



Australian Capital Territory

Motor Sport (Public Safety) Act 2006

A2006-10

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Australian Capital Territory

Motor Sport (Public Safety) Act 2006

A2006-10

An Act to regulate motor sport activities

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

Part 1 Preliminary

1 Name of Act

This Act is the *Motor Sport (Public Safety) Act 2006*.

2 Commencement

This Act commences on the day after its notification day.

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

3 Dictionary

The dictionary at the end of this Act is part of this Act.

Note 1 The dictionary at the end of this Act defines certain terms used in this Act, and includes references (*signpost definitions*) to other terms defined elsewhere.

For example, the signpost definition ‘*motor vehicle*—see the *Road Transport (General) Act 1999*, dictionary.’ means that the term ‘motor vehicle’ is defined in that dictionary and the definition applies to this Act.

Note 2 A definition in the dictionary (including a signpost definition) applies to the entire Act unless the definition, or another provision of the Act, provides otherwise or the contrary intention otherwise appears (see Legislation Act, s 155 and s 156 (1)).

4 Notes

A note included in this Act is explanatory and is not part of this Act.

Note See the Legislation Act, s 127 (1), (4) and (5) for the legal status of notes.

5 Offences against Act—application of Criminal Code etc

Other legislation applies in relation to offences against this Act.

Note 1 Criminal Code

The Criminal Code, ch 2 applies to all offences against this Act (see Code, pt 2.1).

The chapter sets out the general principles of criminal responsibility (including burdens of proof and general defences), and defines terms used for offences to which the Code applies (eg ***conduct***, ***intention***, ***recklessness*** and ***strict liability***).

Note 2 Penalty units

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

Part 2 Licences for motor vehicle racing

Division 2.1 General—pt 2

6 Important terms

In this Act:

motor vehicle racing means a motor vehicle sport prescribed by regulation.

motor vehicle racing place—see section 7.

motor vehicle sport means any competition between the drivers or riders of motor vehicles in which the deciding factor is the speed, manoeuvrability, reliability, durability or mechanical condition of the vehicles, the skill of the drivers or riders, or any combination of them.

7 Declaration for motor vehicle racing place

- (1) The Minister may declare a place (a ***motor vehicle racing place***) to be a place where motor vehicle racing may be conducted.
- (2) The Minister must not declare a place to be a motor vehicle racing place unless the place is suitable for motor vehicle racing.
- (3) A place may not be declared to be a motor vehicle racing place if the place is a road or road related area under the *Road Transport (General) Act 1999*.
- (4) A declaration is a notifiable instrument.

Note A notifiable instrument must be notified under the Legislation Act.

8 Application for motor vehicle racing licence

- (1) A person (the *applicant*) may apply in writing to the Minister for a licence to conduct motor vehicle racing at a motor vehicle racing place.

Note 1 If a form is approved under s 37 for an application, the form must be used.

Note 2 A fee may be determined under s 36 for this provision.

- (2) The Minister may, in writing, require the applicant to give the Minister additional information or documents that the Minister reasonably needs to decide the application.
- (3) If the applicant does not comply with the requirement, the Minister may refuse to consider the application.

9 Decision about motor vehicle racing licence application

- (1) On an application for a licence to conduct motor vehicle racing at a motor vehicle racing place, the Minister must—
- (a) issue the licence; or
 - (b) refuse to issue the licence.
- (2) In deciding whether to issue the licence, the Minister must consider the public interest, including the desirability of the kind of motor vehicle sport that is proposed to be conducted under the licence.
- (3) The Minister must refuse to issue the licence if—
- (a) the Minister is satisfied that it is not in the public interest; or
 - (b) the place where the motor vehicle racing is to be conducted does not have the facilities prescribed by regulation.
- (4) Subsections (2) and (3) do not limit the matters that the Minister may consider.

