

AUSTRALIAN CAPITAL TERRITORY
MOTOR TRAFFIC (ALCOHOL AND DRUGS) (AMENDMENT)
ORDINANCE 1981

ORDINANCE NO. 16 OF 1981

EXPLANATORY STATEMENT

The Motor Traffic (Alcohol and Drugs) Ordinance 1977 creates an absolute offence where a person who has been the driver of a motor vehicle on a public street records, in a breath analysis on an approved breath analysing instrument in accordance with prescribed procedures, a reading which is, or exceeds .08.

The principal Ordinance provided that the Minister might approve breath analysing instruments by notice in the Gazette but, as a result of the Federal Court decision in Robert Beaumont Gosden v. M.R. Billerwell, the Motor Traffic (Alcohol and Drugs) (Amendment) Ordinance 1980 substituted a new section 5(1) providing for the Minister to approve breath analysing instruments by affixing to each instrument a certificate of approval in a form prescribed in the Schedule to the Ordinance.

However, no amendment was made at that time to section 7 of the Ordinance which provided that a copy of each notice under sections 5 and 6 should be published in the Gazette. Given the new method of approval, such a notice would convey no information, its effect depending entirely on the machine to which it is affixed. The Motor Traffic (Alcohol and Drugs) (Amendment) Ordinance 1981 amends section 7 so that it applies only to notices under section 5(2) - relating to the approval of breath testing devices, that is, the preliminary screening devices used to determine whether a person should be required to undergo a breath analysis - and section 6 - the approval of operators and analysts.

Ord. No. 41/81.