



AUSTRALIAN CAPITAL TERRITORY

Motor Vehicles (Dimensions and Mass) (Amendment) Act 1996

No. 5 of 1996

TABLE OF PROVISIONS

Section	
1.	Short title
2.	Commencement
3.	Principal Act
4.	Interpretation
5.	Vehicles to which Act applies
6.	Identity cards
7.	Substitution—
9.	Vehicles—determination of dimensions other than width
8.	Width of vehicles—determination
9.	Repeal
10.	Required axle groups
11.	Suspension systems
12.	Repeal
13.	Gross mass
14.	Permits

TABLE OF PROVISIONS—continued

Section

- 15. Issue of permits subject to conditions
- 16. Factors related to issue of permit
- 17. Insertion—
 - 31A. Exemption notices
 - 31B. Issue of exemption notice subject to conditions
 - 31C. Form of exemption notices
- 18. Substitution—
 - PART V—OFFENCES**
 - 32. Interpretation
 - 33. Offences—mass
 - 34. Offences—width of vehicles
 - 35. Offences—dimensions other than width
 - 36. Offences—design and tyre pressure, and conditions not related to mass or dimensions
 - 37. Use of trailer with articulated vehicle
 - 38. Production of permit
 - 39. Offences by owners
 - 40. Offences by persons other than owners or drivers
 - 40A. No offence if permit or exemption notice in force
 - 40B. Other defences
- 19. Inspection of vehicles
- 20. Offences related to section 43 notice
- 21. Repeal
- 22. Failure to comply with directions
- 23. Obstruction of inspector
- 24. Insertion—
 - PART VIA—INFRINGEMENT NOTICES**
 - 48A. Interpretation
 - 48B. Infringement notices
 - 48C. Final infringement notices
 - 48D. Discharge of liability for prescribed offences
 - 48E. Application for withdrawal of infringement notices
 - 48F. Withdrawal of infringement notices
 - 48G. Extension of time for pensioners
 - 48H. Prosecution of prescribed offences
 - 48J. Non-antecedent value of infringement notice offences
 - 48K. Service of notices
 - 48L. Evidence

TABLE OF PROVISIONS—continued

Section

- 25. Approval of portable weighing devices
- 26. Interfering with approved portable weighing device
- 27. Notice of decisions
- 28. Certificates of inspectors to be evidence
- 29. Determinations
- 30. Schedule
- 31. Insertion
- 32. Transitional

SCHEDULE



AUSTRALIAN CAPITAL TERRITORY

Motor Vehicles (Dimensions and Mass) (Amendment) Act 1996

No. 5 of 1996

An Act to amend the *Motor Vehicles (Dimensions and Mass) Act 1990*

[Notified in ACT Gazette S35: 12 March 1996]

The Legislative Assembly for the Australian Capital Territory enacts as follows:

Short title

1. This Act may be cited as the *Motor Vehicles (Dimensions and Mass) (Amendment) Act 1996*.

Commencement

2. (1) Sections 1, 2 and 3 commence on the day on which this Act is notified in the *Gazette*.

(2) The remaining provisions commence on a day, or respective days, fixed by the Minister by notice in the *Gazette*.

(3) If a provision referred to in subsection (2) has not commenced before the end of the period of 6 months commencing on the day on which this Act is notified in the *Gazette*, that provision, by force of this subsection, commences on the first day after the end of that period.

Principal Act

3. In this Act, “Principal Act” means the *Motor Vehicles (Dimensions and Mass) Act 1990*.¹

Interpretation

4. Section 3 of the Principal Act is amended—

- (a) by omitting from the definition of “axle” in subsection (1) “, or between 2 parallel transverse vertical planes not more than one metre apart,”;
- (b) by inserting in the definition of “permit” in subsection (1) “or (1A)” after “(1)”;
- (c) by omitting from subsection (1) the definitions of “axle group”, “determined”, “semi-trailer” and “vehicle” and substituting the following definitions:

“ ‘axle group’ means a single axle group, tandem axle group, twinsteer axle group, tri-axle group or quad axle group;

‘determined’, in relation to mass or dimensions, means the dimensions or mass determined under subsection 57 (2) or (2A), respectively;

‘semi-trailer’ means a trailer that has—

- (a) 1 axle not forming part of an axle group, or 1 axle group, that is toward the rear of the trailer; and
- (b) a means of attachment to a prime mover that would result in some of the mass of the trailer (whether with or without a load) being imposed on the prime mover;

‘vehicle’ means any means of conveyance that runs on wheels or continuous tracks, but does not include—

- (a) a vehicle that is designed to run solely on a railway or tram track; or
- (b) a wheelchair;”;

- (d) by omitting from subsection (1) the definitions of “manufacturer’s gross combination mass”, “manufacturer’s gross vehicle mass” and “notice of offence”;

- (e) by inserting in subsection (1) the following definitions:

“ ‘B-double’ means a combination consisting of a prime mover towing 2 semi-trailers;