- (5) A licence must be in writing and must state—
 - (a) the full name and address of the person to whom the licence is issued; and
 - (b) the motor vehicle racing place, including any building or facility to which the licence relates; and
 - (c) the period for which the licence is issued; and
 - (d) any conditions on the licence.
- (6) A licence, including any condition put on the licence under section 10 (2), is a notifiable instrument.

Note A notifiable instrument must be notified under the Legislation Act.

10 Motor vehicle racing licence term and conditions

- (1) A licence is issued for the period (not longer than 1 year) stated in the licence.
- (2) A licence is subject to the conditions—
 - (a) prescribed by regulation; and
 - (b) put on the licence under this section.

Examples of conditions that may be put on a licence

- 1 safety standards for the public, competitors or people at or near a motor vehicle racing place
- 2 public liability insurance
- 3 kinds of motor vehicle racing allowed
- 4 the power, type and number of motor vehicles allowed to compete in motor vehicle racing
- 5 keeping records
- 6 inspection
- 7 requirements about the condition of any track

8 requirements about the facilities at a motor vehicle racing place

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (3) The Minister may—
- (a) put a condition on a licence when the licence is issued or renewed, or at any other time; and
 - (b) at any time amend the conditions put on the licence under this section.
- (4) The Minister may, under subsection (3), put a condition on a licence, or amend the conditions of a licence, only if—
- (a) the Minister has given the applicant or licensee written notice of the proposed condition or amendment; and
 - (b) the notice states that written comments on the proposal may be made to the Minister within a stated period of at least 14 days after the day the notice is given to the applicant or licensee; and
 - (c) the Minister has considered any comments made within the period.
- (5) Subsection (4) does not apply if the applicant or licensee asked in writing for, or agreed in writing to, the proposed condition or amendment.

11 Renewal of licence

- (1) A licensee may apply, in writing, to the Minister to renew the licence.

Note 1 If a form is approved under s 37 for an application, the form must be used.

Note 2 A fee may be determined under s 36 for this provision.

- (2) The application must be made not later than 14 days before the end of the licence period.
- (3) On an application to renew a licence, the Minister must—
 - (a) renew the licence; or
 - (b) refuse to renew the licence.
- (4) If a licensee applies to renew a licence under this section, the licence remains in force until the application is decided.

12 Licensee to notify change of name or address

- (1) If a licensee changes his or her name or business or residential address, the licensee must, as soon as practicable but not later than 14 days after the day the change happens, tell the chief executive, in writing, about the change.

Maximum penalty: 20 penalty units.

- (2) An offence against this section is a strict liability offence.

13 Licensee to comply with conditions

- (1) A licensee must not contravene a condition to which the licence is subject.

Maximum penalty: 20 penalty units.

- (2) An offence against this section is a strict liability offence.

Division 2.2 Disciplinary action

14 Grounds for disciplinary action

- (1) Each of the following is a *ground for disciplinary action* against a licensee:
 - (a) the licensee gave information to the Minister in relation to the application for (or an application for renewal of) the licensee's licence that was false or misleading in a material particular;

- (b) the licensee has contravened, or is contravening, this Act.
- (2) In subsection (1) (b), a reference to a ***contravention*** of this Act includes a reference to the following:
 - (a) a contravention of the Criminal Code, part 2.4 (Extensions of criminal responsibility) in relation to an offence against this Act or otherwise in relation to this Act;
 - (b) a contravention of the Criminal Code in relation to a document completed, kept or given, or required to be completed, kept or given, under or in relation to this Act;
 - (c) a contravention of the Criminal Code in relation to anything done, or not done, under or in relation to this Act.

15 Disciplinary action

Each of the following is ***disciplinary action*** when taken against a licensee:

- (a) putting conditions on, or amending the conditions put on, the licensee's licence;
- (b) suspending the licensee's licence for a stated period or until a stated thing happens;
- (c) cancelling the licensee's licence;
- (d) cancelling the licensee's licence and disqualifying the licensee from applying for a licence for a stated period or until a stated thing happens.

