

1997

**THE LEGISLATIVE ASSEMBLY OF
THE AUSTRALIAN CAPITAL TERRITORY**

MOTOR TRAFFIC (AMENDMENT) BILL (NO. 7) 1997

EXPLANATORY MEMORANDUM

Circulated by the authority of the Attorney General

Gary Humphries MLA

MOTOR TRAFFIC (AMENDMENT) BILL (No. 7) 1997

Explanatory Memorandum

OUTLINE

The Motor Traffic (Amendment) Bill (No. 7) 1997 is part of a package of legislation to introduce a uniform scheme for the enforcement of court-imposed fines. The main elements of the scheme are contained in the Magistrates Court (Amendment) Bill (No. 2) 1997.

This Bill, in summary, provides that when the Registrar of the Magistrates Court informs the Registrar of Motor Vehicles that a person has defaulted in payment of an outstanding fine the Registrar of Motor Vehicles shall suspend the person's driving licence or motor vehicle registration, or disqualify the person from holding a driving licence.

FINANCIAL IMPACT

There are no associated costs arising from this Bill. The amendments are expected to result in prompter payment of court-imposed fines.

NOTES ON CLAUSES

Clauses 1, 2 and 3 are formal clauses setting out the short title of the Act, providing for the commencement of its provisions and providing that references in the Act to "the Principal Act" are references to the *Motor Traffic Act 1936*.

Interpretation

Clause 4 is a technical amendment resulting from renumbering within section 180F. That renumbering is made by clause 11.

Visiting motor drivers

Clause 5 makes a technical amendment to section 107 of the Principal Act as a consequence of the renumbering of section 180F by clause 11 of the Bill.

Suspension of licences, registration etc

Clause 6 omits paragraph (1)(d) from section 162E of the Principal Act. Section 162E mainly provides for licences and registration to be suspended for non-payment of parking infringement penalties. Paragraph (1)(d), in combination with provisions of the Magistrates Court Act, provides that persons who default in paying a court-imposed fine for a parking or traffic offence are liable to have their licence and registration suspended. This is not necessary under the new scheme, which provides that persons who default in paying *any* court-imposed fine will be dealt with under the new fine default scheme. Existing paragraph 162E(1)(d) refers to provisions of the Magistrates Court Act that are repealed by clauses 9 and 11 of the Magistrates Court (Amendment) Bill (No. 2) 1997.

Insertion – Transfer of registration while suspended

Clause 7 inserts *new section 162EB* into the provisions which deal with enforcement of parking infringement notices. The purpose is to ensure that a person who buys a motor vehicle that is subject to suspended registration to enforce a parking infringement notice is not disadvantaged. This provides a statutory basis for current Motor Vehicle Registry practice and mirrors the approach being taken in the new fine default system.

Revocation of suspension

Clause 8 substitutes the word “revoke” for “cancel” in section 162F. This is to be consistent with terms used in the new fine default provisions.

Reinstatement of licences, registration etc.

Clause 9 omits from subsections 162H(4) and (5) references to Magistrates Court Act provisions that are deleted by clause 4 of the Magistrates Court (Amendment) Bill (No. 2) 1997. This is a consequence of enforcing the

payment of court-imposed fines for parking and traffic offences through the uniform fine default scheme as outlined above in relation to clause 6. It also substitutes the words "revoked" and "revocation" for "cancelled" and "cancellation" respectively to be consistent with terms used in the new fine default provisions.

Bodies corporate – recovery of penalties etc

Clause 10 substitutes the word "revoke" for "cancel" in section 162J. This is to be consistent with terms used in the new fine default provisions.

Suspension of licences, registration etc

Clause 11 amends section 180F of the Principal Act. This is a consequence of enforcing the payment of court-imposed fines for parking and traffic offences through the uniform fine default scheme which is discussed above in relation to clause 6.

Insertion – Transfer of registration while suspended

Clause 12 inserts *new section 180FB* into the provisions which deal with enforcement of traffic infringement notices. The rationale is similar to that discussed above in relation to parking infringement notices in clause 7.

