

No. 16 of 1977

AN ORDINANCE

To make amendments of the *Motor Traffic Ordinance 1936* consequential on the making of the *Motor Traffic (Alcohol and Drugs) Ordinance 1977*.

I, THE GOVERNOR-GENERAL of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, hereby make the following Ordinance under the *Seat of Government (Administration) Act 1910*.

Dated this sixteenth day of June, 1977.

JOHN R. KERR
Governor-General.

By His Excellency's Command,

A. A. STALEY
Minister of State for the Capital Territory.

MOTOR TRAFFIC (AMENDMENT) ORDINANCE 1977

1. This Ordinance may be cited as the *Motor Traffic (Amendment) Ordinance 1977*.* Short title.
2. In this Ordinance, "Principal Ordinance" means the *Motor Traffic Ordinance 1936*.† Principal Ordinance.
3. This Ordinance shall come into operation on the date of commencement of the *Motor Traffic (Alcohol and Drugs) Ordinance 1977*. Commencement.
4. Section 4 of the Principal Ordinance is amended— Interpretation.
 - (a) by omitting from sub-section (3) the words "Part VIII A";
 - (b) by omitting from sub-section (5) the figures "139B, 139D,"; and

* Notified in the *Australian Government Gazette* on 21 June 1977.

† Ordinance No. 45, 1936 as amended by Nos. 25 and 41, 1938; No. 16, 1941; No. 14, 1942; Nos. 2 and 13, 1943; No. 3, 1945; Nos. 6 and 13, 1947; No. 7, 1950; No. 17, 1951; Nos. 1 and 7, 1955; No. 6, 1956; No. 19, 1957; Nos. 10 and 15, 1958; Nos. 7 and 21, 1959; No. 11, 1960; Nos. 16 and 17, 1962; No. 21, 1963; No. 8, 1964; Nos. 9 and 13, 1965; No. 19, 1966; No. 2, 1968; Nos. 27 and 29, 1969; No. 27, 1970; Nos. 13, 17, 37 and 39, 1971; Nos. 3 and 10, 1972; Nos. 1, 32, 38, 41, 42 and 57, 1973; Nos. 4, 12, 23, 37, 48 and 49, 1974; and Nos. 3, 16, 23, 31, 52 and 54, 1976.

- (c) by omitting from sub-section (6) the figures and word “135, 139, 139B and 139D” and substituting the figures and word “135 and 139”.

Granting of licences.

5. Section 10 of the Principal Ordinance is amended by inserting in sub-section (1), after the word “Ordinance”, the words “and to the *Motor Traffic (Alcohol and Drugs) Ordinance 1977*”.

Refusal of licence to certain persons.

6. Section 11 of the Principal Ordinance is amended by inserting after paragraph (a) the following paragraph:—

- “(aa) if he has been convicted of an offence against Part VIIIA of this Ordinance as in force before the commencement of the *Motor Traffic (Amendment) Ordinance 1977* or of an offence against the *Motor Traffic (Alcohol and Drugs) Ordinance 1977*.”

Special licences to drive.

7. Section 13A of the Principal Ordinance is amended—

- (a) by omitting sub-section (3); and
 (b) by inserting in sub-section (6), after the words “granted under this section”, the words “or under section 37 of the *Motor Traffic (Alcohol and Drugs) Ordinance 1977*”.

Recovery by insurer from owner.

8. Section 62 of the Principal Ordinance is amended by inserting in paragraph (ii), after the word “Ordinance”, the words “or of the *Motor Traffic (Alcohol or Drugs) Ordinance 1977*”.

Recovery by insurer from driver.

9. Section 63 of the Principal Ordinance is amended by inserting, after the word “Ordinance”, the words “or of the *Motor Traffic (Alcohol or Drugs) Ordinance 1977*”.

Driving while intoxicated or drugged.

10. Part VIIIA of the Principal Ordinance is repealed.

Cancellation and suspension of licences by Supreme Court.

11. Section 192A of the Principal Ordinance is amended by inserting in sub-section (1), after the words “culpable driving”, the words “arising out of the driving of a motor vehicle at a speed or in a manner which is dangerous to the public”.