‘combination’ means a combination consisting of a motor vehicle connected to 1 or more trailers;

‘dolly’ means a specially designed pig trailer used to convert a semi-trailer into a dog trailer;

‘exemption notice’ means an exemption notice under subsection 31A (1) or (2) that is in force;

‘GCM’, in relation to a motor vehicle, means the greatest possible sum of the maximum loaded mass of the motor vehicle and of any vehicles that may be towed by it at one time—

- (a) that, subject to subsection 8A (1) of the Motor Traffic Act, is specified by the manufacturer of the motor vehicle or the Registrar, as the case may be; or
- (b) if the vehicle is registered in a State or another Territory and the registration authority of that State or other Territory has specified the sum—that is specified by that authority;

‘GVM’, in relation to a vehicle, means the maximum loaded mass of the vehicle—

- (a) that, subject to subsection 8A (2) of the Motor Traffic Act, is specified by the manufacturer of the vehicle or the Registrar, as the case may be; or
- (b) if the vehicle is registered in a State or another Territory and the registration authority of that State or other Territory has specified the mass—that is specified by that authority;

‘prime mover’ means a motor vehicle built to tow a semi-trailer;

‘quad axle group’ means a group of 4 axles in which the horizontal distance between the centre-lines of the outermost axles is more than 3.2 metres but not more than 4.9 metres;

‘registration authority’, in relation to a vehicle registered in a State or another Territory, means a person or body empowered by or under a corresponding law of the Commonwealth, a State or another Territory to regulate the dimensions and mass of vehicles;

‘road train’ means a combination, other than a B-double, consisting of a motor vehicle towing at least 2 trailers (counting as 1 trailer a dolly supporting a semi-trailer);

‘single axle group’ means a group of 2 or more axles in which the horizontal distance between the centre-lines of the outermost axles is less than 1 metre;

‘wheelchair’ means a carriage—

- (a) that is specially designed and constructed for use by a person suffering from a physical defect or disability; and
 - (b) that, if designed to use a form of power other than human power as the principal means of propulsion, is not capable of travelling, by means of that form of power, at a speed exceeding 7 kilometres per hour.”; and
- (f) by omitting paragraph (3) (a).

Vehicles to which Act applies

5. Section 4 of the Principal Act is amended—

- (a) by omitting from paragraphs (a) and (c) “manufacturer’s gross vehicle mass” and substituting “GVM”;
- (b) by omitting from paragraphs (b), (f) and (g) “manufacturer’s gross combination mass” and substituting “GCM”;
- (c) by omitting paragraph (d) and substituting the following paragraph:
 - “(d) an articulated vehicle (other than a B-double or road train) having a GCM of 4.5 tonnes or more;”;
- (d) by adding at the end the following paragraph:
 - “(h) a B-double and a road train.”.

Identity cards

6. Section 8 of the Principal Act is amended by omitting from subsection (4) “\$100” and substituting “1 penalty unit”.

Substitution

7. Section 9 of the Principal Act is repealed and the following section substituted:

Vehicles—determination of dimensions other than width

“9. The dimensions of a vehicle (other than width), together with any equipment or load carried on or attached to the vehicle, shall not exceed the dimensions determined under section 57 in relation to the class of vehicles to which the vehicle belongs.”.

Width of vehicles—determination

8. Section 10 of the Principal Act is amended by omitting from subsection (1) “2.5 metres” and substituting “the width determined under section 57 in relation to the class of vehicles to which the vehicle belongs”.

Repeal

9. Sections 11 to 16 (inclusive) of the Principal Act are repealed.

Required axle groups

10. Section 17 of the Principal Act is amended by omitting from paragraph (1) (b) “of vehicles”.

Suspension systems

11. Section 20 of the Principal Act is amended—

(a) by inserting after subsection (1) the following subsection:

“(1A) Axles that form part of an axle group, other than a twinsteer axle group, shall relate to each other through a load sharing system.”; and

(b) by omitting subsection (2) and substituting the following subsection:

“(2) In this section—

‘acceptable axle suspension system’ means any suspension system that directly or indirectly interposes an elastic springing medium between the frame of the vehicle and the wheels attached to the axle.”.

Repeal

12. Sections 22 and 23 of the Principal Act are repealed.

Gross mass

13. Section 24 of the Principal Act is amended—

(a) by omitting from paragraph (1) (a) “manufacturer’s gross vehicle mass” and substituting “GVM”;

(b) by inserting in subsection (2) “, or both,” after “semi-trailer” (first occurring);

(c) by omitting from paragraph (2) (a) “manufacturer’s gross combination mass” and substituting “GCM”; and

(d) by omitting from paragraph (2) (c) “of vehicles”.

Permits

14. Section 27 of the Principal Act is amended—

- (a) by omitting subsection (1) and substituting the following subsections:

“(1) If a vehicle or a combination together with any equipment or load does not, would not, or may not, comply with Part II or III or an exemption notice, the Registrar may issue a permit for the vehicle or combination—

- (a) to be used; or
- (b) to carry any equipment or load;

as the case requires, on a public street and in a public place, notwithstanding that the vehicle or combination together with any equipment or load, does not, would not, or may not, so comply.

