



AUSTRALIAN CAPITAL TERRITORY

# Motor Vehicles (Dimensions and Mass) Act 1990

No. 13 of 1990

## TABLE OF PROVISIONS

### PART I—PRELIMINARY

Section

1. Short title
2. Commencement
3. Interpretation
4. Vehicles to which Act applies
5. Application of Act to the Crown
6. Delegation by Registrar
7. Inspectors
8. Identity cards

### PART II—DIMENSIONS AND DESIGN OF VEHICLES

9. Length of vehicles
10. Width of vehicles
11. Height of vehicles
12. Forward projection
13. Rear overhang
14. Articulated bus—rear overhang of front section
15. Loading space of non-articulated vehicles
16. Semi-trailers—dimensions
17. Required axle groups
18. Steering systems
19. Turning circle
20. Suspension systems

**TABLE OF PROVISIONS—continued**

## Section

- 21. Suspension isolating devices
- 22. Drawbar length

**PART III—LOADS AND EQUIPMENT**

- 23. Projecting equipment or loads
- 24. Gross mass
- 25. Wheel and axle loads
- 26. Tyre pressure

**PART IV—NON-COMPLYING VEHICLES AND EXCESS LOADS**

- 27. Permits
- 28. Permits to be issued in respect of certain vehicles
- 29. Application for permit
- 30. Issue of permit subject to conditions
- 31. Factors related to issue of permit

**PART V—OFFENCES**

- 32. Offences related to mass
- 33. Contravention of Part II or section 23 or 26
- 34. Use of trailer with articulated vehicle
- 35. Production of permit
- 36. Failure to comply with permit
- 37. Offences by owners
- 38. Offences by persons other than owners or drivers
- 39. No offence if permit in force
- 40. Other defences

**PART VI—INSPECTION OF VEHICLES**

- 41. Inspection of vehicles
- 42. Certificate of inspection
- 43. Unattended vehicles
- 44. Offences related to section 43 notice
- 45. Directions related to loads
- 46. Notice of offence
- 47. Failure to comply with directions
- 48. Obstruction of inspector

**PART VII—APPROVED PORTABLE WEIGHING DEVICES**

- 49. Approval of portable weighing devices
- 50. Evidence of mass
- 51. Determination of mass or load with approved portable weighing device
- 52. Certificates to be evidence
- 53. Interfering with approved portable weighing device

**PART VIII—MISCELLANEOUS**

- 54. Notice of decisions

**TABLE OF PROVISIONS**—continued

Section	
55.	Review by Administrative Appeals Tribunal
56.	Certificates of inspectors to be evidence
57.	Determinations

SCHEDULE





AUSTRALIAN CAPITAL TERRITORY

# Motor Vehicles (Dimensions and Mass) Act 1990

No. 13 of 1990

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## An Act to regulate the dimensions and mass of certain motor vehicles

[Notified in ACT Gazette S28: 21 June 1990]

The Legislative Assembly for the Australian Capital Territory enacts as follows:

### PART I—PRELIMINARY

#### Short title

1. This Act may be cited as the *Motor Vehicles (Dimensions and Mass) Act 1990*.

#### Commencement

2. (1) Section 1 and this section commence on the day on which this Act is notified in the *Gazette*.

(2) Subject to subsection (3), the remaining provisions of this Act commence on such day as is fixed by the Minister by notice in the *Gazette*.

(3) If the provisions referred to in subsection (2) do not commence within the period of 6 months beginning on the day on which this Act is notified in the *Gazette*, they commence on the first day after the end of that period.

### **Interpretation**

**3. (1)** In this Act, unless the contrary intention appears—

“Administrative Appeals Tribunal” means the Australian Capital Territory Administrative Appeals Tribunal;

“approved portable weighing device” means a device approved under subsection 49 (1);

“articulated bus” means a bus that consists of 2 or more sections that have been so constructed and coupled that—

- (a) rotary movement of the sections that are directly coupled to one another is possible about the point of articulation between them; and
- (b) persons may move freely between all the sections of the bus while it is in motion;

“articulated vehicle” means a vehicle comprising a motor vehicle and a semi-trailer that is coupled to it;

“axle” means a part of a vehicle consisting of one or more shafts, spindles or bearings in the same transverse vertical plane, or between 2 parallel transverse vertical planes not more than one metre apart, by means of which, in conjunction with the wheels mounted on the shafts, spindles or bearings, the whole or part of the mass of the vehicle and its load may be carried;

“axle group” means a twin-steer axle group, a tandem axle group or a triaxle group;

“axle group centre” means—

- (a) in relation to a tandem axle group where one axle has the same number of wheels as the other—the transverse line located midway between the centre lines of the axles;
- (b) in relation to a tandem axle group where one axle has twice the number of the wheels of the other—a transverse line located one third of the distance from the centre line of the axle with the greater number of wheels to the centre line of the other axle; or

- (c) in relation to an axle group that has more than 2 axles—a transverse line located midway between the centre lines of the most rearward and the most forward axles of the axle group;

“axle group load”, in relation to an axle group of a vehicle, means the aggregate of the axle loads of the axles of the axle group;

“axle load”, in relation to an axle of a vehicle, means the aggregate of the mass carried by the several wheels of the axle;

“bus” means a motor vehicle designed for the principal purpose of carrying passengers and so constructed or fitted as to provide seating for more than 8 adult persons;

“centre line”, in relation to an axle of a vehicle, means the longitudinal centre line of the axle;

“corresponding law”, in relation to a law of the Territory, means a law that is similar, or has a similar effect, to the law of the Territory;

“Court” means the Magistrates Court;

“Deputy Registrar” means a Deputy Registrar of Motor Vehicles appointed under the Motor Traffic Act;

“determined”, in relation to mass, means determined under subsection 57 (2) for the purposes of the provision in which the expression appears;

“determined fee” means the fee determined under subsection 57 (1) for the purposes of the provision in which the expression appears;

“dog trailer” means a self-tracking trailer having a steerable axle or steerable axle group towards the front and an axle or axle group towards the rear;

“drawbar length”, in relation to a trailer, means the distance measured horizontally and parallel to the longitudinal axis of the trailer from the centre line of the towing pivot of the trailer to—

- (a) where the most forward axle of the trailer is not part of an axle group—the longitudinal centre line of the axle; or
- (b) where the most forward axle of the trailer is part of an axle group—the axle group centre of that axle group;

“driver”, in relation to a vehicle, means the person driving, or apparently in charge of, the vehicle;

- “forward projection”, in relation to a vehicle, means the distance measured horizontally and parallel to the longitudinal axis of the vehicle from the most forward point of the vehicle to the rear axle centre of the vehicle;
- “gross combination mass”, in relation to a vehicle comprising a motor vehicle and a trailer or semi-trailer that is coupled to the motor vehicle, means the aggregate of—
- (a) the gross mass of the motor vehicle; and
  - (b) the gross mass of the trailer or semi-trailer;
- “gross mass”, in relation to a vehicle, means the aggregate of—
- (a) the mass of the vehicle;
  - (b) the mass of any equipment being carried by the vehicle; and
  - (c) the mass of any load being carried by the vehicle;
- “identity card” means an identity card issued to an inspector under subsection 8 (1);
- “inspector” means a person appointed to be an inspector under section 7;
- “load sharing system” means an axle group suspension system that, by hydraulic, pneumatic, mechanical or other means, shares the mass carried by an axle group substantially equally among the wheels of the axle group;
- “manufacturer’s gross combination mass”, in relation to a vehicle comprising a motor vehicle and a trailer or semi-trailer that is coupled to the motor vehicle, means the mass that the manufacturer of the vehicle recommends should not be exceeded by the gross combination mass of the motor vehicle and the trailer or semi-trailer;
- “manufacturer’s gross vehicle mass”, in relation to a vehicle, means the mass that the manufacturer of the vehicle recommends should not be exceeded by the gross mass of the vehicle;
- “Motor Traffic Act” means the *Motor Traffic Act 1936*;
- “motor vehicle” means a vehicle that uses, or is designed to use, a source of power other than human or animal power as the principal means of propulsion;
- “notice of offence” means a notice under section 46;

