

## AUSTRALIAN CAPITAL TERRITORY

### ROAD TRANSPORT (GENERAL) (APPLICATION OF ROAD TRANSPORT LEGISLATION) DECLARATION 2004 (No 5)

#### DISALLOWABLE INSTRUMENT – DI2004-54

#### EXPLANATORY STATEMENT

Subsection 12(1) of the *Road Transport (General) Act 1999* (the Act) empowers the Minister to declare that the road transport legislation does not apply to a road or road related area. Subsection 12(3) of the Act makes such a declaration a disallowable instrument for the purposes of the *Legislation Act 2001*.

This instrument declares that the road transport legislation does not apply to the ACT roads and road related areas used for the competitive special stages of the Subaru Rally of Canberra, held on 8 May 2004 and 9 May 2004 on forest roads around Canberra and at Fairbairn Park. The declaration also excludes the road transport legislation from applying during pre-event competitor test sessions held from 3 May 2004 to 5 May 2004 (both dates inclusive).

All participating vehicles are road registered and are compulsory third party (CTP) insured. The security arrangements include warning signs, the locking of access gates to the surrounding forest areas and manned road closures while the special stages of the rally and pre-event activities are taking place.

The rally and associated activities are held under the auspices of the Confederation of Australian Motor Sport (CAMS). The CAMS Motor Sport Policy provides up to \$100 million of general liability cover for any one occurrence, subject to the terms, conditions and limitations of the Policy. In particular, the CAMS Policy excludes participant to participant claims for drivers, entrants or crew. However, this Policy does not operate where CTP insurance is in force, except where specifically excluded by law.

The declaration and an indemnity provided to Insurance Australia Limited (NRMA Insurance) and the Nominal Defendant by the CAMS insurer suspend the CTP provisions from applying during the special stages of the rally and pre-event activities. This enables the CAMS liability insurance to take over responsibility for motor accident injury claims arising from the special stages of the rally and pre-event activities.

The declaration does not affect the right of an injured person to claim against NRMA Insurance or the Nominal Defendant. The declaration does not override the contract between the insured (ie the owner/driver of the vehicle) and the CTP insurer. It does, however, remove an element of cross-subsidisation of motor sport participants by the general motoring community by shifting any injury claim costs from NRMA Insurance and the Nominal Defendant (and ultimately ACT motorists) to the CAMS insurer.

The declaration also has the effect of suspending the road rules during the special stages of the Subaru Rally of Canberra and the pre-event test sessions.

The declaration expires on 10 May 2004.