

Australian Capital Territory

Road Transport (General) Application of Road Transport Legislation Declaration 2021 (No 2)

Disallowable instrument DI2021-9

made under the

Road Transport (General) Act 1999, section 13 (Power to exclude vehicles, persons or animals from road transport legislation)

EXPLANATORY STATEMENT

Section 13 (1) of the *Road Transport (General) Act 1999* (the Act) provides that the Minister may 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. Subsection 13 (3) of the Act makes such a declaration a disallowable instrument.

This instrument provides that certain parts of the road transport legislation do not apply to a designated vehicle operating on a road or road related area on 18 and 19 January 2021 inclusive for the purpose of filming the motion picture ‘Blacklight’.

The declaration is a disallowable instrument and must be presented to the Legislative Assembly within 6 sitting days after its notification pursuant to Section 61 of the *Legislation Act 2001*.

Human rights implications

During the development of this instrument, due regard was given to its effect and the operation of the rally in relation to the compatibility with human rights as set out in the *Human Rights Act 2004* (HRA).

Section 28 of the HRA provides that human rights may be subject only to reasonable limits set by laws that can be demonstrably justified in a free and democratic society.

Section 28 (2) of the HRA provides that in deciding whether a limit on a human right is reasonable, all relevant factors must be considered, including:

- a) the nature of the right affected
- b) the importance of the limitation
- c) the nature and extent of the limitation

- d) the relationship between the limitation and its purpose
- e) any less restrictive means reasonably available to achieve the purpose the limitation seeks to achieve.

Section 13 of the HRA provides a right for people to move freely within the ACT.

The declarations in this instrument do not of itself restrict a person's freedom of movement within the Territory, however the operation of closing parts of the Canberra CBD and surrounding roads, in which filming will be conducted, to members of the public will restrict the free movement of people in that area of the Territory during filming. Parts of the road transport legislation are being disapplied for filming to occur as vehicles will be travelling in parts of the Canberra CBD and surrounding roads in excess of the usual speed limits and in a manner not consistent with the Territory's road transport legislation. As such, the restriction on the free movement of people in the film location at those times is considered reasonable and proportionate to ensure safety of civilians and represents the least restrictive approach that enables the event to proceed.

Climate change implications

There are not considered to be any climate change implications arising from the instrument or the event it supports.

Clause notes

Clauses 1 and 2 of the instrument are formal provisions dealing with the name and commencement of the instrument.

Clause 3 provides that the *Motor Accident Injuries Act 2019* does not apply to a designated vehicle or a motor vehicle involved in a motor accident with a designated vehicle while being used or operated on a road or road related area identified in Schedule 1 during the period set out in clause 5 for the purpose of filming activities.

Blacklight PSC Pty has in place public liability and product liability insurance that covers any property damage or personal injury claims resulting from the making of Blacklight.

Clause 4 provides that various road transport legislation dealing with safety and traffic management and road rules do not apply to a designated vehicle operated on a road or road related area identified in Schedule 1 for the making of the motion picture 'Blacklight' during the period set out in clause 5.

The effects of the declaration are that the designated vehicles are exempt from the *Road Transport (Safety and Traffic Management) Act 1999* and the *Road Transport (Road Rules) Regulation 2017*. Due to the filming activities the drivers of designated vehicles cannot comply with the road rules and other road transport legislative requirements.

Clause 5 sets out the period for which the declaration in clause 3 and clause 4 applies.

Clause 6 states that this instrument expires on 20 January 2021.

Clause 7 contains definitions for the instrument.

Schedule 1 contains a map showing the location where filming will be conducted for the periods set out in clause 5.