

AUSTRALIAN CAPITAL TERRITORY

Regulations 1981 No. 27

Regulations under the *Motor Omnibus Services Ordinance 1955**

I, WILLIAM MICHAEL HODGMAN, the Minister of State for the Capital Territory, hereby make the following Regulations under the *Motor Omnibus Services Ordinance 1955*.

Dated this ninth day of December 1981.

MICHAEL HODGMAN
Minister of State for the Capital Territory

AMENDMENTS OF THE MOTOR OMNIBUS SERVICES REGULATIONS†

Interpretation

1. Regulation 3 of the Motor Omnibus Services Regulations is amended—

(a) by omitting the definition of “conductor” and substituting the following definitions:

“ ‘authorized officer’ means a person appointed under regulation 3A to be an authorized officer;

‘conductor’ means—

(a) a conductor of an omnibus; and

(b) in relation to an omnibus on which a conductor is not employed—the driver of the omnibus;

‘Court’ means the Court of Petty Sessions;

‘Department’ means the Department of State administered by the Minister of State for the time being administering the Ordinance;”;

(b) by omitting the definition of “omnibus”;

(c) by inserting after the definition of “period ticket” the following definition:

“ ‘police officer’ means a member of the Australian Federal Police;” and

* Notified in the *Commonwealth of Australia Gazette* on 21 December 1981.
† Regulations 1955 No. 14 as amended by Regulations 1967 No. 10, 1970 No. 10, 1972 No. 9, 1974 No. 6, 1975 Nos. 2 and 28, 1976 No. 15, 1977 No. 1, and 1978 No. 13.

(d) by omitting the definitions of “ the Ordinance ” and “ the Police Force ” and substituting the following definitions:

“ ‘ Secretary ’ means the person who, for the time being, is, or is performing the duties of, the Permanent Head of the Department within the meaning of the *Public Service Act 1922*;

‘ smoking offence ’ means an offence against regulation 25A;

‘ the Ordinance ’ means the *Motor Omnibus Services Ordinance 1955*.”.

2. After regulation 3 of the Motor Omnibus Services Regulations the following regulation is inserted in Part I:

“ 3A. The Secretary may, by instrument in writing, appoint such persons as he considers necessary to be authorized officers for the purposes of these Regulations.”. Appointment of authorized officers

3. Regulation 16 of the Motor Omnibus Services Regulations is amended by omitting from sub-regulation (1) “ a member of the Police Force ” and substituting “ a police officer ”. Ticket to be exhibited on demand

4. After regulation 25 of the Motor Omnibus Services Regulations the following regulation is inserted:

“ 25A. (1) A person, other than the driver, shall not take into an omnibus a cigarette, cigar, pipe or other article that is alight. Smoking prohibited

“ (2) A passenger in an omnibus shall not light or smoke a cigarette, cigar, pipe or other article.

Penalty: \$100.”.

5. Regulation 34 of the Motor Omnibus Services Regulations is amended— Power to remove certain offenders

(a) by omitting from sub-regulation (1) “ member of the Police Force ” (wherever occurring) and substituting “ police officer ”; and

(b) by inserting in sub-regulation (3) “ 25A,” after “ 25,”.

6. Regulation 35 of the Motor Omnibus Services Regulations is amended— Power to demand name and address

(a) by inserting in sub-regulation (1) “, a police officer ” after “ omnibus ”;

(b) by adding at the end of sub-regulation (1) “ and to produce evidence of his identity ”;

- (c) by omitting sub-regulation (2) and substituting the following sub-regulation:

“(2) A person shall not, without reasonable excuse, refuse or fail to comply with a requirement made of him under sub-regulation (1).

Penalty: \$100.”; and

- (d) by omitting from sub-regulation (3) “a member of the Police Force” and substituting “a police officer”.

7. After regulation 35 of the Motor Omnibus Services Regulations the following regulation is inserted:

Smoking
infringement
notice

“35A. (1) Where a police officer or an inspector has reason to believe that a smoking offence has been committed by a person, he may serve or cause to be served on the person a smoking infringement notice.