- “permit” means a permit issued under subsection 27 (1);
- “pig trailer” means a trailer (not being a semi-trailer) that is supported by 1 axle or axle group;
- “public place” has the same meaning as in the Motor Traffic Act;
- “public street” has the same meaning as in the Motor Traffic Act;
- “rear axle centre”, in relation to a vehicle, means—
- (a) in the case of a vehicle on which the most rearward axle is not part of an axle group—the centre line of that axle; or
  - (b) in the case of a vehicle on which the most rearward axle is part of an axle group—the axle group centre of that axle group;
- “rear overhang”, in relation to a vehicle, means the distance measured horizontally and parallel to the longitudinal axis of a vehicle from the most rearward point of the vehicle to the rear axle centre of the vehicle;
- “Registrar” means the Registrar of Motor Vehicles appointed under the Motor Traffic Act;
- “retractable axle” means an axle that forms part of an axle group of a vehicle and is connected to a mechanism that enables the axle to be raised or lowered relative to the horizontal datum of the vehicle so as to vary substantially the load distribution between the axles of the axle group;
- “semi-trailer” means a trailer that is so designed that—
- (a) its front part can be superimposed upon, and attached to, the rear part of a motor vehicle so as to pivot about a point of articulation located forward of the most rearward axle of the motor vehicle; and
  - (b) when its front part is attached to a motor vehicle in the manner specified in paragraph (a), a part of the mass of the trailer is borne by the motor vehicle;
- “tandem axle group” means 2 adjacent axles of a vehicle that have centre lines lying in 2 transverse parallel vertical planes that are more than 1 metre apart and not more than 2 metres apart;
- “trader’s plate” means a number plate issued under Part IV of the Motor Traffic Act or under corresponding provisions of a law of a State or another Territory;

“trailer” means a vehicle without motive power (not being a side-car) that is designed to be attached to a motor vehicle;

“triaxle group” means 3 adjacent axles of a vehicle that have a suspension system that complies with section 20, being axles that are so located that the axles at the extremities of the group have centre lines lying in 2 transverse parallel vertical planes that are not less than 2 metres apart nor more than 3.2 metres apart;

“twin-steer axle group”, in relation to a vehicle, means 2 axles—

- (a) the centre lines of which lie in 2 transverse parallel vertical planes that are more than 1 metre apart and not more than 2 metres apart;
- (b) each of which has 1 wheel only at each end; and
- (c) all the wheels of which are connected to the same steering mechanism of the vehicle;

“vehicle” means any means of conveyance that runs on wheels other than a vehicle that runs on a railway;

“wheel” means a wheel fitted with a tyre;

“wide profile tyre” means a pneumatic tyre having a distance of not less than 37.5 centimetres between the outside of its side walls.

(2) For the purposes of the definitions of “forward projection” and “rear overhang” in subsection (1)—

- (a) an axle that is—
  - (i) a steerable axle which is not connected to a steering mechanism; or
  - (ii) a retractable axle;

shall be deemed not to be an axle; and

- (b) any equipment permanently affixed to a vehicle shall be taken to be part of the vehicle.

(3) In this Act—

- (a) a reference to a single axle shall be read as including a reference to 2 axles that have centre lines lying in 2 transverse parallel vertical planes 1 metre or less apart;
- (b) a reference to the mass carried by a wheel of a vehicle shall be read as including a reference to the mass of that wheel;

- (c) a reference to a journey shall be read as including a reference to the route over which the journey is made; and
  - (d) a reference to a driver's licence shall be read as a reference to a licence to drive a motor vehicle issued under the Motor Traffic Act or under a corresponding law of a State or another Territory.
- (4) For the purposes of this Act, the driver of a motor vehicle to which a trailer is attached shall be taken to be the driver of the trailer.
- (5) For the purposes of this Act—
- (a) the owner of a vehicle shall be taken to be—
    - (i) in the case of a vehicle that is registered under the Motor Traffic Act—the person specified in the certificate of registration in force in respect of the vehicle under that Act as the owner of the vehicle;
    - (ii) in the case of a vehicle that is registered under a law of a State or another Territory—the person specified in the certificate of registration in force in respect of the vehicle under that law as the owner of the vehicle;
    - (iii) in the case of a motor vehicle to which trader's plates are affixed—the trader to whom those plates have been issued under the Motor Traffic Act or under a corresponding law of a State or of another Territory; or
    - (iv) in the case of an unregistered vehicle (other than a vehicle referred to in subparagraph (iii)) in respect of which a permit is in force—the person specified in the permit as the owner of the vehicle;unless the contrary is established; and
  - (b) the owner of a vehicle other than a vehicle referred to in paragraph (a) shall be taken to be the person who, alone or jointly with another person, is entitled to the immediate possession of the vehicle.

#### **Vehicles to which Act applies**

4. This Act applies to the following kinds of vehicles:
- (a) a bus having a manufacturer's gross vehicle mass of 3.5 tonnes or more;
  - (b) a bus to which a trailer is coupled, where the manufacturer's gross combination mass of the bus and the trailer is 3.5 tonnes or more;

- (c) a vehicle having a manufacturer's gross vehicle mass of 4.5 tonnes or more;
- (d) an articulated vehicle having a manufacturer's gross combination mass of 4.5 tonnes or more;
- (e) a motor vehicle to which a trailer (other than a semi-trailer) is coupled, where the gross combination mass of the motor vehicle and the trailer is 4.5 tonnes or more;
- (f) a trailer coupled to a bus, where the manufacturer's gross combination mass of the bus and the trailer is 3.5 tonnes or more;
- (g) a trailer (other than a semi-trailer) coupled to a motor vehicle, where the manufacturer's gross combination mass of the motor vehicle and the trailer is 4.5 tonnes or more.

#### **Application of Act to the Crown**

**5. (1)** This Act binds the Crown.

**(2)** Nothing in this Act renders the Crown liable to be prosecuted for an offence.

#### **Delegation by Registrar**

**6.** The Registrar may, by signed instrument, delegate any of his or her powers or functions under this Act other than the power to appoint inspectors under subsection 7 (1).

#### **Inspectors**

**7. (1)** The Registrar may, by signed instrument, appoint persons to be inspectors for the purposes of this Act.

**(2)** An inspector shall perform such duties for the purposes of this Act as the Registrar directs.

#### **Identity cards**

**8. (1)** The Registrar shall cause to be issued to each inspector an identity card that specifies the name and appointment of the inspector and on which appears a recent photograph of the inspector.

**(2)** An inspector is not entitled to exercise any power in relation to a vehicle if, on being requested by the driver of the vehicle to produce his or her identity card, he or she fails to do so.

**(3)** A person appointed to be an inspector shall, upon ceasing to be an inspector, return his or her identity card to the Registrar.

(4) A person who, without reasonable excuse, fails to comply with subsection (3) is guilty of an offence punishable, on conviction, by a fine not exceeding \$100.

