

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

**MOTOR TRAFFIC (AMENDMENT) BILL (NO. 4) 1996**

**EXPLANATORY MEMORANDUM**

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## MOTOR TRAFFIC (AMENDMENT) BILL (NO. 4) 1996

### OUTLINE

The Motor Traffic (Amendment) Bill (No 4) 1996 ("the Bill") amends the *Motor Traffic Act 1936* ("the Principal Act"). The Bill introduces controls on the parking of specified vehicles (in summary, semi-trailers and other large vehicles). These measures include the addition of new parking infringement provisions and application of provisions of the *Land (Planning and Environment) Act 1991* ("the Land Act") to make the parking of a heavy vehicle on residential land in certain circumstances a controlled activity for the purposes of that Act.

The Bill creates three new parking infringement provisions regarding the parking of heavy vehicles and other specified vehicles in certain places. Under the first of these, a person commits a parking infringement if s/he parks a stock truck, a semi-trailer pantechicon or an exceptionally tall (over 3.6 m) commercial vehicle on residential land. Under the second provision, a person commits a parking infringement if s/he parks a heavy vehicle for more than 1 hour on land that is adjoining or adjacent to residential land (this provision doesn't apply if the land on which the vehicle is parked is residential or commercial land). Under the third provision a person commits a parking infringement if s/he parks a commercial vehicle over 6 metres long, 2.6 metres high or exceeding 3.75 tonnes on residential land containing a multi-unit development. There are exceptions to the above parking infringement provisions, in particular, there is no infringement if the parking was for the delivery of people, goods or services.

The Bill provides for inspectors to enter private residential land with the consent of the occupier or, after obtaining a warrant, if the inspector reasonably believes that a parking infringement is being committed on the land (refer to new sections 150ZE to 150ZK).

The Bill also creates a new controlled activity under the Land Act, namely, to park heavy vehicles on residential land other than in accordance with a Code of Practice determined by the Minister. The code is intended to cover the number of vehicles which can be parked and the manner and hours in which they can be parked or operated on residential land.

The rules for parking in the Code of Practice may vary according to whether an operator of a vehicle is an "existing operator" or not (refer to the definition of "existing operator" in new section 150F and also to related new section 150Q). In summary, an existing operator is a person who has an established practice of parking a heavy vehicle on residential land at the time of commencement of these new rules for residential parking of heavy vehicles.

It is intended that the Code of Practice will be less stringent for existing operators than for other operators (ie new operators). In addition, existing operators who obtain an existing operator's certificate from the Registrar of Motor Vehicles may apply to the Registrar for exemptions from the provisions of the Code of Practice. Before an exemption may be granted by the Registrar, neighbouring residents and

owners must be given an opportunity to make submissions regarding the effect the proposed exemption would have on them.

#### REVENUE / COST IMPLICATIONS

The Bill will result in a cost to Government in administering the new parking rules and enforcing compliance. The cost to Government as a result of these amendments include:

- employment of two additional parking inspectors and payment of overtime;
- provision of advice regarding the amendments to heavy vehicle operators;
- development of computer support systems;
- administration of the new system, and
- legal costs involved in prosecutions

## DETAILS OF THE BILL

### PART I—PRELIMINARY

#### Short title, Commencement and Principal Act

Clauses 1, 2 and 3 are formal provisions. Clause 1 refers to the short title of the Bill, clause 2 provides for the commencement of different parts of the Bill and clause 3 defines the Principal Act as the *Motor Traffic Act 1936*.

### PART II—AMENDMENTS OF PRINCIPAL ACT

#### Interpretation

Clause 4 adds a definition of “identity card” to the Motor Traffic Act. An “identity card” is an identity card issued by the Registrar.

#### Inspectors

Clause 5 adds a new subsection to existing section 6B of the Principal Act which requires inspectors to return identity cards when they are no longer inspectors. Failure to return the card without reasonable excuse is an offence, (1 penalty unit).

#### Insertion—heading, Division 1

Clause 6 adds a division heading to create “Division 1—Interpretation”.

#### Interpretation

Clause 7 amends the definition of parking infringement in existing section 149 of the Principal Act so that contravention of new subsection 150ZB (3) or 150ZH(2) is not a parking infringement.

