



## AUSTRALIAN CAPITAL TERRITORY

# Motor Traffic (Amendment) Act (No. 3) 1989

No. 20 of 1989

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AUSTRALIAN CAPITAL TERRITORY

## **Motor Traffic (Amendment) Act (No. 3) 1989**

**No. 20 of 1989**

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### **An Act to amend the *Motor Traffic Act 1936***

*[Notified in ACT Gazette S 35: 14 November 1989]*

The Legislative Assembly for the Australian Capital Territory enacts as follows:

#### **Short title**

**1.** This Act may be cited as the *Motor Traffic (Amendment) Act (No. 3 ) 1989*.

#### **Commencement**

**2.** This Act commences on such date as is fixed by the Minister by notice in the *Gazette*.

#### **Principal Act**

**3.** In this Act, “Principal Act” means the *Motor Traffic Act 1936*.<sup>1</sup>

**Interpretation**

4. Section 4 of the Principal Act is amended by inserting at the end of the definition of “visiting motor vehicle” in subsection (1) “or a motor vehicle in respect of which the Registrar has suspended the right to drive in the Territory under subparagraph 162E (1) (e) (iii) or (f) (ii)”.

**Refusal of a licence to certain persons**

5. Section 11 of the Principal Act is amended by omitting from paragraph (c) “cancelled” and substituting “was cancelled otherwise than under section 162E”.

**Special licences to drive**

6. Section 13A of the Principal Act is amended—

(a) by inserting after subsection (1) the following subsection:

“(1A) Subsection (1) does not apply to a person whose licence is cancelled under section 162E and who is disqualified from holding a driving licence by virtue of section 162F.”; and

(b) by omitting from subsection (2) “the last preceding sub-section” and substituting “subsection (1)”.

**Visiting motor drivers**

7. Section 107 of the Principal Act is amended—

(a) by inserting in subsection (2) “, has had his or her right to drive a motor vehicle in the Territory suspended under subparagraph 162E (1) (e) (iii) or (iv),” after “otherwise”; and

(b) by omitting from subsection (2) “Territory” (last occurring) and substituting “Territory,”.

**Interpretation**

8. Section 149 of the Principal Act is amended:

(a) by inserting in the definition of “parking infringement” in subsection (1) “, other than sections 150, 163G, 163H, 163J, 163K and 163MA” after “Part”;

**(b)** by inserting in subsection (1) the following definition:

“ ‘penalty’, in relation to a parking infringement, means—

(a) in respect of the contravention of—

- (i) section 153 or subsection 154 (1) or 157 (1), (2), (3) and (5); or
- (ii) subsection 152 (5) or 155 (5) where the relevant sign bears an inscription that, in referring to a class of motor vehicles, includes a reference to ‘disabled persons’;

\$50;

(b) in respect of the contravention of—

- (i) subsection 151 (3), 152 (1), (2), (3A) or (4) or 155 (1), (2), (2A) or (4), section 156, subsection 157 (4), 158 (1) or 163E (1) or section 163M; or
- (ii) subsection 152 (5) or 155 (5) where the relevant sign bears an inscription that, in referring to a class of motor vehicles, includes a reference to ‘district nurses’, ‘medical practitioners’, ‘Red Cross vehicles’ or ‘Members of the Commonwealth Parliament’;

\$40; and

(c) in respect of the contravention of—

- (i) subsection 151 (1) or (2), 152 (3), 154 (2) or (3), 155 (3) or 158 (2), section 163D or subsection 163E (2) or 163F (1); or
- (ii) subsection 152 (5) or 155 (5), not being a contravention referred to in paragraph (a) or (b);

\$30;” and

- (c) by inserting after subsection (1) the following subsections:

“(1A) For the purposes of this Part, the administrative charge is—

- (a) \$25; or
- (b) such other charge as is determined by the Minister, by notice in writing published in the *Gazette*, for the purposes of this subsection.

“(1B) A determination under paragraph (1A) (b) is a disallowable instrument for the purposes of section 10 of the *Subordinate Laws Act 1989*.”.

### **Stopping etc. adjacent to boundary**

9. Section 151 of the Principal Act is amended—

- (a) by omitting the penalty set out at the foot of subsections (1) and (2);
- (b) by omitting from subsection (3) “who stops or parks a motor vehicle or parks” and substituting “shall not stop or park a motor vehicle or park”; and
- (c) by omitting from subsection (3) all the words after “area” (last occurring).

