

1990

**THE LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL
TERRITORY**

MOTOR TRAFFIC (AMENDMENT) BILL (NO. 3) 1990

EXPLANATORY MEMORANDUM

Circulated by Authority of the Minister For Finance and Urban Services

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Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

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The Motor Traffic Act 1936 (the Principal Act) regulates various motor traffic and motor vehicle matters such as vehicle registration, driving licences, road safety and parking rules, speed limits and insurance. In particular, section 7A and Part II of the Second Schedule of the Principal Act specify conditions in the form of Australian Design Rules (ADR's) relating to certain motor vehicles, which must be complied with before the vehicles can be registered or reregistered. The ADR's set out national design standards for vehicle safety and emissions.

The Principal Act includes ADR's up to and including 1973 as well as ADR's related to unleaded fuel which were incorporated in 1986 and 1988. No other ADR's are included although regard is had to these when inspecting vehicles at the point of registration.

The purpose of the Motor Traffic (Amendment) Bill (No. 3) 1990 (the Bill) is to replace the existing provisions relating to specific design rules with a general reference to the Australian Design Rules. The ADR's applying to vehicles manufactured on or after 1 July 1988 are amended from time to time, however the amendments will only affect motor vehicles or trailers manufactured on or after the date of the amendment. The ADR's are endorsed by the Australian Transport Advisory Council.

The Bill amends the Principal Act to require that vehicles applying for registration in the ACT conform with the relevant ADR's applicable to that vehicle. The Bill also provides that motor vehicles and trailers registered before the commencement of this Bill are deemed to comply with the relevant design rules.

The Bill will have no effect on income or expenditure.

Details of the Bill are included in the Attachment.

ATTACHMENT

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Clause 1 states that the Bill will be known as the Motor Traffic (Amendment) Act (No. 3) 1990.

Clause 2 defines the Principal Act to be the Motor Traffic Act 1936.

Clause 3 repeals section 7A of the Principal Act which provides that motor vehicles must comply with the design rules listed in Part II of the Second Schedule to the Act and inserts new sections 7A, 7B and 7C.

New subsection 7A(1), paragraph (a), defines the term 'applicable design rule' with respect to a motor vehicle or trailer manufactured before 1 July 1988 to be an Australian Design Rule contained in the second edition of the "Australian Design Rules for Motor Vehicle Safety".

New subsection 7A(1), paragraph (b), defines the term 'applicable design rule' with respect to a motor vehicle or trailer manufactured on or after 1 July 1988 to be an Australian Design Rule contained in the publication known as "Australian Design Rules for Motor Vehicles and Trailers", Third Edition. This publication is amended from time to time. However, new amendments will only apply to vehicles manufactured on or after the date of the amendment.

New subsection 7A(1) also defines 'Australian Design Rule' to mean a publication issued by the Commonwealth Department of Transport and Communications after endorsement by the Australian Transport Advisory Council.

New subsection 7A(2) provides that an Australian Design Rule applies to a motor vehicle or trailer if the Rule states that the motor vehicle or trailer or a class of motor vehicles or trailers to which it belongs should comply with that Rule.

New subsection 7A(3) incorporates into the applicable design rule any other document to which it refers.

New subsection 7A(4) provides the Registrar with the power to refuse to register or renew the registration of any motor vehicle or trailer which fails to comply with an applicable design rule.

New subsection 7A(5) provides that motor vehicles and trailers which were registered at any time prior to the date of commencement of the Motor Traffic (Amendment) Act (No. 3) 1990 are deemed to comply with an applicable design rule.

New subsection 7A(6) provides that the Minister may exempt by instrument a motor vehicle or trailer or a class of motor vehicles or trailers from compliance with all or part of an applicable design rule.

New subsection 7A(7) provides that an instrument made with respect to classes of motor vehicles or classes of trailers under paragraphs 7A(6)(d) or (f) is a disallowable instrument for the purposes of section 10 of the Subordinate Laws Act 1989. This means that the instrument will be of no effect if it fails to satisfy the notification, tabling and retrospectivity requirements under section 10 of the Subordinate Laws Act and that it is subject to scrutiny and disallowance by the Legislative Assembly.

New subsection 7A(8) requires the Registrar to cause copies of each applicable design rule to be kept at each place where motor vehicles or trailers are ordinarily directed to be produced for examination or inspection, and on request to make that copy available for inspection at that place at a reasonable time.

New subsection 7A(9) provides that in any proceedings a certificate signed by the Minister is evidence of the matters stated in the certificate where the certificate states, that a particular annexed document is a copy of an Australian design rule in effect on a specified date, that the design rule is known by a specified name, that the design rule is contained in a specified publication, and, if applicable, that an annexed document is a copy of a document referred to in that design rule.

New subsection 7B(1) provides that where the Registrar refuses to register a motor vehicle or trailer, or where the Minister refuses to exempt a specified motor vehicle or trailer from compliance with an applicable design rule, the Registrar or Minister shall provide written notice of the decision to the applicant within 28 days.

New subsection 7B(2) provides that a notice under subsection (1) shall state 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 that a person whose interests are affected by the decision may request, if entitled to under section 26 of the Administrative Appeals Tribunal Act, a statement of reasons .

New subsection 7B(3) provides that a failure to comply with subsection (2) will not affect the validity of a decision under subsection (1).

New section 7C provides that application can be made to the Administrative Appeals Tribunal for review of a decision of the Registrar refusing to register or renew the registration of a motor vehicle or trailer, or a decision of the Minister refusing to exempt a specified motor vehicle or trailer from compliance with an applicable design rule.

Clause 4 amends section 164A of the Principal Act which provides definitions for terms used in Part XA of the Principal Act, by defining the words 'applicable design rule' to have the same meaning as in new section 7A, and to replace the reference to "Part II of the Second Schedule" which previously provided for design rules, with a reference to "an applicable design rule".

Clause 5 amends section 164D of the Principal Act which provides for the restraint of children while in certain vehicles, by replacing the reference to "Part II of the Second Schedule" with a reference to "the applicable design rules".

Clause 6 amends section 190A of the Principal Act which provides for the wearing of safety helmets by motor cyclists and refers in subsection (6) to section 7A of the Principal Act which is deleted by this Act. Subsection 190A(6) is restated to refer to the new section 7A.

Clause 7 deletes Part II of the Second Schedule to the Principal Act which previously provided for design rules applicable to motor vehicles in the ACT.

Clause 8 provides for a consequential amendment to subsection 42E(2) of the Air Pollution Act 1984 which refers to the design rules applicable to motor vehicles which run on unleaded petrol. Paragraph 42E(2)(b) is amended to define the term 'Australian Design Rule' to have the same meaning as in new section 7A of the Motor Traffic Act 1936.