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1990

**THE LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL  
TERRITORY**

**MOTOR TRAFFIC (AMENDMENT) BILL (NO. 7) 1990**

**EXPLANATORY MEMORANDUM**

**Prepared by Authority of the Minister for Finance and Urban Services**

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## EXPLANATORY MEMORANDUM

### MOTOR TRAFFIC (AMENDMENT) BILL (NO 7) 1990

The Motor Traffic Act 1936 ("the Principal Act") regulates various motor traffic and motor vehicle matters such as vehicle registration, driving licences, road safety and parking rules, speed limits and insurance. In particular, Part III of the Act includes provisions in respect of public motor vehicles and private hire cars, including licensing and the setting of fares.

The Motor Traffic (Amendment) Bill (No 7) 1990 ("the Bill") achieves two purposes. Firstly, it amends Part III of the Principal Act to enable the Registrar of Motor Vehicles to auction taxi licences, instead of only being able to issue these upon payment of a determined fee as is presently the case. It is anticipated that the option of an auction will result in increased revenue to the Territory as the true market value of a taxi licence will be obtained.

Secondly, the Bill amends the Principal Act by permitting other persons apart from the licensee to use, control and manage a taxi or private hire car. This is consistent with the practice in all other States and the Northern Territory. Presently it is open to the Registrar under section 31 to cancel a taxi licence or a private hire car licence if the licensee does not have the use, control and management of the vehicle.

This second amendment allows licence holders who may not be able to operate their taxis or private hire cars personally to full capacity, to enter into leasing arrangements so certain other persons may also operate the vehicle. The Bill provides that the licence holder, a person in respect of whom the Registrar has notice (such as a person to whom a vehicle is leased) and an employee of such persons may have the use, control and management of a vehicle. If the licence holder's vehicle is not being operated by at least one of these persons, the Registrar may cancel or suspend the licence. This will enable the Registrar to ensure that taxis are operated by people who are known to the Registrar. An application for a licence or a renewal of a licence may also be refused for similar reasons. The Bill also amends the Principal Act by ensuring that the persons operating the vehicle under leasing arrangements are also required to comply with the provisions of the Principal Act and the related Regulations.

These arrangements will maximise the availability of taxi and private hire car services to the community. It is also anticipated that by permitting leasing arrangements demand for licences will be increased and more persons (such as investors) will be attracted to the taxi licence auction thus promoting competitive bidding.

Financial Implications

It is expected that the first auction of taxi licences which is expected to be held in November 1990 will raise over \$900,000 in revenue. A sum of \$50,000 is expected to be expended on conducting the auction. The amendment permitting the leasing of licences has no associated costs.

Details of the Bill are included in the Attachment

ATTACHMENT

MOTOR TRAFFIC (AMENDMENT) BILL (NO.7) 1990

Clause 1 provides that the Bill, once enacted, will be known as the Motor Traffic (Amendment) Act (No 7) 1990.

Clause 2 provides that any references in the Bill to the "Principal Act" are to be read as the Motor Traffic Act 1936.

Clause 3 inserts new section 26T into Part III of the Principal Act. Part III deals with matters relating to public motor vehicles and private hire cars.

New subsection 26T(1) is an interpretation provision which defines the term "defined right" for the purposes of Part III, as a right to be granted a licence to use a motor vehicle as a taxi.

New subsection 26T(2) provides that in subsections 27(5) and (6), section 32 and subsections 35(3) and (4) of the Principal Act a reference to a licensee is to be read as including the person in respect of whom the Registrar has notice under paragraph 31(3)(b) (ie a "lessee").

Clause 4 amends section 27 of the Principal Act by omitting subsection (2B) which limits the number of taxi licences available for grant. (This provision however is modified and reappears as new section 27B of the Principal Act.) Further, subsections 27(5) and (6) are amended consequentially by omitting "owner" and substituting "licensee".

Clause 5 repeals sections 27A and 27B of the Principal Act (which deal with the administrative review of decisions) and substitutes new sections 27A, 27B and 27C which deal with the auction of the right to be granted taxi licences and related matters.

New section 27A deals with rights to be granted taxi licences.

Subsection 27A(1) of the Principal Act provides that the Registrar may auction a defined right on behalf of the Territory.

Subsection 27A(2) provides that the Registrar determines in writing the terms under which an auction will be conducted.

Subsection 27A(3) provides that a defined right is valid for a 28 day period commencing from the end of the day on which that right was auctioned. Upon the expiration of this period, the purchaser's right to be granted a licence to use a motor vehicle as a taxi is extinguished.

