

AUSTRALIAN CAPITAL TERRITORY

MOTOR TRAFFIC ORDINANCE 1964

EXPLANATORY MEMORANDUM.

No. 8 of 1964

The Motor Traffic Ordinance 1964 will introduce major changes in the present law relating to motor traffic. The proposed Ordinance, which is an interim measure, preparatory to the remaking of the Motor Traffic legislation, will remove the substantial inconsistencies between the A.C.T. traffic law and the National Road Traffic Code. The Ordinance is expressed to come into operation on 14th September, 1964. Explanations of the amendments are set out below under separate headings.

Driving in Places of Public Resort: Those provisions of the Motor Traffic Ordinance 1936-1963 which can be applied to places other than public streets, used by vehicular traffic, will be extended to apply to public places. The term “public place” will be defined to include parking areas, loading areas, wharfs, piers and jetties, the Lake Burley Griffin foreshores, and any unsealed part of a park, reserve, recreational ground or other open place which has not been leased by the Commonwealth or occupied with the approval of the Commonwealth.

The new sub-section (5.) of section 4 will extend to public places provisions such as those relating to the driving of motor vehicles not insured against third-party risk, racing of motor vehicles, dangerous and careless driving, a driver being in such a position as not to have full control of his vehicle, and obedience to directions of members of the Police Force.

Parking Areas: The amended definition of the term “public street” will exclude areas to be described in the Ordinance as off-street parking areas and loading areas. The term “off-street parking” area includes areas set aside for the parking of motor vehicles and the entrances to, exits from and passageways in such an area. The advantage of excluding parking areas from the definition of “public street” will be that rules relating to matters such as right-hand turns, travelling on the left of the centre of the carriageway and giving way to vehicles on the right will no longer apply to these areas. Such rules, when related to parking areas, create difficulties of application. The provisions relating to driving on public places will regulate the driving of vehicles on parking areas and loading areas. It will, for instance, be an offence to drive negligently or dangerously on such areas.

The term “loading areas” which is defined in section 4 of the draft Ordinance, relates to the areas behind the buildings in Civic Centre which are provided as a means of access for goods vehicles to the rear entrances of shops and business houses. The definition of the term in section 4 of the draft describes the areas to which it will apply. These areas will be set aside for the exclusive use of goods vehicles during loading and unloading operations and for the use of a number of other vehicles for which parking space will be reserved. Parking in loading areas and off-street parking

areas will be regulated by the new section 56AP, which relates to the erection of parking signs in such areas.

Loading Zones: Loading zones will comprise areas set aside by the use of signs erected on the boundary of the carriageway of a street. The use of loading zones will be restricted by section 56APB to goods vehicles which are parked for the purpose of loading or unloading goods. The zones will be established in areas where it is essential to have access to shops and business houses from the public street. The times at which loading zone signs are effective may be inscribed on the signs.

Diamond Turns: The “diamond” method of making a right-hand turn is to be adopted in the Territory. The provisions of the Ordinance as amended by sections 12 and 13 of the draft Ordinance will permit the making of “diamond” turns in all circumstances except where signs or road markings indicate that another method of turning is required. Where two vehicles are approaching an inter-section from opposite directions and the driver of each vehicle turns his vehicle to the right at that intersection, the law will require that each vehicle pass to the right of the other vehicle.

Traffic Lights: Traffic congestion at various points in the City has necessitated the provision of automatic traffic control signals. It is proposed to erect traffic lights at congested intersections. Provision will be made in the new section 56YA to require compliance with traffic lights. The effect of these provisions will be basically the same as those in force in New South Wales and Victoria and the model provisions contained in the National Uniform Road Traffic Code. Provision will be made in an amendment to the Traffic Ordinance to require compliance by pedestrians with “Walk” and “Don’t Walk” signals.

Speed Limits: The amendments to section 56AD will introduce a new speed limit of 35 miles per hour which will apply throughout the City Area (as defined under the City Area Leases Ordinance) except where signs are erected to indicate that a higher or lower limit applies. The maximum speed outside the City Area will be 60 miles per hour and will be fixed by the erection of signs. The speed limit in public places (including off-street parking areas and the Lake foreshores) will be fixed at 15 miles per hour by the new section 56AB.

Section 56AA has been amended to delete the definition of “the village of Hall”. The speed limit in Hall will be imposed by the erection of signs. The amendment to section 56AF will be consequential to the introduction of the new system of imposing speed limits.

Special Parking Facilities: In recent years the Department has received many requests to provide special parking facilities for persons claiming to have a real need for them. The most urgent need in this respect is that of doctors whose surgeries are located in business areas and who have frequent resort to the use of their vehicles for travel between their surgeries and the hospital and to attend patients at various places in the City. The amendments to section 56AK and the new section 56 AKA will provide for the reservation of areas for the parking of authorised vehicles. The Registrar of Motor Vehicles will be empowered to issue labels for affixing to the windscreen of

authorised vehicles so that they may be readily identified by members of the Police Force.

Enforcement of Parking Provisions: In the shopping centres and business areas parking signs are frequently ignored. This is particularly so where signs permit parking for limited periods only. Owing to the difficulty involved in determining who is responsible for the illegal parking of a motor vehicle, it has been necessary to amend the Ordinance to provide that where a vehicle has been illegally parked, a presumption will arise where that the owner of the vehicle was the person responsible for the offence.

