



AUSTRALIAN CAPITAL TERRITORY

Motor Traffic (Amendment) Act (No. 3) 1997

No. 55 of 1997

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AUSTRALIAN CAPITAL TERRITORY

Motor Traffic (Amendment) Act (No. 3) 1997

No. 55 of 1997

An Act to amend the *Motor Traffic Act 1936*

[Notified in ACT Gazette S264: 19 September 1997]

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

Short title

1. This Act may be cited as the *Motor Traffic (Amendment) Act (No. 3) 1997*.

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 Traffic Act 1936*.¹

Interpretation

4. Section 4 of the Principal Act is amended by inserting in subsection (1) the following definition:

“ ‘Manual’ means the Vehicle Inspection Manual prepared and published under section 6E, as in force from time to time;”.

Insertion

5. After section 6D of the Principal Act the following sections are inserted in Part I:

Vehicle Inspection Manual

“6E. (1) The Registrar shall cause a manual, called the Vehicle Inspection Manual, to be prepared and maintained for the purposes of this Act.

“(2) The Manual shall specify—

- (a) the requirements with which each motor vehicle and trailer is required to comply before it may be registered; and
- (b) the requirements with which parts and equipment of each motor vehicle and trailer are required to comply before the vehicle or trailer, as the case may be, may be registered.

“(3) The Manual is a disallowable instrument for the purposes of section 10 of the *Subordinate Laws Act 1989*.

Amendment of Manual

“6F. (1) The Registrar may, by instrument, amend the Manual.

“(2) An instrument under subsection (1) has effect from and including such date as is specified in the instrument, being a date not less than 7 days after the date on which the instrument is made.

“(3) An instrument under subsection (1) does not apply in relation to a motor vehicle or trailer in respect of which there is in force a certificate under section 26AP that was issued before the date on which the instrument took effect.

Copies of Manual and instruments of variation

“6G. The Registrar shall—

- (a) within 7 days after completion of the preparation of the Manual furnish a copy of the Manual to the Minister; and

- (b) within 7 days after an instrument is made under subsection 6F (1), furnish a copy of the instrument to the Minister and to the proprietor of premises authorised under Part IIAA.

Evidence of Manual

“6H. (1) In any proceedings evidence of the Manual as in force on a specified date or during a specified period may be given by the production of an office copy of the Manual certified by the Registrar, in writing, to be a true copy of the Manual, as at that date or during that period.

“(2) For the purposes of subsection (1), a certificate that purports to have been signed by the Registrar shall be taken to have been so signed unless the contrary is proved.

Interpretation of Manual

“6J. (1) Expressions used in the Manual, or an instrument made under subsection 6F (1), shall, unless the contrary intention appears in the Manual or instrument, have the same respective meanings as they would have if the Manual or instrument, as the case may be, were regulations under this Act.

“(2) The Manual, and instruments made under subsection 6F (1), shall not be taken to be regulations within the meaning of the *Interpretation Act 1967*.

Inspection of Manual

“6K. A copy of the Manual shall be kept at each office of the Registrar and may, on request by a person, be inspected at any time during the ordinary business hours of that office.”.

Registration fees

- 6. Section 12 of the Principal Act is amended—
 - (a) by inserting in paragraph (a) “or trailer” after “vehicle”; and
 - (b) by omitting from paragraph (c) “pursuant to section 17”.

Registration of motor vehicles and trailers

- 7. Section 14 of the Principal Act is amended—
 - (a) by inserting in subsection (1) “or trailer” after “motor vehicle”; and

- (b) by omitting subsections (2) and (3) and substituting the following subsections:

“(2) The Registrar shall not register a motor vehicle or trailer, or transfer the registration of a motor vehicle or trailer that is more than 6 years old, unless—

- (a) in the case of a motor vehicle or trailer—
 - (i) to which subsection (3) or (4) does not apply;
 - (ii) in respect of which an application for registration in the Territory is being made for the first time;
 - (iii) that has been registered previously in the Territory if the registration has ceased to be in force for a period exceeding 12 months; or
 - (iv) the GVM of which is less than 4.5 tonnes;there is in force in respect of the motor vehicle or trailer—
 - (v) a certificate of inspection under section 26AP certifying that it and its parts and equipment comply with such of the requirements of the Manual as are applicable to that motor vehicle or trailer and its parts and equipment; or
 - (vi) the Registrar is satisfied that the motor vehicle or trailer and its parts and equipment comply with such of the requirements of the Manual as are applicable to that motor vehicle or trailer and its parts and equipment;
- (b) in the case of a motor vehicle or trailer to which subsection (3) or (4) applies—
 - (i) in the case of a motor vehicle referred to in paragraph (3) (a)—unless the Registrar is satisfied that the motor vehicle or trailer and its parts and equipment comply with such of the requirements of the Manual as are applicable to that motor vehicle or trailer and its parts and equipment; or