#### Insertion—heading, Division 2 and Division 3

Clauses 8 and 9 add division headings to create “Division 2—Certified vehicles” and “Division 3—Labels”.

#### Insertion—Division and heading

Clause 10 adds a fourth division heading to create a new division: “Division 4—Parking of heavy vehicles” and inserts the whole of that division which contains the main provisions of this Bill.

#### Interpretation

New section 150F defines a number of terms used in the Bill.

**New subsection 150F (1)** defines a number of terms for the purposes of Division 4.

A “Code of Practice” is the Code of Practice referred to in new section 150M including any amendments made to it.

“Controlled activity” means the activity declared in new section 150L as a controlled activity. A controlled activity is the parking of a heavy vehicle on residential land by a person in contravention of the Code of Practice.

An “exemption” is an exemption granted under new section 150U from a provision of the code of practice to a person with an existing operator certificate.

An “existing operator” - is a person who is entitled to apply for an existing operator’s certificate or a person who holds such a certificate. Under new section 150Q, people are entitled to apply for an existing operator certificate during the first 12 months of the operation of new section 150Q. People are eligible to apply for a certificate if they have parked their vehicle on residential land on more than 24 days in the 2 years before commencement of 150Q. A person who does not obtain a certificate in the first 12 months of operation of 150Q loses the right to do so and also at that point cease to be an existing operator for the purposes of the Act. In other words after section 150Q has been in operation for 12 months only those persons who hold an existing operator’s certificate are existing operators for the purposes of the Act

An “existing operator’s certificate” is a certificate issued under existing section 150R.

A “heavy vehicle” is a commercial vehicle that is more than 7.5 metres long either loaded or unloaded with a GVM (gross vehicle mass) of more than 4.5 tonnes. The term also includes a combination of vehicles “GVM” is defined in existing section 4 of the Principal Act as the vehicle’s maximum loaded mass as specified by the manufacturer of the vehicle or in accordance with this existing section, as specified by the Registrar or an interstate Authority.

The “Land Act” is the *Land (Planning and Environment) Act 1991*.

“Residential land” is land leased for residential purposes.

A “stock truck” is a vehicle with a GVM of more than 4.5 tonnes that is constructed and intended to be used for transporting farm animals.

**New subsection 150F (2)** indicates that “land adjoining residential land” includes land that is situated across the road from residential land.

**Under new subsection 150F (3)**, if a vehicle is parked only partially on residential land it is not to be considered to be parked on residential land.

#### **Parking of specific vehicles and trailers on residential land**

**New section 150G** prohibits the parking of stock trucks, semi-trailer pantechnicons and commercial vehicles that are over 3.6 metres high on residential land. These prohibitions are intended to protect neighbours from vehicles which are particularly disruptive because of their size or nature.

**New subsection 150G (2)** creates two exceptions to this provision. The first is if the vehicle is parked to avoid contravening the Principal Act or another Act and was only parked for as long as was reasonable. The second is if the vehicle is parked to allow people or goods to be delivered or collected or for services to be provided, and it was only parked for as long as was reasonable.

The infringement penalty for contravention of this requirement is to be as prescribed under existing section 218 of the Principal Act for the purposes of existing section 160.

### **Parking of heavy vehicles on land adjacent to or adjoining residential land**

**New section 150H** prohibits the parking for more than 1 hour of heavy vehicles on land adjoining residential land.

**New subsection 150H (3)** is to extend the application of this provision beyond commercial vehicles to all vehicles more than 7.5 metres long or which have a GVM of more than 4.5 tonnes

**New subsection 150H (2)** creates three exceptions to this provision. The first is if the vehicle is parked to avoid contravening the Principal Act or another Act and was only parked for as long as was reasonable. The second is if the vehicle is parked to allow people or goods to be delivered or collected or for services to be provided, and it was only parked for as long as was reasonable. The third is if the vehicle is parked on land that is used for residential or commercial purposes.

This provision is not to apply to the parking of vehicles on commercial land. This provision is also not to apply to the parking of vehicles on residential land because the controlled activity provision in new section 150L or the prohibition in new section 150J will apply if the vehicle is so parked on residential land.