### **Parking etc. in public streets regulated by traffic signs**

10. Section 152 of the Principal Act is amended—

- (a) by omitting the penalty set out at the foot of subsection (1);
- (b) by omitting from subsection (1A) all the words from and including “It” to and including “he” and substituting “A person shall not be taken to have contravened subsection (1) if the person”;
- (c) by omitting the penalty set out at the foot of subsections (2), (3), (3A), (4) and (5); and
- (d) by omitting from subsection (6) “It is not an offence against a preceding sub-section of this section” and substituting “A person shall not be taken to have contravened a preceding subsection of this section”.

### **Bus stops**

11. Section 153 of the Principal Act is amended by omitting the penalty set out at the foot of the section.

**Taxis and private hire cars**

**12.** Section 154 of the Principal Act is amended—

- (a) by omitting the penalty set out at the foot of subsections (1), (2) and (3); and
- (b) by omitting from subsection (4) “It is not an offence against either of the last two preceding sub-sections” and substituting “A person shall not be taken to have contravened subsection (2) or (3)”.

**Parking in public places**

**13.** Section 155 of the Principal Act is amended—

- (a) by omitting the penalty set out at the foot of subsections (1) to (5) (inclusive); and
- (b) by omitting from subsection (6) “It is not an offence against a preceding sub-section of this section” and substituting “A person shall not be taken to have contravened a preceding subsection of this section”.

**Off-street parking and loading-zones—further regulation**

**14.** Section 156 of the Principal Act is amended by omitting the penalty set out at the foot of the section.

**Parking in loading zones**

**15.** Section 157 of the Principal Act is amended by omitting the penalty set out at the foot of the section.

**Other parking etc. offences**

**16.** Section 158 of the Principal Act is amended—

- (a) by omitting the penalty set out at the foot of subsection (1);
- (b) by omitting from subsection (2) “who stops or parks a motor vehicle or parks” and substituting “shall not stop or park a motor vehicle or park”; and
- (c) by omitting from subsection (2) all the words after “obstruction”.

**Parking infringements—liability****17.** Section 159 of the Principal Act is amended—**(a)** by inserting after subsection (1) the following subsections:

“(1A) Where a parking infringement occurs and, at the time of the occurrence of the infringement, the motor vehicle is unregistered, the person whose name is last recorded as the registered owner in the record of registration of the vehicle shall be deemed to have committed the parking infringement, whether or not he or she in fact committed the infringement.

“(1B) If the driver of a motor vehicle owned by the Territory or the Commonwealth does, or omits to do, an act in relation to the motor vehicle that constitutes a parking infringement, the driver of the motor vehicle is solely liable in respect of that infringement.

“(1C) Where a registered motor vehicle is sold or disposed of, and the former owner has completed and furnished to the Registrar a notice of disposal in accordance with a form supplied by the Registrar then, in respect of any parking infringement committed in respect of the motor vehicle which occurs on or after the date of sale or disposal specified in the notice, the person named in that notice as the person to whom the motor vehicle was sold or disposed shall, for the purposes of subsections 159 (1) and (1A), be deemed to be the owner of the motor vehicle.”;

**(b)** by omitting subsection (2) and substituting the following subsection:

“(2) Nothing in this section affects the liability of an actual infringer other than the owner of the motor vehicle, but the owner and the actual infringer shall not both be liable for the same parking infringement.”;

**(c)** by omitting from subsection (4) all the words from and including “of this Act” to and including “infringement” (third occurring) and substituting “or a notice served under section 162A”;**(d)** by omitting from subsection (5) all the words from and including “of this Act” to and including “infringement” (third occurring) and substituting “or a notice served under section 162A”;**(e)** by omitting from subsection (6) “of this Act, or a summons has been served,” and substituting “or a notice served under section 162A”;



- (f) by omitting from subsection (6) “or service of the summons, as the case may be,”;
- (g) by omitting from subsection (7) “of this Act, or a summons has been served,” and substituting “or a notice served under section 162A”;
- (h) by omitting from subsection (7) “or service of the summons, as the case may be”;
- (i) by omitting from subsection (8) “At the hearing of a prosecution for” and substituting “In proceedings in respect of”;
- (j) by omitting from subsection (8) “of this section, the Court shall dismiss the charge” and substituting “, the Court shall not find the owner liable for the parking infringement”;
- (k) by omitting from subsection (9) “At the hearing of a prosecution for” and substituting “In proceedings in respect of”;
- (l) by omitting from subsection (9) “of this section, the Court shall dismiss the charge” and substituting “, the Court shall not find the body corporate liable for the parking infringement”; and
- (m) by omitting subsections (10) and (11).

