

AUSTRALIAN CAPITAL TERRITORY

Motor Traffic (Amendment) Ordinance (No. 2) 1987

No. 63 of 1987

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 5 November 1987.

N. M. STEPHEN
Governor-General

By His Excellency's Command,

GRAHAM RICHARDSON
Minister of State for the Environment and the Arts
for and on behalf of the Minister of State for the
Arts, Sport, the Environment, Tourism and
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) 1987*.¹

Principal Ordinance

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

Interpretation

3. Section 149 of the Principal Ordinance is amended—

- (a) by inserting “in the course of business” after “purpose” in paragraph (a) of the definition of “goods vehicle” in subsection (1);
- (b) by omitting all the words after “without” from the definition of “loading zone sign” in subsection (1) and substituting “an inscription indicating a period by reference to—
 - (a) a length of time; or
 - (b) particular times;or both;”;
- (c) by omitting from subsection (1) the definition of “certified vehicle” and substituting the following definition:
 - “ ‘certified vehicle’ means a motor vehicle specified in a certificate given under subsection 149B (1), being a certificate that is in force;”;and
- (d) by inserting in subsection (1) each of the following definitions in its appropriate alphabetical position:
 - “ ‘certificate holder’ means the holder of a certificate given under subsection 149B (1), being a certificate that is in force;
 - ‘loading zone’ means that part of a public street or public place to which a loading zone sign relates—
 - (a) within the particular times (if any) indicated on the sign; or
 - (b) if no times are indicated on the sign—at all times;”.

4. Section 149A of the Principal Ordinance is repealed and the following sections are substituted:

Certified vehicles—application for certificate

“149A. (1) Where the owner of a motor vehicle, not being a motor vehicle constructed primarily for the carriage of goods, uses or intends to use the vehicle for the carriage of goods in the course of the owner’s business, the owner may apply to the Registrar for a certificate under subsection 149B (1) in relation to that vehicle.

“(2) An application shall be—

- (a) in the form approved by the Registrar for the purpose;
- (b) signed by the applicant;

- (c) accompanied by the determined fee; and
- (d) lodged with the Registrar.

“(3) The Registrar may, by written notice to an applicant, require the applicant to give the Registrar, orally or in writing, such further information relating to the application as is specified in the notice.

Certified vehicles—grant or refusal of certificate

“149B. (1) Where the Registrar receives an application under section 149A, the registrar may give the applicant a certificate to the effect that the vehicle specified in the certificate may be parked in a specified loading zone or a loading zone included in a specified class of loading zones.

“(2) A certificate shall indicate whether the certified vehicle may park in a loading zone—

- (a) at all times; or
 - (b) at any time—
 - (i) within a particular period; or
 - (ii) for a particular length of time;
- or both.

“(3) In making a decision under subsection (1) in respect of a loading zone, the Registrar shall consider—

- (a) the extent of the proposed use of the loading zone by the applicant’s vehicle in the course of the applicant’s business; and
- (b) the likely demand for use of the loading zone by goods vehicles generally at any time at which the applicant proposes that the zone would be used by the applicant’s vehicle.

“(4) Without limiting the generality of subsection (1), the Registrar may refuse to give a certificate under this section where the Registrar believes on reasonable grounds that the applicant—

- (a) is not entitled to apply under section 149A (1);
- (b) has failed to comply with a requirement under subsection 149A (2) or (3); or
- (c) made a statement which was false or misleading in a material particular—

- (i) in his or her application; or
- (ii) to the Registrar pursuant to a requirement under subsection 149A (3).

Certified vehicles—variation of certificate

“149C. (1) A certificate holder may apply to the Registrar for the variation of the certificate.

“(2) An application shall—

- (a) be in writing signed by the applicant;
- (b) state the variation sought, and the reasons for it;
- (c) be accompanied by—
 - (i) the relevant certificate; and
 - (ii) the determined fee; and
- (d) be lodged with the Registrar.

“(3) The Registrar may, by written notice to an applicant, require the applicant to give the Registrar, orally or in writing, such further information relating to the application as is specified in the notice.

“(4) Where the Registrar receives an application under subsection (1), the Registrar shall—

- (a) by endorsement, vary the certificate in the manner sought; or
- (b) refuse to vary the certificate.

“(5) In making a decision under subsection (4), the Registrar shall consider, in relation to the variation sought, the matters referred to in paragraphs 149B (3) (a) and (b).

“(6) Without limiting the generality of subsection (5), the Registrar may refuse to vary a certificate where the Registrar believes on reasonable grounds that the applicant—

- (a) has failed to comply with a requirement under subsection (2) or (3);
or
- (b) has made a statement which was false or misleading in a material particular—
 - (i) in the application; or

- (ii) to the Registrar pursuant to a requirement under subsection (3).

“(7) Where the Registrar makes a decision under this section, the Registrar shall give the certificate, endorsed with any approved variation, to the applicant.

“(8) The variation of a certificate takes effect on the day on which the endorsed certificate is given to the applicant under subsection (7).

Certified vehicles—surrender of certificate

“149D. A certificate holder may surrender the certificate by giving to the Registrar a written notice of surrender accompanied by the certificate.

Certified vehicles—cancellation of certificate

“149E. (1) Where the Registrar believes on reasonable grounds that—

- (a) a certified vehicle is no longer—
 - (i) owned by the certificate holder;
 - (ii) used by that person for the carriage of goods in the course of his or her business; or
 - (iii) required for that use by that person; or
- (b) a certificate under subsection 149B (1) that is in force was given in reliance on information given to the Registrar by the certificate holder which was false or misleading in a material particular;

the Registrar may cancel the certificate.

