

**In substitution for copy
previously issued**

1993

AUSTRALIAN CAPITAL TERRITORY LEGISLATIVE ASSEMBLY

MOTOR TRAFFIC (AMENDMENT) BILL (NO. 4) 1993

EXPLANATORY MEMORANDUM

Circulated by Authority of the Minister for Urban Services

Terry Connolly MLA

MOTOR TRAFFIC (AMENDMENT) BILL (NO. 4) 1993

EXPLANATORY MEMORANDUM

The *Motor Traffic Act 1936* ('the Act') provides for the registration of motor vehicles, driver licensing, insurance and the regulation of traffic and parking.

The Motor Traffic (Amendment) Bill (No. 4) 1993 ('the Bill') provides a licensing scheme for restricted taxis and restricted hire vehicles. These vehicles will operate in a similar manner to regular taxis and private hire cars however, as the word "restricted" indicates, there will be conditions restricting the mode of operation of these vehicles to meet particular needs.

The Bill also provides for new measures to improve the efficiency of bus services by providing for priority for buses in certain situations. These amendments to the Act will involve the use of new traffic light signals and give way rules in favour of buses exiting bus stops.

Restricted taxis and restricted hire vehicles

Part III of the Act provides for the licensing of taxis, motor omnibuses and private hire cars. The Bill introduces a licensing scheme for vehicles that operate for hire or reward but do not fall easily into the scheme provided for taxis and private hire cars under the Act. These vehicles include 'Multicabs', which are taxis that are used for the transport of the disabled, and vehicles used on a part-time basis for special functions such as weddings.

Multicabs have been licensed as motor omnibuses for some time now as this is the only way that a special condition can be imposed on the operation of these vehicles specifying that meeting the needs of the disabled is to prevail over other business considerations.

The other category of vehicles that do not fit into the licensing scheme easily are occasional or part-time hire vehicles, such as vintage or historic vehicles, that are used for weddings. These vehicles currently operate as private hire cars without the benefit of a private hire car licence.

These amendments establish a licensing scheme for these types of vehicles to correct these anomalies.

The opportunity has also been taken to update the property damage insurance requirements as part of the amendments relating to restricted hire vehicles and restricted taxis. These vehicles will be required to have compulsory property damage insurance in the same manner as taxis and private hire cars are required to carry property damage insurance under the Principal Act. The Bill increases the required insurance cover from \$2000 to \$5 000 000. This increase recognises that the figure of \$2000 is no longer adequate to cover property damage that may potentially be caused by a motor vehicle. The Bill also amends the property damage insurance provisions to allow for the use of comprehensive insurance policies rather than requiring the property damage insurance to be in a separate policy.

Priority for buses

Section 112B of the Act provides for the traffic lights which may be used in the Territory and explains the effect of the various lights on motor vehicle drivers. *Clause 25* introduces traffic lights which are specific to the drivers of buses.

Clause 30 inserts a new section 124B into the Act which requires the driver of a vehicle to slow down or stop the vehicle to enable a bus to re-enter the traffic stream from a bus stop.

These amendments are intended to improve the services offered by the ACT Internal Omnibus Network (ACTION) by facilitating adherence to advertised timetables as well as enhancing road safety generally.

Financial considerations

The Bill will have no financial impact.

Details of the Bill are as follows. An index is attached relating the clause numbers of the Bill to the page on which the explanation of that clause appears.

Formal clauses

Clauses 1, 2 and 3 are formal clauses dealing with the citation of the Bill once enacted, commencement and the title of the Act, respectively.

Restricted taxis and restricted hire vehicles

Main amendments - clauses 4, 12, 14, 22 and 35

Clause 4 of the Bill amends the interpretation section of the Act to include definitions of "restricted taxi" and "restricted hire vehicle". The definition of "taxi" is amended so that a restricted taxi is included. A taxi licence however, does not include a restricted taxi licence. The provisions of the Act that apply to "taxis" will therefore automatically apply to restricted taxis however, where a provision of the Act applies to a taxi licence that provision will not apply to restricted taxi licences unless the Bill amends that provision to specifically include a reference to a restricted taxi licence.

Clause 12 of the Bill inserts five new sections after section 27C of the Act. These new sections provide for a licensing scheme for restricted taxis.

New section 27D provides that the Registrar may grant a person a licence to use a motor vehicle as a restricted taxi. Before the Registrar may grant such a licence she or he is required to have regard to whether the use of the vehicle will meet a community need. The "community need" that is currently envisaged is the transport needs of disabled persons which are best served by specially modified taxis. The conditions that the Registrar may place on a licence will define the areas of operation of restricted taxis.

