

AUSTRALIAN CAPITAL TERRITORY

MOTOR TRAFFIC (ALCOHOL AND DRUGS) REGULATIONS (AMENDMENT)

EXPLANATORY STATEMENT

No. 23 of 1984

The Motor Traffic (Alcohol and Drugs) Ordinance 1977 and the Motor Traffic (Alcohol and Drugs) Regulations establish a framework for the breath analysis of persons suspected of driving with more than the prescribed level of alcohol in their blood. The Regulations require that both before and after testing a sample of breath provided by a driver the approved breathalyser operator must test the accuracy of the machine using air pumped through a standard alcohol solution to simulate the breath of an intoxicated driver. Because the standard alcohol solution loses fractional quantities of alcohol each time air is pumped through it the legislation provides that air shall not be passed through the solution on more than 10 occasions in carrying out the prescribed procedures.

Until recently the Magistrates had been prepared to accept the evidence of the approved operator that a solution had not been used more than the prescribed number of times. However, one magistrate rejected that evidence and it appeared that other cases would be also be lost. Accordingly, the Motor Traffic (Alcohol and Drugs) Regulations (Amendment) substitutes a new sub-regulation 10(3) enabling an approved operator to state in an evidentiary certificate that in following the prescribed procedures before and after carrying out a breath analysis he used a standard alcohol solution through which air had been passed on a specified number of occasions.