



AUSTRALIAN CAPITAL TERRITORY

## Motor Traffic (Amendment) Act 1991

No. 42 of 1991

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

*[Notified in ACT Gazette S95: 20 September 1991]*

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 1991*.

#### **Commencement**

2. (1) Section 1 and this section commence on the day on which this Act is notified in the *Gazette*.

(2) Subject to subsection (3), the remaining provisions commence on a day, or on respective days, fixed by the Minister by notice in the *Gazette*.

(3) If a provision referred to in subsection (2) has not commenced before the end of the period of 6 months commencing on the day on which this Act is notified in the *Gazette*, that provision, by force of this subsection, commences on the first day after the end of that period.

#### **Principal Act**

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

## **Repeal**

4. Sections 7B, 7C, 26P, 27A, 27B, 39A and 39B of the Principal Act are repealed.

## **Authorised insurers**

5. Section 59 of the Principal Act is amended—

- (a) by omitting from subsection (5) “sub-section (11) of this section” and substituting “section 217D”;
- (b) by omitting from subsection (5) “by the court”; and
- (c) by omitting subsections (11) and (12).

## **Refusal, cancellation or suspension of licences or registrations**

6. Section 104 of the Principal Act is amended by omitting subsections (6), (7), (8), (9), (10) and (11) and substituting the following subsection:

“(6) Subject to this Act, where an application is made under section 217D for the review of a decision by the Registrar under this section refusing to renew or cancelling or suspending a licence or registration, the licence or registration is deemed to have continued and to continue in force pending the determination or withdrawal of the appeal.”.

## **Traffic signs—NO ENTRY; NO EXIT**

7. Section 128G of the Principal Act is amended by adding at the end the following subsection:

“(4) A notice under paragraph (3) (b) is a disallowable instrument for the purposes of section 10 of the *Subordinate Laws Act 1989*.”.

## **Certified vehicles—cancellation of certificate**

8. Section 149E of the Principal Act is amended by omitting subsection (4) and substituting the following subsections:

“(4) Subject to this Act, where an application is made under section 217D for the review of a decision by the Registrar under subsection (1), the certificate is deemed to have continued and to continue in force pending the determination or withdrawal of the appeal.

“(5) Where no application is made under section 217D for the review of a decision by the Registrar under subsection (1), the cancellation of a certificate takes effect at the expiration of 14 days after the day on which the Registrar gives the certificate holder notice in writing of the cancellation under subsection 217C (1).”.

## **Repeal**

9. Sections 149G and 149H of the Principal Act are repealed.

**Application for approved label**

10. Section 150B of the Principal Act is amended by omitting subsections (5), (6), (7) and (8).

**Cancellation etc. of approved label**

11. Section 150C of the Principal Act is amended—

- (a) by omitting subsections (2), (3), (4) and (5); and
- (b) by omitting from subsection (7) “the notice referred to in subsection (2)” and substituting “notice of a decision under subsection (1)”.

**Repeal**

12. Section 164G of the Principal Act is repealed.

**Insertion**

13. After section 217B of the Principal Act the following sections are inserted:

**Notice of decision**

“217C. (1) Where—

- (a) the Minister makes a decision of a kind specified in Part I of Schedule 7; or
- (b) the Registrar makes a decision of a kind specified in Part II of Schedule 7;

the Minister or Registrar, as the case requires, shall give notice in writing of the decision to the person affected.

“(2) A notice under subsection (1) shall—

- (a) include a statement to the effect that, subject to the *Administrative Appeals Tribunal Act 1989*, an application may be made to the Tribunal for a review of the decision to which the notice relates; and
- (b) except where subsection 26 (11) of that Act applies—include a statement to the effect that a person whose interests are affected by the decision may request a statement pursuant to section 26 of that Act.

“(3) The validity of a decision referred to in subsection (1) shall not be taken to have been affected by a failure to comply with subsection (2).

**Review by Tribunal**

“217D. Application may be made to the Tribunal for a review of a decision referred to in subsection 217C (1).”.

### **Schedule**

**14.** The Principal Act is amended by adding at the end the Schedule set out in the Schedule to this Act.

### **Transitional**

**15. (1)** Where, immediately before the commencement of this section—

- (a) an appeal to the Supreme Court or the Magistrates Court in respect of a decision under the Principal Act as in force at the relevant time was pending but had not been determined; or
- (b) a person had a right to bring such an appeal;

subject to the *Administrative Appeals Tribunal Act 1989*, an application may be made to the Administrative Appeals Tribunal for a review of that decision as if section 217D of the Principal Act as amended by this Act had been in operation when the decision was made.