New section 27E provides that the Minister may limit the number of restricted taxi licences that may be issued. This provision is similar to the restrictions on the number of ordinary taxi licences that may be issued.

New section 27F is a mechanism by which the Registrar may vary the conditions on a licence on application by the licensee. The section contains provisions to allow for applications to be made and notices to be given by fax in recognition that there may be some instances in which the conditions on a licence may need to be varied at short notice. This could be necessary, for example, if bus services were curtailed and regular taxi services were not adequate to meet the greatly increased demand.

New section 27G is complementary to section 27F. Section 27G provides for the variation of conditions by the Registrar acting on her or his own motion. Unlike section 27F, section 27G does not provide for the use of faxes. The variations of conditions that will be made by the Registrar under 27G are

more likely to be long term and not necessarily favoured by the licensee. It is therefore more appropriate to adopt the more formal approach of varying the licence on its face to avoid any confusion as to whether the variation applies at any particular point in time.

New section 27H requires any variation of a condition of a restricted taxi licence to be displayed in the vehicle while it is being used as a restricted taxi.

Clause 14 of the Bill inserts five new sections after section 28 of the Act. These new sections provide a licensing scheme for restricted hire vehicles.

New section 28A provides that the Registrar may grant a restricted hire vehicle licence. The restricted hire vehicle licences are intended to regulate the activities of part-time hire vehicle operators whilst preserving the viability of the full-time private hire cars licensed under the Act. Restricted hire vehicle licences are therefore subject to conditions which may include, for example a condition restricting the operation of the restricted hire vehicle to weddings.

New section 28B is a mechanism, similar to new section 27F, by which the Registrar may vary the conditions on a restricted hire vehicle licence on application by the licensee. The section contains provisions to allow for applications to be made and notices to be given by fax in recognition that there may be some instances in which the conditions on a licence may need to be varied at short notice.

New section 28C is complementary to section 28B. Section 28C provides for the variation of conditions by the Registrar acting on her or his own motion similar to the procedures for the alteration of the conditions of restricted taxi licences in new section 27G. Unlike section 28B, section 28C does not provide for the use of faxes. The variations of conditions that will be made by the Registrar under 28B are more likely to be long term and not necessarily favoured by the licensee. It is therefore more appropriate to adopt the more formal approach of varying the licence on its face to avoid any confusion as to whether the variation applies at any particular point in time. In deciding whether or not to vary the conditions of a licence under either section 28B or 28C, the Registrar must have regard to the specified criteria. These criteria are set out in new subsection 26T(3) which is inserted by *clause 10* of the Bill. These criteria are intended to ensure that conditions are only varied after due

consideration. These criteria ensure, for example, that effects upon, and where relevant, the views of, the private hire car and taxi industries are taken into account before any decision is reached.

New section 28D provides for the use of restricted hire vehicles as private hire cars in certain circumstances. This provision would have operation in situations such as, for example, a major sporting event where there will be a greatly increased demand for transportation and it is obvious that the private hire car industry will not be able to meet that demand. In this situation, the Registrar may publish a notice in the newspaper stating that restricted hire vehicles may operate as private hire vehicles for the specified period. While operating as a private hire car, a restricted hire vehicle would be required to comply with such provisions of the Tax and Private Hire Car Regulations as apply to private hire cars.

New section 28E requires the display of a restricted hire vehicle licence and any variations to that licence during the times when the vehicle is being used as a restricted hire vehicle or as a private hire car where there is a relevant notice of the Registrar under section 28D.

Clause 22 amends section 83 of the Act by omitting subsection 83(1) and substituting two new subsections. These new subsections increase the required amount of insurance from the old figure of \$2000 to \$5 000 000. The previous figure of \$2000 has not kept up with inflation and is clearly inadequate. New subsection 83(1A) facilitates the use of comprehensive insurance policies. The existing provision in subsection 83(1) of the Act requires the property damage insurance to be in a prescribed form. This form requires separate insurance for property damage insurance and is not commonly used. Under the new subsection 83(1A), where a person has a comprehensive insurance policy that includes property damage insurance to the required amount, then that person will not be required to take out a separate property insurance in the prescribed form.

Clause 35 amends Schedule 7 of the Act to include appropriate rights of review of decisions arising from the new licensing scheme.

Other amendments - clauses 5, 6, 7, 8, 15, 16, 17, 18, 19, 20, 21, 22, 23, 32, 33 and 34

There are several provisions of the Act which apply to taxis and private hire cars. The following amendments apply those provisions to private hire vehicles where

appropriate. Unless otherwise indicated, the provisions of the Act that are amended will apply to restricted taxis by virtue of the inclusion of restricted taxis in the definition of taxis.

