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

MOTOR TRAFFIC (AMENDMENT) BILL (NO. 3) 1991

EXPLANATORY MEMORANDUM

Circulated by Authority of the Minister For Urban Services

Terence Connolly MLA

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Explanatory Memorandum

Outline

This is an amendment Bill. It amends the *Motor Traffic Act 1936*, referred to in the amending Bill as the Principal Act. The Principal Act regulates various motor traffic and motor vehicle matters such as vehicle registration, drivers licences, road safety and parking rules, speed limits and insurance. In particular, section 180A of the Principal Act deals with offences in respect of which traffic infringement notices can be issued.

The amending Bill enables the non-payment of Traffic Infringement Notices (TINs) to be enforced by cancellation of licence, registration, or the suspension of the right to drive in the ACT. Currently, the non payment of TINs is dealt with through the Courts. This amendment does not preclude offenders appealing to the Magistrates Court if they wish to dispute liability.

The amendment Bill applies only to minor traffic offences such as failing to wear a seatbelt, disobeying traffic signals or driving while unlicensed. More serious offences, such as dangerous and culpable driving, will still be processed through the courts. The amendment Bill will effectively free up the Magistrates Court from hearing petty traffic offences as well as freeing up Australian Federal Police resources to pursue more serious matters.

A similar provision for the non payment of Parking Infringement Notices was introduced in the ACT in November 1989. NSW introduced TINs Fine Default in September 1988.

Financial Considerations

After initial recurrent expenditure of \$202,000, in the 1991/92 financial year, the ongoing costs will be \$177,500 per annum. One off capital expenditure of \$185,000 is required in the 1991/92 financial year to develop and implement an enforcement system.

Additional revenue of approximately \$1.1 million is estimated in the first three years of operation from the recovery from outstanding TINs and increased payment rates.

Details of the Bill are included in the Attachment.

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Clauses 1, 2 and 3 are formal requirements. They refer to the short title of the Bill and the definition of the Principal Act. The main provisions of the Bill will commence on a day fixed by the Minister by notice in the Gazette.

Clause 4 amends section 4 of the Principal Act relating to interpretation of terms. A definition for "traffic infringement" is included, and the definition of "visiting motor vehicle" is amended slightly.

Clause 5 amends section 11 of the Principal Act to provide that a licence cancellation as a result of non payment of a TIN will not affect an individual's right to be granted or renewed a taxi, motor omnibus, or private hire car licence.

Clause 6 amends sub-section 13A of the Principal Act to provide that a person who has had their licence cancelled under Fine Default cannot be granted a special licence for the period that his or her cancellation is current.

Clause 7 amends subsection 107(2) of the Principal Act to provide that an interstate licence holder will not be deemed to be licensed in the ACT if his or her right to drive in the ACT has been revoked under Fine Default.

Clause 8 inserts the heading "Part XIA - Traffic Infringements".

Clause 9 amends sub-section 180A(3)(d) to include on the Traffic Infringement Notice details relating to the payment and non payment of the TIN, and the course of action open if liability is disputed.

Clause 10 inserts the major additions relating to TINs Fine Default.

Section 180B specifies that where a TIN has been issued, the person who receives it may pay the TIN or dispute liability by writing to the Chief Police Officer.

If the TIN has not been paid by the due date (and liability has not been disputed), the Registrar may impose an administrative fee and serve a notice on the infringer specifying that if the fine and administrative fee is not paid within 14 days, the Registrar of Motor Vehicles (the Registrar) will cancel the infringer's licence (if licensed in the ACT), cancel the infringer's registration (if

registered in the ACT and not licensed in the ACT), or suspend the right to drive in the ACT (if neither licensed nor registered in the ACT).

If liability is disputed, the matter is referred to the Court.

Section 180C specifies that once the penalty for the infringement and the administrative fee (if applicable) is paid, liability for the infringement is deemed to be discharged.

Section 180D specifies that a person may write to the Chief Police Officer disputing liability for the TIN.

Section 180E specifies that when an individual disputes liability and the matter is referred to the Court, the Chief Police Officer may apply to the Court for a declaration that the individual is liable to pay the Registrar the amount of TIN and the administrative fee if applicable. If the individual pays the Registrar the amount owing during the course of Court proceedings, the Registrar will discontinue proceedings in respect of the TIN.

Section 180F specifies that the Registrar may cancel an infringer's licence, or registration or his or her right to drive in the ACT if the infringer fails to pay the TIN, or if the Court makes the declaration that the infringer should pay the Registrar, and the infringer does not comply with the Court's declaration.

A person whose licence or registration has been cancelled, is not entitled to a refund for the balance of their registration or licence.

Section 180G specifies that if a person has had their licence or registration cancelled, or their right to drive in the ACT suspended under Fine Default, the Registrar shall not issue a fresh licence or remove the suspension on an interstate driver unless the amount payable for the infringement and the administrative fee (if applicable) has been paid.

Section 180H specifies that a person who has had their licence or registration cancelled under Fine Default, may apply to the Court for a declaration that he or she is not liable for the TIN. If the Court favours the applicant, the Registrar shall re-issue the person's licence or re-register his or her vehicle for the remainder of the period of which it was originally current, or reinstate his or her right to drive in the ACT.

Section 180J specifies that where a vehicle which is registered to a body corporate outside the ACT, the amount payable for the TIN may be recovered as a debt due to the Territory.

Section 180K specifies that if the Court makes a declaration concerning liability in favour of the Registrar, the applicant shall pay the prescribed costs of the Registrar. If the Court favours the applicant, the Registrar shall pay the applicant's costs.

Section 180L specifies that any notices issued by the Chief Police Officer in the process of notifying his/her action relating to a specific TIN is considered evidence of those actions.

Section 180M specifies that an application for a Court declaration should be in accordance with subsection 20(2) of the *Magistrates Court (Civil Jurisdiction) Act 1982*.

Clause 11 amends sub-section 193A(10) of the Principal Act to indicate that the references to cancellation of a drivers licence under Section 193A does not apply to a drivers licence cancelled under fine default.

Clause 12 means that the provisions of this Bill cannot be retrospective.