

# AUSTRALIAN CAPITAL TERRITORY

## AMENDMENTS OF THE MOTOR TRAFFIC (ALCOHOL AND DRUGS) REGULATIONS

### EXPLANATORY STATEMENT

No. 15 of 1980

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 proposed amendments of the Motor Traffic (Alcohol and Drugs) Regulations permit a margin for error in the preparation of the standard alcohol solution used in breath analyses and provide that air may be passed through that solution up to ten times in carrying out the prescribed procedures. The amending Regulations also substitute for the expression 'an instrument of a type to which is affixed a label bearing' in Regulations 3 and 6 the words 'an approved breath analysing instrument that bears' thus conforming with an associated amendment to the approval procedure laid down in the Motor Traffic (Alcohol and Drugs) Ordinance. The third and final amending Regulation alters the present Regulation 10(3) with the effect that the operator need no longer certify that he personally took the solution used in a particular analysis from a sealed container bearing the appropriate analyst's certificate.

As already indicated, an associated amending Ordinance, the proposed Motor Traffic (Alcohol and Drugs) (Amendment) Ordinance 1980, will take account of the Federal Court's decision as it affects the Minister's approval of the breath analysing instruments.