“(1A) Notwithstanding section 37, the Registrar may issue to a person a permit to drive an articulated vehicle on a public street or in a public place when a trailer is coupled to the vehicle.”;

- (b) by omitting from subsection (2) “of vehicles under subsection (1) the provisions of this Act with which the vehicle or combination of vehicles, or the vehicle with its equipment or load,” and substituting “under subsection (1) the provisions of this Act with which the vehicle or combination”; and
- (c) by inserting in subsection (3) “or (1A)” after “(1)”.

Issue of permit subject to conditions

15. Section 30 of the Principal Act is amended—

- (a) by omitting paragraph (e) and substituting the following paragraphs:

- “(e) the width of the vehicle, together with any equipment or load carried on or attached to the vehicle;
- (ea) subject to subsection (2), the dimensions of the vehicle (other than width), together with any equipment or load carried on or attached to the vehicle;
- (eb) the areas or routes to which it applies;
- (ec) the times at which the vehicle may travel;
- (ed) how long the permit is to remain in force;”;

- (b) by adding at the end the following subsection:

“(2) In paragraph (1) (ea)—
‘dimensions’ includes any matter referred to in paragraphs 57 (2B) (a) to (h), inclusive.”.

Factors related to issue of permit

16. Section 31 of the Principal Act is amended by omitting from paragraph (b) “9, 10, 11, 16, 23, 24, 25, 26 and 34” and substituting “24, 25, 26 and 37”.

Insertion

17. After section 31 of the Principal Act the following sections are inserted in Part IV:

Exemption notices

“31A. (1) The Minister may, by notice, exempt—

- (a) a vehicle included in a specified class of vehicles; or
- (b) a combination included in a specified class of combinations;

from all or any of the requirements of Part II or III.

“(2) The Minister may, by notice, exempt a person included in a specified class of persons from compliance with section 37.

“(3) An exemption notice shall be notified—

- (a) in the *Gazette*; and
- (b) not more than 21 days after the date of notification in the *Gazette*—in a newspaper circulating in the Territory.

“(4) An exemption notice takes effect—

- (a) on the day on which it is notified in the *Gazette*; or
- (b) if a later date is specified in the notice as the day on which it is to take effect—on that later date.

“(5) A notification under paragraph (3) (b) shall specify—

- (a) the date on which the exemption notice was notified in the *Gazette*;
- (b) in the case of an exemption under subsection (1)—the class of vehicles or class of combinations to which the exemption notice applies;
- (c) in the case of an exemption under subsection (2)—the class of persons to which the exemption applies;
- (d) the date on which the exemption took, or is to take, effect; and
- (e) if the exemption is subject to conditions—the place and times at which a copy of those conditions may be obtained.

“(6) An exemption notice is a disallowable instrument for the purposes of section 10 of the *Subordinate Laws Act 1989*.

Issue of exemption notice subject to conditions

“31B. (1) The Minister may issue an exemption notice subject to the conditions (if any) specified in the notice.

“(2) The conditions to which an exemption notice is subject, may include conditions of the kind specified in section 30.

Form of exemption notices

“31C. (1) An exemption notice shall specify—

- (a) the class of vehicles or class of combination to which it applies;
- (b) the class of persons to which it applies;
- (c) the provisions of the Act from which exemption is given;
- (d) the conditions (if any) subject to which it is issued; and
- (e) the period for which it is to remain in force.

“(2) In determining whether to issue an exemption notice, the Minister shall have regard to the matters referred to in paragraphs 31 (a) and (d), as if a reference in paragraph 31 (a) to a permit were a reference to an exemption notice.”.

Substitution

18. Part V of the Principal Act is repealed and the following Part substituted:

“PART V—OFFENCES

Interpretation

“32. In this Part, unless the contrary intention appears, a reference to driving a vehicle shall, where a trailer is attached to the vehicle, be read as including a reference to the vehicle and the trailer.

Offences—mass

“33. (1) A person shall not drive a vehicle on a public street or in a public place if—

- (a) the gross mass of the vehicle exceeds the mass permitted in respect of the vehicle by subsection 24 (1);
- (b) the mass carried by a wheel of the vehicle exceeds the mass permitted in respect of the wheel by subsection 25 (1);
- (c) the axle load of an axle of the vehicle exceeds the mass permitted in respect of the axle by subsection 25 (2); or
- (d) the axle group load of an axle group of the vehicle exceeds the mass permitted in respect of the axle group by subsection 25 (3).

Penalty: 30 penalty units.

“(2) A person shall not drive on a public street or in a public place a motor vehicle to which a trailer or a semi-trailer is coupled if the aggregate of the gross masses of the motor vehicle and the trailer or semi-trailer, or both, exceeds the mass permitted by subsection 24 (2).

Penalty: 30 penalty units.

