



AUSTRALIAN CAPITAL TERRITORY

Motor Traffic (Amendment) Act (No. 3) 1990

No. 37 of 1990

An Act to amend the *Motor Traffic Act 1936* and for a related purpose

[Notified in ACT Gazette S 72: 30 October 1990]

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

Short title

1. This Act may be cited as the *Motor Traffic (Amendment) Act (No. 3) 1990*.

Principal Act

2. In this Act, “Principal Act” means the *Motor Traffic Act 1936*.¹

Substitution

3. Section 7A of the Principal Act is repealed and the following sections are substituted:

Design rules

“7A. (1) In this section—

‘applicable design rule’ means—

- (a) in the case of a motor vehicle or trailer manufactured before 1 July 1988—an Australian Design Rule contained in the publication known as the Australian Design Rules for Motor Vehicle Safety, Second Edition, issued by the Department of Transport and Communications of the Commonwealth and applicable to the motor vehicle or trailer; and
- (b) in the case of a motor vehicle or trailer manufactured on or after 1 July 1988—an Australian Design Rule contained in the publication known as the Australian Design Rules for Motor Vehicles and Trailers, Third Edition, issued by the Department of Transport and Communications of the Commonwealth, in effect and applicable to the motor vehicle or trailer when it was manufactured;

‘Australian Design Rule’ means a publication so entitled issued by the Department of Transport and Communications of the Commonwealth after endorsement by the Council of Commonwealth, State and Territory Ministers known as the Australian Transport Advisory Council.

“(2) For the purposes of the definition of ‘applicable design rule’ in subsection (1), an Australian Design Rule is applicable to a motor vehicle or trailer if it is stated in the Rule that a class of motor vehicles in which that motor vehicle is included or a class of trailers in which that trailer is included should—

- (a) comply with, or be designed to comply with, that Rule;
- (b) be equipped with anything that complies with that Rule; or
- (c) have instruments located so as to comply with that Rule.

“(3) Where an applicable design rule refers to another document, that document shall be deemed to be incorporated with, and form part of, the design rule.

“(4) Without limiting the generality of section 7, the Registrar may refuse to register, or renew the registration of, a motor vehicle or trailer unless it complies with an applicable design rule.

“(5) For the purposes of subsection (4), a motor vehicle or trailer that has at any time been registered before the date of commencement of the *Motor Traffic (Amendment) Act (No. 3) 1990* shall be deemed to comply with an applicable design rule.

“(6) The Minister may—

- (a) of his or her own motion; or
- (b) on receipt of an application in writing;

by instrument exempt—

- (c) a specified motor vehicle;
- (d) a class of motor vehicles;
- (e) a specified trailer; or
- (f) a class of trailers;

from compliance in whole or in part with an applicable design rule.

“(7) An instrument made under paragraph (6) (d) or (f) is a disallowable instrument for the purposes of section 10 of the *Subordinate Laws Act 1989*.

“(8) The Registrar shall—

- (a) cause to be kept at each place at which, in pursuance of section 17, he or she ordinarily directs vehicles to be produced for examination or inspection by an inspector, a copy of each applicable design rule; and
- (b) at the request of a person, make that copy available for inspection by that person at that place at a reasonable time specified by that person.

- “(9) In any proceedings, a certificate signed by the Minister stating—
- (a) that a document annexed to the certificate is a copy of an Australian Design Rule in effect on a date specified in the certificate;
 - (b) that the design rule is known by the name specified in the certificate;
 - (c) that the design rule is contained in the publication specified in the certificate; and
 - (d) if applicable, that a document annexed to the certificate is a copy of a document referred to in that design rule;

is evidence of the matters stated in the certificate.

Notice of right of appeal

- “7B. (1) Where—
- (a) the Registrar refuses to register a motor vehicle or trailer under subsection 7A (4); or
 - (b) the Minister refuses under paragraph 7A (6) (b) to exempt a specified motor vehicle or trailer, in whole or in part, from compliance with an applicable design rule;

the Registrar or Minister (as the case may be) shall, within 28 days after the decision, cause written notice of the decision to be given to the applicant.

- “(2) A notice under subsection (1) shall include—
- (a) a statement to the effect that, subject to the *Administrative Appeals Tribunal Act 1989*, an application may be made to the Tribunal for a review of the decision to which the notice relates; and
 - (b) except where subsection 26 (11) of that Act applies—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) is not affected by a failure to comply with subsection (2).

Review by Tribunal

“7C. Application may be made to the Tribunal for a review of a decision of—

- (a) the Registrar refusing to register, or renew the registration of, a motor vehicle or a trailer under subsection 7A (4); or
- (b) the Minister refusing to exempt a specified motor vehicle or trailer from compliance, in whole or in part, with an applicable design rule under paragraph 7A (6) (b).”.

Interpretation

4. Section 164A of the Principal Act is amended—

(a) by inserting in subsection (1) the following definition:

“ ‘applicable design rule’ has the same meaning as in section 7A;”;

(b) by omitting from subsection (2) “a design rule referred to in Part II of the Second Schedule” and substituting “an applicable design rule”.

Children and young persons in prescribed vehicles

5. Section 164D of the Principal Act is amended by omitting from subsection (5) “Part II of the Second Schedule” and substituting “the applicable design rules”.

Motorcyclists to wear safety helmets

6. Section 190A of the Principal Act is amended by omitting from subsection (6) “sub-section (5) of section 7A of this Act a copy of each notice referred to in paragraph (a) of the last preceding sub-section” and substituting “paragraph 7A (8) (a) a copy of each notice referred to in paragraph (5) (a)”.

The Second Schedule

7. The Second Schedule to the Principal Act is amended by omitting Part II.

Air Pollution Act 1984—amendment

8. Section 42E of the *Air Pollution Act 1984* is amended by omitting paragraph (2) (b) and substituting the following paragraph:

“(b) ‘Australian Design Rule’ has the same meaning as in section 7A of the *Motor Traffic Act 1936*.”.

NOTE

1. Ordinance No. 45, 1936 as amended to date. For previous amendments see Note 1 to Act No. 4, 1990 and see also Acts Nos. 4 and 14, 1990.

[Presentation speech made in Assembly on 20 September 1990.]

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