

AUSTRALIAN CAPITAL TERRITORY

Motor Traffic (Amendment) Ordinance (No. 2) 1985

No. 30 of 1985

I, THE GOVERNOR-GENERAL of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, hereby make the following Ordinance under the *Seat of Government (Administration) Act 1910*.

Dated 30 July 1985.

N. M. STEPHEN
Governor-General

By His Excellency's Command,

G. SCHOLLES
Minister of State for Territories

An Ordinance to amend the *Motor Traffic Ordinance 1936*

Short title

1. This Ordinance may be cited as the *Motor Traffic (Amendment) Ordinance (No. 2) 1985*.¹

Principal Ordinance

2. In this Ordinance, "Principal Ordinance" means the *Motor Traffic Ordinance 1936*.²

Actions for damages in case of death or bodily injury

3. Section 55 of the Principal Ordinance is amended by omitting from subsection (1) "in that action, and shall, before taking any further proceedings in the action, file in the appropriate court an affidavit of service of the writ." And substituting "claim or other originating process in that action, and shall, before

taking any further step in the action, file in the appropriate court an affidavit of service of that writ, claim or other process.”.

Recovery of money from insurers

4. Section 61 of the Principal Ordinance is amended—

- (a) by omitting from sub-section (4) “An action under the last preceding sub-section” and substituting “Subject to sub-section (4A), in action under sub-section (3)”;
- (b) by omitting from paragraph (4) (b) “court, upon sufficient cause being shown, allows” and substituting “authorized insurer or the nominal defendant, as the case may be, allows”; and
- (c) by inserting after sub-section (4) the following sub-section:

“(4A) Where the authorized insurer or the nominal defendant refuses to allow a further period in pursuance of paragraph (4) (b) or a notice referred to in sub-section (4) has not been given as required by that sub-section within a further period so allowed, the court may, upon sufficient cause being shown, allow such further period as it thinks fit for giving to the authorized insurer or the nominal defendant, as the case requires, notice of intention to make a claim.”.

Claims in respect of uninsured and unidentified motor vehicles

5. Section 85 of the Principal Ordinance is amended—

- (a) by omitting from sub-section (5) “An action to” and substituting “Subject to sub-section (6), an action to”;
- (b) by omitting from paragraph (5) (b) “court, upon sufficient cause being shown, allows” and substituting “nominal defendant allows”; and
- (c) by adding at the end thereof the following sub-section:

“(6) Where the nominal defendant refuses to allow a further period in pursuance of paragraph (5) (b) or a notice referred to in sub-section (5) has not been given as required by that sub-section within a further period so allowed, the court may, upon sufficient cause being shown, allow such further period as it thinks fit for giving to the nominal defendant notice of intention to make a claim.”.

NOTES

1. Notified in the *Commonwealth of Australia Gazette* on 6 August 1985.
2. No. 45, 1936 as amended to date. For previous amendments *see* Note 2 to No. 2, 1985 and *see also* No. 2, 1985.