“(2) The Registrar shall not cancel a certificate unless the Registrar has given the certificate holder a written notice that—

- (a) specifies the ground upon which the Registrar intends to cancel the certificate;
- (b) states the facts and circumstances that, in the Registrar’s opinion, constitute that ground; and
- (c) informs the certificate holder that he or she may, within 14 days from the date of the notice, by writing given to the Registrar, place before the Registrar any matters in answer to the matters stated in the notice.

“(3) In making a decision under subsection (1), the Registrar shall consider any matter placed before the Registrar in accordance with the notice given under subsection (2).

“(4) Subject to subsection 149H (4), the cancellation of a certificate takes effect at the expiration of 14 days after the day on which the Registrar gives the certificate holder written notice of the cancellation under section 149G.

Certified vehicles—period of certificate

“149F. A certificate given under subsection 149B (1) remains in force until—

- (a) the expiration of a day specified in the certificate, being a day not later than 1 year after the day on which it is given;
- (b) the surrender of the certificate; or
- (c) the cancellation of the certificate;

whichever first occurs.

Certified vehicles—notice of decisions

“149G. Where the Registrar makes a decision—

- (a) under section 149B—
 - (i) refusing to give a certificate; or
 - (ii) to give a certificate on terms different from those sought by the applicant;
- (b) under subsection 149C (4) refusing to vary a certificate; or
- (c) under subsection 149E (1) cancelling a certificate;

the Registrar shall, within 7 days of making the decision, give the applicant, or the certificate holder, as the case may be, written notice of the decision—

- (d) setting out the reasons for the decision; and
- (e) containing a statement to the effect that the recipient of the notice may, within 14 days of receiving the notice, appeal to the Court against the decision.

Certified vehicles—appeals

“149H (1) A person to whom a notice is given under section 149G, may, within 14 days of receipt of the notice, appeal to the Court against the Registrar’s decision to which the notice relates.

“(2) The Registrar shall be the respondent to an appeal under this section.

“(3) On the appeal, the Court may—

- (a) affirm, set aside or vary the decision of the Registrar;
- (b) make such order as the Court considers just; or
- (c) make such ancillary orders as the Court considers appropriate.

“(4) Where an appeal is brought against a decision of the Registrar cancelling a certificate, the certificate is, subject to this Ordinance, but notwithstanding subsection 149E (4), deemed to have continued, and to continue, in force pending the determination of the appeal.”.

Certified vehicles—labels

5. Section 150 of the Principal Ordinance is amended—

- (a) by omitting subsection (1) and substituting the following subsection:

“(1) Where the Registrar—

- (a) gives a certificate; or
- (b) varies a certificate;

the Registrar shall issue to the certificate holder a label in a form approved by the Registrar.”;

- (b) by omitting the penalty at the foot of subsection (2) and substituting the following penalty: “Penalty: \$200.”;
- (c) by omitting subsections (3A) and (4) and substituting the following subsection:

“(3) Where a certificate—

- (a) is varied; or
- (b) has ceased to be in force;

the person to whom the certificate was given shall, within 7 days of the variation or cessation, as the case may be, destroy the label last issued to him or her under this section before that variation or cessation.

Penalty: \$200.”; and

- (d) by omitting the penalty at the foot of subsection (4).

6. Section 157 of the Principal Ordinance is repealed and the following section substituted:

Parking in loading zones

“157. (1) A person shall not—

- (a) stop or park a motor vehicle, other than a goods vehicle being used in the course of the owner’s business; or
- (b) park a trailer;

so that any part of it is within a loading zone.

“(2) A person shall not park a goods vehicle in a loading zone for a length of time that exceeds—

- (a) if a loading zone sign that relates to the loading zone indicates a length of time—
 - (i) the length of time indicated on the sign; or
 - (ii) the length of time during which goods are being loaded onto, or unloaded from, the vehicle;

whichever is the shorter; or

- (b) in any other case—the length of time during which goods are being loaded onto, or unloaded from the vehicle.

“(3) A person shall not park a certified vehicle in a loading zone except in accordance with the certificate.

“(4) A person shall not park a certified vehicle in a loading zone unless the vehicle has the label last issued under section 150 in respect of the vehicle affixed to the vehicle in the manner in which, in accordance with regulations 18 and 20 of the Motor Traffic Regulations, a registration label would be required to be affixed to the vehicle.

Penalty: \$200.”.

Parking infringement notices

7. Section 162 of the Principal Ordinance is amended by inserting in subparagraph (6) (a) (i) “150 (2) or (3),” after “subsection” (first occurring).

Transitional

8. (1) In this section, “commencement date” means the date of commencement of this Ordinance.

(2) Notwithstanding the amendments of the Principal Ordinance made by this Ordinance—

(a) a certificate—

(i) given under section 149A of the Principal Ordinance as in force immediately before the commencement date; and

(ii) in force immediately before that date;

continues in force on and after that date; and

(b) the provisions of the Principal Ordinance in force immediately before the commencement date continue to apply in relation to that certificate.

NOTES

1. Notified in the *Commonwealth of Australia Gazette* on 6th November 1987.
2. No. 45, 1936 as amended to date. For previous amendments *see* Note 2 to No. 50, 1987 and *see also* No. 50, 1987.