### **Substitution**

**18.** Section 160 of the Principal Act is repealed and the following section substituted:

### **Liability**

“160. A person on whom a parking infringement notice is served is liable to pay to the Registrar, within 28 days after the date of the notice, the penalty for the parking infringement.”.

### **Evidence of registration of motor vehicle**

**19.** Section 161 of the Principal Act is amended by omitting from subsection (2) “In a prosecution for” and substituting “In proceedings in respect of”.

### **Parking infringement notices**

**20.** Section 162 of the Principal Act is amended—

- (a) by inserting at the end of paragraph (2) (b) “or”;
- (b) by omitting from paragraph (2) (c) “or” (last occurring);

(c) by omitting paragraph (2) (d);

(d) by omitting subsection (5) and substituting the following subsection:

“(5) A parking infringement notice shall—

- (a) be in a form approved by the Minister;
- (b) clearly specify the day, time and place of the alleged parking infringement;
- (c) clearly indicate the nature of the alleged parking infringement;
- (d) contain a notification to the person on whom it is served that—
  - (i) if the infringer pays the penalty for the alleged parking infringement within 28 days after the date of the notice no further action will be taken in respect of the infringement;
  - (ii) if the infringer does not pay the penalty for the parking infringement or take action of the kind referred to in subparagraph (iii) or (vi), he or she shall incur liability for the administrative charge in addition to the penalty for the parking infringement;
  - (iii) if the infringer wishes to dispute liability for the alleged parking infringement he or she must give the Registrar notice in writing to that effect within 28 days after the date of the notice;
  - (iv) if liability is disputed, the matter may be referred to the Court for determination;
  - (v) if liability is disputed and the Court finds against the infringer, he or she will be liable to pay the penalty, the administrative charge and Court costs; and
  - (vi) if, when the alleged parking infringement occurred, the owner was not the driver of the motor vehicle he or she may lodge a statutory declaration with the Registrar to that effect within 28 days after the date of the notice; and

- (e) clearly specify the place at which, and the manner in which, the penalty for the parking infringement may be paid.”;
- (e) by omitting subsections (6) and (7);
- (f) by omitting from subsection (7A) “At the hearing of a prosecution for” and substituting “In proceedings in respect of”;
- (g) by omitting subsections (7B), (7C) and (7D);
- (h) by omitting from subsection (8) “sub-section (7)” and substituting “section 162B”;
- (i) by omitting from subsection (8) “and to make the statement referred to in that subsection”;
- (j) by omitting from subsection (9) “prescribed penalty” and substituting “penalty for a parking infringement”; and
- (k) by omitting subsections (10) and (11).

### **Substitution**

**21.** Section 163 of the Principal Act is repealed and the following sections are substituted:

#### **Final notice—non-payment of penalty**

“162A. (1) Where—

- (a) a parking infringement notice has been served under section 162; and
- (b) the person on whom it is served fails—
  - (i) to pay the penalty for the parking infringement;
  - (ii) to furnish a statutory declaration in accordance with section 159; or
  - (iii) to lodge a notice under subsection 162C (1);

the person is liable to pay to the Registrar, within 14 days after the date of service by the Registrar of a notice in accordance with this section, the sum of the penalty for the parking infringement and the administrative charge.

“(2) A notice under this section shall be in a form approved by the Minister.

“(3) A notice under this section shall contain a notification to the person on whom it is served that—

- (a) the infringer has not paid the penalty for the alleged parking infringement to which the notice relates;
- (b) if the penalty for the alleged parking infringement and the administrative charge is paid within 14 days after the date of the notice, no further action will be taken against the infringer in respect of the alleged parking infringement;
- (c) if the penalty for the alleged parking infringement and the administrative charge are not paid in accordance with the notice, the Registrar will, on a date specified in the notice—
  - (i) cancel the infringer’s driving licence or the registration of the motor vehicle in respect of which the alleged parking infringement occurred; or
  - (ii) suspend the infringer’s right to drive in the Territory, suspend the right to drive in the Territory the motor vehicle in respect of which the alleged parking infringement occurred, or suspend the infringer’s right to drive in the Territory and the right to drive the motor vehicle in the Territory;

as the case requires;

- (d) if the infringer wishes to dispute liability for the alleged parking infringement he or she must give the Registrar notice in writing to that effect within 14 days after the date of the notice;
- (e) if liability is disputed, the matter may be referred to the Court for determination;
- (f) if liability is disputed and the Court finds against the infringer, he or she will be liable to pay the penalty for the parking infringement, the administrative charge and Court costs; and
- (g) if, when the alleged parking infringement occurred, the owner was not the driver of the motor vehicle he or she may lodge a statutory declaration with the Registrar to that effect within 14 days after the date of notice.

