

1989

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

**MOTOR TRAFFIC AMENDMENT BILL (No.3) 1989**

**TRAFFIC (AMENDMENT) BILL 1989**

**EXPLANATORY MEMORANDUM**

Circulated by authority of the Minister for Housing and Urban Services

Ms Elnor Grassby MLA

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**Traffic (Amendment) Bill 1989**

**Motor Traffic (Amendment) Bill (No.3) 1989**

The Traffic Act 1937 relates to the regulation of traffic.

The Motor Traffic Act 1936 (the Act) relates to the control of motor vehicles and the regulation of motor traffic.

The Motor Traffic (Amendment) Bill (No.3) 1989 and the Traffic (Amendment) Bill 1989 propose amendments of the Act and the Traffic Act 1937, respectively, which will -

- a) clarify the situation regarding persons who use wheelchairs as a means of transport by establishing that a person who uses a wheelchair because of a disability shall be treated as a pedestrian for the purposes of the legislation. Users of motorised wheelchairs will not be required to comply with the requirements of the Act regarding licensing, insurance and registration, but will be required to exercise due care and have consideration for other persons using a public street;
- b) remove references to bicycle paths in the Traffic Act 1937 the effect of which will be that users of such paths will be subject to the same requirements regarding traffic laws as persons who use public streets.

The proposals are considered to be revenue neutral.

Details of each provision of the Traffic (Amendment) Bill 1989 are set out in Attachment A and the details of each provision of the Motor Traffic (Amendment) Bill (No.3) 1989 are set out in Attachment B.

Traffic (Amendment) Bill 1989

Clause 1 will cite the Bill, when enacted, as the Traffic (Amendment) Act 1989.

Clause 2 will provide that the Principal Act means the Traffic Act 1937.

Clause 3 will amend section 4 of the Principal Act which is an interpretation provision.

Paragraph 3(a) will omit the definition of a bicycle path which is defined as a path, declared by the Minister by notice published in the Gazette, to be a bicycle path for the purposes of the Principal Act. No declarations have been made under this provision nor is it considered necessary for safety purposes to do so. Persons using bicycle paths will therefore be required to regulate their behaviour according to the general provisions of the Principal Act regarding pedestrians and cyclists.

Paragraph 3(b) will modify the definition of "driver", as a consequence of the amendment proposed by paragraph 3(f).

Paragraph 3(c) will ensure that references to "pedestrian" and to "pedestrian crossing" are to have the same meaning as in the Motor Traffic Act 1936.

Paragraph 3(d) will ensure that a reference to "wheelchair" has the same meaning as in the Motor Traffic Act 1936.

Paragraph 3(e) will omit the definition of "pedestrian" which will be unnecessary as a consequence of the amendment proposed by paragraph 3(c).

Paragraph 3(f) will insert a new definition of "vehicle" to mean a bicycle and a carriage drawn by an animal.

Clause 4 will repeal section 5 of the Principal Act and substitute a new section 5. New section 5 will provide that a person shall not walk or use a wheelchair on a public street without due care and attention or without reasonable consideration for other users. A penalty of \$100 is proposed.

Clause 5 will repeal sections 12 and 13 and substitute a new section 12 into the Principal Act. New section 12 will create an offence where the driver of a vehicle or motor vehicle knowingly permits a cyclist or a bicycle being ridden by a person to be attached to the vehicle while it is in motion on a public street. New section 12 will also create an offence where a cyclist permits his or her bicycle to remain attached to a vehicle or motor vehicle while it is in motion. A penalty of \$100 is proposed in each case.

Clause 6 will further amend the Principal Act as proposed in the Schedule to the Bill. The amendments are minor in nature and consequential on the substantive changes proposed in the clauses of the Bill.

Motor Traffic (Amendment) Bill (No.3) 1989

Clause 1 will cite the Bill, when enacted, as the Motor Traffic (Amendment) Act (No.3) 1989.

Clause 2 will provide that the Principal Act means the Motor Traffic Act 1936.

Clause 3 will amend section 4 of the Act which is an interpretation provision.

Paragraph 3(a) will insert definitions of "pedestrian" and "pedestrian crossing". A "pedestrian" will include a person in a perambulator or similar carriage, in a device designed for use as a toy or in a wheelchair. "Pedestrian crossing" will mean a part of a public street bearing appropriate white markings across the carriageway and with a traffic sign bearing the word "Crossing".

Paragraph 3(b) will amend the definition of "vehicle" to make it clear that it does not include a wheelchair.

Paragraph 3(c) will define "wheelchair" as a carriage designed and constructed for use by a disabled person and, if it is motorised, that it is not capable of exceeding seven kilometres per hour by use of that form of power.

Clause 4 will omit subsection 126(3) of the Act which will be unnecessary as a consequence of the definition of "pedestrian crossing" which is proposed by paragraph 3(a).

Clause 5 will omit paragraphs 158(1)(i) and (j) of the Act and replace them with new paragraphs the effect of which will be that it will be an offence to stop or park a motor vehicle or trailer on a pedestrian crossing (paragraph 158(1)(i)(j)) or within six metres of a pedestrian crossing (paragraph 158(1)(j)). The changes are consequential upon the definition of pedestrian crossing which is proposed by paragraph 3(a).