The infringement penalty for contravention of this requirement is to be as prescribed under existing section 218 for the purposes of existing section 160.

### **Parking of commercial vehicles on leases comprising multi-unit developments**

In addition to the controlled activity provision in new section 150L, **new section 150J** restricts the use of residential land for the parking of certain vehicles. This new section prohibits the parking of loaded or unloaded commercial vehicles that are more than 6 metres long, 2.6 metres high or have a GVM of more than 3.75 tonnes on residential land that contains a multi-unit development.

**New subsection 150J (2)** creates two exceptions to this provision. The first is if the vehicle is parked to avoid contravening the Principal Act or another Act and was only parked for as long as was reasonable. The second is if the vehicle is parked to allow people or goods to be delivered or collected or for services to be provided, and it was only parked for as long as was reasonable.

**New subsection 150J (3)** indicates that “multi-unit development” has the same meaning as it does in the Territory Plan at the time of the commencement of this provision. The Territory Plan defines a multi-unit development as a development involving attached houses, apartments or more than one detached house on a

block. The terms "Development", "attached houses", "apartments", "detached house" and "block" are also defined in the Territory Plan.

The infringement penalty for contravention of this requirement is to be as prescribed under existing section 218 for the purposes of existing section 160.

### Daily infringement

New section 150K means that if a vehicle remains parked for more than one day in contravention of new sections 150G, 150H or 150J, then a new infringement is committed for each day the vehicle remains so parked

### Controlled Activity

New section 150L makes parking a heavy vehicle used for commercial purposes other than in accordance with the Code of Practice determined by the Minister under new section 150M a controlled activity for the purposes of Schedule 5 of the *Land (Planning and Environment) Act 1991* ("the Land Act"). Provisions dealing with controlled activities are contained in Part 6 of the Land Act.

Under section 256 of the Land Act, the Registrar of the Land and Planning Appeals Board may grant an application for an order prohibiting the conducting of a controlled activity, that is, the parking of a heavy vehicle contrary to the Code of Practice. Such an order may be made against a person who has conducted, is conducting or is going to conduct a controlled activity or a person on whose behalf such a controlled activity is conducted, or against the lessee or occupier of the land where the controlled activity is conducted.

Section 255 of the Land Act, makes it an offence to breach such an order. New subsection 150L (2) makes the penalty for breaching this order 20 penalty units.

New subsection 150L (3) provides that people who park heavy vehicles on residential land in accordance with the Code of Practice shall not as a result be considered to be using land for a purpose other than a purpose authorised by the lease granted in respect to the land

### Codes of practice

New section 150M gives the Minister power to approve a Code of Practice for the parking of heavy vehicles used for commercial purposes on residential land.

New subsection 150M (2) makes it clear that certain matters may be covered in the Code of Practice. The Code may contain.

- provisions specific to existing operators as compared to provisions applicable to all heavy vehicle operators;
- provisions restricting the number of heavy vehicles which may be parked on residential land at any one time; and
- provisions relating to the operation of heavy vehicles while on residential land

The Code may also include other matters on the parking of heavy vehicles on residential land.

### **Disallowance**

**New subsection 150N** provides that the Code of Practice will be a disallowable instrument for the purposes of the *Subordinate Laws Act 1989*.

### **Publication**

**New section 150P** requires the Registrar to publish in a local newspaper a notice of approval of a Code of Practice made under new section 150M. The notice is required to detail when the Code of Practice takes effect and where it may be purchased. The notice must also state that a copy can be examined at the Registrar's office during business hours and that the Code of Practice is a disallowable instrument

**New subsection 150P (2)** requires the Registrar to make a copy of the Code of Practice available at the Registrar's office during business hours for people to examine. **New subsection 150P (3)** indicates that "Code of Practice" also includes other documents that are applied by the Code of Practice.

