

2004

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

ROAD TRANSPORT (GENERAL) ACT 1999

**ROAD TRANSPORT (GENERAL) EXEMPTION
DECLARATION 2004 (No 1)**

DISALLOWABLE INSTRUMENT DI2004–2

EXPLANATORY STATEMENT

Circulated by authority of

Bill Wood MLA
Minister for Urban Services

AUSTRALIAN CAPITAL TERRITORY

ROAD TRANSPORT (GENERAL) EXEMPTION DECLARATION 2004 (No 1)

DISALLOWABLE INSTRUMENT DI2004-2

EXPLANATORY STATEMENT

Subsection 13(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 person, vehicle or animal in a place or circumstance stated in the declaration. Under subsection 13(3) of the Act such a declaration is a disallowable instrument.

The 17th Summernats Car Festival is to be held at Exhibition Park in Canberra (EPIC) from 8 January 2004 to 11 January 2004, inclusive. The festival 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 alterations, may be unable to comply with Australian Vehicle Standards or Australian Design Rules.

Consistent with the generally held view that promoters of motor sport event are responsible for any accident claims arising from their events, the promoter of Summernats has obtained public liability policy to cover the risk of injury claims arising from this event. The policy provides up to \$10 million of general liability cover for any one occurrence, subject to the terms, conditions and limitations of the policy.

The effect of the declaration is to remove application of the compulsory third party insurance (CTP) provisions of the road transport legislation from the owner or driver of any vehicle participating in the event. However, vehicles attending the event in any other capacity (eg service or trader vehicles) are unaffected by the instrument.

This means that the Summernats public liability insurance will respond to motor accident injury claims arising from vehicles participating in Summernats activities, while the CTP insurer will respond to claims arising from vehicles not participating in event activities.

Even though this instrument declares that the CTP provisions do not apply to certain persons and vehicles participating in Summernats activities, the declaration does not remove the indemnity provided to CTP insured vehicles. The owner and driver of an at-fault CTP insured vehicle continue to be indemnified against claims by an injured party. The declaration cannot override the contract that exists between the insured (the owner/driver of the vehicle) and the ACT CTP insurer (Insurance Australia Limited trading as NRMA Insurance).

The instrument does, in conjunction with an indemnity provided to NRMA Insurance and the Nominal Defendant by the public liability insurer for the event, shift any injury claim costs from NRMA Insurance (and ultimately ACT motorists) to the Summernats' insurer for the first \$5 million of any claim. This removes an element of cross-subsidisation of motor sport participants by the general motoring community.

Although the Summernats event officially begins on 8 January 2004 and officially concludes on 11 January 2004, the declaration commences on 7 January 2004. This extended period, which is covered by the indemnity under the public liability policy obtained by promoters of the event, allows early arrivals to use participating vehicles within the grounds of EPIC.