Additional penalty of suspension or cancellation of driving licence.

12. Section 193 of the Principal Ordinance is amended—

- (a) by omitting sub-sections (1), (6), (7), (8) and (9); and
 (b) by omitting from sub-section (12) the words and figures “section 129, 147A, sub-section (1) or (2) of section 139B, or sub-section (6) or (7) of section 139D” and substituting the words and figures “section 129 or 147A”.

Suspension or cancellation of driving licence.

13. Section 193A of the Principal Ordinance is amended—

- (a) by omitting sub-section (3);
 (b) by omitting from sub-section (4) the words—

“Penalty: Five hundred dollars or imprisonment for six months, or both.”—

and substituting the words—

“Penalty: \$2,000 or imprisonment for 12 months or both.”; and

(c) by omitting from sub-section (5) the words—

“Penalty: One thousand dollars or imprisonment for twelve months, or both.”—

and substituting the words—

“Penalty: \$2,000 or imprisonment for 12 months, or both.”.

14. Section 202 of the Principal Ordinance is amended by adding at the end thereof the following sub-section:—

“(5) Any member of the Police Force may take charge of, enter, and drive to a place of safety, a motor vehicle the driver of which—

Powers and duties of police, inspectors and officers.

(a) has been arrested for an offence against this Ordinance or against the *Motor Traffic (Alcohol and Drugs) Ordinance 1977*; or

(b) has been taken into custody in pursuance of sections 11, 15 or 16 of the *Motor Traffic (Alcohol and Drugs) Ordinance 1977*.”.

15. (1) An application made before the commencement of this Ordinance for an order under section 13A of the Principal Ordinance directing the grant of a special licence under that section to a person convicted of an offence against Part VIIIA of the Principal Ordinance or to a person who, having been convicted of such an offence, has been subsequently convicted of an offence against sub-section 193A (4) or (5) of the Principal Ordinance shall be heard and determined as if this Ordinance had not been made, and section 13A of the Principal Ordinance as in force immediately before the commencement of this Ordinance continues to apply to and in relation to that application.

Certain applications to be dealt with under the Principal Ordinance.

(2) An application made before the commencement of this Ordinance by a person referred to in sub-section 193A (3) of the Principal Ordinance for an order by the Supreme Court or by the Court declaring that person to be a fit and proper person to hold a driving licence shall be heard and determined as if this Ordinance had not been made, and Part XIII of the Principal Ordinance as in force immediately before the commencement of this Ordinance continues to apply to and in relation to that application.

16. Proceedings instituted before the commencement of this Ordinance for an offence against sub-section 13A (3), against Part VIIIA, or against Part XIII of the Principal Ordinance may be continued, and proceedings for such an offence alleged to have been com-

Proceedings for offence against Principal Ordinance.

mitted before that commencement may be instituted and continued, as if this Ordinance had not been made, and the Principal Ordinance (other than section 13A) continues to apply to and in relation to such an offence and to any proceedings (including an appeal or an application for a prerogative writ) arising out of a conviction for such an offence.

Certain certificates under repealed provisions to continue to be evidence.

17. Where, in proceedings in a Court, a certificate purporting to have been signed by a person referred to in a provision of Part VIIIA of the Principal Ordinance would, if that Part had not been repealed, have been evidence of matters stated in the certificate and of the facts on which those matters are based, a certificate purporting to have been signed by such a person and to relate to matters occurring before the commencement of this Ordinance shall continue to be, in proceedings in a Court, evidence of the matters stated in the certificate and of the facts on which those matters are based to the same extent that it would have been if Part VIIIA of the Principal Ordinance had not been repealed.

Application of sections 37 and 38 of the Interpretation Ordinance.

18. The provisions of sections 15, 16 and 17 are in addition to, and do not derogate from the operation of, the provisions of sections 37 and 38 of the *Interpretation Ordinance 1967*, and sections 37 and 38 of that Ordinance apply to and in relation to the amendments and repeals made by this Ordinance in the same manner and to the same extent as those sections apply where an Ordinance repeals the whole of an Ordinance.