



AUSTRALIAN CAPITAL TERRITORY

Road Transport Legislation Amendment Act 2002

Act 2002 No 23

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AUSTRALIAN CAPITAL TERRITORY

Road Transport Legislation Amendment Act 2002

Act 2002 No 23

An Act to amend the *Road Transport (Driver Licensing) Act 1999* and the *Road Transport (General) Act 1999*, and for other purposes

*Notified under the Legislation Act 2001 on 9 September 2002
(see www.legislation.act.gov.au)*

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

Part 1 Preliminary

1 Name of Act

This Act is the *Road Transport Legislation Amendment Act 2002*.

2 Commencement

- (1) Sections 3 to 7 and 10 to 12 commence on the day after this Act is notified.
- (2) Sections 8 and 9 commence on the commencement of the *Statute Law Amendment Act 2002*, part 3.66 (Road Transport (Driver Licensing) Act 1999).
- (3) Sections 13 to 25 commence on a day fixed by the Minister by written notice.

Note 1 The naming and commencement provisions automatically commence on the notification day (see *Legislation Act 2001*, s 75).

Note 2 A single day or time may be fixed, or different days or times may be fixed, for the commencement of different provisions (see *Legislation Act 2001*, s 77 (1)).

Note 3 If a provision has not commenced within 6 months beginning on the notification day, it automatically commences on the first day after that period (see *Legislation Act 2001*, s 79).

Part 2 Road Transport (Driver Licensing) Act 1999

3 Act amended—pt 2

This part amends the *Road Transport (Driver Licensing) Act 1999*.

4 New part 3A

insert

Part 3A Protection of photographs and signatures

33A Application of pt 3A

This part applies to photographs and signatures taken by the road transport authority, or given to the authority, in relation to applications for the issue, replacement, renewal or variation by the authority of a driver licence or proof of age card.

33B Definitions for pt 3A

In this part:

photograph means a photograph to which this part applies, and includes a copy of a photograph.

Note **Photograph** includes a digitised, electronic or computer generated image in a form approved by the road transport authority (see the dict).

signature means a signature to which this part applies, and includes a copy of a signature.

33C Use of photographs and signatures

- (1) The road transport authority may use a photograph or signature only for 1 or more of the following purposes:

- (a) for a photograph—to reproduce the likeness of a person on a driver licence or proof of age card issued to the person;
- (b) for a signature—to reproduce a person’s signature on a driver licence or proof of age card issued to the person;
- (c) to assist in establishing the identity of a person to decide whether to issue, replace, renew or vary a driver licence or proof of age card;
- (d) to assist in establishing the identity of a person to decide whether to register, or renew, vary or transfer the registration of, a vehicle under the *Road Transport (Vehicle Registration) Act 1999* or to replace a certificate of registration under that Act;
- (e) in relation to the investigation of, or the conduct of criminal proceeding for, an offence against the road transport legislation;
- (f) for a signature—any other purpose related to the administration of the road transport legislation;
- (g) a purpose prescribed under the regulations or allowed by another law in force in the ACT.

Note The information Privacy Principles apply to the road transport authority. Principle 10 states when personal information may be used by an agency (see *Privacy Act 1988* (Cwlth), s 14).

- (2) A photograph or signature may be used for a purpose mentioned in this section at the time that the photograph or signature is taken by, or given to, the road transport authority or at any later time.

33D Disclosure of photographs and signatures by road transport authority

- (1) The road transport authority must ensure that a photograph or signature is not disclosed by the authority to someone else except—
 - (a) to a police officer; or

-
- (b) to an entity of another jurisdiction that corresponds to the road transport authority; or
 - (c) for a purpose in relation to the investigation of, or the conduct of, a criminal proceeding for an offence against the road transport legislation or in relation to a proof of age card; or
 - (d) to a court officer for the recovery of a fine (including proceedings under the *Magistrates Court Act 1930*, division 9.2 (Enforcement of fines)); or
 - (e) for a photograph—to the person shown in the photograph; or
 - (f) for a signature—to the person who made the signature; or
 - (g) to a person, or for a purpose, prescribed under the regulations or in accordance with another law in force in the ACT.

Note 1 The Information Privacy Principles apply to the road transport authority. Principle 11 states when personal information may be disclosed by an agency (see *Privacy Act 1988* (Cwlth), s 14).

Note 2 Access to photographs and signatures may be sought under the *Freedom of Information Act 1989* (which also provides that certain information is exempt from disclosure).

- (2) The regulations may limit the people to whom, the purposes for which, or the circumstances when, a photograph or signature may be disclosed under subsection (1) (a) to (d).
- (3) In this section:

court officer means a person who is—

- (a) the sheriff or a deputy sheriff under the *Supreme Court Act 1933*, another officer of the Supreme Court or a public servant assisting the sheriff; or
- (b) the registrar, a deputy registrar or a bailiff under the *Magistrates Court Act 1930* or a member of the staff of the Magistrates Court assisting the registrar.

fine—see the *Magistrates Court Act 1930*, section 146.