**(2)** Notwithstanding the *Administrative Appeals Tribunal Act 1989*, no fee is payable in respect of an application made in accordance with paragraph (1) (a).

**SCHEDULE**

Section 14

**SCHEDULE 7**

Subsection 217C (1)

**REVIEWABLE DECISIONS****Part I—Decisions of the Minister**

Item	Provision	Decision
1	Subsection 7A (6) (b)	Refusing to exempt a specified motor vehicle or trailer from compliance, in whole or in part, with an applicable design rule
2	Subsection 29 (1)	Imposing conditions on a licence for carriage of tourists
3	Subsection 33 (6)	Refusing to approve a scale of charges for a motor omnibus service
4	Subsection 33 (8)	Refusing to approve the variation or suspension of conditions on a motor omnibus service licence
5	Subsection 59 (2)	Refusing to grant an application for approval as an authorised insurer, or granting such an application subject to conditions
6	Subsections 59 (4) and (6)	Cancelling an approval of a person as an authorised insurer
7	Paragraph 128G (3) (a)	Refusing to exempt a specified vehicle from subsection 128G (1) or (2)
8	Subsection 209 (1)	Refusing to remit or refund any fee or portion of any fee
9	Subsection 213 (2)	Imposing conditions on a licence for the carriage of workmen
10	Subsection 215 (2)	Imposing conditions on licence to ply for hire for carriage of goods

**SCHEDULE—continued****Part II—Decisions of the Registrar**

Item	Provision	Decision
1	Subsection 7 (1)	Refusing to register or renew the registration of a motor vehicle
2	Subsection 7A (4)	Refusing to register or renew the registration of a motor vehicle or trailer
3	Subsection 8 (1)	Refusing to register or renew the registration of a trailer
4	Subsection 9 (1)	Refusing to grant a permit licence
5	Subsection 9 (1B)	Refusing to grant a permit licence in special circumstances
6	Subsection 10 (1)	Refusing to grant or renew a licence to drive
7	Subsection 10 (4)	Refusing to grant a licence to drive in special circumstances
8	Subsection 10 (4A)	Imposing conditions on a licence to drive in special circumstances
9	Subsection 12 (1)	Requiring a person to submit to a medical examination
10	Subsection 12 (2)	Requiring a person to submit to a medical examination
11	Subsection 20 (2)	Refusing to issue to the owner a number plate or number plates
12	Subsection 22 (5)	Transferring or refusing to transfer registration
13	Subsection 22 (6)	Cancelling registration
14	Subsection 26 (2)	Requiring registration of an altered motor vehicle or trailer
15	Subsection 26C (2)	Refusing to approve an application for reservation of a previously used registration number
16	Subsection 26N (2)	Extending reserved right for period shorter than that applied for
17	Subsection 27 (1)	Refusing to grant a taxi licence or motor omnibus licence
18	Subsection 27 (1A)	Refusing to renew or transfer a taxi licence or motor omnibus licence

**SCHEDULE—continued**

Item	Provision	Decision
19	Subsection 27 (7)	Refusing to transfer a transferable taxi licence or motor omnibus licence
20	Subsection 27A (4)	Refusing to extend or further extend the term of a defined right
21	Subsection 28 (1)	Refusing to grant a private hire car licence
22	Subsection 28 (1A)	Refusing to renew or transfer a private hire car licence
23	Subsection 29 (1)	Refusing to grant or renew a licence for carriage of tourists
24	Section 30	Cancelling or suspending a taxi licence or a private hire car licence
25	Subsection 31 (1)	Cancelling or suspending a taxi licence or a private hire car licence
26	Subsection 31 (2)	Refusing an application for, or the renewal of, a taxi licence or private hire car licence
27	Subsection 33 (1)	Refusing to grant or renew a licence to conduct a motor omnibus service or granting a motor omnibus service licence subject to conditions
28	Subsection 33 (8)	Refusing to vary or suspend conditions of a motor omnibus service licence
29	Subsection 33 (11)	Refusing to transfer omnibus service licence
30	Subsection 34 (1)	Refusing to grant or renew a visiting motor omnibus licence
31	Subsection 40 (1)	Refusing to grant a trader's licence
32	Subsection 43 (2)	Refusing to transfer a trader's licence
33	Subsection 98 (2)	Refusing to issue a certified copy of a certificate of registration or a licence
34	Paragraph 104 (2) (a)	Cancelling the registration of a motor vehicle
35	Paragraph 104 (2) (b)	Cancelling or suspending a licence