### **General comment - Existing operator transitional arrangements**

There is a particular transitional arrangement in the Bill concerning existing operators. An existing operator is defined in the Bill as a person who in the first 12 months of operation of the scheme (specifically, in the 12 months following commencement of new section 150Q) is a holder of an existing operator's certificate or is otherwise eligible to obtain one. A person is eligible to obtain an existing operator's certificate if in the period of 24 months immediately preceding the date of the application, the applicant has, on more than 24 occasions, parked a heavy vehicle on residential land. After the first 12 months of operation of the scheme only those persons who have obtained an existing operators certificate are existing operators for the purposes of the Bill. In summary then, the Bill gives established operators of heavy vehicles on residential land 12 months to obtain an existing operators certificate. If the established operator does not do so, then s/he loses the right to obtain an existing operator's certificate and will after the first 12 months of operation of the legislation cease to be an existing operator.

### **Application for existing operator's certificate**

**New section 150Q** provides for application for an existing operator's certificate. In order to obtain a certificate, the applicant must show that s/he parked a heavy vehicle on residential land on at least 24 occasions during the preceding 2 years. **New subsection 150Q (3)** ensures that each "occasion" is on a different day. Parking a number of times on the one day will only count as one "occasion". Parking the vehicle and leaving it parked on the land for a number of days will also only count as one "occasion"



Under new subsection 150Q (2), an application must be in an approved form, signed, accompanied by the determined fee and lodged with the Registrar.

A person may only apply for an existing operator's certificate in the 12 months following the commencement of this section. However once a person has obtained the certificate s/he may renew the certificate every 2 years under new section 150ZA.

#### **Issue of existing operator's certificate**

New section 150R requires the Registrar to issue an existing operator's certificate if satisfied the applicant is eligible to apply under new subsection 150Q.

New subsection 150R (2) provides that the Registrar shall not issue a certificate if the application is not in the form required or if the applicant made a false or misleading statement in the application.

#### **Term of existing operator's certificate and exemptions**

New section 150S provides that, unless an existing operator's certificate is sooner surrendered or cancelled, the certificate shall subsist for 2 years. The section provides that the certificate may be renewed every 2 years under new section 150ZA

#### **Application for exemption**

New section 150T provides that a holder of an existing operator's certificate may apply for an exemption from provisions of the Code of Practice. The applicant must be the holder of an existing operator's certificate. People who are eligible to obtain a certificate, but have not done so are not able to so apply.

As with an application for an existing operator certificate (new subsection 150Q (2)), an application for an exemption must be in an approved form, signed, accompanied by the determined fee and lodged with the Registrar. In addition, however, the application must also be accompanied by the existing operator's certificate. This additional requirement is to ensure the Registrar has the existing operator's certificate so that any exemptions can be endorsed on it in accordance with new section 150W.

#### **Grant of exemption**

New section 150U provides for the granting and refusal of exemptions, including exemptions subject to conditions, and is designed to give the neighbours of the land to which the exemption would relate a chance to object to the granting of the exemption

New subsection 150U (1) allows the Registrar to grant an exemption, grant an exemption subject to certain conditions or refuse to grant an exemption.

New subsection 150U (2) requires the Registrar to specify in the exemption, any conditions on the exemption. For example, if the Code of Practice stated that heavy vehicles must not park on residential land after 10.00 pm, the exemption might state that the relevant existing operator may park her/his heavy vehicle on a specific piece of residential land after 10.00 pm on the condition that s/he does not park it after 11.00 pm.

New subsection 150U (3) requires the Registrar to notify the occupiers and the lessees of occupied neighbouring land of the application for an exemption by sending notices to the address of the neighbouring land. If the neighbouring land is not occupied, the Registrar is required to notify the lessees of the application for an exemption at the address last known to the Registrar.

New subsection 150U (4) requires the Registrar to notify the neighbours as to which part of the Code of Practice the exemption relates, to notify them that they have 28 days to make submissions and that if they do not make submissions within that time that the Registrar may grant the exemption.

New subsection 150U (5) requires the Registrar, in deciding whether to grant the exemption, to take into account the submissions of the neighbours and whether the granting of the exemption would have an adverse effect on the neighbours.

Under new subsection 150U (6), when the registrar is deciding whether granting the exemption would have an adverse effect on the neighbour, s/he must consider the duration of the exemption, the provision of the Code of Practice to which the exemption relates, the safety, noise and visual consequences of the exemption and any steps taken by the applicant to reduce the safety, noise and visual consequences of the exemption.