## **PART II—DIMENSIONS AND DESIGN OF VEHICLES**

### **Length of vehicles**

9. (1) The length of a vehicle together with any equipment or load being carried by it shall not exceed—

- (a) in the case of a non-articulated vehicle other than a bus—11 metres;
- (b) in the case of a non-articulated bus that has a twin-steer axle group and another tandem axle group—12.8 metres;
- (c) in the case of a non-articulated bus, not being a bus referred to in paragraph (b)—12.2 metres;
- (d) in the case of an articulated bus—18 metres;
- (e) in the case of an articulated vehicle other than a bus—17.5 metres; or
- (f) in the case of a vehicle comprising a motor vehicle and one or more trailers—17.5 metres.

(2) A reference in paragraph (1) (f) to a trailer does not include a reference to a semi-trailer.

### **Width of vehicles**

10. (1) The width of a vehicle together with any equipment or load being carried by it shall not exceed 2.5 metres.

(2) Where a vehicle is fitted with a mirror that is attached to the vehicle by a fitting that is designed to break away from the vehicle when the mirror or the fitting is struck, the mirror and the fitting shall be disregarded in determining the width of the vehicle for the purposes of subsection (1).

### **Height of vehicles**

11. The height of a vehicle together with any equipment or load being carried by it shall not exceed—

- (a) in the case of a double deck bus—4.4 metres;
- (b) in the case of a double deck cattle trailer—4.6 metres; or
- (c) in any other case—4.3 metres.

**Forward projection**

**12.** The forward projection of a non-articulated vehicle, other than a semi-trailer, shall not exceed the aggregate of 8.3 metres and the length, if any, by which the overall length of the vehicle exceeds 11 metres.

**Rear overhang**

**13. (1)** The rear overhang of—

- (a) a non-articulated motor vehicle (not being a bus) that has a length of 9.5 metres or less; or
- (b) a bus on which the most rearward axle is not part of an axle group;

shall not exceed—

- (c) 3.2 metres; or
- (d) the length equal to 60 per cent of the distance, measured horizontally and parallel to the longitudinal axis of the vehicle from—
  - (i) in the case of a vehicle of which the most forward axle is movable—the pivotal point of that axle; or
  - (ii) in any other case—the centre line of the most forward axle of the vehicle;

to the rear axle centre of the vehicle;

whichever is less.

**(2)** The rear overhang of—

- (a) a non-articulated motor vehicle (not being a bus) that has a length greater than 9.5 metres; or
- (b) a bus on which the most rearward axle is part of an axle group;

shall not exceed—

- (c) 3.7 metres; or
- (d) the length equal to 60 per cent of the distance, measured horizontally and parallel to the longitudinal axis of the vehicle from—
  - (i) in the case of a vehicle of which the most forward axle is movable—the pivotal point of that axle; or

- (ii) in any other case—the centre line of the most forward axle of the vehicle;

to the rear axle centre of the vehicle or bus;

whichever is less.

(3) The rear overhang of a dog trailer shall not exceed 3.7 metres.

(4) The rear overhang of a pig trailer shall not exceed—

(a) 3.7 metres; or

(b) the length equal to the distance, measured horizontally and parallel to the longitudinal axis of the trailer, between the most forward extremity of the loading space of the trailer and—

(i) where the trailer has only one axle—the centre line of that axle; or

(ii) where the trailer has an axle group—the axle group centre of that axle group;

whichever is less.

(5) The rear overhang of a semi-trailer shall not exceed—

(a) 3.2 metres; or

(b) the length equal to half the distance, measured horizontally and parallel to the longitudinal axis of the semi-trailer, between the point of articulation of the semi-trailer and the rear axle centre of the semi-trailer;

whichever is less.

#### **Articulated bus—rear overhang of front section**

**14.** The distance between the point of articulation of the front section of an articulated bus and the rear axle centre of that section, measured horizontally and parallel to the longitudinal axis of the section, shall not exceed 40 per cent of the distance between the centre line of the most forward axle of the section and the rear axle centre of the section.

#### **Loading space of non-articulated vehicles**

**15.** The length of the loading space of a non-articulated vehicle that is located to the rear of the rear axle centre of the vehicle shall not exceed—

- (a) in the case of a vehicle having an unladen mass that exceeds half the maximum gross mass of the vehicle permitted by this Act—a length equal to the length of the loading space forward of the rear axle centre of the vehicle; or

- (b) in any other case—a length equal to 90 per cent of the length of the loading space forward of the rear axle centre of the vehicle.

### **Semi-trailers—dimensions**

**16. (1)** Subject to subsection (2), the length of a semi-trailer together with any equipment or load being carried by it shall not exceed 12.5 metres.

**(2)** Where equipment or load being carried by a semi-trailer projects beyond the forward edge of the semi-trailer and the forward projection of the equipment or load beyond that edge is wholly contained within the arc of a horizontal circle having its centre at the point of articulation of the semi-trailer and a radius of 1.9 metres, the forward projection of that equipment or load beyond the forward edge of the semi-trailer shall be disregarded in determining the length of the semi-trailer for the purposes of subsection (1).

**(3)** No part of the forward edge of a semi-trailer shall project beyond the arc of a horizontal circle having its centre at the point of articulation of the semi-trailer and a radius of 1.9 metres.

**(4)** The distance between the point of articulation of a semi-trailer and the rear axle centre of the semi-trailer, measured horizontally and parallel to the longitudinal axis of the semi-trailer, shall not exceed 9 metres.

### **Required axle groups**

**17. (1)** A vehicle included in one of the following classes of vehicles shall have 2 axles, 2 axle groups or an axle and an axle group:

- (a) non-articulated vehicles;
- (b) a motor vehicle that is part of a combination of vehicles;
- (c) dog trailers.

**(2)** A vehicle included in one of the following classes of vehicles shall have only 1 axle or 1 axle group:

- (a) semi-trailers;
- (b) pig trailers.

### **Steering systems**

**18. (1)** Where the most forward axle of a vehicle is not part of an axle group, all the wheels attached to the axle shall be connected to the same steering system of the vehicle.

(2) Where the most forward axle of a vehicle is part of an axle group, all the wheels attached to the axles of the axle group shall be connected to the same steering system of the vehicle.

### **Turning circle**

19. A motor vehicle shall be capable of continuously turning to the left or to the right so that the outer edge of the tyre track of the vehicle forms a circle not exceeding 25 metres in diameter.

### **Suspension systems**

20. (1) Each axle of a vehicle that is not part of an axle group, and each axle group of a vehicle, shall be connected to an acceptable axle suspension system.

(2) In this section—

“acceptable axle suspension system” means—

- (a) in relation to an axle of a vehicle that is not part of an axle group—any suspension system that directly or indirectly interposes an elastic springing medium between the frame of the vehicle and the wheels attached to the axle; or
- (b) in relation to an axle group of a vehicle—an axle suspension system that is indicated as acceptable for that axle group in the section of the manual headed “4. Acceptable Axle Suspension Systems”;

“manual” means the manual entitled “A Guide to Heavy Vehicle Suspension Systems and Acceptable Axle Groups” prepared by the Office of Road Safety of the Commonwealth Department of Transport and published by the Australian Government Publishing Service in 1979, being that manual as amended from time to time.

### **Suspension isolating devices**

21. Where an axle group of a vehicle has attached to it a device that enables the suspension of 1 or more of the axles of the axle group to be isolated from the suspension of the other axle or axles of the axle group so that load sharing among the axles of the axle group is altered or ceases, the controls of that device shall be so located that they are not capable of being operated by a person who is riding in or on the vehicle.