“(3) A person shall not drive a vehicle in respect of which a permit or exemption notice is in force on a public street or in a public place—

- (a) during a time, or in the course of a journey, during which the driving of the vehicle on the public street or in the public place would be an offence against this Act but for the operation of the permit or exemption notice; and
- (b) otherwise than in accordance with a condition of the permit or exemption notice of the kind referred to in paragraph 30 (1) (b), (c) or (d).

Penalty: 30 penalty units.

Offences—width of vehicles

“34. (1) A person shall not drive a vehicle on a public street or in a public place if the width of the vehicle together with any equipment or load carried on or attached to the vehicle exceeds the width determined in relation to the class of vehicles to which the vehicle belongs.

Penalty: 20 penalty units.

“(2) A person shall not drive a vehicle in respect of which a permit or exemption notice is in force on a public street or in a public place—

- (a) during a time, or in the course of a journey, during which the driving of the vehicle on the public street or in the public place would be an offence against this Act but for the operation of the permit or exemption notice; and
- (b) otherwise than in accordance with a condition of the permit or exemption notice of the kind referred to in paragraph 30 (1) (e).

Penalty: 20 penalty units.

Offences—dimensions other than width

“35. (1) A person shall not drive a vehicle on a public street or in a public place if the dimensions of the vehicle (other than width) together with any equipment or load carried on or attached to the vehicle exceed the dimensions (other than width) determined in relation to the class of vehicles to which the vehicle belongs.

Penalty: 10 penalty units.

“(2) A person shall not drive a vehicle in respect of which a permit or exemption notice is in force on a public street or in a public place—

- (a) during a time, or in the course of a journey, during which the driving of the vehicle on the public street or in the public place would be an offence against this Act but for the operation of the permit or exemption notice; and
- (b) otherwise than in accordance with a condition of the permit or exemption notice as to the dimensions of the vehicle of the kind referred to in paragraph 30 (1) (ea).

Penalty: 10 penalty units.

Offences—design and tyre pressure, and conditions not related to mass or dimensions

“36. (1) A person shall not drive a vehicle on a public street or in a public place if the vehicle does not comply with section 17, 18, 19, 20 or 21.

Penalty: 10 penalty units.

“(2) A person shall not drive a vehicle on a public street or in a public place if the vehicle does not comply with section 26.

Penalty: 10 penalty units.

“(3) A person shall not drive a vehicle in respect of which a permit or exemption notice is in force on a public street or in a public place—

- (a) during a time, or in the course of a journey, during which the driving of the vehicle on the public street or in the public place would be an offence against this Act but for the operation of the permit or exemption notice; and
- (b) otherwise than in accordance with a condition of the kind referred to in paragraph 30 (1) (a), (eb), (ec), (ed), (f), (g), (h) or (j).

Penalty: 10 penalty units.

Use of trailer with articulated vehicle

“37. (1) A person shall not drive an articulated vehicle on a public street or in a public place if a trailer is coupled to the vehicle.

Penalty: 10 penalty units.

“(2) A person shall not drive a B-double or road train on a public street or in a public place.

Penalty: 10 penalty units.

Production of permit

“38. The driver of a vehicle in relation to which a permit is in force shall, if requested to do so by an inspector, produce to the inspector the permit or a copy of the permit.

Penalty: 5 penalty units.

Offences by owners

“39. (1) Where an offence against subsection 33 (1), (2) or (3) is committed and the owner of the vehicle involved in the offence is not the driver of the vehicle at the time the offence is committed, the owner is guilty of an offence punishable, on conviction, by a fine not exceeding—

- (a) if the offender is a natural person—30 penalty units; or
- (b) if the offender is a body corporate—150 penalty units.

“(2) Where an offence against subsection 34 (1) or (2) is committed and the owner of the vehicle involved in the offence is not the driver of the vehicle at the time the offence is committed, the owner is guilty of an offence punishable, on conviction, by a fine not exceeding—

- (a) if the offender is a natural person—20 penalty units; or
- (b) if the offender is a body corporate—100 penalty units.

“(3) Where an offence against subsection 35 (1) or (2) is committed and the owner of the vehicle involved in the offence is not the driver of the vehicle at the time the offence is committed, the owner is guilty of an offence punishable, on conviction, by a fine not exceeding—

- (a) if the offender is a natural person—10 penalty units; or
- (b) if the offender is a body corporate—50 penalty units.

“(4) Where an offence against subsection 36 (1) or (2) is committed and the owner of the vehicle involved in the offence is not the driver of the vehicle at the time the offence is committed, the owner is guilty of an offence punishable, on conviction, by a fine not exceeding—

- (a) if the offender is a natural person—10 penalty units; or
- (b) if the offender is a body corporate—50 penalty units.

“(5) Where an offence against subsection 36 (3) is committed and the owner of the vehicle involved in the offence is not the driver of the vehicle at the time the offence is committed the owner is guilty of an offence punishable, on conviction—

- (a) if the offender is a natural person—10 penalty units; or
- (b) if the offender is a body corporate—50 penalty units.