33E Security of photographs and signatures

- (1) The road transport authority must ensure that photographs and signatures are kept securely.

Note The Information Privacy Principles apply to the road transport authority. Principle 4 states requirements about the storage and security of personal information (see *Privacy Act 1988* (Cwlth), s 14).

- (2) The regulations may make provision in relation to the keeping of photographs and signatures.

33F Unauthorised reproduction of photographs and signatures

- (1) This section applies to a person (a *record keeper*) who is employed or engaged in relation to any aspect of the production of driver licences or proof of age cards or who is otherwise involved in the administration or enforcement of the road transport legislation.
- (2) A record keeper must not reproduce (by photographic or other means) the likeness of the person who is shown (or is to be shown) on a driver licence or proof of age card other than—
 - (a) for the administration or enforcement of the road transport legislation or the *Liquor Act 1975*, section 175; or
 - (b) in accordance with, or for any other purpose mentioned in, section 33C (Use of photographs and signatures) or section 33D (Disclosure of photographs and signatures by road transport authority).

Maximum penalty: 20 penalty units.

- (3) A record keeper must not reproduce (by any means) the signature of the person to whom a driver licence or proof of age card is issued (or is to be issued) other than—
 - (a) for the administration or enforcement of the road transport legislation or the *Liquor Act 1975*, section 175; or

- (b) in accordance with, or for any other purpose mentioned in, section 33C (Use of photographs and signatures) or section 33D (Disclosure of photographs and signatures by road transport authority).

Maximum penalty: 20 penalty units.

5 Section 34

substitute

34 Additional matters about identity

The road transport authority may refuse to issue, replace, renew or vary a driver licence or proof of age card if—

- (a) the applicant has not gone to a place designated by the road transport authority and had a photograph taken, by a person authorised by the authority to take photographs for this Act, that is suitable for use on the driver licence or proof of age card; or
- (b) in the authority's opinion it is impracticable for the applicant to go to a designated place and the applicant has not given the authority a photograph of the applicant that the authority considers is suitable for use on the driver licence or proof of age card; or
- (c) the applicant has not given, in support of the application, evidence that is required under the regulations or by the authority to establish the applicant's identity or home address.

6 Dictionary, definition of *photograph*

substitute

photograph—

- (a) includes a digitised, electronic or computer generated image in a form approved by the road transport authority; and

(b) for part 3A (Protection of photographs and signatures)—see section 33B.

7 Dictionary, new definitions

insert

proof of age card means a card issued under the *Liquor Act 1975*, section 175 (1).

signature, for part 3A (Protection of photographs and signatures)—see section 33B.

8 Parts 3A, 4 and 5

renumber when Act next republished under Legislation Act 2001

9 Sections 33A to 42

renumber when Act next republished under Legislation Act 2001

Part 3 Road Transport (General) Act 1999

10 Act amended—pt 3

This part amends the *Road Transport (General) Act 1999*.

11 Authorised persons Section 19 (3) (b)

omit

the road transport authority has certified in writing that, after appropriate inquiry, the authority

substitute

the road transport authority

12 Identity cards Section 20 (1) (b)

substitute

(b) the name of the person or the particulars that are, under the regulations, identifying particulars for the person (or both); and

13 New division 5.3

insert

Division 5.3 Written-off vehicles register

83A Purposes of div 5.3

The purposes of this division are—

(a) to curtail trade in stolen vehicles by preventing vehicle information about written-off vehicles, particularly vehicle identifiers, being used to register stolen vehicles; and

- (b) to facilitate inspection of written-off vehicles that have been repaired; and
- (c) to make information available to prospective purchasers about whether a vehicle has previously been written-off.

83B Definitions for div 5.3

In this division:

total loss—see section 83C.

vehicle identifier means—

- (a) for a vehicle manufactured before 1 January 1989—
 - (i) if the vehicle has a chassis or engine number—the number; or
 - (ii) in any other case—any number permanently marked by the vehicle’s manufacturer on the vehicle for its identification; or
- (b) for a vehicle manufactured after 31 December 1988—
 - (i) if the vehicle has a vehicle identification number allocated in accordance with an Australian Design Rule—the number; or
 - (ii) in any other case—any number permanently marked by the vehicle’s manufacturer on the vehicle for its identification; or
- (c) if a number mentioned in paragraph (a) or (b) has been replaced by the road transport authority or an entity of another jurisdiction that corresponds to the authority—the replacement number.

written-off vehicle means—

- (a) a vehicle that is assessed by a person prescribed under the regulations to be a total loss; or

- (b) a vehicle that a person prescribed under the regulations begins to demolish or dismantle.

written-off vehicles register means the written-off vehicles register under section 83D.