“(4) If a person on whom a notice under this section is served furnishes a statutory declaration under subsection 159 (4) or (5) naming another person as being in charge of the motor vehicle at the time of the alleged parking infringement to which the notice relates, the Registrar shall not take action under this Part in relation to that other person until a notice under this section is served on that other person.

“(5) A notice under this section may be served—

- (a) by serving the notice on the owner of the motor vehicle personally or by post or by leaving it at his or her last-known place of residence or business with a person apparently over the age of 16 years and apparently an occupant of or employed at that place; or
- (b) if the owner of a motor vehicle has furnished a statutory declaration in accordance with subsection 159 (4) or (5)—by serving the notice personally or by post on the person whose name is specified in the statutory declaration as being in charge of the motor vehicle at the time of the alleged parking infringement or by leaving it at his or her last-known place of residence or business with a person apparently over the age of 16 years and apparently an occupant of or employed at that place.

“(6) Subsection 162 (3) applies in relation to the service of a notice under this section in the same way it applies to the service of a parking infringement notice.

### **Discharge of liability**

“162B. Where a parking infringement notice under section 162, or a notice under section 162A, has been served on a person, and, before the expiration of the period of 28 or 14 days, respectively, after the date of the relevant notice or within such further time (not exceeding 28 days) as the Registrar, whether before or after the expiration of that period, allows, the penalty for the infringement, or the penalty and the administrative charge, as the case requires, is paid in accordance with the relevant notice—

- (a) any liability of a person in respect of the alleged parking infringement shall be deemed to be discharged; and
- (b) no further proceedings shall be taken in respect of the infringement.

**Disputing liability under parking infringement notice or final notice**

“162C. (1) A person on whom a parking infringement notice under section 162, or a notice under section 162A, is served, may, by notice in writing lodged with the Registrar within 28 or 14 days, respectively, after the date of the notice, dispute liability for the alleged parking infringement to which the notice relates.

“(2) A notice under subsection (1) shall set out the grounds on which the person relies.

**Disputed notices—application to Court for declaration**

“162D. (1) If a person on whom a parking infringement notice under section 162, or a notice under section 162A, is served, within 28 or 14 days, respectively, after the date of the notice—

- (a) furnishes to the Registrar a statutory declaration under section 159; or
- (b) lodges a notice under subsection 162C (1);

the Registrar may, within 60 days after the date of the relevant notice, apply to the Court for a declaration that the person is liable to pay the Registrar the penalty for the parking infringement or the penalty for the parking infringement and the administrative charge, as the case requires, to which the notice relates.

“(2) An application under subsection (1) shall be accompanied by a copy of any statutory declaration furnished under section 159 in respect of the parking infringement.

“(3) Where a person referred to in subsection (1) disputes liability, and before the hearing of proceedings in respect of the alleged parking infringement commence the person wishes to pay to the Registrar the penalty for the parking infringement, the person is liable to pay to the Registrar the sum of—

- (a) the penalty for the parking infringement;
- (b) the administrative charge; and
- (c) the prescribed costs (if any) in commencing the proceedings, and disbursements (if any) incurred by the Registrar up to the date of the payment.

“(4) Where a person referred to in subsection (1) pays the sum referred to in subsection (3), the Registrar shall discontinue the proceedings in respect of the parking infringement.

“(5) If the Registrar does not make application to the Court under subsection (1) within the period referred to in that subsection, the Registrar shall notify the person referred to in that subsection that no further action will be taken in relation to that person in respect of the parking infringement.