### **Drawbar length**

22. (1) The drawbar length of a dog trailer shall not exceed 5 metres.

(2) The drawbar length of a pig trailer shall not exceed 8.5 metres.

**PART III—LOADS AND EQUIPMENT****Projecting equipment or loads**

**23. (1)** Subject to subsection (2), the equipment or load on a vehicle shall not project—

- (a) more than 1.2 metres in front of the most forward point of the vehicle;
- (b) more than 1.2 metres behind the most rearward point of the vehicle; or
- (c) more than 15 centimetres beyond the outermost point on either side of the vehicle.

**(2)** Paragraph (1) (b) does not apply if—

- (a) the length of the vehicle together with any equipment or load being carried by it does not exceed the length specified in respect of the vehicle in section 9; and
- (b) there is attached to the end of the equipment or load that projects beyond the rear of the vehicle a red flag that is clearly visible and has an area of at least 300 square centimetres.

**Gross mass**

**24. (1)** The gross mass of a vehicle shall not exceed—

- (a) the manufacturer's gross vehicle mass;
- (b) the aggregate of the maximum mass permitted by section 25 to be carried by several wheels of the vehicle; or
- (c) the mass determined in relation to the class of vehicles to which the vehicle belongs;

whichever is least.

**(2)** The aggregate of the gross masses of a motor vehicle and a trailer or semi-trailer coupled to it shall not exceed—

- (a) the manufacturer's gross combination mass of the motor vehicle and the trailer or semi-trailer;
- (b) the aggregate of the maximum amounts of mass permitted by section 25 to be carried by the several wheels of the motor vehicle and the trailer or semi-trailer; or

- (c) the mass determined in relation to the class of combination of vehicles to which the motor vehicle and the trailer or semi-trailer belong;

whichever is least.

### **Wheel and axle loads**

**25. (1)** The mass carried by a wheel of a vehicle shall not exceed the mass determined in relation to the class of wheels to which the wheel belongs.

**(2)** The axle load of an axle of a vehicle shall not exceed the mass determined in relation to the class of axles to which the axle belongs.

**(3)** The axle group load of an axle group of a vehicle shall not exceed the mass determined in relation to the class of axle groups to which the axle group belongs.

### **Tyre pressure**

**26.** The pressure in a pneumatic tyre of a vehicle shall not exceed—

- (a) in the case of radial ply tyre—825 kilopascals; or
- (b) in any other case—700 kilopascals.

## **PART IV—NON-COMPLYING VEHICLES AND EXCESS LOADS**

### **Permits**

**27. (1)** If—

- (a) a vehicle does not comply with Part II;
- (b) because of the size, shape or mass of any equipment or load that it is proposed that a vehicle should carry, the vehicle with the equipment or load would not comply, or may not comply, with any one or more of sections 9, 10, 11, 16, 23, 24, 25 and 26; or
- (c) a combination of vehicles would not comply with section 34;

the Registrar may issue a permit for the vehicle or combination of vehicles to be used, or for the vehicle to carry the equipment or load, as the case may be, on public streets and in public places notwithstanding that the vehicle or combination of vehicles, or the vehicle together with the equipment or load, will not, or may not, so comply.

(2) The Registrar shall specify in a permit issued in respect of a vehicle or combination of vehicles under subsection (1) the provisions of this Act with which the vehicle or combination of vehicles, or the vehicle with its equipment or load, is not required to comply.

(3) A permit issued under subsection (1) remains in force—

- (a) for such period not exceeding 12 months as is specified in the permit;
- (b) for the purpose of enabling the vehicle or vehicles to be used to undertake a journey specified in the permit; or
- (c) for the purpose of enabling the vehicle or vehicles to be used to undertake a journey specified in the permit within a period not exceeding 12 months specified in the permit.

**Permits to be issued in respect of certain vehicles**

**28.** (1) This section applies in respect of a vehicle that does not comply with Part II, being—

- (a) a vehicle that was registered under the Motor Traffic Act on the day of the commencement of this Act and that has been continuously so registered since that day; or
- (b) a vehicle in respect of which a permit is in force permitting the vehicle to be used for a specific period on public streets and in public places (otherwise than for the purpose of a journey specified in the permit) notwithstanding that the vehicle does not comply with Part II.

(2) Where—

- (a) a vehicle to which this section applies has not undergone any structural change or had any equipment fitted to it (other than replacement equipment identical to the equipment replaced) since—
  - (i) in the case of a vehicle to which paragraph (1) (a) applies—the day on which the registration of the vehicle under the Motor Traffic Act was last renewed, or, if the registration of the vehicle under that Act has not been renewed, the day on which the vehicle was registered under that Act; or

- (ii) in the case of a vehicle to which paragraph (1) (b) applies—the day on which a permit of the kind described in that paragraph was last issued in respect of the vehicle; and
- (b) the Registrar is satisfied that the vehicle, its parts and equipment would, but for paragraph 7 (2) (b) or 8 (2) (b) of the Motor Traffic Act, be eligible for registration under that Act;

the Registrar shall, on being requested to do so by the owner of the vehicle, or the person to whom the current permit was issued, issue to that person a permit permitting the vehicle to be used on public streets and in public places for a specified period notwithstanding that it does not comply with the requirements of Part II.

#### **Application for permit**

**29.** An application for a permit shall—

- (a) be in a form approved by the Registrar and be signed by the applicant;
- (b) be lodged with the Registrar not less than 28 days before—
  - (i) in the case of a vehicle to which section 28 applies—the day on which the current registration of the vehicle under the Motor Traffic Act expires or the current permit issued in respect of the vehicle expires; or
  - (ii) in any other case—the day on which the vehicle to which the application relates is to be used, or is first to be used, in circumstances for which a permit will be required;or at such other time before that day as the Registrar allows; and
- (c) be accompanied by the determined fee.

#### **Issue of permit subject to conditions**

**30.** The Registrar may issue a permit under section 27 subject to any conditions specified in the permit, being conditions relating to—

- (a) the speeds at which the vehicle may be operated;
- (b) the mass carried by a wheel of the vehicle;
- (c) the axle loads of any axles of the vehicle;
- (d) the maximum gross mass at which the vehicle may be operated;
- (e) the public streets and public places that may be used by the vehicle;

- (f) the manner in which any equipment or load to be carried by the vehicle is to be carried or secured;
- (g) the strengthening of any bridge, culvert or other structure on or over which the vehicle is to travel;
- (h) the giving of an indemnity by the owner or operator of the vehicle for any damage that may be caused to any public street, public place, bridge, culvert, structure or installation by the vehicle while on a journey for which the permit is required; and
- (j) any other matter related to the safety of persons or property.

**Factors related to issue of permit**

**31.** In deciding whether to issue a permit in respect of a vehicle, the Registrar shall have regard to—

- (a) the extent to which use of the vehicle on a public street or in a public place in accordance with any conditions that may be specified in the permit is likely to cause—
  - (i) danger of the death of, or injury to, any person;
  - (ii) damage to the street, the place or any bridge, culvert, structure or installation; or
  - (iii) damage to any other property whatsoever;
- (b) where the vehicle is required for a special purpose—the availability of another vehicle that would comply with Part II and sections 9, 10, 11, 16, 23, 24, 25, 26 and 34 when being used for that purpose;
- (c) where the vehicle is required for carrying a particular load—the practicability of dividing the load; and
- (d) the extent to which use of the vehicle on a public street or in a public place is in the public interest.