16 Taking disciplinary action

- (1) If the Minister proposes to take disciplinary action in relation to a licensee, the Minister must give the licensee a written notice (a ***disciplinary notice***) that—

- (a) states the proposed disciplinary action (including any proposed condition, amendment of a condition, suspension period or disqualification period); and
 - (b) states the grounds for the proposed disciplinary action; and
 - (c) tells the licensee that the licensee may, not later than 14 days after the day the licensee receives the notice, give a written response to the Minister about the notice.
- (2) In deciding whether to take the disciplinary action, the Minister must consider any response given to the Minister in accordance with the disciplinary notice.
- (3) If the Minister is satisfied that a ground for taking disciplinary action has been established in relation to the licensee, the Minister may take the proposed disciplinary action.
- (4) The Minister must give the licensee written notice of the Minister's decision.
- (5) Disciplinary action under this section takes effect 14 days after the day when the notice of the decision is given to the licensee or, if the notice states a later date of effect, that date.
- (6) In this section:
 - disciplinary action*—see section 15.
 - ground for disciplinary action* against a licensee—see section 14.

17 Immediate suspension

- (1) This section applies if the Minister gives, or has given, a disciplinary notice under section 16 to a licensee.
- (2) The Minister may give the licensee a written notice (the *immediate suspension notice*) suspending the licence.
- (3) However, the Minister may suspend the licence under this section only if—

- (a) the Minister has taken into account the circumstances leading to the decision to give the disciplinary notice and the grounds stated in the notice; and
 - (b) the Minister believes, on reasonable grounds, that it is in the public interest that the licence be suspended as soon as practicable before a decision is made whether or not to take disciplinary action against the licensee under section 16.
- (4) If the licensee's licence is suspended under this section, the suspension takes effect when the immediate suspension notice is given to the licensee.
- (5) The suspension of the licensee's licence under this section ends—
 - (a) if disciplinary action is taken against the licensee under section 16 because of the disciplinary notice—when the disciplinary action takes effect; or
 - (b) if disciplinary action is not taken against the licensee under section 16 because of the disciplinary notice—when the licensee is given written notice of the Minister's decision not to take disciplinary action.

18 Effect of licence suspension

- (1) A suspended licence does not authorise the licensee to carry on an activity authorised by the licence during the suspension.
- (2) If the Minister suspends a licence, the licensee is, during the suspension—
 - (a) taken not to hold the licence; and
 - (b) disqualified from applying for a licence.

Division 2.3 Offences

19 Conducting motor vehicle racing without licence

A person commits an offence if—

- (a) the person conducts motor vehicle racing at a place; and
- (b) the person does not have a licence to conduct motor vehicle racing at the place.

Maximum penalty: 50 penalty units.

20 Promoting or organising motor vehicle racing without licence

A person commits an offence if—

- (a) the person promotes or organises motor vehicle racing at a place; and
- (b) there is no licence in force for the conduct of the motor vehicle racing at the place.

Maximum penalty: 50 penalty units.

21 Participating in motor vehicle racing without licence etc

(1) A person commits an offence if—

- (a) the person participates in motor vehicle racing; and
- (b) there is no licence in force for the conduct of the motor vehicle racing at the place.

Maximum penalty: 20 penalty units.

(2) A person commits an offence if—

- (a) the person participates in motor vehicle racing at a place; and
- (b) a licence is in force for the conduct of the motor vehicle racing at the place; and

- (c) the motor vehicle racing is conducted in a way that contravenes a condition of the licence.

Maximum penalty: 20 penalty units.

- (3) In this section:

participating in motor vehicle racing includes—

- (a) driving a motor vehicle in the motor vehicle racing; or
- (b) driving a motor vehicle in an activity relating to motor vehicle racing; or
- (c) participating as part of a support crew of a driver of a motor vehicle in the motor vehicle racing.

Division 2.4 Enforcement

22 Meaning of *occupier* for div 2.4

In this division:

occupier, of a place, includes—

- (a) a person believed, on reasonable grounds, to be an occupier of the place; and
- (b) a person apparently in charge of the place.

Note The dictionary defines *place* as including premises, structures and vehicles.

