

No. 37 of 1974

AN ORDINANCE

Relating to Motor Traffic.

I, THE GOVERNOR-GENERAL of Australia, acting with the advice of the Executive Council, hereby make the following Ordinance under the *Seat of Government (Administration) Act 1910-1973*.

Dated this first day of October, 1974.

JOHN R. KERR
Governor-General.

By His Excellency's Command,

GORDON M. BRYANT
Minister of State for the Capital Territory.

MOTOR TRAFFIC ORDINANCE (No. 4) 1974

1. (1) This Ordinance may be cited as the *Motor Traffic Ordinance (No. 4) 1974*.*

Short title and citation.

(2) The *Motor Traffic Ordinance 1936-1973*,[†] as amended by the *Motor Traffic Ordinance 1974*,[‡] the *Motor Traffic Ordinance (No. 2) 1974*[§] and the *Motor Traffic Ordinance (No. 3) 1974*^{||} is in this Ordinance referred to as the Principal Ordinance.

(3) Section 1 of the *Motor Traffic Ordinance (No. 3) 1974* is amended by omitting sub-section (4).

(4) The Principal Ordinance, as amended by this Ordinance, may be cited as the *Motor Traffic Ordinance 1936-1974*.

2. Section 3 of the Principal Ordinance is repealed.

Repeal.

3. After Part VI of the Principal Ordinance the following Part is inserted:—

“PART VIA—DEFECT NOTICES

“107A. In this Part—

Definitions.

‘officer’ means—

- (a) the Registrar;
- (b) an inspector; or
- (c) a member of the Police Force;

‘vehicle’ means a motor vehicle or trailer.

* Notified in the *Australian Government Gazette* on 3 October 1974.

† 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; No. 2, 1968; Nos. 27 and 29, 1969; No. 27, 1970; Nos. 13, 17, 37 and 39, 1971; Nos. 3 and 10, 1972; and Nos. 1, 32, 38, 41, 42 and 57, 1973.

‡ Ordinance No. 4, 1974.

§ Ordinance No. 12, 1974.

|| Ordinance No. 23, 1974.

Defect
notices.

“107B. (1) Where—

- (a) a vehicle is upon a public street or a public place; and
- (b) an officer has reasonable grounds for believing that the vehicle or any of its parts or equipment does not comply with the requirements of this Ordinance or the regulations,

the officer may serve upon the owner of the vehicle a notice under this section.

“ (2) A notice under this section shall—

- (a) be in writing;
- (b) specify the respects in which the vehicle or any of its parts or equipment does not comply with the requirements of this Ordinance or the regulations;
- (c) require the owner of the vehicle to produce the vehicle to the Registrar within fourteen days after the date of service of the notice;
- (d) specify the place at which the vehicle is to be produced to the Registrar; and
- (e) be signed by the officer serving the notice.

“ (3) A notice under this section remains in force until the vehicle to which the notice relates has been examined by an inspector or the registration of the vehicle is cancelled.

Vehicles in
dangerous
condition.

“107C. (1) Where—

- (a) a vehicle is upon a public street or a public place; and
- (b) an officer has reasonable grounds for believing—
 - (i) that the vehicle or any of its parts or equipment does not comply with the requirements of this Ordinance or the regulations; and
 - (ii) that, if the vehicle is not repaired, injury to a person or damage to property is likely to result from the driving or use of the vehicle,

the officer may serve upon the owner of the vehicle a notice under this section.

“ (2) A notice under this section shall—

- (a) be in writing;
- (b) specify the respects in which the officer serving the notice believes the vehicle to which the notice relates, or any of its parts or equipment, does not comply with the requirements of this Ordinance or the regulations;
- (c) specify the grounds upon which the officer believes that injury to a person or damage to property is likely to result from the driving of the vehicle;
- (d) direct that, whilst the notice remains in force, the vehicle be not driven or used upon a public street or public place except for the purpose of having the vehicle repaired or producing the vehicle to the Registrar for examination;

- (e) specify the place at which the vehicle may be produced to the Registrar for examination; and
- (f) be signed by the officer serving the notice.