**PART V—OFFENCES****Offences related to mass**

**32. (1)** A person shall not drive a vehicle on a public street or in a public place if—

- (a) the gross mass of the vehicle exceeds the mass permitted in respect of the vehicle by subsection 24 (1);
- (b) the mass carried by a wheel of the vehicle exceeds the mass permitted in respect of the wheel by subsection 25 (1);

- (c) the axle load of an axle of the vehicle exceeds the mass permitted in respect of the axle by subsection 25 (2); or
- (d) the axle group load of an axle group of the vehicle exceeds the mass permitted in respect of the axle group by subsection 25 (3).

(2) A person shall not drive on a public street or in a public place a motor vehicle to which a trailer or a semi-trailer is coupled if the aggregate of the gross masses of the motor vehicle and the trailer or semi-trailer exceeds the mass permitted by subsection 24 (2).

Penalty: \$3,000.

#### **Contravention of Part II or section 23 or 26**

33. A person shall not drive a vehicle on a public street or in a public place if the vehicle together with any equipment or load being carried by it does not comply with Part II or section 23 or 26.

Penalty: \$1,000.

#### **Use of trailer with articulated vehicle**

34. A person shall not drive an articulated vehicle on a public street or in a public place if a trailer is coupled to the vehicle.

Penalty: \$1,000.

#### **Production of permit**

35. The driver of a vehicle in relation to which a permit is in force shall produce the permit to an inspector immediately upon being requested by the inspector to do so.

Penalty: \$500.

#### **Failure to comply with permit**

36. A person who drives a vehicle in respect of which a permit is in force on a public street or in a public place—

- (a) during a time, or in the course of a journey, during which the driving of the vehicle on the public street or in the public place would be an offence against this Act but for the operation of the permit; and
- (b) otherwise than in accordance with any conditions subject to which the permit was issued;

is guilty of an offence punishable, on conviction—

- (c) where the condition of the permit with which the person failed to comply is a condition limiting the gross mass of the vehicle, the mass that may be carried by a wheel of the vehicle, the axle load

of an axle of the vehicle or the axle group load of an axle group of the vehicle—by a fine not exceeding \$3,000; or

- (d) in any other case—by a fine not exceeding \$1,000.

### **Offences by owners**

#### **37. (1) Where—**

- (a) an offence against section 32 is committed; or  
(b) an offence against section 36 is committed that is punishable in accordance with paragraph 36 (c);

and the owner of the vehicle involved in the offence is not the driver of the vehicle at the time the offence is committed, the owner is guilty of an offence punishable, on conviction, by a fine not exceeding—

- (c) in the case of a natural person—\$3,000; or  
(d) in the case of a body corporate—\$15,000.

#### **(2) Where—**

- (a) an offence against section 33 is committed; or  
(b) an offence against section 36 is committed that is punishable in accordance with paragraph 36 (d);

and the owner of the vehicle involved in the offence is not the driver of the vehicle at the time the offence is committed, the owner is guilty of an offence punishable, on conviction, by a fine not exceeding—

- (c) in the case of a natural person—\$1,000; or  
(d) in the case of a body corporate—\$5,000.

### **Offences by persons other than owners or drivers**

**38. (1)** A person other than the owner or driver of a vehicle who causes or permits the vehicle to be driven upon a public street or in a public place in circumstances in which an offence against section 32 or 33 is committed is guilty of an offence punishable, on conviction, by a fine not exceeding \$3,000.

**(2)** A person other than the owner or driver of a vehicle who loads the vehicle, or causes or permits the vehicle to be loaded, in a way that results in the commission of an offence against section 32 or 33 when the vehicle is driven upon a public street or in a public place is guilty of an offence punishable, on conviction, by a fine not exceeding \$3,000.

**No offence if permit in force**

**39.** A person is not guilty of an offence against section 32, 33 or 34 if, at the time of the conduct that would have constituted the offence, there was in force a permit that permitted that conduct.

**Other defences**

**40. (1)** A person (in this section referred to as the “defendant”) is not guilty of an offence against section 32, 33, 34, 37 or 38 if he or she adduces evidence that—

- (a) the conduct that is alleged to have constituted the offence was due to—
  - (i) reasonable mistake;
  - (ii) reasonable reliance on information supplied by another person; or
  - (iii) the act or default of another person or some other cause beyond the defendant’s control; and
- (b) the defendant took reasonable precautions and exercised due diligence to avoid committing the offence;

and that evidence is not rebutted.

**(2)** In subparagraph (1) (a) (ii), the reference to “another person” shall not be read as including a reference to a servant, an agent or a director of the defendant.

**PART VI—INSPECTION OF VEHICLES**

**Inspection of vehicles**

**41. (1)** If an inspector has reasonable grounds for believing that a vehicle on a public street or in a public place is a vehicle to which this Act applies, the inspector may inspect the vehicle, its equipment and load for the purpose of determining whether they comply with the provisions of this Act.

**(2)** For the purpose of inspecting a vehicle, its equipment or load, an inspector may, at any reasonable time, direct the driver of the vehicle to—

- (a) stop the vehicle;
- (b) state his or her name and residential address;
- (c) produce his or her licence to drive the vehicle;
- (d) state the name and business address of the owner of the vehicle;

- (e) specify the next place where the vehicle is to be loaded or unloaded, or where changes are to be made to the load, or to the distribution of the load, carried by the vehicle;
  - (f) move the vehicle to a place specified by the inspector, being the nearest safe place for inspecting the vehicle;
  - (g) give the inspector such assistance as may be necessary to determine the dimensions of the vehicle, its equipment and load;
  - (h) take the vehicle to the nearest place where the mass of the vehicle together with its equipment and load can be determined; and
  - (i) give the inspector such assistance as may be necessary to determine—
    - (i) the gross mass of the vehicle;
    - (ii) the axle group load of each axle group of the vehicle;
    - (iii) the axle load of each axle of the vehicle;
    - (iv) the mass carried by each wheel of the vehicle; or
    - (v) any two or more of the matters specified in subparagraphs (i) to (iv) (inclusive);
- (3)** An inspector shall not give a direction to the driver of a vehicle pursuant to paragraph (2) (h) or (i) if—
- (a) the driver produces a certificate of inspection that specifies—
    - (i) the gross mass of the vehicle;
    - (ii) the axle group load of each axle group of the vehicle and the axle load of each axle of the vehicle that is not part of an axle group; or
    - (iii) the mass carried by each wheel of the vehicle;and specifies the next place at which the vehicle is to be loaded or unloaded or where changes are to be made to the load, or the distribution of the load, of the vehicle;
  - (b) the inspector has no reasonable grounds for believing that the vehicle is not travelling to the place specified in the certificate as the next place at which the vehicle is to be loaded or unloaded or where changes are to be made to the load, or the distribution of the load, of the vehicle; and
  - (c) the inspector has no reasonable grounds for believing that the load, or the distribution of the load, of the vehicle has been changed since the certificate was issued.

(4) Where a direction has been given in relation to a vehicle pursuant to subsection (2), the driver of the vehicle shall not, without reasonable excuse—

- (a) remove from the vehicle any part of its load or equipment, or alter the position or distribution of the load or equipment; or
- (b) permit another person to remove from the vehicle any part of its load or equipment or alter the position or distribution of the load or equipment;

until the direction has been complied with.

Penalty: \$3,000.

(5) In this section, “certificate of inspection” means—

- (a) a certificate issued under section 42; or
- (b) a certificate issued by an officer of an authority or body of a State or another Territory having, under the law of that State or Territory, responsibility for the control of road transport in that State or Territory, being a certificate that states—
  - (i) the date on which, and the time and place at which, the certificate was issued;
  - (ii) the name and designation of the person who issued the certificate;
  - (iii) the registration number of the vehicle to which the certificate relates; and
  - (iv) the findings of the authority or body on an inspection of the vehicle immediately before the certificate was issued.