23 Appointment of authorised people

The chief executive may appoint a public servant to be an authorised person for this Act.

Note 1 For the making of appointments (including acting appointments), see the Legislation Act, pt 19.3.

Note 2 In particular, a person may be appointed for a particular provision of a law (see Legislation Act, s 7 (3)) and an appointment may be made by naming a person or nominating the occupant of a position (see s 207).

24 Identity cards

- (1) The chief executive must give an authorised person an identity card stating the person's name and that the person is an authorised person.
- (2) The identity card must show—
 - (a) a recent photograph of the person; and
 - (b) the card's date of issue and expiry; and
 - (c) anything else prescribed by regulation.
- (3) A person commits an offence if—
 - (a) the person stops being an authorised person; and
 - (b) the person does not return the person's identity card to the chief executive as soon as practicable, but not later than 7 days after the day the person stops being an authorised person.

Maximum penalty: 1 penalty unit.

- (4) An offence against this section is a strict liability offence.

25 Power to enter place

- (1) For this Act, an authorised person may, without a warrant—
 - (a) at any reasonable time, enter a place to which a licence relates;or

- (b) at any time, enter a place with the occupier's consent.
- (2) However, subsection (1) (b) does not authorise entry into a part of a place that is being used only for residential purposes.
- (3) The authorised person may, at the place—
 - (a) inspect or examine anything; or
 - (b) take measurements or conduct tests; or
 - (c) take samples; or
 - (d) take photographs, films, or audio, video or other video recording; or
 - (e) require the occupier, or anyone at the place, to give the authorised person reasonable help to exercise a power under this section.

Note The Legislation Act, s 170 and s 171 deal with the application of the privilege against self incrimination and client legal privilege.

Examples for par (a)

- 1 records at the place relating to the maintenance of motor vehicles used at the place
- 2 a vehicle at the place used in motor vehicle racing at the place

Example for par (b)

testing equipment at the place used for the maintenance of motor vehicles

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (4) A person must take all reasonable steps to comply with a requirement made of the person under subsection (3) (e).

Maximum penalty: 50 penalty units.

- (5) To remove any doubt, an authorised person may enter a place under subsection (1) without payment of an entry fee or other charge.

- (6) In this section:

at any reasonable time means at any time during normal business hours or any other time when the place is being used in relation to motor vehicle racing.

26 Production of identity card

An authorised person must not remain at a place to which a licence relates if the authorised person does not produce his or her identity card when asked by the occupier.

27 Consent to entry

- (1) When seeking the consent of an occupier of a place to enter the place under section 25 (1) (b), an authorised person must—
- (a) produce his or her identity card; and
 - (b) tell the occupier—
 - (i) the purpose of the entry; and
 - (ii) that anything found because of the entry may be used in evidence in court; and
 - (iii) that consent may be refused.
- (2) If the occupier consents, the authorised person must ask the occupier to sign a written acknowledgment (an *acknowledgment of consent*)—
- (a) that the occupier was told—
 - (i) the purpose of the entry; and
 - (ii) that anything found because of the entry may be used in evidence in court; and
 - (iii) that consent may be refused; and
 - (b) that the occupier consented to the entry; and

- (c) stating the time and date when consent was given.
- (3) If the occupier signs an acknowledgment of consent, the authorised person must immediately give a copy to the occupier.
- (4) A court must find that the occupier did not consent to entry to the premises by the authorised person under this part if—
 - (a) the question arises in a proceeding in the court whether the occupier consented to the entry; and
 - (b) an acknowledgment of consent for the entry is not produced in evidence; and
 - (c) it is not proved that the occupier consented to the entry.

28 Damage etc to be minimised

- (1) In the exercise, or purported exercise, of a function under this division, an authorised person must take all reasonable steps to ensure that the authorised person, and any person assisting the authorised person, causes as little inconvenience, detriment and damage as practicable.
- (2) If an authorised person, or a person assisting an authorised person, damages anything in the exercise or purported exercise of a function under this part, the authorised person must give written notice of the particulars of the damage to the person the authorised person believes, on reasonable grounds, is the owner of the thing.
- (3) If the damage happens at premises entered under this part in the absence of the occupier, the notice may be given by leaving it, secured conspicuously, at the premises.

