause 34 amends Schedule 7 to the Act which lists reviewable decisions so that discretions conferred by the new provisions of the Act are included in the Schedule.

Clause 35 - Transitional

Clause 35 is a transitional provision.

Subclause 35(1) has the effect of treating a motor cycle rider training course approved by the Registrar under subparagraph 9(1A)(c)(ii) of the Act which is repealed by *clause 6* of the Bill as a course approved for the purposes of new subparagraph 9A(3)(a)(ii).

Subclause 35(2) has the effect of treating the holder of a licence under section 10 of the Act which is repealed by *clause 6* of the Bill as the holder of a full licence under new section 10 of the Act, subject to any conditions and limitations of the licence held under repealed section 10.

Subclause 35(3) has the effect of treating a permit licence which was held by the holder of a licence under the repealed section 10, as a learner licence receipt under new section 9A of the Act, subject to any conditions and limitations of the permit licence.

Subclause 35(4) has the effect of treating the holder of a permit under repealed section 9 of the Act, whose permit is treated as though it is a learner licence receipt under new section 9A, as though the person had satisfied the requirements of new section 9B that a learner licensee must hold such a receipt for a minimum specified period before the person may apply for a provisional

licence. This means that a person who obtained a permit at any time prior to the new provisions coming into operation will be able to apply for a provisional licence at any time after the commencement of those provisions and will not have to wait until he or she has held the learner licence receipt, for the relevant period set out in **new section 9B**.

Subclause 35(5) treats a permit held by a person who did not hold a licence granted under the repealed section 10, as a learner licence under **new section 9A**.

Subclause 35(6) has the effect of treating the holder of a permit under repealed section 9 of the Act, whose permit is treated as though it is a learner licence under **new section 9A**, as though the person had satisfied the requirements of **new section 9B** that a learner licensee must hold such a licence for a minimum specified period before the person may apply for a provisional licence. This means that a person who obtained a permit at any time prior to the new provisions coming into operation will be able to apply for a provisional licence at any time after the commencement of those provisions and will not have to wait until he or she has held the learner licence, for the relevant period set out in **new section 9B**.