“(6) Where an offence against subsection 37 (1) or (2) is committed and the owner of the vehicle involved in the offence is not the driver of the vehicle at the time the offence is committed, the owner is guilty of an offence punishable, on conviction, by a fine not exceeding—

- (a) if the offender is a natural person—10 penalty units; or
- (b) if the offender is a body corporate—50 penalty units.

Offences by persons other than owners or drivers

“40. (1) A person other than the owner or driver of a vehicle who causes or permits the vehicle to be driven upon a public street or in a public place in circumstances in which an offence against subsection 33 (1) or (2), 34 (1), 35 (1) or 36 (1) or (2) is committed is guilty of an offence punishable, on conviction, by a fine not exceeding—

- (a) if the offender is a natural person—30 penalty units; or
- (b) if the offender is a body corporate—150 penalty units.

“(2) A person other than the owner or driver of a vehicle who loads the vehicle, or causes or permits the vehicle to be loaded, in a way that results in the commission of an offence against subsection 33 (1) or (2), 34 (1), 35 (1) or 36 (1) or (2) when the vehicle is driven upon a public street or in a public place is guilty of an offence punishable, on conviction, by a fine not exceeding—

- (a) if the offender is a natural person—30 penalty units; or
- (b) if the offender is a body corporate—150 penalty units.

No offence if permit or exemption notice in force

“40A. A person is not guilty of an offence against section 33, 34, 35, 36 or 37 if, at the time of the conduct that would have constituted the offence, there was in force a permit or exemption notice that permitted that conduct.

Other defences

“40B. (1) A person (in this section referred to as the ‘defendant’) is not guilty of an offence against section 33, 34, 35, 36, 37, 39 or 40 if he or she adduces evidence that—

- (a) the conduct that is alleged to have constituted the offence was due to—
 - (i) reasonable mistake;
 - (ii) reasonable reliance on information supplied by another person; or
 - (iii) the act or default of another person or some other cause beyond the defendant’s control; and

- (b) the defendant took reasonable precautions and exercised due diligence to avoid committing the offence;

and that evidence is not rebutted.

“(2) In subparagraph (1) (a) (ii), the reference to ‘another person’ shall not be read as including a reference to a servant, an agent or a director of the defendant.”.

Inspection of vehicles

19. Section 41 of the Principal Act is amended—

(a) by inserting after paragraph (2) (d) the following paragraphs:

- “(da) produce for inspection any document or other record as may be necessary to enable the inspector to determine whether the vehicle complies with the standards applicable to the vehicle;
- (db) produce for inspection any document or other record carried by the driver in connection with the business to which the journey relates;
- (dc) give the inspector copies of, or permit the inspector to take extracts from, any such document or record;
- (dd) make reasonable inquiries of the driver concerning any entries in any such document or record;
- (de) give the inspector such assistance as is necessary to enable the inspector to examine—
 - (i) any plate fixed to the vehicle by any manufacturer specifying the GCM or GVM of the vehicle; and
 - (ii) such other documents or records carried by the driver of the vehicle, for the purpose of enabling the inspector to ascertain the GCM or GVM of the vehicle;”;

(b) by omitting from the penalty provision at the foot of subsection (4) “\$3,000” and substituting “50 penalty units”.

Offences related to section 43 notice

20. Section 44 of the Principal Act is amended by omitting from the penalty provision “\$3,000” and substituting “50 penalty units”.

Repeal

21. Section 46 of the Principal Act is repealed.

Failure to comply with directions

22. Section 47 of the Principal Act is amended by omitting the penalty provision and substituting the following penalty provision:

“Penalty:

- (a) if the offender is a natural person—50 penalty units;
- (b) if the offender is a body corporate—250 penalty units.”.

Obstruction of inspector

23. Section 48 of the Principal Act is amended by omitting the penalty provision and substituting the following penalty provision:

“Penalty:

- (a) if the offender is a natural person—50 penalty units or 6 months imprisonment, or both;
- (b) if the offender is a body corporate—250 penalty units.”.

Insertion

24. After section 48 of the Principal Act the following Part is inserted:

“PART VIA—INFRINGEMENT NOTICES

Interpretation

“48A. In this Part—

‘final infringement notice’ means a notice under section 48C;

‘infringement notice’ means a notice under section 48B;

‘on-the-spot fine’, in relation to a prescribed offence, means the fine for that offence specified in column 4 of Schedule 2 in relation to that offence;

‘prescribed offence’ means an offence against a provision specified in column 2 of Schedule 2;

‘relevant amount’ means—

- (a) in relation to an infringement notice—the on-the-spot fine for the alleged prescribed offence to which the notice relates; or
- (b) in relation to a final infringement notice—the on-the-spot fine for the alleged prescribed offence to which the notice relates, in addition to the determined fee;

‘relevant period for payment’ means—

- (a) in relation to an infringement notice—28 days after the date of the notice;

- (b) in relation to a final infringement notice—14 days after the date of the notice; or
- (c) such extended period as the Registrar allows under paragraph 48F (4) (b) or section 48G.