29 Compensation for exercise of enforcement powers

- (1) A person may claim compensation from the Territory if the person suffers loss or expense because of the exercise, or purported exercise, of a function under this part by an authorised person or a person assisting an authorised person.

- (2) Compensation may be claimed and ordered in a proceeding for—
 - (a) compensation brought in a court of competent jurisdiction; or
 - (b) an offence against this Act brought against the person making the claim for compensation.
- (3) A court may order the payment of reasonable compensation for the loss or expense only if it is satisfied it is just to make the order in the circumstances of the particular case.
- (4) A regulation may prescribe matters that may, must or must not be taken into account by the court in considering whether it is just to make the order.

Part 3 Advisory committees

30 Establishment of advisory committees

- (1) The Minister may establish advisory committees to investigate, and to inform or advise the Minister about, motor vehicle sport.
- (2) Members of an advisory committee must include members of any organisation that has the object of promoting motor vehicle sport and is prescribed by regulation for this section.

31 Minister to consider advisory committee advice etc

In exercising a function under this Act (other than a function under division 2.2 (Disciplinary action)), the Minister must consider any relevant information or advice given to the Minister by an advisory committee.

Part 4 Review of decisions

32 Reviewable decisions

The following decisions are *reviewable decisions*:

- (a) a decision to refuse to issue a licence under section 9;
- (b) a decision to impose conditions on a licence under section 10;
- (c) a decision to amend conditions of a licence under section 10;
- (d) a decision not to renew a licence under section 11;
- (e) a decision to take disciplinary action against a licensee under section 16;
- (f) a decision to suspend a licence under section 17.

33 Review of decisions

- (1) Application may be made to the AAT for review of a reviewable decision.
- (2) If the Minister makes a reviewable decision, the Minister must give written notice of the decision to everyone affected by the decision.
- (3) The notice must be in accordance with the requirements of the code of practice in force under the *Administrative Appeals Tribunal Act 1989*, section 25B (1).

Part 5 Miscellaneous

34 Inspection of incorporated documents

- (1) This section applies to an incorporated document, or an amendment or replacement of an incorporated document.

Note For the meaning of *incorporated document*, see the dictionary.

- (2) The chief executive must ensure that the document, amendment or replacement is made available for inspection free of charge to the public on business days at reasonable times at the office of an administrative unit administered by the chief executive.
- (3) In this section:
- amendment*, of an incorporated document—see section 35 (6).

35 Notification of certain incorporated documents

- (1) This section applies to—
- (a) an incorporated document; or
- (b) an amendment of, or replacement for, an incorporated document.

Example of replacement document

a new edition of the incorporated document

Note 1 For the meaning of *incorporated document*, see the dictionary.

Note 2 An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (2) The chief executive may prepare a written notice (an ***incorporated document notice***) for the incorporated document, amendment or replacement that contains the following information:
- (a) for an incorporated document—details of the document, including its title, author and date of publication;
 - (b) for a replacement of an incorporated document—details of the replacement, including its title, author and date of publication;
 - (c) for an amendment of an incorporated document—the date of publication of the amendment (or of the document as amended) and a brief summary of the effect of the amendment;
 - (d) for an incorporated document or any amendment or replacement—
 - (i) a date of effect (no earlier than the day after the day of notification of the notice); and
 - (ii) details of how access to inspect the document, amendment or replacement may be obtained under section 34 (Inspection of incorporated documents); and
 - (iii) details of how copies may be obtained, including an indication of whether there is a cost involved.
- (3) An incorporated document notice is a notifiable instrument.
- Note* A notifiable instrument must be notified under the Legislation Act.
- (4) An incorporated document as in effect at the commencement of this section, and any amendment or replacement of an incorporated document, has no effect under this Act unless—
- (a) an incorporated document notice is notified in relation to the document, amendment or replacement; or
 - (b) the document, amendment or replacement is notified under the Legislation Act, section 47 (6).