**Cancellation of licences, registration etc.**

“162E. (1) Where—

- (a) a person on whom a notice under section 162A has been served fails to pay to the Registrar the penalty for the parking infringement and the administrative charge in accordance with the notice;
- (b) a person on whom a parking infringement notice under section 162 and a notice under section 162A is served, fails within 28 or 14 days, respectively, after the date of the notice—
  - (i) to furnish to the Registrar a statutory declaration under section 159; or
  - (ii) to lodge a notice under subsection 162C (1);in accordance with the notice served;
- (c) on application to the Court by the Registrar under subsection 162D (1), the Court makes the declaration sought and the person fails to comply with the declaration within 14 days after the date of the declaration or such further time as the Court allows; or
- (d) pursuant to an order under subsection 147A (2), 150A (1) or 150B (1) of the *Magistrates Court Ordinance 1930*, a copy of the conviction or order has been forwarded to the Registrar;

the Registrar shall—

- (e) if the infringer or the person against whom that conviction or order is made is a natural person and, at the time the Registrar takes action under this subsection, the person—
  - (i) is licensed in the Territory—cancel any driving licence issued to that person;
  - (ii) is not licensed in the Territory but the motor vehicle in respect of which the infringement occurred is registered in the Territory in the name of the infringer—cancel the registration of that motor vehicle;

- (iii) is not licensed in the Territory and the motor vehicle in respect of which the infringement occurred is not registered in the Territory—suspend the person’s right to drive a motor vehicle in the Territory and suspend the right to drive that motor vehicle in the Territory; or
  - (iv) is not licensed in the Territory and the motor vehicle in respect of which the infringement occurred is owned by the Territory or the Commonwealth—suspend the person’s right to drive a motor vehicle in the Territory; or
- (f) if the infringer or the person against whom that conviction or order is made is a body corporate and, at the time the Registrar takes action under this subsection—
- (i) the motor vehicle is registered in the Territory—cancel the registration of that motor vehicle; or
  - (ii) if the motor vehicle is not registered in the Territory—suspend the right to drive that motor vehicle in the Territory.

“(2) A person whose licence to drive in the Territory, or the registration in the Territory of his or her vehicle, has been cancelled under subsection (1), is not entitled to a refund of fees for the remaining period for which the licence or registration was granted.

“(3) Where, under subsection 162E (1), the Registrar cancels a driving licence or the registration of a motor vehicle, or suspends a person’s right to drive in the Territory or the right to drive a motor vehicle in the Territory, the Registrar shall notify the person, in writing, of the cancellation or suspension, as the case requires.

“(4) A notice under subsection (3) shall be served by post on the person at his or her last known place of residence or business.

### **Issue of fresh licence or registration**

“162F. (1) Where the Registrar takes action under subparagraph 162E (1) (e) (i), (iii) or (iv), the Registrar shall not issue to that person a licence to drive in the Territory, or cancel the suspension under subparagraph 162E (1) (e) (iii) or (iv) in respect of that person, unless any amount payable under section 162A or 162D or subsection 162K (1), as the case requires, has been paid to the Registrar.



“(2) Where the Registrar takes action under subparagraph 162E (1) (e) (ii), (iii) or (iv) or (f) (i) or (ii) in relation to a person, the Registrar shall not register, or renew the registration of, a motor vehicle in the name of that person, or cancel the suspension under subparagraph 162E (1) (e) (iii) or (f) (ii) in respect of that motor vehicle, unless any amount payable under section 162A or 162D or subsection 162K (1), as the case requires, has been paid to the Registrar.

### **Statutory declarations—general**

“162G. (1) The Registrar shall, at the request of the person who is named in a statutory declaration furnished under subsection 159 (4) or (5) as being the person in charge of a motor vehicle at the time of an alleged parking infringement, cause a copy of the statutory declaration to be made available to that person.

“(2) An application under subsection (1) may be made orally or in writing.

“(3) Where a person is named in a statutory declaration furnished under subsection 159 (4) or (5) as being the person who is in charge of a motor vehicle at the time of an alleged parking infringement, the statutory declaration is admissible in evidence in proceedings in respect of that infringement, and is evidence that the person was in charge of the motor vehicle at that time.

“(4) In proceedings in respect of a parking infringement, a document purporting to be a statutory declaration furnished under subsection 159 (4) or (5) shall, unless the contrary is shown, be taken to be such a statutory declaration, duly made and furnished.

### **Reinstatement of licences, registration etc.**

“162H. (1) A person—

- (a) whose licence to drive in the Territory, or the registration in the Territory of whose vehicle, has been cancelled; or
- (b) in respect of whom, or in respect of whose motor vehicle, a suspension under subparagraph 162E (1) (e) (iii) or (iv) or (f) (ii) is in force;

may apply to the Court for a declaration that he or she is not liable in respect of the parking infringement.

