

EXPLANATORY STATEMENT

AUSTRALIAN CAPITAL TERRITORY

MOTOR TRAFFIC (AMENDMENT) ORDINANCE (NO. 2) 1989

ORDINANCE NO. 8 OF 1989

The Motor Traffic Ordinance 1936 (the Principal Ordinance) relates to the regulation of motor vehicles and motor traffic in the ACT.

Part III of the Principal Ordinance relates to public motor vehicles (including omnibuses and taxis) and private hire cars and section 27 provides for the granting of licences to operate public motor vehicles. Subsection 27(2A) prohibits the transfer of a taxi licence granted on or after the commencement of the Motor Traffic Ordinance (No. 2) 1973, namely, 9 August 1973.

The Motor Traffic (Amendment) Ordinance (No. 2) 1989 enables the holder of a taxi licence granted on and from 9 August 1973 to convert his or her licence to a transferable licence by the payment of the sum of \$37,500 which is a sum which has been determined by an independent arbitrator appointed by the Minister and the taxi industry for that purpose. The need to pay the sum of \$37,500 does not apply to a person who has already paid the sum of \$80,000 on the grant of a taxi licence as required under subsection 27(1) of the Principal Ordinance as it existed prior to the amendments effected by the Ordinance.

The option to convert to a transferable taxi licence will exist for a period of twelve months from 5 January 1989, the date of the arbitrator's determination. Thereafter a licensee will be able to convert his or her licence only on the payment to the Registrar of a sum determined by the Minister. Such a determination will be a determination for the purposes of subsection 12(9A) of the Seat of Government (Administration) Act 1910 and thus be the subject of Parliamentary scrutiny.

Details of each provision of the proposed Ordinance are set out in the Attachment.

**ISSUED BY THE AUTHORITY OF
THE MINISTER OF STATE FOR THE
ARTS AND TERRITORIES**

Motor Traffic (Amendment) Ordinance (No. 2) 1989

Section 1 cites the short title of the Ordinance as the Motor Traffic (Amendment) Ordinance (No. 2) 1989.

Section 2 defines the Principal Ordinance as the Motor Traffic Ordinance 1936.

Section 3 amends section 27 of the Principal Ordinance.

Paragraph 3(a) inserts a new subsection (1AA) into section 27 which defines, for the purposes of the section, a transferable taxi licence. A transferable taxi licence is:

- (a) a taxi licence granted prior to 9 August 1973;
- (b) a taxi licence endorsed as transferable under new subsection 27(2A) as detailed in paragraph 3(c);
- (c) a taxi licence granted during the period commencing on 27 March 1986 and ending on the expiration of the day before the day on which the Ordinance commenced and for which the sum of \$80,000 was paid; or
- (d) a taxi licence granted on or after the commencement of the Ordinance.

Paragraph 3(b) amends paragraph 27(1)(a) by removing the reference to the sum of \$80,000 and inserting a reference to the determined fee. The effect of this is that on the commencement of the Ordinance the grant of a taxi licence will require the payment of the determined fee. The determination will be a determination required by section 217A of the Principal Ordinance to be in writing and published in the Gazette and will be a determination for the purposes of subsection 12(9A) of the Seat of Government (Administration) Act 1910.

Paragraph 3(c) omits subsection 27(2A) and inserts a new subsection 27(2A) which provides that the Registrar shall endorse as transferable a taxi licence on application accompanied by -

- (a) if the application is made before 6 January 1990 - the sum of \$37,500; or
- (b) in any other case - the determined fee.

The determination will also be required by section 217A of the Principal Ordinance to be in writing and published in the Gazette and will be a determination for the purposes of subsection 12(9A) of the Seat of Government Administration Act 1910.

Paragraph 3(d) omits subsections 27(7) and 27(8) and inserts two new subsections. New subsection 27(7) provides that the Registrar may, on an application in accordance with subsection 27(8), by endorsement on a transferable taxi licence or motor omnibus licence, transfer that licence.

New subsection 27(8) provides that an application under subsection 27(7) shall be in writing signed by the proposed transferor and the proposed transferee and be accompanied by the determined fee.

Paragraph 3(e) omits subsection 27(9) which is no longer required.

Section 4 inserts new sections 27A and 27B into the Principal Ordinance.

Subsection 27A(1) requires the Registrar, where he or she makes a decision to refuse to transfer a taxi or a motor omnibus licence, within 28 days to provide written notice of the decision to affected persons.

Subsection 27A(2) requires such a notice to include a statement to the effect that an application may be made to the Administrative Appeals Tribunal for a review of the decision and that a person affected by the decision may request a statement pursuant to section 28 of the Administrative Appeals Tribunal Act 1975.

Subsection 27A(3) provides that the validity of a decision referred to in subsection 27A(1) will not be affected by a failure to comply with that subsection.

Section 27B provides that an application may be made to the Administrative Appeals Tribunal for the review of a decision referred to in subsection 27A(1).

Section 5 amends subsection 28(7) of the Principal Ordinance to provide that an application under subsection 28(6) shall be in writing signed by the proposed transferor and the proposed transferee.