

Road Transport (General) Exclusion of Road Transport Legislation (Summernats) Declaration 2018 (No 1)

Disallowable instrument DI2018-297

EXPLANATORY STATEMENT

Section 13 (1) of the *Road Transport (General) Act 1999* (the Act) allows the Minister to declare that the road transport legislation, or a provision of the road transport legislation, does not apply to a vehicle, person or animal in a place or circumstance stated in the declaration. Under subsection 13 (3) of the Act, a declaration under section 13 (1) is a disallowable instrument. This instrument contains four declarations under section 13 (1):

- Clause 3- disapplying section 5B of the *Road Transport (Safety and Traffic Management) Act 1999*
- Clause 4- disapplying the *Road Transport (Third-Party Insurance) Act 2008*;
- Clause 5- disapplying provisions of the *Road Transport (Vehicle Registration) Act 1999* and *Road Transport (Vehicle Registration) Regulation 2000*; and
- Clause 6- disapplying section 60 of the *Road Transport (Driver Licensing) Regulation 2000*.

The Summernats 32 Car Festival 2019 is to be held at Exhibition Park in Canberra (EPIC) from 3 January 2019 to 6 January 2019 (inclusive). The event consists of a number of competitive motor vehicle events, including burnouts, horsepower performance tests, speed tests and driving skills contests. The vehicles competing in these events may be highly modified registered or unregistered vehicles which, due to their modifications, may be unable to comply with Australian Vehicle Standards or Australian Design Rules.

Consistent with the responsibility of event promoters for accident claims arising from their events, the promoter of the event has obtained public liability insurance to cover the risk of injury claims arising from this event. The insurance policy provides up to \$20 million of public liability cover for any one occurrence, subject to the terms, conditions and limitations of the policy.

In consideration of Human Rights legislation the Summernats 32 will impact on the freedom of movement as people will not be allowed to enter the event area, although this restriction would be considered minimal and necessary to, as far as possible, protect public safety.

An Environmental Authorisation issued to EPIC by the Environment Protection Authority (EPA) will be in place for the Summernats 32.

This Declaration is a disallowable instrument and must be presented to the Legislative Assembly within 6 sitting days after its notification pursuant to Section 64 of the Legislation Act 2001.

Clause 1 is a formal provision that provides for the name of the instrument.

Clause 2 explains when the specific clauses of the instrument commence. Although the event officially begins on 3 January 2019, the instrument other than Clause 3 commences on 2 January 2019 when some entrants arrive. Clause 3 commences on 3 January 2019.

Clause 3 contains a declaration, which disapplies section 5B of the *Road Transport (Safety and Traffic Management) Act 1999* in respect of registered entrants and promotional vehicles and unidentified or uninsured vehicles participating in the declared drifting area and the declared power skid area. A person commits an offence under section 5B if a motor vehicle is used improperly. This clause disapplies the offence. Vehicles involved in the event in any other capacity (e.g. service or trader vehicles) are unaffected by the declaration, meaning it remains an offence to improperly use a motor vehicle within EPIC outside the areas declared in Schedule 2 of the instrument.

Clause 4 disapplies the *Road Transport (Third-Party Insurance) Act 2008* in respect of ACT registered entrant and promotional vehicles participating in the event and unidentified or uninsured vehicles. However, vehicles involved in the event in any other capacity (e.g. service or trader vehicles) and participating interstate registered vehicles are unaffected by the declaration. Public liability insurance for the event will address motor accident injury claims in relation to vehicles to which the declaration applies while they are participating in Summernats activities within EPIC.

Clause 5 disapplies specified provisions of the *Road Transport (Vehicle Registration) Act 1999* and the *Road Transport (Vehicle Registration) Regulation 2000*. This clause is necessary because some vehicles participating in Summernats 32 will not be registered as they cannot meet Australian Vehicle Standards or Australian Design Rules (e.g. motorised bathtubs and drag cars).

Other competing vehicles, although registered (having complied with registration requirements at the time of registration), have been subsequently modified to the point where they no longer comply with the Australian Vehicle Standards or Australian Design Rules. It is an offence to operate these non-complying vehicles on a road or road related area. Clause 5 therefore enables these vehicles to participate lawfully in the event within EPIC. All participating vehicles are subject to a vehicle safety inspection by Summernats officials prior to being permitted to enter the grounds of EPIC.

Clause 6 disapplies section 60 of the *Road Transport (Driver Licensing) Regulation 2000*. This is necessary because some interstate drivers participating in Summernats 32 have a high powered vehicle restriction on their driver licence. It is an offence for these drivers to operate a high powered vehicle on a road or road related area. To enable these drivers to participate lawfully in the event within EPIC, the third declaration has the effect of excluding them from the application of provisions of the *Road Transport (Driver Licensing) Regulation 2000* that make it an offence to drive a high powered vehicle on a road or road related area. The prescribed driver licence conditions do not apply within the declared area of EPIC, for high powered vehicle restrictions on a person's driver licence from another jurisdiction.

Clause 7 includes a note that references to an Act in this instrument includes a reference to section 104 of the Legislation Act 2001, that a reference to an Act includes reference to the statutory instruments made or in force under the Act including any regulation.

Clause 8 contains definitions of terms used in the instrument.

Clause 9 provides for the expiry of the specific clauses in the instrument. Although the Summernats event officially ends on 6 January 2019, the instrument other than Clause 3 expires at midday on 7 January 2019 to allow sufficient time for the departure of entrants' vehicles after the formal end of the event. Clause 3 expires at 6:00 pm on 6 January 2019 when the event officially ends.

Schedule 1 and **Schedule 2** provides maps that define declared areas; declared drifting areas; declared power skid areas as referenced in the instrument and within which the instrument has effect.