83C When a vehicle is a *total loss*

For this division, a vehicle is a *total loss* if the vehicle has been damaged by any event to the extent that its fair salvage value plus the cost of repairing the vehicle for use on a road or road related area would be more than its fair market value immediately before the event that caused the damage.

Examples of events that may damage a vehicle

Collision, fire, flood, accident, trespass, dismantling and demolition.

83D Written-off vehicles register

- (1) The road transport authority must keep a written-off vehicles register.
- (2) The register may include information given to the road transport authority under this Act and any other information the authority considers appropriate.
- (3) The register may be kept in the form of, or as part of, 1 or more computer databases or in any other form the road transport authority considers appropriate.
- (4) The road transport authority may correct any mistake, error or omission in the register subject to the requirements (if any) of the regulations.
- (5) The road transport authority may authorise a person to make entries in the register.
- (6) This section does not limit the functions of the road transport authority in relation to the register.

83E Security and disclosure of information in register

The road transport authority must ensure that information in the written-off vehicles register is kept securely and disclosed only in accordance with this Act or another law in force in the ACT.

Note 1 The Information Privacy Principles apply to the road transport authority. Principle 4 states requirements about the storage and security of personal information and principle 11 states when personal information may be disclosed by an agency (see *Privacy Act 1988* (Cwlth), s 14).

Note 2 Access to the register may be sought under the *Freedom of Information Act 1989* (which also provides that certain information is exempt from disclosure).

83F Regulations about written-off vehicles

- (1) The regulations may make provision in relation to written-off vehicles and the written-off vehicles register, including—
 - (a) the vehicles to which this division applies; and
 - (b) when a prescribed person must give information to the road transport authority about a written-off vehicle, the kind of information that must be given, and how the information is to be given; and
 - (c) the disclosure of information in the register.
- (2) In particular, the regulations may make provision in relation to—
 - (a) vehicles recorded as written-off vehicles under the law of another jurisdiction; and
 - (b) matters relating to notices for, and the placement of notices on, written-off vehicles; and
 - (c) matters relating to the removal, defacement or destruction of vehicle identifiers on written-off vehicles; and
 - (d) the keeping of records by prescribed people or the doing of anything else by prescribed people in relation to written-off vehicles; and

- (e) the entry of information into the written-off vehicles register by a person or the doing of anything else in relation to the register.

14 Dictionary, new definitions

insert

Australian Design Rule—see the *Road Transport (Vehicle Registration) Regulations 2000*, schedule 1, clauses 11 and 13.

total loss, in relation to a vehicle for division 5.3 (Written-off vehicles register)—see section 83C.

vehicle identifier, for division 5.3 (Written-off vehicles register)—see section 83B.

written-off vehicle, for division 5.3 (Written-off vehicles register)—see section 83B.

written-off vehicles register, for division 5.3 (Written-off vehicles register)—see section 83B.

Part 4 Road Transport (Vehicle Registration) Regulations 2000

15 Regulations amended—pt 4

This part amends the *Road Transport (Vehicle Registration) Regulations 2000*.

16 Deciding applications for registration Regulation 32 (2)

substitute

- (2) The road transport authority must refuse to approve an application for the registration of a registrable vehicle if—
 - (a) the authority is required, under regulation 32A, to refuse to approve the application for a vehicle's registration; or
 - (b) an order of a court in Australia prevents the vehicle's registration, and the authority has been told about the order.

17 New regulations 32A and 32B

insert

32A Deciding applications for registration—written-off vehicles

- (1) This regulation applies in relation to an application for the registration of a registrable vehicle if the vehicle identifier for the vehicle is the same as the vehicle identifier for a vehicle that is recorded as having been written-off (the *relevant record*) in—
 - (a) the written-off vehicles register; or
 - (b) a corresponding WOVN and the road transport authority has notice of the relevant record in the corresponding register.

- (2) If the relevant record indicates that the vehicle is a statutory write-off, the road transport authority must refuse to approve the application for the vehicle's registration.
- (3) If the relevant record indicates that the vehicle is a repairable write-off, the road transport authority must refuse to approve the application for the vehicle's registration unless the authority is satisfied that—
 - (a) the vehicle is the original vehicle to which the vehicle identifier was assigned; and
 - (b) the vehicle satisfies the other requirements of these regulations (including the vehicle standards) for registration of the vehicle.
- (4) However, subregulation (3) does not apply if the vehicle has been re-registered, or the vehicle's registration has been renewed, since the relevant record was made.
- (5) In this regulation:

repairable write-off means a vehicle that is assessed by a person prescribed under the *Road Transport (General) Regulations 2000* as a total loss and is not a statutory write-off.

statutory write-off—see regulation 32B.