“(2) For the purposes of subsection (1), the onus of proving that a parking infringement occurred is on the Registrar.

“(3) The Court may, on sufficient cause being shown, make or refuse to make the declaration sought.

“(4) Where—

- (a) the Court makes the declaration sought under subsection (1); or
- (b) pursuant to section 23 of the *Magistrates Court Ordinance 1930* a conviction or order of that Court for a parking offence, within the meaning of Division 2 of Part IX of that Ordinance, is set aside;

the Registrar shall, subject to subsection (5)—

- (c) re-issue to the person a driving licence for the remainder of the period for which it would have remained in force had it not been cancelled;
- (d) re-register the motor vehicle the registration of which has been cancelled under section 162E for the remainder of the period for which it would have remained in force had it not been cancelled; or
- (e) by notice in writing served on the applicant, cancel the relevant suspension under subparagraph 162E (1) (e) (iii) or (iv) or (f) (ii);

as the case requires.

“(5) The Registrar shall not take action under paragraph (4) (c), (d) or (e) or in pursuance of an order under subsection 23 (7A) of the *Magistrates Court Ordinance 1930* if the Registrar is satisfied that, if the licence or registration were in force or a suspension under subsection 162E (1) were not in force, there exists a ground on which the Registrar may—

- (a) cancel the licence or registration under this Ordinance; or
- (b) suspend a person’s right to drive in the Territory, suspend the right to drive the motor vehicle in the Territory, or suspend the person’s right to drive in the Territory and the right to drive the motor vehicle in the Territory, as the case requires.

“(6) Where—

- (a) a licence is re-issued to a person under paragraph (4) (c); or
- (b) a motor vehicle is re-registered under paragraph (4) (d);

the person shall be taken for all purposes to have been licensed, and the motor vehicle shall be taken for all purposes to have been registered, during the period between the date of cancellation of the licence or registration and the date of re-issue or re-registration, as the case may be.

“(7) Where a suspension under section 162E is cancelled pursuant to paragraph (4) (e) then—

- (a) in the case of a suspension under subparagraph 162E (1) (e) (iii) or (iv)—the person shall be taken for all purposes to have been deemed to be licensed to drive a motor vehicle in pursuance of subsection 107 (1) during the period for which the suspension was in force; and
- (b) in the case of a suspension under subparagraph 162E (1) (e) (iii) or (f) (ii)—the motor vehicle shall be taken for all purposes to have been a visiting motor vehicle during the period for which the suspension was in force.

“(8) A person aggrieved by a decision of the Registrar under subsection (5) may apply to the Court for an order setting aside the decision.

“(9) The Court may, on sufficient cause being shown, affirm or set aside the decision of the Registrar under subsection (5).

“(10) The Registrar shall be the respondent to an application under this section.

**Bodies corporate—recovery of penalties etc.**

“162J. (1) Where a suspension is in force under subparagraph 162E (1) (f) (ii), an amount payable by the body corporate under section 162A, 162D or 162K may be recovered as a debt due to the Territory.

“(2) Where the amount referred to in subsection (1) is recovered, the Registrar shall cancel the suspension under subparagraph 162E (1) (f) (ii).

**Costs of applications to Court**

“162K. (1) If the Court makes a declaration sought under section 162D or refuses to make a declaration sought under section 162H, then, unless the Court otherwise orders, the applicant shall pay the prescribed costs of the Registrar.

“(2) If the Court makes a declaration sought under section 162H or refuses to make a declaration under section 162D, then, unless the Court otherwise orders, the Registrar shall pay the applicant’s costs of the application.

**Evidentiary provision—general**

“162L. (1) In proceedings in respect of a parking infringement in respect of which a parking infringement notice under section 162, or a notice under section 162A, has been served, a certificate signed by the Registrar or a Deputy Registrar and stating—

- (a) that the Registrar did not allow further time, under section 162B, for the payment of the penalty in respect of the parking infringement, or the penalty for the parking infringement and the administrative charge, as the case requires; and
- (b) that the penalty in respect of the parking infringement, or the penalty for the parking infringement and the administrative charge, as the case requires, was not paid in accordance with the notice;

is evidence of the matter so stated.

