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

**MAGISTRATES COURT (CIVIL JURISDICTION) (AMENDMENT) BILL  
1991**

**EXPLANATORY MEMORANDUM**

**Circulated by authority of  
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**MAGISTRATES COURT (CIVIL JURISDICTION) (AMENDMENT) BILL  
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The *Magistrates Court (Civil Jurisdiction) Act 1982* (the Principal Act) deals with matters relating to the civil jurisdiction of the Magistrates court.

The *Magistrates Court (Civil Jurisdiction) (Amendment) Bill 1991* (the Bill), amends section 292 of the Principal Act to make it clear that the exemption from liability to pay a fee provided by the section does not extend to a written application for a special driving licence or for the restoration of a driving licence under the *Motor Traffic Act 1936* or the *Motor Traffic (Alcohol and Drugs) Act 1977*, and to provide for the imposition of a fee for such an application.

The Bill also amends section 292 to provide that where a fee has been waived under paragraphs 292(4) (a) or (b), an amount equal to the fee shall be included in any award of costs made by the Court, that sum to be payable to the Court.

The Bill provides for fees and charges to be set by Ministerial Determination and repeals the *Magistrates Court (Civil Jurisdiction) (Fees) Regulation*.

**Financial Considerations**

The provision for a fee for an application made to the Court for an application under the *Motor Traffic Act 1936* or the *Motor Traffic (Alcohol and Drugs) Act 1967* will result in increased revenue.

Details of the Bill are set out in the Attachment.

## **ATTACHMENT**

**Clause 1** cites the short title of the Bill, once enacted, to be the Magistrates Court (Civil Jurisdiction) (Amendment) Act 1991.

**Clause 2** provides for commencement.

**Clause 3** provides that, in the Bill, the "Principal Act" means the *Magistrates Court (Civil Jurisdiction) Act 1982*.

**Clause 4** amends section 3 of the Principal Act by inserting a definition of "determined fee".

**Clauses 5, 6 and 7** amend sections 11, 20 and 22 of the Principal Act, respectively, to make amendments required consequent upon the repeal of the *Magistrates Court (Civil Jurisdiction) (Fee) Regulations* and the determination of fees by Ministerial determination.

**Clause 8** amends section 292 of the Principal Act.

Paragraphs 8(a) and (c) omit references to "prescribed fees" and substitute references to "determined fees".

Paragraph 8(b) inserts a new subsection 292(1A) which provides for fees as determined to be payable for an application for a special driving licence or for the restoration of a driving licence under the *Motor Traffic Act 1936* or the *Motor Traffic (Alcohol and Drugs) Act 1977*.

Paragraph 8(d) inserts a new subsection 292(4A) which provides that where a fee has not been paid by virtue of subsection 292(4), on judgement, in an award of costs, the Court shall order the payment to the Court by the party against whom costs have been awarded, an amount equal to the unpaid fees. Subsection 245(4) provides for the exemption from payment of a fee where the applicant is legally aided or where payment of the fee would cause hardship.

**Clause 9 and 10** amend sections 306 and 306A of the Principal Act respectively to omit references to the "prescribed fee" and substitute references to the "determined fee" and to make other amendments consequent upon the repeal of the *Magistrates Court (Civil Jurisdiction) (Fee) Regulations*.

**Clause 11** the Principal Act by inserting a new section 307A which provides that the Minister may, by notice in writing in the *Gazette*, determine fees for the purposes of the Act.

**Clause 12** repeals the *Magistrates Court (Civil Jurisdiction) (Fees) Regulations*, which prescribe fees for the purposes of the Principal Act.