Infringement notices

“48B. (1) An inspector may serve an infringement notice on a person if the officer believes on reasonable grounds that the person has committed a prescribed offence.

“(2) An infringement notice shall be in a form approved by the Registrar, and shall—

- (a) identify the inspector who issues the notice;
- (b) state the full name, or surname and initials, and address of the person on whom it is served;
- (c) specify the nature of the alleged offence and the amount of the on-the-spot fine;
- (d) specify the day, time and place of the alleged commission of the offence;
- (e) include a statement to the effect that if the person on whom the notice is served does not wish the offence to be prosecuted in court, the person may pay the on-the-spot fine to the Registrar within—
 - (i) 28 days after the date of the notice;
 - (ii) if the determined fee is paid in addition—14 days after the date of a final infringement notice; or
 - (iii) such extended period as is allowed under this Part;
- (f) specify the place at which, and the manner in which, the fine may be paid;
- (g) include a statement—
 - (i) that failure to pay the amount of the on-the-spot fine in accordance with the notice, or to apply for withdrawal of the notice, may result in the offence being prosecuted in court;
 - (ii) about the procedures for obtaining an extension of time under this Part; and
 - (iii) about the procedures for the withdrawal of the notice under this Part; and
- (h) be dated and signed by the inspector who serves the notice.

Final infringement notices

“48C. (1) The Registrar may serve a final infringement notice on a person where, after the service on the person of an infringement notice—

- (a) within 28 days after the date of the infringement notice, or within such extended period as the Registrar allows under section 48G—
 - (i) the person fails to pay the on-the-spot fine; and
 - (ii) the person fails to apply for the withdrawal of the infringement notice under section 48E; or
- (b) if the person applies for the withdrawal of the infringement notice under section 48E—
 - (i) the application is rejected; and
 - (ii) the person fails to pay the on-the-spot fine within the extended period allowed under paragraph 48F (4) (b).

“(2) A final infringement notice shall be in a form approved by the Registrar, and shall—

- (a) specify the date and person by whom it is served;
- (b) state the full name, or surname and initials, and address of the person on whom it is served;
- (c) specify the nature of the alleged offence and the amount of the on-the-spot fine;
- (d) specify the day, time and place of the alleged commission of the offence;
- (e) specify the date of the relevant infringement notice, and include a statement to the effect that the person has not paid the on-the-spot fine for the alleged offence to which the notice relates;
- (f) include a statement to the effect that if the person on whom the notice is served does not wish the offence to be prosecuted in court, the person may pay the on-the-spot fine, in addition to the determined fee, to the Registrar within—
 - (i) 14 days after the date of the notice; or
 - (ii) such extended period as is allowed under this Part;
- (g) specify the place at which, and the manner in which, the fine and the fee may be paid; and
- (h) include a statement—
 - (i) that failure to pay the amount of the on-the-spot fine in accordance with the notice, or to apply for withdrawal of the notice, may result in the offence being prosecuted in court;

- (ii) about the procedures for obtaining an extension of time under this Part; and
- (iii) about the procedures for the withdrawal of the notice under this Part.

Discharge of liability for prescribed offences

“48D. (1) This section applies where an infringement notice or a final infringement notice has been served on a person in respect of a prescribed offence and, before the expiration of the relevant period for payment—

- (a) the relevant amount is paid in accordance with the notice; or
- (b) the relevant notice is withdrawn.

“(2) Where this section applies—

- (a) any liability of the person in respect of the offence is discharged;
- (b) no further proceedings shall be taken in respect of the offence; and
- (c) the person shall not be regarded as having been convicted of the offence.

“(3) For the purposes of this section, where a cheque is tendered in payment of the relevant amount, such payment shall not be taken to have been made unless and until the cheque is honoured on presentation.

Application for withdrawal of infringement notices

“48E. (1) A person on whom an infringement notice or a final infringement notice is served in relation to the alleged commission of a prescribed offence may, by notice in writing to the Registrar within the relevant period, apply for the withdrawal of the notice.

“(2) A person shall not make more than 1 application under this section in relation to any particular alleged commission of a prescribed offence.

Withdrawal of infringement notices

“48F. (1) On receipt of an application under section 48E, the Registrar may withdraw the relevant infringement notice or final infringement notice if satisfied on reasonable grounds that any of the following grounds is made out:

- (a) the applicant did not commit the offence;
- (b) the applicant had a reasonable excuse for committing the act constituting the offence;
- (c) it would be unreasonable in the circumstances to prosecute the applicant for the commission of the offence.

“(2) If the Registrar withdraws an infringement notice or final infringement notice, he or she shall give the person on whom the notice was served written notice of the decision.

“(3) A notice under subsection (2) shall—

- (a) specify the infringement notice or final infringement notice that is withdrawn; and
- (b) include a statement of the effect of subsections 48D (1) and (2).