Subsection 27A(4) enables the purchaser of a defined right, prior to its expiration, to seek an extension of the term of the right by applying to the Registrar and paying the determined fee. The Registrar may by notice in writing grant an extension, or a further extension, of the term of the right for the period stated in the notice of extension.

Subsection 27A(5) provides that upon application by the purchaser of a defined right, subject to subsection 27(2) and new section 31(2) of the Principal Act and on payment of the balance of the purchase monies, the Registrar must grant a licence to that person to use a motor vehicle as a taxi. Subsection 27(2) of the Principal Act provides that the Registrar must not grant or transfer a taxi licence to the holder of a private hire car licence, or to someone who already holds two taxi licences. Under subsection 31(2) a licence application may be refused where the Registrar is not satisfied that certain persons have or will have the use, control and management of the vehicle.

New section 27B places a limit on the number of taxi licences available for grant. This section provides that if the sum of the number of taxi licences in force and the number of defined rights would exceed 149 or any higher number as is determined by the Minister and published in the Gazette, the Registrar shall not grant a taxi licence or auction a defined right.

New section 27C provides for the assignment of a defined rights and enables the Registrar to have a record of assignees.

Subsection 27C(1) provides that the Registrar has to approve the assignment of a defined right to the proposed assignee.

Subsection 27C(2) provides that the Registrar must approve the assignment of a defined right upon application by the assignor.

Subsection 27C(3) states that the application lodged with the Registrar must be in writing signed by the assignor, specify the assignee and be accompanied with the determined fee.

Clause 6 of the Bill repeals section 31 of the Principal Act and substitutes new section 31. This new section enables other persons apart from the taxi or private hire car licence holder to use, control and manage the taxi or private hire car. It also enables the Registrar to be aware of who is responsible for the vehicle.

New subsection 31(1) provides that where the Registrar is not satisfied that at least one of the prescribed persons specified in subsection 31(3) has the use, control and management of the taxi or private hire car,

the Registrar may cancel or suspend the taxi car or private hire car licence.

New subsection 31(2) provides that a Registrar may refuse an application for a licence or licence renewal where he or she is not satisfied that at least one of the persons who has or will have the use, control and management of the vehicle, is or will be a prescribed person under subsection 31(3).

New subsection 31(3) lists the prescribed persons for the purposes of subsections(1) and (2) as:

- (a) the licence holder;
- (b) a person notified to the Registrar;
- (c) an employee of a person referred to in (a) or (b).

New subsection 31(4) provides that for the purposes of notifying the Registrar under paragraph 31(3)(b), a written notice must be given, signed by the holder, or the person who will be a holder, of the relevant taxi or private hire car licence and by the person to whom the notice relates and accompanied by the determined fee.

Clause 7 amends section 32 of the Principal Act consequentially by omitting "owner" and substituting "licensee". Section 32 requires that the relevant vehicle be equipped with a fire extinguisher.

Clause 8 makes consequential amendments to subsections 35(3) and (4) of the Principal Act by replacing the word "owner" with "licensee" as well as correcting gender specific terms.

Clause 9 inserts new sections 39A and 39B in Part III of the Principal Act.

New section 39A provides a right of review to the Administrative Appeals Tribunal in respect of decisions of the Registrar under Part III of the Act:

- a) refusing to grant, renew or transfer a licence;
- b) refusing to grant an extension of time under new subsection 27A(4); and
- c) cancelling or suspending a licence.

New section 39B deals with notification of decisions.

New subsection 39B(1) provides that where the Registrar makes a decision relating to one of the matters set out in section 39A, the Registrar shall provide written notice of the decision within 28 days to persons affected by the decision.

New subsection 39B(2) provides that a notice under subsection (1) shall state that subject to the Administrative Appeals Tribunal Act 1989 ("the AAT Act") an application may be made to the Tribunal for a review of that decision and that a person whose interests are affected by the decision may request, if entitled to under section 26 of the AAT Act, a statement of reasons.

New subsection 39B(3) provides that a failure to comply with subsection (1) will not affect the validity of a decision under that subsection.

Clause 10 provides for a consequential amendment to be made to section 104 of the Principal Act given that decisions under Part III of the Act are now reviewable by the Administrative Appeals Tribunal by virtue of new section 39A. Previously, the Registrar's decisions under Part III of the Act were appealable to the Magistrates Court under section 104. This clause amends subsection 104(6) by omitting the words "a decision of the Registrar" and substituting "a decision of the Registrar (other than a decision under Part III of this Act)".