

AUSTRALIAN CAPITAL TERRITORY

MOTOR OMNIBUS SERVICES REGULATIONS

EXPLANATORY STATEMENT

No. 27 of 1981

The amendments of the Motor Omnibus Services Regulations 1981 No. 27 ('the Amending Regulations') amend the Motor Omnibus Services Regulations ('the Principal Regulations') made under the Motor Omnibus Services Ordinance 1955 to prohibit smoking by passengers on Canberra buses, to prescribe penalties for smoking and, to provide for smoking infringement notices.

Regulation 1 of the Amending Regulations amends Regulation 3 of the Principal Regulations by inserting, inter alia, definitions of 'authorised officer', 'court', 'Department', 'Secretary' 'smoking offence' and 'police officer'.

Regulation 2 of the Amending Regulations inserts a new Regulation 3A into the Principal Regulations providing for the appointment of authorised officers.

Regulation 4 of the Amending Regulations inserts a new Regulation 25A into the Principal Regulations prohibiting a person other than the driver taking a lit cigarette, pipe or other article that is alight onto a bus or lighting or smoking a cigarette pipe or other article whilst on the bus. A penalty of 4100 is prescribed.

Regulation 6 of the Amending Regulations amends Regulation 35 of the Principal Regulations with the effect that a police officer may, as well as a driver, conductor or inspector, require a person whom he suspects of committing an offence to produce evidence of his identity in addition to giving his full name and place of abode. A penalty of \$100 is provided by the Amending Regulations for failure to comply without reasonable excuse, with a requirement made under sub-regulation 35(1).

Regulation 7 of the Amending Regulations inserts a new Regulation 35A in the Principal Regulations providing that where a person is suspected of committing a smoking offence he may be served with a smoking infringement notice. The prescribed penalty for a smoking offence under Regulation 35A is \$25. A person served with a smoking infringement notice may pay the amount of the prescribed penalty within the prescribed time. Payment discharges liability against the person who will not be regarded as having been convicted of the alleged offence. The new Regulation 35A also provides that where a cheque is tendered in respect of a smoking offence, payment of the penalty will not be taken to have been made unless the cheque is honoured.

With the exception of the payment of the smoking infringement penalty nothing in the Amending Regulations affects prosecution of smoking offences or limits the amount of a fine that may be imposed by the Court. It is not an absolute requirement in relation to a smoking offence that a smoking infringement notice be served upon a person.

Regulation 8 of the Amending Regulations provides that a penalty of \$50 on conviction is payable where no other penalty is prescribed.