New subsection 150U (7) prohibits the Registrar from granting an exemption if s/he reasonably believes the application is not in an approved form, not signed, not accompanied by the relevant fee or not appropriately lodged (new subsection 150T (2)). The Registrar is also prohibited from granting an exemption if s/he reasonably believes the applicant made a false or misleading statement in the application or in further information s/he was required to provide under new section 150Z.

### **Term of exemption**

New section 150V provides that the exemption shall subsist for a period specified by the Registrar. The exemption will cease to be in force earlier than that date if the existing operator's certificate is surrendered, cancelled, or expires or the exemption is revoked before that date.

### **Endorsement of certificates**

New section 150W requires the Registrar to endorse all exemptions on the existing operator's certificate.

### **Form of existing operator's certificate**

New section 150X means that existing operator's certificates must be in an approved form and must indicate the name and address of the existing operator and the specified details of all exemptions granted to that existing operator.

The details required relating to exemptions are the provision of the code that the exemption relates to, whether the exemption is conditional, the vehicle that the exemption relates to and the residential land the exemption relates to.

### **Variation and revocation of exemptions**

New section 150Y allows the Registrar to vary the conditions of an exemption on application.

New subsection 150Y (2) applies new section 150U (grant of exemption) to this new section as if an exemption were a condition of an exemption. This means that the existing operator must go through the same procedures for varying an exemption as s/he would have to go through if s/he was applying for a new exemption.

### **Further Information**

New section 150Z is a provision of general application. It allows the Registrar to request further information from people applying for an existing operator's certificate (new section 150Q), people applying for an exemption (new section 150T) and people applying for variation of a condition of an exemption (new section 150Y).

### **Renewal of existing operator's certificate**

New section 150ZA requires the Registrar to renew existing operator's certificates if the existing operator applies before the certificate expires and pays the determined fee. The maximum duration of a renewal is 2 years.

### **Issue of copy of existing operator's certificate**

New section 150ZB allows the Registrar to issue a new existing operator's certificate if s/he is satisfied that the original one was lost, stolen or destroyed and the existing operator pays the determined fee.

New subsection 150ZB (2) requires the holder of an existing operator's certificate to notify the Registrar within 14 days if it has been lost stolen or destroyed.

New subsection 150ZB (3) states that the penalty for failing to notify the registrar is 5 penalty units for a person and 25 penalty units for a corporation.

### **Cancellation of existing operator's certificate or revocation of exemptions**

New section 150ZC allows the Registrar to cancel an existing operator's certificate if s/he believes the certificate (new subsection 150R (1)), a copy of the existing operator's certificate (new subsection 150ZB (1)), exemption (new section 150U) or a variation of a condition of an exemption (new section 150Y) was obtained fraudulently.

New subsection 150ZC (2) requires the Registrar to cancel the certificate or revoke an exemption on request of the holder of the existing operator's certificate.

### **Notice to show cause before cancellation of existing operator's certificate**

New section 150ZD is designed to give the holder of the existing operator's certificate or exemptions a chance to explain why the certificate should not be cancelled or the exemption revoked under new subsection 150ZC (1).

New subsection 150ZD (1) requires the Registrar to notify the holder of the existing operator's certificate before s/he revokes the certificate under new subsection 150ZC (1) stating the facts that s/he relies on and informing the existing operator that s/he has 28 days to make submissions regarding the notice.

New subsection 150ZD (2) requires the Registrar to consider any submissions when deciding whether to cancel the certificate under new subsection 150ZC (1).

New subsection 150ZD (3) provides that if a person seeks review of a decision of the Registrar to cancel an existing operator's certificate, the certificate shall remain in force pending determination of the appeal.

Under new subsection 150ZD (4), the cancellation of a certificate under new subsection 150ZC (1) takes effect only 14 days after the holder of the existing operator's certificate is notified of the cancellation.

### **Inspections etc.**

New section 150ZE allows inspectors to enter land with the consent of the occupier or with a warrant (new sections 150ZJ and 150ZK) where it is necessary to enter the land to determine whether a parking infringement is occurring on residential land. Once on the land, the inspector may exercise any of the powers described in new section 150ZH (for example, inspect, examine and measure a vehicle), as long as the inspector shows her/his identity card if requested to do so by the occupier (new section 150ZG).