“(4) If the Registrar does not withdraw an infringement notice or final infringement notice under subsection (1), the Registrar shall—

- (a) give the person written notice of the decision; and
- (b) extend the period within which the relevant amount is to be paid, by a period of—
 - (i) in the case of a decision not to withdraw an infringement notice—28 days commencing on the date of the notice under paragraph (a); or
 - (ii) in the case of a decision not to withdraw a final infringement notice—14 days commencing on the date of the notice under paragraph (a).

“(5) If the Registrar does not give notice to a person under subsection (2) or (4) within 60 days after the receipt of an application for withdrawal of an infringement notice or a final infringement notice under section 48E, the notice is to be taken to have been withdrawn.

“(6) Where an infringement notice or final infringement notice served on a person is withdrawn under this section, the Registrar shall refund any amount paid under section 48B or 48C in payment of the relevant on-the-spot fine.

Extension of time for pensioners

“48G. (1) A pensioner on whom an infringement notice or a final infringement notice is served may, within the relevant period, apply to the Registrar for an extension of the relevant period.

“(2) On application under subsection (1), the Registrar may, by written notice to the applicant, extend the relevant period by a period expiring no later than 90 days after the date of the notice.

“(3) The Registrar may grant an application under this section subject to the condition that the applicant pay the relevant amount by specified instalments within the extended period.

“(4) Where a condition is imposed under subsection (3) that a person pay a relevant amount by specified instalments, if he or she fails to pay an instalment of the relevant amount by the date specified in the notice under subsection (2), this Part applies to that person as if—

- (a) the extended period for payment had expired; and
- (b) he or she had failed to pay the relevant amount within that period.

“(5) A person shall not make more than 1 application under this section in relation to any particular alleged commission of a prescribed offence.

“(6) In this section—

‘pensioner’ means a person who holds, or who is entitled to hold, a Pensioner Concession Card issued by the Commonwealth, or, if that card is superseded, any later replacement for that card.

Prosecution of prescribed offences

“48H. (1) The Registrar shall not institute a prosecution for an offence in respect of which an infringement notice has been served on a person—

- (a) until the expiration of the period of 14 days after the date of service of a final infringement notice in relation to that offence;
- (b) if that period is extended under section 48G—until the extended period has expired; or
- (c) if the person applies for the withdrawal of the final infringement notice under section 48E—unless and until the application is rejected and the extended period granted under paragraph 48F (4) (b) has expired.

“(2) Nothing in section 48B or 48C shall be construed as—

- (a) affecting the liability of a person to be prosecuted for a prescribed offence in relation to which an infringement notice has not been served;
- (b) subject to subsection (1), prejudicing or affecting the institution or prosecution of proceedings for a prescribed offence; or
- (c) limiting the amount of the fine that may be imposed by the Court in respect of a prescribed offence.

“(3) Where a prosecution is instituted for an offence in respect of which an infringement notice has been served, the Registrar shall refund any amount paid under section 48B or 48C in payment of the on-the-spot fine.

Non-antecedent value of infringement notice offences

“48J. (1) For the purposes of section 429A of the *Crimes Act 1900*, in sentencing an accused for any offence, a court shall not have regard to—

- (a) the alleged commission of any infringement notice offence;
- (b) the circumstances surrounding any infringement notice offence; or
- (c) the investigation of any infringement notice offence, or any related action under this Part.

“(2) In subsection (1)—

‘infringement notice offence’, in relation to an accused, means an alleged offence—

- (a) in relation to which an infringement notice has been served on the accused; and
- (b) which has not been found proved by a court.

Service of notices

“48K. (1) A notice may be served on the person to whom it is directed—

- (a) in the case of a natural person—
 - (i) by delivering the notice personally;
 - (ii) by securely placing or fixing it on the vehicle alleged to have been involved in the offence in a conspicuous position;
 - (iii) by sending the notice by post addressed to the person at the person’s last-known place of residence or business; or
 - (iv) by leaving the notice at the person’s last-known place of residence or business with some other person who is apparently—
 - (A) over the age of 16 years; and
 - (B) an occupant of the place, or employed at that place; and
- (b) in the case of a body corporate—by leaving it at, or sending it by pre-paid post to, the head office, a registered office or a principal office of the body corporate.

“(2) Nothing in this section prevents the service on a person of more than 1 infringement notice or final infringement notice in respect of the same alleged offence, but it is sufficient for the application of section 48D to such a person for the person to pay the relevant amount in accordance with any of the notices so served.

“(3) Where an infringement notice is served on a child and the person serving the notice believes, on reasonable grounds, that the child is residing with a person who stands *in loco parentis* to that child, the person serving the notice shall serve a copy of the notice on that person.

Evidence

“48L. (1) For the purposes of this Part, a document that purports to have been signed by the Registrar or an inspector, as the case may be, shall be taken to have been so signed unless the contrary is proved.