**SCHEDULE—continued**

Item	Provision	Decision
36	Paragraph 104 (2) (c)	Refusing to register, or cancelling or suspending the registration of, a motor vehicle or trailer
37	Paragraph 104 (2) (d)	Cancelling or suspending a trader's licence
38	Paragraph 104 (2) (e)	Cancelling or suspending a public motor vehicle licence or a private hire car licence
39	Paragraph 104 (2) (f)	Cancelling the registration or licence of any motor vehicle or trailer
40	Paragraph 104 (2) (g)	Refusing to renew the registration of a motor cycle
41	Subsection 105 (3)	Registering a motor vehicle, or granting a licence or renewing any such registration or licence for a period of less than 12 months
42	Section 106	Refusing to grant a visiting motorist's pass and label
43	Subsection 108E (8)	Refusing to revoke a defect notice
44	Subsection 149B (1)	Refusing to give a certificate or giving a certificate subject to limitations as to time
45	Subsection 149C (4)	Refusing to vary a certificate
46	Subsection 149E (1)	Cancelling a certificate permitting parking in a loading zone
47	Subsection 150 (5)	Refusing to issue a duplicate label
48	Subsection 150B (2)	Refusing an application for an approved label
49	Subsection 150C (1)	Cancelling an approved label
50	Section 150D	Refusing to issue replacement label
51	Subsection 164E (1)	Revoking or refusing to give a certificate
52	Paragraph 209 (2) (a)	Refusing to refund an excess payment
53	Paragraph 209 (2) (b)	Refusing to refund a fee paid in respect of a motor vehicle or trailer registered or licensed in error



**SCHEDULE—continued**

Item	Provision	Decision
54	Paragraph 209 (2) (c)	Refusing to refund a fee paid in respect of registration or a licence which is refused
55	Paragraph 209 (2) (d)	Refusing to refund a proportion of a fee paid for registration where the motor vehicle or trailer is destroyed or re-registered or the registration is cancelled on application
56	Section 210	Refusing to grant a motor tractor licence
57	Subsection 213 (1)	Refusing to grant a licence for the carriage of workmen
58	Subsection 214 (1)	Refusing to grant a permit or granting a permit in respect of a licensed goods motor vehicle subject to conditions
59	Subsection 214 (3)	Refusing to issue a permit for a period in excess of one month in special circumstances
60	Subsection 215 (1)	Refusing to grant a licence for a licensed goods motor vehicle
61	Subsection 216 (1)	Refusing to grant a temporary licence
62	Section 217	Refusing to issue a permit exempting persons from provisions of Act or granting a conditional permit

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**NOTE**

1. Ordinance No. 45, 1936 as amended by Nos. 25 and 41, 1938; No. 16, 1941; No. 14, 1942; Nos. 2 and 13, 1943; No. 3, 1945; Nos. 6 and 13, 1947; No. 7, 1950; No. 17, 1951; Nos. 1 and 7, 1955; No. 6, 1956; No. 19, 1957; Nos. 10 and 15, 1958; Nos. 7 and 21, 1959; No. 11, 1960; Nos. 16 and 17, 1962; No. 21, 1963; No. 8, 1964; Nos. 9 and 13, 1965; No. 19, 1966 (as amended by No. 36, 1967); No. 2, 1968; Nos. 27 and 29, 1969; No. 27, 1970; Nos. 13, 17, 37 and 39, 1971; Nos. 3 and 10, 1972; Nos. 1, 32, 38, 41, 42 and 57, 1973; Nos. 4, 12, 23, 37, 48 and 49, 1974; Nos. 3, 16, 23, 31, 52 and 54, 1976; Nos. 16, 23, 30, 37, 51 and 59, 1977; Nos. 2, 31 and 46, 1978; No. 32, 1979; No. 33, 1980; Nos. 3, 8, 30, 31 and 33, 1981; No. 40, 1981 (as amended by No. 43, 1981); Nos. 6, 49, 50, 64 and 96, 1982; Nos. 14, 18 and 21, 1983; Nos. 1, 15, 44, 45 and 54, 1984; Nos. 2, 30, 31, 35, 49, 50, 63, 67 and 73, 1985; Nos. 3, 6, 34, 58, 77, 78, 81 and 87, 1986; Nos. 50 and 63, 1987; Nos. 9, 10, 11, 15, 16, 20 and 70, 1988; Nos. 6, 8, 21 and 38, 1989; Acts Nos. 20, 21 and 23, 1989; Nos. 4, 14, 37, 38, 40, 41, 42 and 51, 1990.

*[Presentation speech made in Assembly on 8 August 1991]*