“(3) A notice under this section remains in force until the vehicle to which the notice relates has been examined by an inspector or the registration of the vehicle is cancelled.

“107D. A notice under section 107B or 107C may be served upon the owner of a vehicle— Service of notice.

- (a) by delivering the notice personally to the owner;
- (b) by delivering the notice to a person who is driving the vehicle or appears to be in charge of the vehicle;
- (c) by securely placing or affixing the notice upon the motor vehicle in a conspicuous position;
- (d) by leaving the notice at the last-known place of residence or business of the owner with a person apparently over the age of sixteen years and apparently an occupant of, or employed at, that place; or
- (e) by post addressed to the owner at his last-known place of residence or business.

“107E. (1) Where a vehicle in respect of which a notice under section 107B or 107C has been served is produced to the Registrar at a place specified in the notice, the Registrar shall cause the vehicle to be examined by an inspector. Powers of Registrar and inspectors.

“(2) Where an inspector who has examined a vehicle in respect of which a notice under section 107B or 107C has been served has reasonable grounds for believing that the vehicle or any of its parts or equipment does not comply with the requirements of this Ordinance or the regulations, the inspector may serve upon the owner of the vehicle a notice under this sub-section.

“(3) Sub-section 107B (2) applies to, and in relation to, a notice under sub-section (2) of this section as if the notice were a notice under section 107B.

“(4) Where an inspector who has examined a vehicle in respect of which a notice under section 107B or 107C has been served has reasonable grounds for believing—

- (a) that the vehicle or any of its parts or equipment does not comply with the requirements of this Ordinance or the regulations; and
- (b) that, if the vehicle is not repaired, injury to a person or damage to property is likely to result from the driving or use of the vehicle,

the inspector may serve upon the owner of the vehicle a notice under this sub-section.

“(5) Sub-section 107C (2) applies to, and in relation to, a notice under sub-section (4) as if the notice were a notice under section 107C.

“(6) A notice under sub-section (2) or (4) may be served upon the owner of a vehicle by delivering the notice to the person by whom the vehicle was produced to the Registrar.

“ (7) A notice under this section remains in force until it is revoked by an inspector or the registration of the vehicle is cancelled.

“ (8) Where a vehicle in relation to which a notice under this section is in force is produced to the Registrar for examination, the Registrar shall cause the vehicle to be examined by an inspector.

“ (9) Where—

- (a) a vehicle in relation to which a notice under this section is in force is produced to the Registrar for examination; and
- (b) an inspector, having examined the vehicle, is satisfied that the vehicle and its parts and equipment comply with the requirements of this Ordinance and the regulations,

the inspector shall revoke the notice.

Defect labels.

“ 107F. An officer who serves a notice under section 107B, 107C or 107E upon the owner of a vehicle shall affix to the vehicle a label specifying—

- (a) the registration number of the vehicle;
- (b) the time and date of service of the notice;
- (c) the name and designation of the officer by whom the notice was signed; and
- (d) whether the notice was served under section 107B, section 107C, sub-section 107E (2) or sub-section 107E (4).

Offences.

“107G. (1) Where—

- (a) a notice under section 107B or sub-section 107E (2) is in force in relation to a vehicle; and
- (b) the time within which the owner of the vehicle is required by that notice to produce the vehicle to the Registrar has expired,

a person who drives or uses the vehicle upon a public street or a public place is guilty of an offence.

“ (2) A person who drives or uses upon a public street or a public place a vehicle in respect of which a notice under section 107C or sub-section 107E (4) is in force is guilty of an offence.

“ (3) It is a defence to a prosecution for an offence against sub-section (1) or (2) for the defendant to prove—

- (a) that he did not know, and had no reasonable means of knowing, that a notice under section 107B, 107C or 107E, as the case may be, had been served upon the owner of the vehicle concerned; or
- (b) that the driving or use of the vehicle was reasonably necessary in connexion with the production of the vehicle to the Registrar or the repair of the vehicle.

“ (4) A person who, while a notice under section 107B, 107C or 107E is in force in respect of a vehicle, removes from that vehicle, or alters or defaces, a label affixed to the vehicle in accordance with section 107F is guilty of an offence.”