



NORTHERN TERRITORY OF AUSTRALIA

No. 38 of 1987

AN ACT

to amend the *Motor Vehicles Act*

[Assented to 13 October, 1987]

BE it enacted by the Legislative Assembly of the Northern Territory of Australia, with the assent as provided by the *Northern Territory (Self-Government) Act 1978* of the Commonwealth, as follows:

1. SHORT TITLE

This Act may be cited as the *Motor Vehicles Amendment Act 1987*.

2. COMMENCEMENT

(1) Sections 1 and 2 shall come into operation on the day on which the Administrator's assent to this Act is declared.

(2) The remaining provisions of this Act shall come into operation on such date or dates as is or are fixed by the Administrator by notice in the *Gazette*.

3. PRINCIPAL ACT

The *Motor Vehicles Act* is in this Act referred to as the Principal Act.

4. INTERPRETATION

Section 5 of the Principal Act is amended -

(a) by inserting after the definition of "former owner" the following:

"'hire car licence' means, a licence granted under section 26 or 27, or transferred under section 27B;"

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- (b) by inserting after the definition of "laden mass" the following:

"'lender' means a person who has entered into an agreement or arrangement under section 27F with a licensee of a hire car licence whereby the licence is used as security for a loan or liability;";

- (c) by inserting after the definition of "repealed Ordinance" the following:

"'resident of the Territory' means a person who has resided in the Territory for a continuous period of not less than 3 months;"; and

- (d) by adding at the end the following:

"(2) For the purposes of paragraph (c) of the definition of visiting motor vehicle, a vehicle shall not be deemed to be temporarily in the Territory where the vehicle -

- (a) if registered in the Territory, would be of a type referred to in item 2, 3, 4 or 7 of Schedule 2; and
(b) has been in the Territory continuously for a period of more than 28 days."

5. REGISTRAR MAY GRANT EXEMPTION

Section 8A of the Principal Act is amended by adding at the end the following:

"(3) Subject to this Act, the Registrar may, in his discretion, if he is satisfied that a person is temporarily in the Territory, notwithstanding that he is a resident of the Territory within the meaning, and for the purposes, of the Act, exempt that person from the requirement to be licensed for a period.

"(4) The Registrar shall not grant an exemption under subsection (3) -

- (a) unless the person is the holder of a licence to drive a motor vehicle granted in the place in which he normally resides; or
(b) for a period that exceeds the remainder of the period for which the person is licensed to drive a motor vehicle under that licence."

6. GRANTING OF LICENCES

Section 10 of the Principal Act is amended -

- (a) by omitting from subsection (2) -

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- (i) "a motor omnibus" (first occurring) and substituting "a motor omnibus of the class specified in the licence"; and
- (ii) "a motor omnibus" (second occurring) and substituting "a motor omnibus of that class";

(b) by inserting after subsection (2) the following:

"(2A) The Registrar may grant a licence to drive a motor vehicle exceeding 4.5 tonnes gross vehicle mass of the class specified in the licence to a person who satisfies him that he is not less than 17 years of age, is capable of driving a motor vehicle of that class with safety to the public and has held a licence to drive a motor vehicle, not being a motor cycle, for not less than 12 months.";

- (c) by omitting from subsection (4) ", or exceeding 4.5 tonnes gross vehicle mass,"; and
- (d) by omitting from subsection (6) "subsections (1) and (4)" and substituting "this section".

7. ISSUE OF INSTRUCTOR'S LICENCE

Section 25B(1) of the Principal Act is amended -

- (a) by omitting "motor car" (twice occurring) and substituting "motor vehicle";
- (b) by inserting at the end of paragraph (c) the following:

"or has experience in driving a motor vehicle which, in the opinion of the Registrar, is equivalent to that which he would have gained had he held a licence for a continuous period of not less than 3 years"; and

- (c) by omitting "instructor's licence" and substituting "instructor's licence for that class of motor vehicle".

8. LICENCES OF PUBLIC MOTOR VEHICLES

Section 26(2) of the Principal Act is amended by omitting paragraph (a) and substituting the following:

"(a) be in the approved form; and".