### **Certificate of inspection**

42. Where an inspector inspects a vehicle for the purposes of this Act and finds that the vehicle together with its equipment and load (if any) complies with the provisions of the Act in relation to which it is inspected, the inspector shall give the driver of the vehicle a certificate that specifies—

- (a) the date on which, and the time and place at which, the vehicle was inspected;
- (b) the name and designation of the inspector;
- (c) the registration number of the vehicle;

- (d) the place specified by the driver of the vehicle as the next place where the vehicle is to be loaded or unloaded, or where alterations are next to be made to the load, or to the distribution of the load, carried by the vehicle; and
- (e) the result of the inspection.

### **Unattended vehicles**

#### **43. (1) Where—**

- (a) a vehicle is standing unattended upon a public street or in a public place; and
- (b) an inspector has reasonable grounds for believing that the vehicle, or the vehicle with its equipment and load, does not comply with the requirements of this Act;

the inspector may serve a notice under this section upon the driver of the vehicle.

#### **(2) A notice under this section shall—**

- (a) specify the date on which, and the time and place at which, the notice was served;
- (b) specify the name and designation of the inspector who served the notice; and
- (c) direct that, while the notice remains in force, the vehicle is not to be moved except for the purpose of taking it directly to a weighbridge or weighing station specified in the notice.

**(3)** A notice under this section remains in force until the vehicle to which it relates has been presented at the weighbridge or weighing station specified in the notice and an inspector has inspected the vehicle and determined the mass of the vehicle together with its equipment and load (if any).

**(4)** A notice under this section may be served upon the driver of a vehicle by securely placing the notice upon the vehicle in a conspicuous position.

**(5)** An inspector who serves a notice under this section upon the driver of a vehicle shall affix to the windscreen of the vehicle a label stating—

- (a) the registration number of the vehicle;
- (b) that a notice under this section has been served in respect of the vehicle;

- (c) the date on which, and the time and place at which, the notice was served; and
- (d) the name and designation of the inspector by whom the notice was served.

(6) For the purposes of this section, a vehicle shall be taken to be unattended when there is not in, on or near the vehicle a person who is apparently in charge of the vehicle, being a person who holds a licence that authorises him or her to drive the vehicle.

#### **Offences related to section 43 notice**

**44.** While a notice under section 43 is in force in respect of a vehicle, a person shall not, without reasonable excuse—

- (a) remove from the vehicle, or alter or deface, a label affixed to the vehicle pursuant to subsection 43 (5);
- (b) move the vehicle from the place where the notice was served, except for the purpose of taking the vehicle directly to the weighbridge or weighing station specified in the notice;
- (c) remove from the vehicle any part of a load being carried by the vehicle;
- (d) remove from the vehicle any equipment being carried by the vehicle;
- (e) interfere with or alter the position of any part of a load being carried by the vehicle;
- (f) interfere with or alter the position of any equipment being carried by the vehicle; or
- (g) replace, interfere with or adjust a suspension system, axle, wheel or tyre of the vehicle.

Penalty: \$3,000.

#### **Directions related to loads**

**45. (1)** Where, upon inspecting a vehicle in respect of which no permit is in force, an inspector finds that the vehicle does not comply with the requirements of this Act by reason of the size, shape, weight or position of any equipment or load being carried by the vehicle, the inspector may direct the driver of the vehicle to remove part or all of the equipment or load, or to adjust or rearrange the equipment or load, so that the vehicle with its equipment or load does comply with those requirements.

(2) Where, upon inspecting a vehicle in respect of which a permit is in force, an inspector finds that the vehicle does not comply with—

- (a) the conditions specified in the permit; or
- (b) the requirements of this Act from compliance with which the vehicle is not exempted by the permit;

by reason of the size, shape, weight or position of any equipment or load being carried by the vehicle, the inspector may direct the driver of the vehicle to remove part or all of the equipment or load, or to adjust or rearrange the equipment or load, so that the vehicle with its equipment or load does comply with those conditions and requirements.

#### **Notice of offence**

46. (1) Where an inspector has reason to believe that a person has committed an offence against section 32, 33, 34 or 36, the inspector may serve, or cause to be served, on the person a notice of offence in accordance with this section.

(2) A notice of offence shall—

- (a) specify the name and designation of the inspector who serves the notice or causes the notice to be served;
- (b) specify the date on which, and the time and place at which, the offence is alleged to have been committed;
- (c) specify the nature of the alleged offence;
- (d) specify the registration number of the vehicle, or each of the vehicles, alleged to have been involved in the offence;
- (e) specify the penalty prescribed in respect of the alleged offence;
- (f) contain a notification to the person on whom the notice is served that if he or she does not wish the matter to be dealt with by the Court, he or she may pay the penalty specified in the notice within the period of 21 days after the day on which the notice is served; and
- (g) specify the place at which, and the manner in which, the prescribed penalty may be paid;

and may contain such other particulars, if any, as the Registrar considers necessary.

(3) A notice of offence shall be signed by the inspector who serves it or causes it to be served.

- (4) A notice of offence may be served—
- (a) by serving it personally on the person alleged to have committed the offence;
  - (b) by securely placing or fixing it on the vehicle in a conspicuous position; or
  - (c) by serving it on the owner of the vehicle.
- (5) The penalty to be specified in a notice of offence is—
- (a) in respect of an alleged offence against subsection 32 (1) where the alleged offence is that the vehicle involved in the offence was driven on a public street or in a public place when the gross mass of the vehicle exceeded the gross mass permitted by subsection 24 (1)—\$100 for each tonne or part of a tonne by which the gross mass of the vehicle exceeded the gross mass permitted in respect of the vehicle by subsection 24 (1) up to a maximum penalty of \$500;
  - (b) in respect of an alleged offence against subsection 32 (1) where the alleged offence is that the vehicle involved in the offence was driven on a public street or in a public place when the mass carried by a wheel of the vehicle exceeded the mass permitted by subsection 25 (1) in respect of that wheel by not more than 0.5 of a tonne—\$100;
  - (c) in respect of an alleged offence against subsection 32 (1) where the alleged offence is that the vehicle involved in the offence was driven on a public street or in a public place when the mass carried by a wheel of the vehicle exceeded the mass permitted by subsection 25 (1) in respect of that wheel by more than 0.5 of a tonne—\$500;
  - (d) in respect of an alleged offence against subsection 32 (1) where the alleged offence is that the vehicle involved in the offence was driven on a public street or in a public place when the axle load of an axle of the vehicle exceeded the mass permitted in respect of that axle by subsection 25 (2) by not more than 0.5 of a tonne—\$100;
  - (e) in respect of an alleged offence against subsection 32 (1) where the alleged offence is that the vehicle involved in the offence was driven on a public street or in a public place when the axle load of an axle of the vehicle exceeded the mass permitted in respect of that axle by subsection 25 (2) by more than 0.5 of a tonne—\$500;