32B When a vehicle is a *statutory write-off*

A vehicle is a *statutory write-off* if the vehicle is a total loss and—

- (a) for a motor vehicle (other than a motorbike)—at least 3 of the following impact damage indicators apply to the vehicle:
 - (i) the vehicle has damage to an area of the roof of at least 300mm by 300mm;
 - (ii) the vehicle has damage to an area of the cabin floor pan of at least 300mm by 300mm;
 - (iii) the vehicle has damage to an area of the firewall of at least 300mm by 300mm;

- (iv) the vehicle has damaged suspension;
- (v) a major mechanical component of the vehicle (for example, the engine block or transmission casings) is cracked or broken; or
- (b) for a motorbike or trailer—the vehicle has impact damage (excluding scratching) to the suspension and at least 2 areas of structural frame damage; or
- (c) for a motor vehicle (other than a motorbike)—the vehicle has been—
 - (i) immersed in salt water above the doorsill level for any period; or
 - (ii) immersed in fresh water up to the dashboard or steering wheel for more than 48 hours; or
- (d) for a motorbike—the vehicle has been—
 - (i) fully immersed in salt water for any period; or
 - (ii) fully immersed in fresh water for more than 48 hours; or
- (e) the vehicle has been burnt to such an extent that it is fit only for wrecking or scrap; or
- (f) the vehicle has been stripped of all, or a combination of most, interior and exterior body parts, panels and components (including, for example, for a motor vehicle, its engine, wheels, bonnet, guards, doors or boot lid).

18 Renewal of registration Regulation 68 (4), note

substitute

Note The renewal of registration of a seasonal vehicle may be restricted under reg 68A (2).

19 Regulation 68 (9) to (12)

substitute

- (9) However, the road transport authority—
- (a) may refuse to renew the registration if the authority could have refused, under regulation 32 (1) (Deciding applications for registration), to approve an application by the registered operator for the registration of the vehicle; and
 - (b) must refuse to renew the registration if the authority is required to refuse, under regulation 32A (Deciding applications for registration—written-off vehicles), to approve an application by the registered operator for the registration of the vehicle.

68A Seasonal vehicles—maximum registration renewal period

- (1) The road transport authority may, in writing, declare the maximum period for which a seasonal vehicle may be registered in any 12 month period.
- (2) The registration of a seasonal vehicle must not be renewed for the period mentioned in regulation 68 (4) (b) or (c) if renewal for the period would mean the vehicle was registered for more than the maximum period.
- (3) A declaration under subregulation (1) is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the *Legislation Act 2001*.

**20 Obligation to notify if vehicle destroyed or written off
Regulation 70**

omit

**21 When transfer of registration may or must be refused
Regulation 78 (1) (d) to (h)**

renumber as regulation 78 (1) (e) to (i)

22 New regulation 78 (1) (d)*insert*

- (d) the vehicle identifier for the vehicle is the same as the vehicle identifier for a vehicle that is recorded as having been written-off in—
- (i) the written-off vehicles register; or
 - (ii) a corresponding WOVR and the road transport authority has notice of the record in the corresponding register; or

**23 Suspension or cancellation of registration
Regulation 84 (1) (d)***substitute*

- (d) the vehicle identifier for the vehicle is the same as the vehicle identifier for a vehicle that is recorded as having been written-off in—
- (i) the written-off vehicles register; or
 - (ii) a corresponding WOVR and the road transport authority has notice of the record in the corresponding register; or

**24 Procedures for suspension and cancellation of
registration
Regulation 85 (5) (b)***substitute*

- (b) the vehicle does not comply with the applicable vehicle standards; or
- (c) the vehicle identifier for the vehicle is the same as the vehicle identifier for a vehicle that is recorded as having been written-off in—
- (i) the written-off vehicles register; or

- (ii) a corresponding WOCR and the road transport authority has notice of the record in the corresponding register.

25 Dictionary, new definitions

insert

corresponding WOCR means a register kept under the law of another jurisdiction that corresponds to the written-off vehicles register kept under the *Road Transport (General) Act 1999*.

total loss, in relation to a vehicle—see the *Road Transport (General) Act 1999*, section 83C.

vehicle identifier—see the *Road Transport (General) Act 1999*, section 83B.

written-off vehicle—see the *Road Transport (General) Act 1999*, section 83B.

written-off vehicles register—see the *Road Transport (General) Act 1999*, section 83B.

Endnotes

Republications of amended laws

- 1 For the latest republication of amended laws, see www.legislation.act.gov.au.

Penalty units

- 2 The *Legislation Act 2001*, s 133 deals with the meaning of offence penalties that are expressed in penalty units.

[Presentation speech made in Assembly on 16 May 2002]

I certify that the above is a true copy of the Road Transport Legislation Amendment Bill 2002 which was passed by the Legislative Assembly on 20 August 2002.

Clerk of the Legislative Assembly

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