### **Consent to entry**

New section 150ZF sets out procedures for obtaining consent to entry.

New subsection 150ZF (1) requires an inspector to inform the occupier that s/he can refuse to give consent to the inspectors request for consent to enter the land.

Under new subsection 150ZF (2) if the occupier consents to the inspector entering the land, the inspector must ask the occupier to sign a consent form stating that

s/he was told s/he could refuse consent, that s/he does consent and the day and time of the consent.

New subsection 150ZF (3) states that if consent is an issue in court proceedings and the signed consent form is not produced in evidence then the court must presume that the occupier did not give consent

### **Display of identity cards**

Under new section 150ZG, if an inspector enters land, s/he can only remain there if s/he shows her/his identity card to the occupier of the land when requested.

### **Powers of inspection**

New subsection 150ZH (1) sets out the powers of an inspector once s/he has entered the land. An inspector can

- inspect, examine and take measurements of a vehicle s/he reasonably believes is a heavy vehicle,
- take any photos, videos or other recordings s/he believes are necessary;
- require any person to provide information or documents relating to the use of the land;
- require any person to answer questions; and/or
- require any person to help s/he with the inspection

New subsection 150ZH (2) makes it an offence to fail to comply, without reasonable excuse, with

- a requirement by an inspector to provide information or documents relating to the use of the land (new paragraph 150ZH (1) (c))
- a request to answer questions (new paragraph 150ZH (1) (d))
- a request to help the inspector with the inspection (new paragraph 150ZH (1) (e)).

The penalty for a natural person is 50 penalty units and for a corporation is 250 penalty units

### **Search warrants**

New section 150ZJ provides for the inspector to obtain a search warrant where consent to enter the land is refused and the inspector believes on reasonable grounds that there is or will be in the next 3 days evidential material relating to a parking infringement established in new "Division 4 - Heavy Vehicles". The inspector may obtain the warrant if the occupier has refused consent to enter the land, or if the inspector is concerned that the occupier may refuse consent and may also remove evidence if s/he becomes aware that a search may be conducted.

These inspections are not for the purpose of determining whether a controlled activity is being conducted contrary to an order made under section 256 of the Land Act. The Land Act makes separate provision for inspection of such a matter.

**New subsection 150ZJ (1)** provides for an inspector to lay an information before a Magistrate and apply for a search warrant if s/he reasonably believes there is evidence on the land or there will be evidence on the land within 3 days.

**New subsection 150ZJ (2)** provides for a Magistrate to issue a search warrant allowing the inspector to enter the land, determine whether a parking infringement has been committed and search for evidence.

**New subsection 150ZJ (3)** prohibits a Magistrate from issuing a warrant unless s/he is satisfied that there are reasonable grounds for issuing the warrant.

**New subsection 150ZJ (4)** requires the warrant to indicate which parking infringement it relates to, describe the land it relates to, state the kinds of evidence it relates to, name the inspector who can execute it, state how long it is in force for (maximum of 28 days) and also state at what times the search can be conducted.

**New subsection 150ZJ (5)** applies to warrants obtained by telephone or other electronic means under new section 150ZK. The new subsection requires that the inspector must have a reasonable belief that there is evidence on the land or will be on the land within the next 48 hours (as compared to 72 hours for normal warrants - new subsection 150ZJ (1)), and the maximum time a telephone warrant can be in force is 48 hours (as compared to 28 days for normal warrants - new paragraph 150ZJ (4) (e)).

#### **Warrants by telephone or other electronic means**

In cases of urgency a warrant may be obtained by telephone, fax, telex or other electronic means. The applications may be made to a Magistrate or, if the Magistrate has delegated his or her powers, to the Registrar or Deputy Registrar of the Magistrates Court.

**New subsection 150ZK (1)** allows an inspector to apply to an issuing officer (an issuing officer is a Magistrate or, if the Magistrate has delegated the power to a Registrar or Deputy Registrar, the Registrar or Deputy Registrar) for a warrant by telephone, fax, telex or other electronic means if the delay that would occur if normal procedures (ie a formal written application under new section 150ZJ) were used would mean that the warrant was of little or no use.