- (f) in respect of an alleged offence against subsection 32 (1) where the alleged offence is that the vehicle involved in the offence was driven on a public street or in a public place when the axle group load of an axle group of the vehicle (not being a triaxle group) exceeded the mass permitted by subsection 25 (3) in respect of that axle group—the aggregate of—
  - (i) \$100; and
  - (ii) \$100 for each 0.5 of a tonne or a part of 0.5 of a tonne by which the axle group load of the axle group exceeded 1 tonne more than the mass permitted in respect of the axle group by subsection 25 (3);up to a maximum penalty of \$500;
- (g) in respect of an alleged offence against subsection 32 (1) where the alleged offence is that the vehicle involved in the offence was driven on a public street or in a public place when the axle group load of a triaxle group of the vehicle exceeded the mass permitted by subsection 25 (3) in respect of that axle group—\$100 for each tonne or part of a tonne by which the axle group load exceeded the mass permitted by subsection 25 (3) in respect of that axle group up to a maximum penalty of \$500;
- (h) in respect of an alleged offence against subsection 32 (2)—\$100 for each tonne or part of a tonne by which the aggregate of the gross masses of the motor vehicle and the trailer or semi-trailer involved in the alleged offence exceeded the aggregate gross mass permitted in respect of those vehicles by subsection 24 (2) up to a maximum penalty of \$500;
- (i) in respect of an alleged offence against section 33 or 34—\$200;
- (j) in respect of an alleged offence against section 36 where the alleged offence is that the vehicle involved in the offence was driven on a public street or in a public place when the gross mass of the vehicle exceeded a maximum gross mass allowed in respect of the vehicle by the permit—\$100 for each tonne or part of a tonne by which the gross mass of the vehicle exceeded the maximum gross mass allowed by the permit up to a maximum penalty of \$500;
- (k) in respect of an alleged offence against section 36 where the alleged offence is that the vehicle involved in the offence was driven on a public street or in a public place when the mass

carried by a wheel of the vehicle exceeded a maximum mass allowed by the permit in respect of that wheel by not more than 0.5 of a tonne—\$100;

- (l) in respect of an alleged offence against section 36 where the alleged offence is that the vehicle involved in the offence was driven on a public street or in a public place when the mass carried by a wheel of the vehicle exceeded a maximum mass allowed by the permit in respect of the wheel by more than 0.5 of a tonne—\$500;
- (m) in respect of an alleged offence against section 36 where the alleged offence is that the vehicle involved in the offence was driven on a public street or in a public place when the axle load of an axle of the vehicle exceeded a maximum mass allowed by the permit in respect of the axle by not more than 0.5 of a tonne—\$100;
- (n) in respect of an alleged offence against section 36 where the alleged offence is that the vehicle involved in the offence was driven on a public street or in a public place when the axle load of an axle of the vehicle exceeded a maximum mass allowed by the permit in respect of the axle by more than 0.5 of a tonne—\$500;
- (o) in respect of an alleged offence against section 36 where the alleged offence is that the vehicle involved in the offence was driven on a public street or in a public place when the axle group load of an axle group of the vehicle (not being a triaxle group or a group of more than 3 axles) exceeded a maximum mass allowed by the permit in respect of that axle group—the aggregate of—
  - (a) \$100; and
  - (b) \$100 for each 0.5 of a tonne or part of 0.5 of a tonne of the mass (if any) by which the axle group load exceeded 1 tonne more than the maximum mass allowed in respect of the axle group by the permit;up to a maximum penalty of \$500;
- (p) in respect of an alleged offence against section 36 where the alleged offence is that the vehicle involved in the offence was driven on a public street or in a public place when the axle group load of a triaxle group of the vehicle exceeded a maximum mass allowed by the permit in respect of that axle group—\$100 for each tonne or part of a tonne by which the axle group load exceeded the

maximum mass allowed by the permit in respect of the axle group up to a maximum penalty of \$500;

- (q) in respect of an alleged offence against section 36 where the alleged offence is that the vehicle involved in the offence was driven on a public street or in a public place when the aggregate of the axle loads of a group of 4 or more axles of the vehicle, being a group of 4 or more axles specified in the permit, exceeded a maximum mass allowed by the permit in respect of that group of axles—\$100 for each tonne or part of a tonne by which the aggregate of the axle loads of that group of axles exceeded the maximum mass allowed by the permit in respect of the group of axles up to a maximum penalty of \$500; or
- (r) in respect of an alleged offence against section 36 where the alleged offence is that a motor vehicle to which a trailer or a semi-trailer was coupled was driven on a public street or in a public place when the aggregate of the gross masses of the motor vehicle and the trailer or semi-trailer exceeded a maximum aggregate gross mass allowed by the permit in respect of those vehicles—\$100 for each tonne or part of a tonne by which the aggregate of the gross masses of the vehicles exceeded the maximum aggregate gross mass allowed by the permit in respect of the vehicles up to a maximum penalty of \$500.

(6) Where a notice of offence has been served on a person and before the expiration of the period of 21 days after the day on which the notice was served, or such further period not exceeding 28 days as the Registrar allows, whether before or after the expiration of the firstmentioned period, the amount of the penalty specified in the notice is paid in accordance with the notice—

- (a) any liability of the person in respect of the alleged offence specified in the notice shall be discharged;
- (b) no further proceedings shall be taken in respect of the alleged offence; and
- (c) a person shall not be regarded as having been convicted of the alleged offence.

(7) At the hearing of a prosecution for an offence specified in a notice of offence, a certificate signed by the Registrar or a Deputy Registrar stating that—

- (a) the Registrar did not allow a further period under subsection (6) for payment of the penalty specified in the notice in respect of the offence; and
- (b) the penalty was not paid in accordance with the notice within the period of 21 days after the day on which the notice was served;

is evidence of the matters so stated.

(8) At the hearing of a prosecution for an offence specified in a notice of offence, a certificate signed by the Registrar or a Deputy Registrar stating that—

- (a) the Registrar allowed, under subsection (6), the further period specified in the certificate for the payment of the penalty specified in the notice in respect of the alleged offence; and
- (b) the penalty was not paid in accordance with the notice within 21 days after the day on which the notice was served, or within that further period;

is evidence of the matters so stated.

(9) For the purposes of this section, a document that purports to have been signed by the Registrar or a Deputy Registrar shall be taken to have been so signed unless the contrary is proved.

(10) Where the amount of a penalty specified in a notice of offence is paid by a cheque that is not honoured upon presentation, payment shall be taken not to have been made.

(11) Except as provided by subsection (6), nothing in this section in any way prejudices or affects the institution or prosecution of proceedings in respect of an offence against this Act.

(12) Nothing in this section shall be construed as requiring a notice of offence to be served in respect of an alleged offence against section 32, 33, 34 or 36 or as limiting the amount of a fine that may be imposed by the Court in respect of an offence against any of those sections in relation to which a notice of offence has been served.

### **Failure to comply with directions**

47. A person to whom an inspector gives a direction under this Part shall not refuse or fail to comply with that direction.

Penalty: \$1,000.

**Obstruction of inspector**

**48.** A person shall not obstruct or hinder an inspector in the exercise of a power or the performance of a function under this Act.

Penalty: \$3,000.

**PART VII—APPROVED PORTABLE WEIGHING DEVICES****Approval of portable weighing devices**

**49. (1)** Where the Minister is of the opinion that a portable weighing device is suitable for use in determining—

- (a) the mass carried by a wheel of a vehicle; and
- (b) the axle load of an axle of a vehicle;

he or she may, by a notice in accordance with the form in the Schedule that is affixed to the device, approve the device for the purposes of this Act.

**(2)** In any proceedings in a court, a notice—

- (a) that purports to be a notice under subsection (1) and to be signed by the Minister; and
- (b) that is affixed, by any means, to a device;

is evidence of the matters stated in the notice and of the facts on which they are based.

