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AUSTRALIAN CAPITAL TERRITORY LEGISLATIVE ASSEMBLY

MOTOR TRAFFIC ACT 1936

MOTOR TRAFFIC REGULATIONS (AMENDMENT)

EXPLANATORY MEMORANDUM

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# MOTOR TRAFFIC REGULATIONS (AMENDMENT)

## Explanatory Memorandum

### The Motor Traffic Regulations

The Motor Traffic Regulations ("the Regulations") are made pursuant to section 218 of the *Motor Traffic Act 1936* ("the Act") and deal with matters including braking and safety requirements for trailers, registration labels for vehicles, unlicensed drivers and prescribed offences in respect of which a traffic and parking infringement notice may be issued and associated penalties.

### The Motor Traffic Regulations (Amendment)

The Motor Traffic Regulations (Amendment) ("the amending Regulations") amend the Regulations by prescribing the number of demerit points which are incurred by the holder of a driver's licence in respect of various prescribed driving offences.

The amending Regulations support, and are consequential to, the amendments to the Act effected by the *Motor Traffic (Amendment) Act (No.2) 1993* which inserts provisions in new Part XIB of the Act, providing for a prescribed number of demerit points to be incurred by the holder of a licence where the holder of the licence is convicted of a prescribed offence, pays a penalty under a traffic infringement notice, or is convicted of a corresponding offence or pays a penalty in respect of such an offence.

The number of demerit points which apply to offences prescribed by the Regulations are in accordance with the National Uniform Points Demerit Scheme agreed upon by the States and Territories.

No change is made to the prescribed monetary penalties which presently apply to offences prescribed by the Regulations.

### Financial considerations

There are no increased costs associated with amending the Regulations.

## Regulations 1 and 2

Regulations 1 and 2 are formal provisions relating to the commencement of the amending Regulations and references to the Regulations.

The provisions of the amending Regulations commence simultaneously with the provisions (other than sections 1 and 2) of the *Motor Traffic (Amendment) Act (No.2) 1993*.

## Regulations 3 and 4

Regulation 3 repeals regulation 32 of the Regulations and substitutes a new regulation 32 which include provisions detailing the prescribed number of demerit points which are incurred by the holder of a licence in respect of particular traffic offences under the Act and the *Motor Traffic (Alcohol and Drugs) Act 1977*.

Regulation 4 repeals the Schedule to the Regulations and inserts a new Schedule to the Regulations which includes details of the number of demerit points which are incurred in respect of various offences under the Act and the *Motor Traffic (Alcohol and Drugs) Act 1977*.

Parking infringements under the Act, offences under the Regulations and offences under the *Traffic Act 1937* do not attract demerit points.

New regulation 32 details prescribed offences, penalties and demerit points for the purposes of provisions of the Act, the *Motor Traffic (Alcohol and Drugs) Act 1977*, the *Traffic Act 1937* and the Regulations.

New subregulation 32(1) provides that for the purposes of subsection 149(1) of the Act, which enables an infringement notice to be issued in respect of a prescribed parking offence, the prescribed penalty in respect of a parking infringement is that specified in column 4 of the item in Part I of the new Schedule relating to the particular infringement. This provision makes no change to the operation of the Regulations.

New subregulation 32(2) provides that for the purposes of subsection 180A(2) of the Act, which enables a traffic infringement notice to be served on a person in respect of a prescribed offence, a prescribed offence is an offence described in column 3 of an item

in Part II or III of the new Schedule, that is an offence against the Act or the Regulations, as the case may be.

The references in column 2 of Part II of the new Schedule to certain traffic infringements under the Act have been amended so that they reflect those provisions as amended by the *Motor Traffic (Amendment) Act (No.2) 1993*.

In addition, a number of new offences have been included in Part II, consequential to the creation of new offences in the Act. Items 2, 4, 6, 7 and 8 relate to such new offences.

New subregulation 32(3) provides that the prescribed penalty in respect of an offence prescribed by new subregulation 32(2) is the penalty specified in column 4 of the item of the new Schedule, relating to that offence. The prescribed penalties are not changed by the amending Regulations.

New subregulation 32(4) provides that for the purposes of new section 180NB of the Act, which provides for demerit points to be incurred by the holder of an ACT licence or a corresponding licence, in respect of certain prescribed offences, a prescribed offence is an offence described in column 3 of an item in Part II of the new Schedule, that is an offence prescribed by new subregulation 32(2) and in respect of which a number of demerit points is specified in column 5 of the new Schedule.

New subregulation 32(5) is a new provision to the effect that for the purposes of new section 180NB of the Act the prescribed number of demerit points in respect of an offence specified by new subregulation 32(4) is the number of demerit points specified in column 5 of the item of the new Schedule, relating to that offence.

New subregulation 32(6) similarly provides that for the purposes of new section 180NB of the Act the prescribed number of demerit points in respect of a corresponding offence is the number of demerit points specified in column 5 of the item of the new Schedule relating to the offence to which the corresponding offence corresponds.

This provision will enable demerit points to be attached to an ACT licence in respect of an offence committed outside the ACT by the holder of such a licence. The number of demerit points incurred in respect of an offence committed outside the Territory will be

the number of demerit points which would be incurred for the commission of the equivalent, or corresponding, offence in the ACT.

**New subregulation 32(7)** provides that for the purposes of paragraph 26A(f) of the *Motor Traffic (Alcohol and Drugs) Act 1977* the prescribed penalty in respect of an offence against that Act described in column 3 of an item of Part IV of the new Schedule is the penalty specified in column 4 of the item of the new Schedule relating to the offence. No change to the prescribed penalties has been effected by the amending Regulations.

**New subregulation 32(8)** is a new provision to the effect that for the purposes of new paragraph 26A(g) of the *Motor Traffic (Alcohol and Drugs) Act 1977* the prescribed number of demerit points in respect of an offence against that Act described in column 3 of an item of Part IV of the new Schedule is the number of demerit points specified in column 5 of the new Schedule in relation to that item.

**New subregulation 32(9)** provides that for the purposes of section 6D of the *Traffic Act 1937* the prescribed penalty in respect of an offence against that Act described in column 3 of an item of Part V of the new Schedule is the penalty specified in column 4 of the new Schedule in relation to that item. No change to the prescribed penalties has been effected by the amending Regulations.

The Parts of the new Schedule are re-ordered so that Part I deals with parking infringements under the Act, Part II deals with traffic infringements under the Act, Part III deals with offences under the Regulations, Part IV deals with a prescribed offence for the purposes of the *Motor Traffic (Alcohol and Drugs) Act 1977* and Part V deals with offences under the *Traffic Act 1937*.