“(2) A smoking infringement notice may be served upon the person to whom it is directed—

- (a) by delivering the notice to the person personally; or
- (b) by leaving the notice at the last known place of residence or business of the person with some other person who is apparently over the age of 16 years and apparently an occupant of or employed at that place.

“(3) Evidence of service of a smoking infringement notice may be given by affidavit.

“(4) A smoking infringement notice shall—

- (a) specify the full name, or surname and initials, and address of the person to whom it is directed;
- (b) specify the nature of the alleged smoking offence;
- (c) specify the day and time of the alleged smoking offence;
- (d) specify the registration number of the omnibus in which the smoking offence is alleged to have been committed;
- (e) contain a notification to the person to whom it is directed that, if he does not wish the matter to be dealt with by the Court, he may pay the amount of the prescribed penalty specified in the notice within 14 days after the date of service of the notice; and
- (f) specify the place at which, and the manner in which, the prescribed penalty may be paid,

and may contain such other particulars as the Minister considers necessary.

“(5) For the purposes of this regulation, the prescribed penalty for a smoking offence is \$25.

“(6) Where a smoking infringement notice has been served upon the person to whom it is directed and, before the expiration of the period

of 14 days specified in the notice or within such further time (not exceeding 28 days) as the Secretary or an authorized officer, whether before or after the expiration of that period of 14 days, allows, the amount of the prescribed penalty is paid in accordance with the notice—

- (a) the liability of the person upon whom the notice was served in respect of the alleged smoking offence shall be discharged;
- (b) no further proceedings shall be taken against the person in respect of the alleged smoking offence; and
- (c) the person shall not be regarded as having been convicted of the alleged smoking offence.

“(7) At the hearing of a prosecution for a smoking offence in respect of which a smoking infringement notice has been served, a certificate signed by the Secretary or an authorized officer and stating—

- (a) that further time for the payment of the prescribed penalty in respect of the offence was not allowed under sub-regulation (6); and
- (b) that the prescribed penalty was not paid in accordance with the notice within 14 days after the date of service of the notice,

is evidence of the matters so stated.

“(8) At the hearing of a prosecution for a smoking offence in respect of which a smoking infringement notice has been served, a certificate signed by the Secretary or an authorized officer and stating—

- (a) that the further time specified in the certificate for the payment of the prescribed penalty in respect of the offence was allowed under sub-regulation (6); and
- (b) that the prescribed penalty was not paid in accordance with the notice within 14 days after the date of service of the notice or within the further time allowed under sub-regulation (6),

is evidence of the matters so stated.

“(9) For the purposes of sub-regulations (7) and (8)—

- (a) a document that purports to have been signed by the Secretary shall be taken to have been so signed unless the contrary is proved; and
- (b) a document that purports to have been signed by an authorized officer shall be taken to have been so signed unless the contrary is proved.

“(10) Where a cheque is tendered in payment of the prescribed penalty in respect of a smoking offence, payment of the penalty shall not be taken to have been made unless and until the cheque is honoured upon presentation.

“(11) Except as provided by sub-regulation (6), nothing in this regulation in any way prejudices or affects the institution or prosecution of proceedings in respect of an alleged smoking offence or limits the amount of the fine that may be imposed by the Court in respect of a smoking offence.

“(12) Nothing in this regulation shall be construed as requiring the serving of a smoking infringement notice under this regulation or as affecting the liability of a person to be prosecuted in the Court in respect of an alleged smoking offence in relation to which a smoking infringement notice has not been served.”.

8. Regulation 37 of the Motor Omnibus Services Regulations is **Penalties**
amended—

- (a) by omitting “an offence” and substituting “an offence and, where no other penalty is provided, is punishable, on conviction, by a fine not exceeding \$50”; and
- (b) by omitting—
 “Penalty: \$50.”