**Evidence of mass**

**50. (1)** For the purposes of proceedings in a court—

- (a) the mass carried by a wheel of a vehicle;
- (b) the axle load of an axle of a vehicle;
- (c) the axle group load of an axle group of a vehicle;
- (d) the gross mass of a vehicle; or
- (e) the aggregate of the gross masses of a motor vehicle and a trailer or semi-trailer coupled to the motor vehicle;

at a particular time and at a particular place determined with an approved portable weighing device in accordance with section 51 shall, unless the contrary is proved, be taken to be the mass carried by the wheel, axle load, axle group load, gross mass or aggregate of gross masses, as the case may be, at that time and place.

(2) Nothing in this section precludes evidence of a matter referred to in paragraph (1) (a), (b), (c), (d) or (e) being given by evidence other than the evidence referred to in subsection (1).

(3) Evidence shall not be given of a matter referred to in paragraph (1) (a), (b), (c), (d) or (e) by reference to a determination of mass or load with an approved portable weighing device unless—

- (a) the device has, within the period of 12 months before being used to determine that mass or load been tested for accuracy by a duly qualified mechanical engineer approved for the purposes of this subsection by the Minister by notice in the *Gazette*;
- (b) the device has been sealed by the mechanical engineer in such a way as to prevent the mechanism of the device being tampered or interfered with without breaking the seal, and the seal is intact; and
- (c) the device was, in so determining that mass or load, used in accordance with section 51.

#### **Determination of mass or load with approved portable weighing device**

**51. (1)** In determining the mass carried by a wheel of a vehicle with an approved portable weighing device, the device shall be placed under the tyre of the wheel so that the whole of the mass borne by the wheel is borne by the device.

(2) In determining the axle load of an axle of a vehicle with approved portable weighing devices, an approved portable weighing device shall be placed under the tyres of each of 2 wheels of the axle so that the whole of the mass borne by the axle is borne by the 2 devices and the aggregate of the weights shown by 2 approved portable weighing devices when so used shall be taken to be the axle load of the axle.

(3) For the purposes of this Act—

- (a) the axle group load of an axle group of a vehicle shall be taken to be the aggregate of the axle loads of the several axles of the axle group;
- (b) the gross mass of a vehicle shall be taken to be the aggregate of the axle loads of the several axles of the vehicle; and
- (c) the aggregate of the gross masses of a motor vehicle and a trailer or semi-trailer coupled to the motor vehicle shall be taken to be the aggregate of the axle loads of the several axles of the motor vehicle and the trailer or semi-trailer.

**Certificates to be evidence**

**52.** In any proceedings in a court in which evidence is given of the determination of mass or load with an approved portable weighing device—

- (a) a certificate purporting to be signed by a duly qualified mechanical engineer approved by the Minister for the purposes of subsection 50 (3) and stating that on a day specified in the certificate—

(i) he or she tested an approved portable weighing device bearing the identification number or symbols stated in the certificate and found the device to be accurate; and

(ii) he or she duly sealed the approved portable weighing device in the manner referred to in paragraph 50 (3) (b);

is evidence of the accuracy of the device and the matters stated in the certificate; and

- (b) a certificate purporting to be signed by an inspector and stating that—

(i) at a specified time on a specified day and at a specified place he or she used an approved portable weighing device bearing the identification numbers or symbols specified in the certificate, and the seal referred to in paragraph (a);

(ii) the seal of the device was intact at that time;

(iii) the device was used at that time in accordance with section 51 to determine a mass or load referred to in paragraph 50 (1) (a), (b), (c), (d) or (e) in respect of a vehicle or vehicles the registration number or numbers of which are specified in the certificate; and

(iv) the mass or load so determined was the mass or load specified in the certificate;

is evidence of the matters stated in the certificate and the facts on which they are based.

**Interfering with approved portable weighing device**

**53.** A person shall not, knowingly and without lawful authority, tamper or interfere with, or damage the mechanism of, an approved portable weighing device by reference to which evidence of mass or load may be given under this Act or tamper or interfere with a seal affixed to such a device.

Penalty: \$1,000.

## PART VIII—MISCELLANEOUS

### Notice of decisions

**54. (1)** Where the Registrar makes a decision—

- (a) to refuse to issue a permit; or
- (b) to issue a permit subject to a condition;

he or she shall, within 30 days of the date of the decision, cause notice in writing of the decision to be given to the person who applied for the permit.

**(2)** A notice under subsection (1) shall—

- (a) include a statement to the effect that, subject to the *Administrative Appeals Tribunal Act 1989*, application may be made to the Administrative Appeals Tribunal for review of the decision to which the notice relates; and
- (b) except where subsection 26 (11) of that Act applies—include a statement to the effect that a person whose interests are affected by the decision may request a statement pursuant to section 26 of that Act.

**(3)** The validity of a decision referred to in subsection (1) shall not be taken to be affected by a failure to comply with that subsection.

### Review by Administrative Appeals Tribunal

**55.** Application may be made to the Administrative Appeals Tribunal for review of a decision referred to in subsection 54 (1).

### Certificates of inspectors to be evidence

**56. (1)** In any proceedings before a court, a certificate purporting to be signed by an inspector stating that—

- (a) he or she was, on a specified day, an inspector; and
- (b) on a day and at a time and place specified in the certificate, he or she served a notice under section 43 on the driver of a vehicle specified in the certificate, being a notice a copy of which is attached to the certificate;

is evidence of the matters stated in the certificate.

**(2)** In any proceedings before a court, a certificate purporting to be signed by an inspector stating that—

- (a) he or she was, on a specified day, an inspector; and

- (b) on a day, and at a time and place, specified in the certificate, he or she served on the driver of a vehicle specified in the certificate a notice under section 46, being a notice a copy of which is attached to the certificate, and that the notice was served in accordance with that section;

is evidence of the matters stated in the certificate.

(3) In any proceedings before a court, a certificate signed by the Registrar or a Deputy Registrar stating that a permit was, or was not, in force in respect of a vehicle specified in the certificate—

- (a) permitting the vehicle to be used on public streets, and in public places, on a day specified in the certificate; or
- (b) permitting the vehicle to be used for the purpose of undertaking a journey involving travel on a public street, or in a public place, specified in the certificate on a day and at a time specified in the certificate;

is evidence of the matters stated in the certificate.

(4) Where, in proceedings for an offence against this Act in respect of any conduct engaged in by a corporation, it is necessary to establish the state of mind of the corporation, it is sufficient to show that a director, servant or agent of the corporation, being a director, servant or agent by whom the conduct was engaged in within the scope of his or her actual or apparent authority, had that state of mind.

### **Determinations**

57. (1) The Minister may, by notice in the *Gazette*, determine fees for the purposes of this Act.

(2) The Minister may, by notice in the *Gazette*, determine amounts of mass for the purposes of this Act.

(3) A notice referred to in subsection (2) is a disallowable instrument for the purposes of section 10 of the *Subordinate Laws Act 1989*.

**SCHEDULE**

Subsection 49 (1)

AUSTRALIAN CAPITAL TERRITORY

***Motor Vehicles (Dimensions and Mass) Act 1990***

**NOTICE OF APPROVAL OF PORTABLE WEIGHING DEVICE**

Pursuant to subsection 49 (1) of the *Motor Vehicles (Dimensions and Mass) Act 1990*, I

*(insert name and description of appropriate Minister)*, being of the opinion that the device to which this notice is affixed is suitable for use in determining the mass carried by a wheel of a vehicle and the axle load of an axle of a vehicle, hereby approve this device for the purposes of that Act.

Dated

19

Minister

*[Presentation speech made in Assembly on 13 February 1990.]*

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