Clause 5 amends subsections 9B(19) and (20) of the Act to include a reference to restricted hire vehicles. Subsection 9B(19) provides that the Registrar shall refuse to grant a provisional licence to drive a public motor vehicle (which includes a taxi), a private hire car or a licensed goods vehicle to a person who does not produce to the Registrar a certificate of good character signed by not less than 2 persons of good repute. Subsection 9B(20) provides that the Registrar may refuse to grant a provisional licence to drive unless the person satisfies the Registrar that she or he is a fit and proper person to hold the licence and is able to read, write and speak English.

Clause 6 amends subsections 10(16) and (17) of the Act to include a reference to restricted hire vehicles. Subsections 10(16) and (17) carry over the provisions of subsections 9B(19) and (20) to full licences.

Clause 7 amends section 11 of the Act so that it applies to restricted hire vehicles. Section 11 provides that the Registrar may refuse a licence to a person who has been convicted of certain offences.

Clause 8 amends section 12 of the Act so that the Registrar may require an applicant for a restricted hire vehicle licence to undergo a medical examination before issuing or renewing a licence.

Clause 15 amends section 29 of the Act to include a reference to restricted hire vehicles. Section 29 of the Act provides that the Minister may grant a licence for the use of a taxi or private hire car for the carriage of tourists at separate fares.

Clause 16 amends section 30 of the Act to include a reference to restricted hire vehicle licences and restricted licences. It is necessary to include the two specific references as section 30 refers to taxi licences rather than to taxis. Section 30 provides that the Registrar may suspend or cancel a taxi licence or private hire car licence where she or he is satisfied the vehicle has been used for an illegal purpose or the licence or transfer of a licence was obtained by fraud or the vehicle is not properly insured.

Clause 17 amends section 31 of the Act. Again, specific references to restricted taxi licences have been included where necessary to apply the section to restricted taxis.

Section 31 requires certain persons to have use or control of taxis and private hire cars.

Clause 18 inserts a new section 31A into the Act. New section 31A provides for the specification in restricted taxi licences, taxi licences, motor omnibus licences, private hire car licences and restricted hire vehicle licences of the maximum number of passengers that the vehicle may carry. The existing requirements in the Act in relation to maximum numbers of passengers are contained in subsections 27(3), (5) and (6) in the case of taxi licences and motor omnibus licences, and subsections 28(3) and (5) in the case of private hire car licences. These provisions are, respectively, repealed by *clauses 11 and 13* of the Bill.

Clause 19 amends section 32 of the Act to require fire extinguishers to be carried in restricted hire vehicles.

Clause 20 amends section 35 of the Act to require the disinfection of a restricted hire vehicle where the vehicle has carried a person suffering from an infectious disease.

Clause 21 amends section 39 of the Act to prohibit carrying articles of a dangerous or offensive nature in a restricted hire vehicle.

Clause 22 amends section 83 of the Act so that the requirements to insure against damage to public property extend to restricted hire vehicles. The opportunity has also been taken to simplify the section by deleting the references to "motor omnibus and taxi" and substituting the generic term "public motor vehicle".

Clause 23 amends section 104 of the Act to apply the provisions of that section that apply to public motor vehicles and private hire cars to restricted hire vehicles. Under this section, the Registrar may cancel or suspend the licence of a person where the vehicle is not in a fit condition to be used as a public motor vehicle or private hire car. *Clause 23* also inserts a new paragraph allowing for suspension or cancellation where the condition of a restricted taxi licence or a restricted hire vehicle licence has not been complied with.

Clause 32 amends section 154 of the Act to add references to restricted hire vehicles. Section 154 of the Act regulates the parking of taxis and private hire cars on public streets.

Clause 33 amends section 164DB of the Act to extend the exceptions from the requirement to provide child restraints to restricted hire vehicles.

Clause 34 amends section 168 of the Act to extend the offence of using a motor vehicle as a public motor vehicle or private hire car without an appropriate licence to restricted hire vehicles.

Consequential amendments - clauses 9, 10, 11, 13 and 24

Clause 9 substitutes a new heading for Part III of the Act in recognition of the additional matters that the Part now includes.

Clauses 10 and 11 make changes to the provisions relating to taxi licences to specifically exclude restricted taxi licences because, unlike taxi licences, restricted taxi licences are not transferable. *Clause 11* also repeals subsections 27(3), (5) and (6) as these provisions are now contained in new section 31A.

Clause 13 is similar to *clause 11* in that it repeals subsections 28(3) and (5) as these provisions are also encompassed by new section 31A.

Clause 24 amends section 105 of the Act to take account of shorter duration of restricted hire vehicle licences. The usual period of 12 months duration does not apply in the case of these types of licences.