“(2) In proceedings in respect of a parking infringement in respect of which a parking infringement notice under section 162, or a notice under section 162A, has been served, a certificate signed by the Registrar or a Deputy Registrar and stating—

- (a) that the Registrar allowed, under section 162B, the further time specified in the certificate for the payment of the penalty in respect of the parking infringement, or the penalty for the parking infringement and the administrative charge, as the case requires; and
- (b) that the penalty in respect of the parking infringement, or the penalty for the parking infringement and the administrative charge, as the case requires, was not paid in accordance with the notice or within the further time allowed by the Registrar for the purposes of section 162B;

is evidence of the matter so stated.

“(3) For the purposes of subsection 162 (7A) and subsections (1) and (2)—

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

### **Applications—how made**

“162M. An application under section 162D or 162H shall be made pursuant to subsection 20 (2) of the *Magistrates Court (Civil Jurisdiction) Ordinance 1982*.”

### **Bar to criminal proceedings**

“163. A criminal proceeding does not lie against a person for a contravention of section 151, 152, 153, 154, 155, 156, 157, 158, 163D, 163E, 163F or 163M.”.

### **One vehicle to be parked on designated parking place**

**22.** Section 163D of the Principal Act is amended by omitting the penalty set out at the foot of the section.

### **Purchase and display of vouchers**

**23.** Section 163E of the Principal Act is amended—

- (a) by omitting the penalty set out at the foot of subsections (1) and (2); and
- (b) by omitting from subsection (7) “In proceedings for an offence against subsection (1), it is a defence for the defendant to establish that he” and substituting “A person shall not be taken to have contravened subsection (1) if he or she”.

### **Expired parking meter**

**24.** Section 163F of the Principal Act is amended—

- (a) by omitting the penalty set out at the foot of subsection (1); and
- (b) by omitting from subsection (2) “is not guilty of an offence against subsection (1) by reason only that he” and substituting “shall not be taken to have contravened subsection (1) if he or she”.

### **Covering of parking meters**

**25.** Section 163M of the Principal Act is amended by omitting the penalty set out at the foot of the section.

**Circumstances in which certain provisions not contravened**

**26.** Section 164 of the Principal Act is amended—

- (a) by omitting from subsection (1) all the words from and including “It” to and including “parked” (first occurring) and substituting “A person shall not be taken to contravene section 151, 152, 153, 154, 155, 157, 158, 163D, 163E, 163F or 163M if the person stops or parks a motor vehicle or trailer”;
- (b) by omitting from subsection (2) all the words from and including “It” to and including “Act” and substituting “A person shall not be taken to have contravened section 151 or paragraph 158 (a)”;
- (c) by omitting from subsection (3) “it is not an offence” and substituting “a person shall not be taken to be in contravention of that prohibition or qualification”;
- (d) by omitting from subsection (4) all the words from and including “It” to and including “parked” and substituting “A person shall not be taken to contravene section 151, 152, 153, 154, 155, 157, 158, 163D, 163E, 163F or 163M if the person stops or parks a motor vehicle”; and
- (e) by omitting subsection (5) and substituting the following subsection:

“(5) A person shall not be taken to contravene section 151, 152, 153, 154, 155, 157, 158 (other than paragraph (1) (f) or (i)), 163D, 163E, 163F or 163M if the person stops or parks a motor vehicle during a stoppage by reason of the nature of the traffic.”.

**General offence**

**27.** Section 192 of the Principal Act is amended by inserting in subsection (1) “, other than section 151, 152, 153, 154, 155, 156, 157, 158, 163D, 163E, 163F or 163M,” after “Act” (first occurring).

**Suspension or cancellation of driving licence**

**28.** Section 193A of the Principal Act is amended by adding at the end the following subsection:

“(10) Nothing in this section applies to the cancellation of a driving licence under section 162E.”.

**Laying of information**

**29.** Section 196 of the Principal Act is amended by omitting from subsection (1) “An” and substituting “Subject to section 163, an”.

**Transitional**

**30.** Notwithstanding the amendments effected by this Act and subject to the *Magistrates Court Ordinance 1930*, the provisions of Part X of the Principal Act continue to apply in relation to a parking infringement within the meaning of that Part committed before the commencement of this Act, as if those amendments had not been made.

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**NOTE**

1. Ordinance No. 45, 1936 as amended to date. For previous amendments *see* Note 2 to Ordinance No. 6, 1989 and *see also* Ordinances Nos. 6, 8, 21 and 38, 1989.

*[Presentation speech made in Assembly on 28 September 1989.]*