Revocation of suspension

Clause 13 substitutes the word "revoke" for "cancel" in section 180G. This is to be consistent with terms used in the new fine default provisions.

Reinstatement of licences, registration etc

Clause 14 amends section 180H of the Principal Act. This is a consequence of enforcing the payment of court-imposed fines for parking and traffic offences through the uniform fine default scheme which is discussed above in relation to clause 6.

Insertion of Division 1A – Fine Defaulters

Clause 15 inserts a new Division into Part XIII of the Principal Act

Suspension of driving licence, registration, etc

Proposed *new subsection 191NA(1)* provides that, where the Registrar of the Magistrates Court notifies the Registrar of Motor Vehicles that a person has defaulted in payment of an outstanding fine, the Registrar of Motor Vehicles shall:

- suspend each driving licence held by the person;
- if the person does not hold a driving licence, suspend the registration of a motor vehicle of which that person is the sole registered owner;
- if the person neither holds a driving licence nor a motor vehicle registration, disqualify the person from holding a driving licence.

Proposed *new subsection 191NA(2)* provides that, where a fine defaulter is the registered owner of more than one motor vehicle and the Registrar of Motor Vehicle is required to suspend the registration of a vehicle, the Registrar shall suspend the registration of the vehicle having the shortest unexpired period of registration.

Duration of suspension of driving licence, registration, etc

Proposed *new subsections 191NB(1), (2), (3) and (4)* provide for the coming into effect of a suspension or disqualification and the duration of that suspension or disqualification.

Proposed *new subsection 191NB(5)* provides that a person whose motor vehicle registration is suspended for fine default is not entitled to a refund for the period of suspension. A similar (but more general) provision regarding driving licences is at section 191R of the Act (inserted by Act No 52 of 1997).

Revocation of suspension of driving licence, registration, etc

Proposed *new subsection 191NC(1)* provides for the revocation of suspension or disqualification for fine default on notification by the Registrar of the Magistrates Court.

Proposed *new subsection 191NC(2)* provides that revocation under subsection (1) of a suspension or disqualification for fine default does not affect any other suspension or disqualification in respect of the person concerned under any other law of the Territory.

Revocation of suspension on transfer of registration

Proposed *new section 191ND* provides that where the registration of a motor vehicle is suspended for fine default, and the registration of that vehicle is transferred to another person, then the Registrar shall revoke the suspension. The purpose is to ensure that a person who buys a motor vehicle that is subject to suspended registration for fine default is not disadvantaged

Renewal etc. of driving licence or registration – prohibited

Proposed *new subsection 191NE(1)* provides that where a person's driving licence is suspended for fine default, the Registrar of Motor Vehicles shall not renew that driving licence or grant another driving licence to that person until notified that the fine has been paid, etc.

Proposed *new subsection 191NE(2)* provides that where a person's motor vehicle registration is suspended for fine default, the Registrar of Motor Vehicles shall not renew the registration of that vehicle in the name of that person until notified that the fine has been paid, etc

Proposed *new subsection 191NE(3)* provides that where a person is disqualified from holding a driving licence for fine default, the Registrar of Motor Vehicles shall not grant a driving licence to that person or register a motor vehicle in the name of that person until notified that the fine has been paid, etc.

This mirrors existing provisions for enforcing parking and traffic infringement notices (sections 162EA and 180FA).

Proposed ***new subsection 191ND(4)*** provides that a person who is not entitled to the grant or renewal of a driving licence for fine default is not entitled to a special licence.

Suspension to be concurrent

Proposed ***new section 191NF*** provides that any period of suspension or disqualification for fine default shall run concurrently with any uncompleted period of suspension or disqualification under any other law of the Territory, unless the court that orders a suspension or disqualification under another law makes an order to the contrary.

Old parking and traffic offences – transitional

Clause 16 is a transitional provision. It provides that the new fine default system does not apply to parking offences that were committed before 14 February 1990 and to traffic offences that were committed before 18 May 1992. Those are the dates when the current parking and traffic infringement notice enforcement schemes came into effect.