“(2) In a prosecution for a prescribed offence, a certificate signed by the Registrar stating any of the following matters is evidence of the matters so stated:

- (a) that a notice was served under this Part on a specified person on a specified date;
- (b) where an infringement notice or a final infringement notice has been served on a person under this Part, that—
 - (i) further time for payment was, or was not, allowed under paragraph 48F (4) (b) or section 48G;
 - (ii) the notice was not withdrawn; or
 - (iii) the relevant amount was not paid in accordance with the notice within the relevant period for payment.”.

Approval of portable weighing devices

25. Section 49 of the Principal Act is amended by omitting from subsection (1) “the Schedule” and substituting “Schedule 1”.

Interfering with approved portable weighing device

26. Section 53 of the Principal Act is amended by omitting the penalty provision and substituting the following penalty provision:

“Penalty:

- (a) if the offender is a natural person—200 penalty units;
- (b) if the offender is a body corporate—1,000 penalty units.”.

Notice of decisions

27. Section 54 of the Principal Act is amended by omitting paragraphs (1) (a) and (b) and substituting the following paragraphs:

- “(a) under subsection 27 (1) or (1A) to refuse to issue a permit;
- (b) under subsection 27 (2) to exempt a vehicle from provisions of the Act;
- (c) under subsection 27 (3) specifying how long a permit is to be in force;

- (d) under subsection 28 (2)—
 - (i) that the Registrar is not satisfied as to eligibility for registration under the Motor Traffic Act; or
 - (ii) specifying a period for which the permit is to be in force; or
- (e) under subsection 30 (1) to issue a permit subject to a condition.”.

Certificates of inspectors to be evidence

28. Section 56 of the Principal Act is amended by omitting subsection (2).

Determinations

29. Section 57 of the Principal Act is amended—

- (a) by inserting after subsection (2) the following subsections:

“(2A) The Minister may, by notice in the *Gazette*, make determinations, not inconsistent with this Act, for the purpose of prescribing dimensions of vehicles, together with any equipment or load carried on or attached to the vehicle.

“(2B) Without limiting the generality of subsection (2A), the determinations may prescribe the following dimensions:

- (a) the forward projection of a vehicle;
 - (b) the rear overhang of a vehicle;
 - (c) the drawbar length of a dog trailer or pig trailer;
 - (d) the distance between the point of articulation of the front section of an articulated bus and the rear axle centre of that section;
 - (e) the projection of the forward edge of a semi-trailer;
 - (f) the distance between the point of articulation of a semi-trailer and the rear axle centre of the semi-trailer;
 - (g) the length of the loading space of a non-articulated vehicle that is located to the rear of the rear axle centre of the vehicle;
 - (h) the projection of any equipment or load on or attached to a vehicle.”; and
- (b) by omitting from subsection (3) “subsection (2)” and substituting “subsections (2) and (2A)”.

Schedule

30. The heading to the Schedule to the Principal Act is omitted and the following heading substituted:

“SCHEDULE 1”.

Insertion

31. After the Schedule to the Principal Act the Schedule set out in the Schedule to this Act is inserted.

Transitional

32. (1) Notwithstanding the amendments of the Principal Act effected by sections 14, 15 and 16, the Principal Act as in force immediately before the commencement of this section continues to apply to, and in relation to, a permit issued under section 27 for the remainder of the period for which the permit was issued as if this Act had not been made.

(2) Notwithstanding the amendments of the Principal Act effected by sections 21 and 24, the Principal Act as in force immediately before the commencement of this section continues to apply, on and after that commencement, in relation to an alleged offence against section 32, 33, 34 or 36 in respect of which a notice of offence under section 46 had been served before that commencement.

SCHEDULE
SCHEDULE TO BE INSERTED IN PRINCIPAL ACT
SCHEDULE 2
ON-THE-SPOT FINES

Section 31

Section 48A

Column 1 Item	Column 2 Prescribed offences	Column 3 Extent of contravention	Column 4 On-the-spot fine
			\$
1	Contravention of section 33 or subsection 39 relating to mass	(1) If the mass exceeds the maximum permitted— by not more than 5% by more than 5% but not more than 10% by more than 10% but not more than 15% by more than 15% but not more than 20% by more than 20%	100 200 300 400 500
2	Contravention of section 34 or subsection 39 (2) relating to width	If the width exceeds the maximum permitted— by not more than 5% by more than 5% but not more than 10% by more than 10% but not more than 20% by more than 20% but not more than 30% by more than 30%	100 200 300 400 500
3	Contravention of section 35 or subsection 39 (3) relating to dimensions (other than width)	If the dimensions (other than width) exceed the maximum permitted— by not more than 5% by more than 5% but not more than 10% by more than 10% but not more than 15% by more than 15% but not more than 20% by more than 20% but not more than 25% by more than 25%	50 100 150 200 250 300
4	Contravention of section 36 or 37 or subsection 39 (4), (5) or (6)		200

NOTES

Principal Act

1. Reprinted as at 28 February 1995.

Penalty units

See section 33AA of the *Interpretation Act 1967*.

[Presentation speech made in Assembly on 22 February 1996]

© Australian Capital Territory 1996