- (5) The Legislation Act, section 47 (7) does not apply in relation to incorporated documents.
- (6) In this section:
- amendment***, of an incorporated document, includes an amendment of a replacement for the incorporated document.
- replacement***, for an incorporated document, means—
- (a) a document that replaces the incorporated document; or
 - (b) a document (an ***initial replacement***) that replaces a document mentioned in paragraph (a); or
 - (c) a document (a ***further replacement***) that replaces an initial replacement or any further replacement.

36 Determination of fees

- (1) The Minister may, in writing, determine fees for this Act.
- Note* The Legislation Act contains provisions about the making of determinations and regulations relating to fees (see pt 6.3).
- (2) A determination is a disallowable instrument.
- Note* A disallowable instrument must be notified, and presented to the Legislative Assembly, under the Legislation Act.

37 Approved forms

- (1) The Minister may, in writing, approve forms for this Act.
- (2) If the Minister approves a form for a particular purpose, the approved form must be used for that purpose.
- Note* For other provisions about forms, see the Legislation Act, s 255.
- (3) An approved form is a notifiable instrument.
- Note* A notifiable instrument must be notified under the Legislation Act.

38 Regulation-making power

- (1) The Executive may make regulations for this Act.

Note A regulation must be notified, and presented to the Legislative Assembly, under the Legislation Act.

- (2) A regulation may make provision in relation to the following:
- (a) the membership, procedures or functions of an advisory committee established under this Act;
 - (b) for a motor vehicle racing place—
 - (i) buildings at the place; or
 - (ii) facilities at the place; or
 - (iii) services provided at the place; or
 - (iv) inspection of the place; or
 - (v) compliance of the place with international or national motor sport standards; or
 - (vi) notification of any change of interest of a licensee in relation to the place; or
 - (vii) environmental testing of conditions at the place.

Examples of environmental testing

- 1 noise testing
- 2 soil testing

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (3) A regulation may apply, adopt or incorporate any of the following as in force from time to time:
- (a) a publication of the National Transport Commission;
 - (b) a publication of a national or international body responsible for a motor vehicle sport prescribed by regulation;

(c) any other instrument as in force from time to time.

Note 1 The text of an applied, adopted or incorporated law or instrument, whether applied as in force from time to time or at a particular time, is taken to be a notifiable instrument if the operation of the Legislation Act, s 47 (5) or (6) is not disapplied (see s 47 (7)).

Note 2 A notifiable instrument must be notified under the Legislation Act.

(4) A regulation may create offences and fix maximum penalties of not more than 20 penalty units for the offence.

(5) In this section:

publication of the National Transport Commission includes a document published on behalf of the National Transport Commission.

Dictionary

(see s 3)

Note 1 The Legislation Act contains definitions and other provisions relevant to this Act.

Note 2 For example, the Legislation Act, dict, pt 1, defines the following terms:

- AAT
- chief executive (see s 163)
- Minister (see s 162)
- under.

advisory committee means an advisory committee established under section 30.

incorporated document means an instrument applied, adopted or incorporated by regulation.

licence means a licence under section 9 to conduct motor vehicle racing at a motor vehicle racing place.

licensee means a person issued a licence under section 9.

motor vehicle—see the *Road Transport (General) Act 1999*, dictionary.

motor vehicle racing—see section 6.

motor vehicle racing place—see section 7.

motor vehicle sport—see section 6.

occupier, of a place, for division 2.4 (Enforcement)—see section 22.

place includes premises, structures and vehicles.

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 16 February 2006.

2 Notification

Notified under the Legislation Act on 5 April 2006.

3 Republications of amended laws

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

I certify that the above is a true copy of the Motor Sport (Public Safety) Bill 2006, which was passed by the Legislative Assembly on 28 March 2006.

Clerk of the Legislative Assembly

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