9. LICENCE TO USE MOTOR CAR AS A PRIVATE HIRE CAR

Section 27(2) of the Principal Act is amended by omitting paragraph (a) and substituting the following:

"(a) be in the approved form; and".

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10. NEW SECTION

The Principal Act is amended by inserting after section 27 the following:

"27AA. REGISTRAR TO NOTIFY FORM OF LICENCE

"Where a form of licence is approved for the purposes of section 26(2) or 27(2) the Registrar shall publish a copy of that form in the *Gazette*."

11. GRANT OF PUBLIC AND PRIVATE HIRE CAR LICENCES

Section 27A(1) of the Principal Act is amended by omitting the definition of "hire car licence".

12. TRANSFER OF PUBLIC AND PRIVATE HIRE CAR LICENCES

Section 27B of the Principal Act is amended -

- (a) by omitting subsection (1) and substituting the following:

"(1) The Registrar may, in accordance with this section, on application by -

- (a) subject to subsection (2), a person who holds a hire car licence which he has held for not less than 12 months; or
(b) subject to subsection (3) and the Regulations, a lender on the sale of the hire car licence used as security for a loan or liability,

and on payment of the prescribed fee by that person to the Registrar, transfer the hire car licence.

"(2) Where a hire car licence is used as security for a loan or liability and particulars of that security are in accordance with the Regulations endorsed on the licence, an application under subsection (1)(a) shall not be made except with the consent in writing of the lender.

"(3) An application under subsection (1)(b) shall not be made except where particulars of the loan or liability for which the hire car licence was used as security are, in accordance with the Regulations, endorsed on the licence."

- (b) by omitting subsection (8) and substituting the following:

"(8) An application for the transfer of a hire car licence shall be made jointly by the proposed transferee and shall be accompanied by the licence where the application is by a person referred to in subsection (1)(a).

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"(8A) Notwithstanding subsection (1)(a), where a licensee has -

- (a) died;
- (b) become insane; or
- (c) become bankrupt,

an application for the transfer of a hire car licence may be made on behalf of the licensee by -

- (d) his legal personal representative;
- (e) the person administering his property; or
- (f) the person in whom his property is vested,

respectively."; and

(c) by adding at the end the following:

"(12) Where, for any reason -

- (a) an application by a lender under subsection (1)(b) is not accompanied by the hire car licence, the Registrar shall be deemed to have complied with subsection (11)(a) if he issues a new licence to the transferee in substitution for that transferred; or
- (b) a transferor fails to comply with subsection (11)(b), the Registrar may issue to the transferee new number plates and where he does so he shall amend the licence accordingly."

13. NEW SECTIONS

The Principal Act is amended by inserting after section 27E the following:

"27F. HIRE CAR LICENCE AS SECURITY FOR LOAN

"(1) Subject to this Act and the Regulations, a hire car licence may be used as security for a loan or liability.

"(2) Subject to subsection (3), a hire car licence shall not be used as security for more than one loan or liability at any one time.

"(3) Nothing in subsection (2) prevents a lender under an agreement or arrangement where a hire car licence has been used as security for a loan or liability under this Act making additional advances of money or credit to that originally advanced under the agreement or arrangement.

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"(4) The Regulations may prescribe -

(a) the procedures for -

- (i) the endorsement on a hire car licence used as security for a loan or liability of the particulars of the loan or liability;
- (ii) the removal of those particulars from the licence; and
- (iii) the sale of the licence where the licensee is in default of, or fails to comply with, an agreement or arrangement entered into whereby the licence was used as security; and

(b) the fees to be paid for the endorsement on, or removal from, a hire car licence of particulars of any agreement or arrangement.

"27G. NOTICE TO LENDER OR LICENSEE

"(1) The Registrar may, as he thinks fit, for the purpose of protecting the interest of a lender or licensee under an agreement or arrangement entered into under section 27F, notify the lender or licensee of such matters relating to or affecting the hire car licence or the agreement or arrangement as he thinks fit.

"(2) Where the Registrar, under subsection (1), notifies a lender or licensee such notification may be given by posting or delivering it to the lender or licensee at the address of the lender or licensee as provided in accordance with the Regulations."

