

Motor Car (Miscellaneous Provisions) Bill 1980

EXPLANATORY MEMORANDUM

The principal provisions of this Bill provide for:

- (a) the cancellation by the Courts of learners' permits where the holder is convicted of a specified offence;
- (b) the cancellation by the Courts of all driving licences and permits held by a person convicted of an offence requiring the mandatory cancellation of a licence or permit;
- (c) the empowering of Police to require a person who records a preliminary breath test reading in excess of .05 per cent to attend a Police Station for the purpose of undergoing a breathalyser test;
- (d) the exemption from registration of bulk fruit bin trailers;
- (e) the provision of free registration and concessional third party insurance in respect of one motor car and one trailer to serving members of the Defence Forces who are incapacitated as a result of war service; and
- (f) the reciprocal recognition of permits issued in other States and Territories which authorize the use of unregistered motor cars.

Clause 1 cites the short title and the commencement wording which provides for the provisions of the Act to come into operation on the day or respective days to be fixed by proclamation or successive proclamations.

Clause 2 provides for bulk fruit bin trailers to be excluded from the definition of "private trailer" in the Act. The effect of such exclusion is to exempt the trailers from registration and from the requirement to carry all prescribed lights with the exception of brake lights unless the brake lights on the towing tractor are clearly visible from the rear.

Clause 3: Sub-clause (1), paragraph (a), extends the provisions of the Motor Car Act which provide for the granting of free registration in respect of one motor car and/or trailer owned by a TPI pensioner or a 75 per cent or more incapacitated discharged serviceman to those currently serving members of the Defence Forces who fall within that category.

Sub-clause (1), paragraph (b), effects two consequential amendments relating to the limitation of the concession to one motor car and one trailer.

Sub-clause (2) similarly extends the provisions of the Act which provide for the granting of a 50 per cent concession on third party insurance premiums.

Clause 4 provides for the Making of Regulations authorizing the use in Victoria of any vehicle which is subject to a permit issued in another State or Territory which authorizes the use of an unregistered vehicle. Specifically, the Clause removes the present limitation on such authority, to unregistered vehicles displaying interstate "trade plates", from Section 21 of the Act.

Clause 5 inserts into Section 23AA of the Act a new sub-section (12) which requires a Court to cancel a learner's permit, and to disqualify the holder from obtaining a permit for the same period for which he is disqualified from obtaining a licence, where the holder is convicted of:

- (a) driving under the influence of intoxicating liquor or a drug (Section 80B);

- (b) refusing a preliminary breath test (Sections 80E and 80EA);
- (c) refusing a breathalyser test or failing to comply with a request to attend a Police Station for the purpose of undergoing a breathalyser test (Section 80F);
- (d) exceeding .05 (Section 81A); or
- (e) being drunk in charge of a motor car (Section 82).

The Clause also inserts a new sub-section (13) into Section 23AA which empowers a Court to cancel a learner's permit and to impose a period of disqualification from obtaining a permit, at the discretion of the Court having regard to all the circumstances of the case, where the holder of the permit has been convicted of any offence listed in the Fourth Schedule to the Motor Car Act, such offences being those, which, upon conviction, require the mandatory cancellation of a probationary licence.

Clause 6 provides that, where a person is convicted of an offence requiring the mandatory cancellation of a licence or permit, such cancellation shall apply to all authorities to drive held by the person convicted and that such person shall not be entitled to obtain any driver's licence or learner's permit during the period in which he is disqualified from obtaining a licence or permit.

Clause 7 effects a number of consequential amendments to the Act as follows:

- (a) Paragraphs (a) and (c) of sub-clause (1) have the effect of requiring a cancelled learner's permit to be surrendered to a Police Station;
- (b) Sub-clause (1) (b) has the effect of requiring all licences or permits cancelled under any provision of the Act to be so surrendered. (At present, the requirement is limited to licences cancelled under the general discretionary power afforded to Magistrates' Courts by Section 26 of the Act);
- (c) Sub-clause (2) provides that a cancelled learner's permit shall be of no effect; and
- (d) Sub-clause (3) provides for an appeal to the County Court against the cancellation of a learner's permit and provides that any person who applies for or obtains a permit during his period of disqualification shall be guilty of an offence.

Clause 8 effects a further consequential amendment to provide that any person who drives a motor car whilst disqualified from obtaining a learner's permit shall be guilty of an offence.

Clause 9: Sub-clause (1) empowers a member of the Police Force to require a person who records a preliminary breath reading in excess of .05 per cent blood/alcohol content to attend a Police Station for a breathalyser test.

Sub-clause (2) creates the offence of refusing such a request and applies the same penalties as apply to failing to undergo a breathalyser test, i.e. \$500 and two years licence disqualification for a first offence and \$1000 or six months imprisonment and licence disqualification for four years for a second or subsequent offence.