

No. 39 of 1971

AN ORDINANCE

Relating to Motor Traffic.

I THE GOVERNOR-GENERAL in and over 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 1910-1970.

Dated this sixteenth day of December, 1971.

PAUL HASLUCK
Governor-General.

By His Excellency's Command,

RALPH J. HUNT
Minister of State for the Interior.

MOTOR TRAFFIC ORDINANCE (No. 4) 1971

1.—(1.) This Ordinance may be cited as the Motor Traffic Ordinance (No. 4) 1971.*

(2.) The Motor Traffic Ordinance 1936-1970,† as amended by the Motor Traffic Ordinance 1971,‡ the Motor Traffic Ordinance (No. 2) 1971§ and the Motor Traffic Ordinance (No. 3) 1971,|| is in this Ordinance referred to as the Principal Ordinance.

(3.) Section 1 of the Motor Traffic Ordinance (No. 3) 1971 is amended by omitting sub-section (4.).

(4.) The Principal Ordinance, as amended by this Ordinance, may be cited as the Motor Traffic Ordinance 1936-1971.

2. This Ordinance shall come into operation on the first day of January, One thousand nine hundred and seventy-two.

3. Section 3 of the Principal Ordinance is amended by inserting after the words—

“Part X.—Rules relating to Parking (Sections 149-164).”
the words—

“Part XA.—Seat Belts (Sections 164A-164D).”.

* Notified in the Commonwealth Gazette on 17 December 1971.
† 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; and No. 27, 1970.
‡ Ordinance No. 13, 1971.
§ Ordinance No. 17, 1971.
|| Ordinance No. 37, 1971.

4. After Part X. of the Principal Ordinance the following Part is inserted:—

“ PART XA.—SEAT BELTS.

Interpretation.

“ 164A.—(1.) In this Part—

‘ medical practitioner ’ means a medical practitioner registered under the *Medical Practitioners Registration Ordinance 1930-1970*;

‘ passenger ’, in relation to a prescribed vehicle, does not include the driver of that vehicle;

‘ prescribed vehicle ’ means a motor vehicle other than—

(a) a motor cycle;

(b) a motor omnibus; or

(c) a motor vehicle the weight of which, together with the weight of the maximum load that it is designed to carry, is more than ten thousand pounds.

“ (2.) A reference in this Part to a seat belt shall be read as a reference to a seat belt of any kind, whether or not it complies with the design rule referred to in paragraph (f) of sub-section (3.) of section 7A of this Ordinance.

Wearing of seat belt by driver of prescribed vehicle.

“ 164B. Subject to this Part, if, at any time while a prescribed vehicle the driving position of which is fitted with a seat belt is being driven forward, or has its engine running, on a public street, the person occupying the driving position of that prescribed vehicle does not have that seat belt securely fastened around him or, having it fastened around him, does not have it appropriately adjusted, that person is guilty of an offence punishable, on conviction, by a fine not exceeding Twenty dollars.

Wearing of seat belts by passengers in prescribed vehicles.

“ 164C. Subject to this Part, if, at any time while a prescribed vehicle is being driven, or has its engine running, on a public street—

(a) a passenger is occupying a position in that prescribed vehicle, being a position that is equipped with a seat belt, and that seat belt is not securely fastened around him, or being fastened around him, is not appropriately adjusted; or

(b) a passenger is occupying a position in that prescribed vehicle, being a position that—

(i) is not equipped with a seat belt; and

(ii) is abreast of another position in that prescribed vehicle that is so equipped and is not occupied,

that passenger is guilty of an offence punishable, on conviction, by a fine not exceeding Twenty dollars.

Defences.

“ 164D.—(1.) It is a defence to a prosecution for an offence against either of the last two preceding sections if the defendant establishes—

(a) that a medical practitioner has issued to the defendant a certificate in writing that, in the opinion of the medical practitioner, it is undesirable—

(i) on medical grounds; or

(ii) by reason of the physical characteristics of the defendant,

for the defendant to wear a seat belt and that, at the time of the alleged offence, that certificate had not been revoked or, if that certificate was expressed to be valid for a specified period, that period had not expired;

- (b) that it, at the time of the alleged offence, the prescribed vehicle in which the offence is alleged to have been committed had been in a State or another Territory of the Commonwealth the defendant would not, by reason of being the holder of a certificate or other document issued under or for the purposes of the law of that State or Territory the provisions of which correspond generally with the provisions of this Part, have been guilty of an offence against that law and that, at the time of the alleged offence, that certificate had not been revoked or, if that certificate was expressed to be valid for a specified period that period had not expired;
- (c) that, at the time of the alleged offence, the vehicle in which the offence is alleged to have been committed was stationary and its engine was running for a purpose other than the purpose of putting the vehicle into motion;
- (d) that, at the time of the alleged offence, the vehicle in which the offence is alleged to have been committed, being a vehicle that was, at that time, being used by the defendant in the course of work that required the defendant to alight from, and to board, the vehicle at frequent intervals, was being driven at a speed not exceeding fifteen miles per hour or was stationary; or
- (e) that his failure to comply with whichever of the provisions of this Part was applicable was, in the circumstances, not unreasonable.

“(2.) It is a defence to a prosecution for an offence against section 164B of this Ordinance if the defendant establishes—

- (a) that the Registrar has certified in writing that it is, in the opinion of the Registrar, impracticable, by reason of the defendant's physical characteristics, for the defendant to drive with safety a prescribed vehicle of a specified description if he is wearing a seat belt and that the prescribed vehicle in which the offence is alleged to have been committed is of that specified description and that, at the time of the alleged offence, that certificate had not been revoked or, if that certificate was expressed to be valid for a specified period, that period had not expired; or
- (b) that, at the time of the alleged offence, the prescribed vehicle in which the offence is alleged to have been committed was stationary and about to be driven backwards or was stationary immediately after having been driven backwards.

“(3.) It is a defence to a prosecution under the last preceding section if the defendant establishes that, at the time of the alleged offence, he—

- (a) had not attained the age of 14 years; or
- (b) had attained the age of 71 years.”.