**New subsection 150ZK (2)** means the issuing officer can require information over the phone (or fax etc) to the extent that this is practical in the circumstances.

**New subsection 150ZK (3)** requires all the information that would be required to apply for a normal, written warrant to be provided, but provides that the information so provided need not be sworn before the application is made. **New subsection 150ZK (4)** allows the issuing officer to issue a warrant if s/he is satisfied the delay that would occur if normal procedures (new section 150ZJ) were used would mean that the warrant was of little use.

If a warrant is issued, new subsection 150ZK (5) requires the issuing officer to tell the inspector by telephone, fax, telex or other electronic means what the terms of the warrant are and the date and time it was signed. New subsection 150ZK (6) then requires the inspector to fill in a warrant form using the terms of the warrant provided by the issuing officer over the phone. The warrant can then be relied on by the inspector. New subsection 150ZK (7) requires the inspector to give this warrant form to the issuing officer and swear the information in the application no later than the day after the warrant was executed or the day after the warrant expired, whichever occurs first. In other words under this emergency process the written requirements are completed after the search is made.

New subsection 150ZK (8) requires the issuing officer to attach the documents given to her/him by the inspector to the warrant s/he signed.

New subsection 150ZK (9) states that if an inspector's authority to enter under a warrant is an issue in court proceedings and the warrant signed by the issuing officer is not produced in evidence then the court must presume, until otherwise convinced, that the inspector was not authorised to enter the land.

New subsection 150ZK (10) allows a Magistrate to delegate the power to issue warrants and related procedural matters under this new section to the Registrar or Deputy Registrar of the Magistrates Court.

#### **Insertion—heading, Division 6**

Clause 11 adds a division heading to create "Division 6—Parking infringements".

#### **Bar to criminal proceedings**

Clause 12 means that a contravention of the parking infringements in new sections 150G, 150H and 150J shall not be the subject to criminal proceedings.

#### **Insertion—headings, Division 7 and Division 8**

Clauses 13 and 14 add division headings to create "Division 7—Voucher machines and parking meters" and "Division 8—Miscellaneous".

#### **Suspension of operation of certain sections**

Clause 15 amends existing section 163N of the Principal Act to give the Minister a discretion to suspend for up to 7 days the operation of the parking infringements in new sections 150G, 150H and 150J in cases of excessive inconvenience. This is a power the Minister has in relation to other parking infringement provisions of the Principal Act.

### **Circumstances in which certain provisions not contravened**

Clause 16 is designed to ensure that a person will not be considered to have contravened the parking infringements in new sections 150G, 150H and 150J if they stop or park a motor vehicle or trailer:

- to avoid contravening the Principal Act or the *Traffic Act 1937*, or to complete a manoeuvre that is required or not prohibited by these Acts, as long as the motor vehicle or trailer is not stopped or parked for an unreasonable period; (existing subsection 164 (1)),
- owing to a breakdown or accident involving the motor vehicle or trailer or to avoid impending danger or collision with a person, vehicle or animal (existing subsection 164 (4));
- during a stoppage by reason of the nature of the traffic (existing subsection 164 (5)).

### **Schedule 7**

Clause 17 lists the new decisions of the Registrar which must be notified under existing section 217C of the Principal Act and are reviewable by the Administrative Appeals Tribunal under existing section 217D.

## **PART III—CONSEQUENTIAL AMENDMENTS OF LAND (PLANNING AND ENVIRONMENT) ACT 1991**

### **Application for order**

Clause 18 makes consequential amendments to subsections 256(3), (4A) and (4C) of the Land Act. The amendments will ensure that the Minister administering the Principal Act (Motor Traffic Act) is consulted and his or her views are taken into account before the Registrar of the Land and Planning Appeals Board decides to grant or refuse an application for an order prohibiting the conducting of a controlled activity, that is, the parking of a heavy vehicle contrary to the Code of Practice. The amendments also require the Registrar of the Land Planning and Appeals Board to notify the Minister administering the Motor Traffic Act of his or her decisions. These consultations and requirements are in addition to the existing requirements that the Registrar seek the views of persons against whom the order is sought and the Minister administering the Land Act.