

EXPLANATORY STATEMENT

AUSTRALIAN CAPITAL TERRITORY

MOTOR TRAFFIC (AMENDMENT) ORDINANCE (NO. 2) 1987 No. 63, 1987

ROADS AND PUBLIC PLACES (AMENDMENT) ORDINANCE 1987 No. 64, 1987

The Motor Traffic Ordinance 1936 is an Ordinance relating to Motor Vehicles and Motor Traffic.

The Roads and Public Places Ordinance 1937 is an Ordinance relating to Roads and Public Places in the Territory.

The Motor Traffic (Amendment) Ordinance (No. 2) 1987 amends the Motor Traffic Ordinance 1936 ("the Principal Ordinance") to introduce a new system for the Registrar of Motor Vehicles to impose terms and conditions on the issue of Certified Goods Vehicle certificates and labels so as to regulate and enforce the proper use of loading facilities. In particular, new provisions are included for granting or refusing a certificate, appeal mechanisms and prohibiting the parking of a certified goods vehicle in a loading zone except in accordance with a certificate and unless a label has been attached to the vehicle.

The Roads and Public Places (Amendment) Ordinance 1987 amends the Roads and Public Places Ordinance 1937 so that it is an offence for an object, as defined, to be placed in a loading zone. The provisions of the Motor Traffic Ordinance 1936 relating to parking infringement notices will apply to such an offence.

Details of the Motor Traffic (Amendment) Ordinance 1987 are set out in Attachment A.

Details of the Roads and Public Places (Amendment) Ordinance 1987 are set out in Attachment B.

Attachment A

Section 1 deals with the citation of the Motor Traffic (Amendment) Ordinance (No. 2) 1987.

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

Section 3 deals with interpretation.

Section 4 repeals section 149A and substitutes the following sections:

New subsection 149A(1) provides that where an owner of a vehicle uses or intends to use a vehicle for the carriage of goods in the course of his or her business, he or she may apply to the Registrar for a certificate under new subsection 149B(1).

New subsection 149A(2) provides that an application for a certificate to be in a form approved by the Registrar, signed by the applicant, accompanied by a determined fee and lodged with the Registrar.

New subsection 149A(3) provides that the Registrar may require such further information relating to the application as the Registrar requires.

New subsection 149B(1) provides that the Registrar may, upon an application received by the Registrar under section 149A, grant a certificate so that a vehicle may be parked in a specified loading zone or specified class of loading zones.

New subsection 149B(2) provides that a certificate shall indicate whether a certified vehicle may park in a loading zone at all times, at any time within a particular period or for a particular length of time, or both.

New subsection 149B(3) provides that the Registrar shall consider, in making a decision under subsection 149B(1), the demand for use by a goods vehicle generally at any time at which the applicant proposes that the zone would be used by the applicant's vehicle, and the extent of the proposed use of the loading zone by an applicant's vehicle in the course of his or her business.

New subsection 149B(4) provides that the Registrar may refuse to give a certificate under section 149B where the Registrar has reasonable grounds for believing that the applicant has failed to comply with a requirement under subsections 149A(2) or (3); has made a statement which was false or misleading in a material particular in his or her application or to the Registrar pursuant to subsection 149(3); or is not entitled to apply for a certificate under subsection 149A(1).

New subsection 149C(1) provides that a certificate holder may apply to the Registrar for a variation of a certificate.

New subsection 149C(2) provides that an application for a variation shall be in writing signed by the applicant; shall state the variation sought and the reasons for it; shall be accompanied by the certificate issued under section 149B and the determined fee and shall be lodged with the Registrar.

New subsection 149C(3) provides that the Registrar may, by written notice to an applicant, require the applicant to give such further oral or written information to the Registrar relating to the application as is specified in the notice.

New subsection 149C(4) provides that where the Registrar receives an application for a variation, the Registrar shall by endorsement, vary the certificate in the manner sought or refuse to vary the certificate.

New subsection 149C(5) provides that the Registrar shall, in making a decision under new subsection 149C(4), consider the matters referred to in paragraphs 149B(3)(a) and (b).

New subsection 149C(6) provides that the Registrar may refuse to vary a certificate where the Registrar has reasonable grounds for believing that the applicant has failed to comply with a requirement under new subsections 149C(2) or (3), has made a statement which was false or misleading in a material particular in the application or to the Registrar under subsection 149C(3).

New subsection 149C(7) provides that where the Registrar has made a decision under section 149C, the Registrar shall give the certificate, endorsed with any approved variation to the applicant.

New subsection 149C(8) provides that the variation of a certificate takes effect on the day on which the endorsed certificate is given to the applicant under new subsection 149C(7).

New section 149D provides that a certificate holder may surrender the certificate by giving to the Registrar a written notice of surrender accompanied by the certificate.

New subsection 149E(1) provides that where the Registrar has reasonable grounds for believing that a certified vehicle is no longer owned by the certificate holder, used by the certificate holder for carriage of goods in the course of his or her business or required for use by that person or a certificate under subsection 149B(1) that is in force was given by the Registrar in reliance on false or misleading information, the Registrar may cancel the certificate.

New subsection 149E(2) provides that the Registrar shall not cancel a certificate unless the Registrar has given notice in writing to the certificate holder that specifies the ground on which the certificate is to be cancelled; the facts and circumstances that constitute the grounds for cancellation and that the Registrar shall inform the certificate holder that he or she may, within 14 days from the date of the notice, place, in writing, any matters in answer to the matters stated in the notice before the Registrar.