14. EXEMPTION OF VEHICLES FROM PART VA AND STANDARDS

Section 59 of the Principal Act is amended by omitting "The Registrar" and substituting "A person, on payment of the prescribed fee, may apply to the Registrar for an exemption under this section and the Registrar, on receipt of such an application".

15. REFUSAL, CANCELLATION OR SUSPENSION OF LICENCE, &c.

Section 102 of the Principal Act is amended by adding after subsection (3) the following:

"(3A) Subsection (3) does not prevent -

- (a) the Registrar from transferring a hire car licence suspended under this section; or
- (b) the person to whom the licence is transferred from operating the licence, and for that purpose the licence shall be deemed not to be suspended."

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16. DRIVING UNREGISTERED MOTOR VEHICLES

Section 107 of the Principal Act is amended -

- (a) by omitting from subsection (2)(b) "being registered; and" and substituting "being registered;"
- (b) by omitting from subsection (2)(c) "under section 137," and substituting the following:
"under section 137; and
- (d) a motor vehicle registered under the *Interstate Road Transport Act 1985* of the Commonwealth,"
and
- (c) by adding at the end the following:

"(5) For the purposes of subsection (1), a motor vehicle shall be deemed to be unregistered, notwithstanding that it is registered under a law of a State or another Territory of the Commonwealth relating to the registration of motor vehicles, where it is being driven by a person who is -

- (a) a resident of the Territory; and
- (b) the owner of the vehicle,

and it has been in the Territory continuously for a period of more than 28 days or such further period as the Registrar may have approved.

"(6) For the purposes of subsection (5)(b), but without limiting the generality of that subsection, a person shall be deemed to be the owner of a motor vehicle if it is registered in a State or another Territory of the Commonwealth in the name of the person or in the name of the spouse, a dependant or parent, who is a resident of the Territory, of that person.

"(7) In a prosecution for an offence against subsection (1) an averment of the prosecutor in the complaint that -

- (a) a person is a resident of the Territory; or
- (b) the vehicle in respect of which the alleged offence was committed had been in the Territory continuously for a specified period,

is prima facie evidence of the matters averred."

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17. DRIVER TO BE LICENSED

Section 114 of the Principal Act is amended by adding at the end the following:

"(2) For the purposes of subsection (1)(a) or (b), a person who is a resident of the Territory shall be deemed to be unlicensed, unless exempted under section 8A(3) from the requirement to be licensed, notwithstanding that he is the holder of a licence to drive the motor vehicle granted under a law of a State or another Territory of the Commonwealth relating to the licensing of persons to drive a motor vehicle.

"(3) In a prosecution for an offence against subsection (1)(a) or (b) relating to a person deemed to be unlicensed by virtue of subsection (2), an averment of the prosecutor in the complaint that the person is a resident of the Territory is prima facie evidence of that fact."

18. REGULATORY OFFENCES

Section 117A of the Principal Act is amended by omitting "27(4)" and substituting "27(4), 27F(2)".

19. JUDICIAL NOTICE OF REGISTRAR'S, DEPUTY REGISTRAR'S AND CERTAIN OFFICERS' SIGNATURES

Section 119(c) of the Principal Act is amended -

- (a) by omitting from subparagraph (i) "required to do; or" and substituting "required to do;"; and
- (b) by omitting from subparagraph (ii) "under this Act" and substituting the following:

"under this Act; or

- (iii) a motor vehicle was registered or licensed and the name of the person in whose name the vehicle was registered or licensed,".

20. DEFECTIVE MOTOR VEHICLES

Section 128A of the Principal Act is amended by adding at the end the following:

"(16) A motor vehicle produced in accordance with a direction in a defect notice for examination or inspection shall not be examined or inspected until the prescribed fee has been paid to the Registrar or an approved person."

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21. REGULATIONS

Section 138 of the Principal Act is amended -

(a) by omitting from paragraph (af) "and the issue, transfer or replacement of number plates" and substituting ", the issue, transfer or replacement of number plates and the inspection of motor vehicles"; and

(b) by inserting at the end the following:

"(2) Notwithstanding that the Regulations may prescribe a fee for the issue of number plates, the Registrar may offer number plates for sale by tender, auction, or other method approved by the Minister, and the purchase price paid by a person for number plates so offered shall be deemed to be the fee prescribed for the issue of those number plates."