Priority for buses

Main amendments - clauses 25, 26 and 30

Clause 25 amends the table to section 112B of the Act by adding new items 13, 14 and 15 which provide for a traffic light comprising the letter 'B' in a white light, an amber light and a red light, respectively. The items also explain the effect of each of the signals in relation to the driver of a bus. Generally the white light enables the bus driver to proceed in any direction whilst an amber or red light requires the bus driver to stop at the relevant road marking.

Clause 26 inserts a new section 112BA which provides a defence for contravening section 112A of the Act which details the rules which drivers must follow regarding traffic lights.

New subsection 112BA(1) restates the defence provided for in section 112E of the Act (which is repealed by *clause 27*) and new subsection 112BA(2) introduces a defence in similar terms for the driver of a bus where the letter B in a white light changes to a letter B in another colour.

Clause 30 inserts a new section 124B into the Act which requires motorists to give way to buses in certain circumstances.

New subsection 124B(1) requires a motorist to decrease speed or to stop her or his vehicle to enable a bus to enter the motorist's traffic line from the left side of the carriageway where the bus driver is signalling an intention to move into the traffic line, the speed limit in the street does not exceed 80 kilometres per hour and where there is a reasonable possibility that the bus will not be able to enter the traffic line unless the motorist takes the required action.

New subsection 124B(2) makes it clear that the requirement on a motorist under subsection (1) only applies to the motorist in the left hand lane where the carriageway is divided into 2 or more lanes. This ensures that the priority for a bus driver does not extend to movement across traffic lanes but only into the nearest traffic lane.

Consequential amendments - clauses 4, 27, 28, 29 and 31

Clause 4 inserts a definition of "local services motor omnibus" into section 4 of the Act. This definition previously appeared in section 112K of the Act and is removed from that section by *clause 28*.

Clause 27 repeals section 112E of the Act as a consequence of the introduction of new section 112BA inserted by *clause 26*.

Clause 28 removes from section 112K of the Act the definition of a 'local services motor omnibus' as a consequence of placing the definition in section 4 of the Act by *paragraph 4(d)*.

Clause 29 makes a consequential amendment of subsection 118(8) of the Act, which places an obligation on the driver of a stationary vehicle which is at the boundary of a carriageway not to pull into the traffic stream until she or he can do so with safety, to take account of the amendment effected by *clause 30*.

Clause 31 is a consequential amendment in terms similar to the consequential amendment effected by *clause 28* to remove from section 149 of the Act the definition of a 'local services motor omnibus'.

ATTACHMENT

MOTOR TRAFFIC (AMENDMENT) BILL (NO. 4) 1993

INDEX TO EXPLANATORY MEMORANDUM

Clause	Page
1. Short title	2
2. Commencement	2
3. Principal Act	2
4. Interpretation	3, 9
5. Provisional licences and endorsements	6
6. Full licences	6
7. Refusal of licence to certain persons	6
8. Medical examination of applicants for and persons holding driver's licences	6
9. Substitution of new heading for Part III	8
10. Interpretation	8
11. Taxi and motor omnibus licences	8
12. Insertion	3
27D Restricted taxi licences	3
27E Limitation on number of restricted taxi licences	3
27F Variation on application - restricted taxis	3
27G Variation by Registrar - restricted taxis	3
27H Display of restricted taxi licence etc	4
13. Licences for private hire cars	8
14. Insertion	4
28A Restricted hire vehicles	4
28B Variation on application - restricted hire vehicles	4
28C Variation by Registrar - restricted hire vehicles	4
28D Restricted hire vehicles treated as private hire cars	5
28E Display of restricted hire vehicle licence etc	5
15. Licences for the carriage of tourists	6
16. Suspension or cancellation of certain licences	6
17. Certain to have use, control and management of vehicles	6
18. Insertion	7
31A Number of passengers	7
19. Fire extinguisher to be carried	7
20. Disinfection of vehicles	7
21. Dangerous or offensive articles	7
22. Insurance of public motor vehicles	5, 7
23. Refusal, cancellation or suspension of licences or registrations	7
24. Duration of registrations and licences	8
25. Meanings indicated by traffic lights	8
26. Insertion	8
112BA Defences	9
27. Repeal of section 112E	9
28. Interpretation	9
29. Overtaking	9
30. Insertion	9
124B Motorists to give way to local services motor omnibuses	9
31. Interpretation	10
32. Taxis, restricted taxis, private hire cars and restricted hire vehicles	7
33. Exceptions for the purposes of section 164D	8
34. Unauthorised use of motor vehicles as taxis etc.	8
35. Schedule 7	5