

AUSTRALIAN CAPITAL TERRITORY

MOTOR TRAFFIC (ALCOHOL AND DRUGS)
(AMENDMENT) ORDINANCE 1980

ORDINANCE NO. 37 OF 1980

EXPLANATORY STATEMENT

The Motor Traffic (Alcohol and Drugs) Ordinance 1977 created 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 exceeding .08.

The Federal Court decision in Robert Beaumont Gosden v M.R. Billerwell, handed down on 22 July 1980, placed in question the police procedures under the Ordinance and the Minister's approval of the breath analysing instruments.

The Motor Traffic (Alcohol and Drugs) (Amendment) Ordinance 1980 substitutes for the present system of Ministerial approval of the breath analysing instruments by notice in the Gazette a system by which the Minister affixes to each instrument a certificate of approval in a form prescribed in the Schedule. The Ordinance also amends the evidentiary provisions by adding a new paragraph which states that a notice in accordance with the form set out in the Schedule is prima facie evidence of the matters stated in the notice and of the facts on which they are based. In addition, the amending Ordinance removes the words 'of a type' from the definition of 'approved breath analysing instrument' in section 4(1) of the principal Ordinance and adds to the evidentiary provisions dealing with those certificates which state the instrument used in the analysis, words to the effect that the instrument in question is an approved breath analysing instrument.

Associated amendments to the Regulations made under the Ordinance will take account of the Federal Court's decision as it affects police procedures in breath analyses.

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