

1993

**LEGISLATIVE ASSEMBLY FOR THE
AUSTRALIAN CAPITAL TERRITORY**

MAGISTRATES COURT (AMENDMENT) BILL 1992

SUPPLEMENTARY EXPLANATORY MEMORANDUM
Amendments to be moved on behalf of the Government

Circulated by authority of

Terry Connolly MLA
ATTORNEY GENERAL

**MAGISTRATES COURT (AMENDMENT) BILL 1992
SUPPLEMENTARY EXPLANATORY MEMORANDUM**

The *Magistrates Court Act 1930* (the Principal Act) provides for matters relating to the Magistrates Court of the Territory. Part VIIA of the Principal Act provides for a procedure under which a person charged with an offence under the *Motor Traffic Act 1936* or the *Traffic Act 1937* for which the penalty is a fine not exceeding \$500 may plead to the charge by post and be dealt with administratively by the Magistrates Court.

The Magistrates Court (Amendment) Bill 1992 amends the Principal Act to extend this procedure to offences under other laws in force in the Territory for which the penalty is a fine not exceeding \$1,000, including the *Traffic Act 1937*, and to offences under the *Motor Traffic Act 1936* for which the penalty is the current general penalty level which is a fine not exceeding \$2,000, with or without any other penalty.

The amendment omits clause 31 and substitutes a new clause 31. The new clause 31 provides for the validation of any proceedings and matters consequential to proceedings instituted under the Part VIIA procedure in respect of an offence under the *Motor Traffic Act 1936* for which the penalty was a fine exceeding \$500 between 20 December 1991, when the general penalty level under the *Motor Traffic Act 1936* was raised from \$500 to \$2,000, and the date of commencement of the clause 10 of the Bill. This is the substance of clause 31 as introduced.

The penalty for the offence created by section 7 of the *Traffic Act 1937* includes a fine which was raised from \$200 to \$1,000 by an amendment in 1984. A corresponding amendment to Part VIIA of the Principal Act was not made at that time. In drafting the validation clause in the Bill, the need to extend the validation provisions to the *Traffic Act 1937* was overlooked. Consequently, the new clause 31 also provides for the validation of any proceedings and matters consequential to proceedings instituted under the Part VIIA procedure in respect of an offence under the *Traffic Act 1937* for which the penalty was a fine exceeding \$200, from 8 February 1984, to the date of commencement of the clause 10 of the Bill.

The effect of the amendment is to validate any proceedings and consequential matters which were instituted under Part VIIA of the Principal Act in respect of an offence under the *Motor Traffic Act 1936* or under the *Traffic Act 1937* at a time when the penalty for the offence was one which did not come within the ambit of the proceedings provided under Part VIIA.

FINANCIAL CONSIDERATIONS

Nil.