New subsection 149E(3) provides that, the Registrar shall, in making a decision under subsection 149E(1), consider any matter placed before the Registrar in accordance with a notice given under subsection 149E(2).

New subsection 149E(4) provides that subject to new 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.

New section 149F provides that a certificate given under subsection 149B(1) remains in force until the expiration of a day specified in the certificate, being not later than 1 year after the day on which it was given; the surrender of the certificate or the cancellation of the certificate, whichever occurs first.

New section 149G provides that where the Registrar makes a decision under section 149B, subsection 149C(4) or subsection 149E(1) the Registrar shall within 7 days of making the decision give the applicant or certificate holder written notice of the decision, setting out the reasons for the decision and a statement to the effect that the recipient of the notice may within 14 days appeal to the Court against the decision.

New subsection 149H(1) provides that a person to whom a notice is given under section 149G may within 14 days appeal to the Court against the Registrar's decision.

New subsection 149H(2) provides that the Registrar shall be the respondent to an appeal.

New subsection 149H(3) provides that on the appeal, the Court may affirm, set aside or vary the decision of the Registrar, make such order as the Court considers just or make such ancillary orders as the Court considers appropriate.

New subsection 149H(4) provides that where an appeal is brought against a decision of the Registrar, cancelling a certificate, the certificate is, subject to the Ordinance and notwithstanding subsection 149E(4) deemed to have continued and to continue pending determination of the appeal.

Paragraph 5(a) amends section 150 of the Principal Ordinance by omitting and substituting subsection 150(1) so that where the Registrar gives or varies a certificate, the Registrar shall issue to the certificate holder a label in a form approved by the Registrar.

Paragraph 5(b) omits and substitutes the penalty at the foot of subsection 150(2) with a new penalty of \$200.

Paragraph 5(c) omits subsections 150(3A) and (4) and substitutes new subsection (3) so that where a certificate is varied or has ceased to be in force, the person to whom the certificate was given shall, within 7 days of the variation or cessation, destroy the label last issued to him or her before the variation or cessation. A penalty of \$200 is provided for.

Paragraph 5(d) omits the penalty at the foot of subsection 150(4).

Section 6 repeals and substitutes section 157 of the Principal Ordinance.

New subsection 157(1) provides that a person shall not stop or park a motor vehicle, other than a goods vehicle being used in the course of the owner's business or park a trailer so that any part of it is within a loading zone.

New paragraph 157(2)(a) provides that a person shall not park a goods vehicle in a loading zone for a length of time that exceeds, if a loading zone sign that relates to the loading zone indicates a length of time, the length of time indicated on the sign or the length of time during which goods are being loaded onto or unloaded from the vehicle, whichever is shorter.

New paragraph 157(2)(b) provides that in a case other than that contemplated by paragraph 157(2)(a) a person shall not park a goods vehicle in a loading zone for a length of time that excess the length of time during which goods are being loaded onto, or unloaded from the vehicle.

New subsection 157(3) provides that a person shall not park a certified vehicle in a loading zone except in accordance with the certificate.

New subsection 157(4) provides that a person shall not park a certified vehicle in a loading zone unless the vehicle has the label last issued under section 150 affixed to the vehicle in the manner in which, in accordance with regulations 18 and 20 of the Motor Traffic Regulations, a registered label would be required to be affixed to the vehicle. A penalty of \$200 is provided for.

Section 7 amends section 162 of the Principal Ordinance by inserting in subparagraph (6)(a)(i) "150(2) and (3)" after "subsection" (first occurring).

Subsection 8(1) provides that "commencement date" means the date of commencement of the amending Ordinance.

Subsection 8(2) provides that, notwithstanding amendments made to the Principal Ordinance a certificate given under section 149A as in force immediately before the commencement date and in force immediately before that date, continues to be in force on and after that date and the provisions of the Principal Ordinance in force immediately before the commencement date continue to apply to that certificate.

Attachment B

Section 1 deals with the citation of the Roads and Public Places (Amendment) Ordinance 1987.

Section 2 cites the Roads and Public Places Ordinance 1987 as the Principal Ordinance.

Section 3 inserts after section 15R of the Principal Ordinance the following sections:

New subsection 15S(1) provides that "loading zone", "trailer" and "vehicle" have the same meanings as in the Motor Traffic Ordinance 1936 and that an "object" does not include a vehicle or a trailer.

New subsection 15S(2) provides that a person shall not, except in accordance with a permit, place an object in a loading zone in such a position, in such condition or in such circumstances as to be likely to cause danger, obstruction or unreasonable inconvenience to other persons using or intending to use the loading zone. A penalty of \$200 is provided for.

New subsection 15T(1) provides that the provisions of sections 159, 160 and 162 of the Motor Traffic Ordinance 1936 apply in relation to a contravention of new subsection 15S(2) as if:

- . the contravention were a parking infringement under subsection 158(1) of the Motor Traffic Ordinance 1936;
- . a reference in any of those sections to a parking infringement were a reference to that contravention;
- . a reference in any of those sections to a motor vehicle were a reference to the object in respect of which that contravention occurred; and
- . a reference in any of those sections to any of the provisions of those sections were a reference to those provisions in their application in relation to that contravention.

Authorised by the Minister for the Environment and the Arts for and on behalf of the Minister of State for the Arts, Sport, the Environment, Tourism and Territories.