The new section 56AR of the Ordinance will provide for the liability of the owner of motor vehicle for an infringement of parking rules in circumstances where he does not deny liability and does not indicate who was in control of the motor vehicle at the time of the infringement. In circumstances where the owner is unable to nominate the driver of the vehicle at the time of the infringement he may under sub-section (6.) or (7.) of section 56AR (whichever is applicable), avoid liability for the offence by making a declaration to the effect that he was not in control of the vehicle and has been unable to ascertain who was responsible for the commission of the offence. In such circumstances and where proceedings are subsequently instituted, the Court is to dismiss a charge if it is satisfied that the owner was not the person responsible for the infringement and that the enquiries made for the purpose of ascertaining the name and address of the person in charge of the motor vehicle at the time of the infringement were reasonable in the circumstances of the case and were carried out with due diligence.

Section 56AT is an evidentiary provision which will remove from the Crown the obligation of proving that the person whose name is registered on a certificate of registration of a motor vehicle was in fact the owner of such motor vehicle at the time of the commission of the offence. The evidence that the person so registered is the owner is, of course, rebuttable by proof that the ownership of the motor vehicle in question has been transferred to another person; a matter of which the Crown could have no knowledge in circumstances where change of ownership has not been notified to the Registrar.

Section 56AU provides for the service of parking infringement notices. The notices may be served either personally or upon a person above the age of 16 years at the last known place of residence or place of business of the owner, by post to such residence or place of business, or by securely placing or affixing a notice upon the motor vehicle in a conspicuous position. Where the owner has made a declaration indicating that another person was in control of the motor vehicle at the time of the infringement, an infringement notice may be served either personally or by post upon the person named in the declaration.

Sub-section (5.) of section 56AU determines the matters which are to be specified in a parking infringement notice. The notice must indicate the day, time and place of the infringement and the nature of the alleged offence, and must indicate to the recipient that he may avoid Court proceedings by paying the penalty of £2 to a person mentioned in the notice.

The recipient of a parking infringement notice who does not wish to be involved in Court proceedings may avoid them by paying the penalty of £2. Such a provision will have the effect of reducing the number of matters with which the Court has to deal and of enabling a person who would plead guilty if proceedings were taken, to avoid liability for Court costs and the inconvenience of attending court. No further proceedings will be taken in circumstances where the fine is paid within the prescribed time and the recipient of the notice will not be deemed to have been convicted of an offence. Subject to this matter nothing in the new provisions will effect the ability of the Crown to institute proceedings for prosecutions for parking offences or the liability of any person to any heavier fine that the Court may impose.

An exemption to the provisions of the Ordinance relating to liability of owners will be made in the case of Commonwealth vehicles. Where such vehicles are involved in parking infringements the driver is to be solely liable.

Following upon the introduction of the “owner onus” system of liability for parking infringements the definition of owner in section 4 of the principal Ordinance will be repealed and replaced by that set out in section 4 of the draft Ordinance. The new definition will extend the term to owners of vehicles which are registered in other States or in the Northern Territory.

Miscellaneous Amendments: The following miscellaneous amendments are to be made to the principal Ordinance.

- (i) The amendment to section 48 of the principal Ordinance provided for in section 6 of the draft Ordinance is consequential upon the substitution of a new definition of “owner”.
- (ii) The amendments to be effected by sections 7, 8 and 9 of the draft Ordinance are consequential upon the extension of the provisions of the Ordinance to public places and the creation of off-street parking areas and loading areas.
- (iii) Section 10 of the draft Ordinance will add a new sub-section to section 56. This sub-section will prohibit driving upon traffic island or nature strip and in doing so will remove the uncertainty as to the law on this matter.
- (iv) Traffic movement on off-street parking areas and loading areas will be regulated by, and parking bays will be marked with, unbroken lines. The amendment to be effected by section 11 of the draft ordinance will prohibit driving across such lines.
- (v) Section 56AJ of the principal Ordinance is to be replaced by a new section.
This amendment is consequential upon the alteration of the mode of reference to the areas within which speed limits will apply.
- (vi) The new section 56AK contains definitions of the terms “no exit sign” and “no entry sign”. Section 56APA prohibits entry to and egress from off-street parking areas and loading areas in contravention of such

signs. These provisions will provide a means of preventing congestion of narrow entrances and exits of these areas.

- (vii) It has been suggested that signs erected on the kerb of a public street may only be effective as regards parking directly between those signs and not on the area of the public street along the carriageway adjacent to the kerb. The new sub-section (6.) of section 56AK will clearly define the area to which the signs relate.
- (viii) A new sub-section is to be added to section 56AM to permit stopping to let down or pick up persons in areas regulated by no parking signs.
- (ix) The provisions of the new section 56AO are presently contained in the Motor Traffic (Taxi and Private Hire Car) Regulations. It is proposed to repeal these provisions of the Regulations and to replace them by provisions in the Motor Traffic Ordinance as it is considered more appropriate that they be included in the Ordinance.
- (x) The amendments to be effected by section 26 of the draft Ordinance will -
 - (a) prohibit parking on traffic islands and nature strips;
 - (b) extend the prohibition on parking within an intersection to parking within a junction of two public streets;
 - (c) extend the prohibition on parking adjacent to a red kerb on a public street to parking adjacent to a red kerb on an off-street parking area or loading area;
 - (d) extend the prohibition upon parking in a position likely to cause danger, obstruction and unreasonable inconvenience upon a public street, to parking in such a position in a public place.
- (xi) The substitution of a new section 56AW and the amendments to be effected by sections 28 and 29 of the draft Ordinance are consequential amendments.