- (ii) in the case of a motor vehicle or trailer referred to in paragraph (3) (b) or subsection (4)—unless the Registrar is satisfied that the motor vehicle or trailer and its parts and equipment comply with such of the requirements of the Manual and the provisions of the *Motor Vehicles (Dimensions and Mass) Act 1990* as are applicable to that motor vehicle or trailer and its parts and equipment; or
- (c) in the case of a motor vehicle or trailer to which subsection (5) applies—unless the Registrar is satisfied that the motor vehicle or trailer and its parts and equipment comply with such of the requirements of the Manual as are applicable to that motor vehicle or trailer and its parts and equipment.

“(3) This subsection applies to—

- (a) a taxi, private hire car and motor omnibus; or
- (b) a motor vehicle or trailer that has a GVM exceeding 4.5 tonnes.

“(4) This subsection applies to a motor vehicle or trailer in connection with which an application for registration or renewal or transfer of registration is being made, being a motor vehicle or trailer in respect of which a notice under section 108E has, not more than 1 month prior to the date of lodgment of the application for renewal of registration, been revoked by the Registrar.

“(5) This subsection applies to—

- (a) a motor vehicle, or a motor vehicle included in a class of motor vehicles, determined in writing by the Minister (by reference to the particular design, type of construction or condition of the motor vehicle or of the motor vehicles in that class) to be a motor vehicle, or a class of motor vehicles, to which this subsection applies; and
- (b) a motor vehicle or trailer in respect of which an application has been made under section 26AZB.

“(6) For the purposes of determining whether a motor vehicle or trailer to which subsection (3) or (5) applies, and its parts and equipment, comply with such of the requirements of the Manual as are applicable to that motor vehicle or trailer and its parts and equipment, the motor vehicle or trailer shall be produced as directed by the Registrar for inspection or testing by an inspector.”.

Design rules

8. Section 14A of the Principal Act is amended—
- (a) by omitting subsections (4), (5) and (5A); and
 - (b) by omitting from paragraph (8) (a) “in pursuance of section 17” and substituting “under subsection 14A (6)”.

Repeal

9. Sections 15 and 17 of the Principal Act are repealed.

Insertion

10. After Part II of the Principal Act the following Part is inserted:

“PART IIAA—INSPECTION OF MOTOR VEHICLES AND TRAILERS FOR REGISTRATION

“Division 1—Preliminary

Interpretation

- “26AA. In this Part, unless the contrary intention appears—
- ‘authorised examiner’ means a person appointed under section 26AD to be an authorised examiner;
 - ‘authorised inspector’ means an inspector to whom an identity card has been issued under section 26AB;
 - ‘authorised premises’ means premises approved under section 26AG to be authorised premises for the purposes of this Act;
 - ‘owner’, in relation to premises, means the person who holds a lease of the premises from the Commonwealth;
 - ‘prescribed requirements’, in relation to premises and equipment on premises proposed to be used in the inspection or testing, for the purposes of this Act, of motor vehicles or trailers of a particular class or classes, means the requirements prescribed for the purposes of paragraph 26AG (3) (a);

‘proprietor’, in relation to premises, means—

- (a) the owner of the premises; or
- (b) where the premises are occupied by a person other than the owner—the occupier of the premises;

‘Register’ means the register of authorised examiners kept by the Registrar under section 26AC.

Issue of identity cards to inspectors

“26AB. (1) The Minister shall issue to such inspectors as the Registrar thinks fit an identity card that specifies the name of the inspector and the appointment he or she holds and to which is attached a recent photograph.

“(2) An inspector to whom an identity card has been issued shall, on ceasing to be an inspector, return the identity card to the Minister.

Penalty: 1 penalty unit.

Register of authorised examiners

“26AC. (1) The Registrar shall keep a register of authorised examiners in which the Registrar shall enter—

- (a) the name and residential address of each person who is an authorised examiner;
- (b) the class or classes of motor vehicles or trailers that the person is, for the purposes of this Act, authorised to inspect or test;
- (c) if the person is the proprietor of authorised premises—the address of the premises;
- (d) if the person is not the proprietor of the authorised premises—the address of the premises at which the person is employed; and
- (e) the date on which the entry is made.

“(2) The Registrar shall remove from the Register the name of any person whose appointment as an authorised examiner is revoked.

“(3) The Registrar shall, as soon as practicable after receiving notification of a change of address of an authorised examiner under section 26AZA, enter the particulars of the change in the Register.

“Division 2—Appointment of authorised examiners

Appointment of authorised examiners

“26AD. (1) The Registrar may appoint a person as an authorised examiner for the purposes of carrying out inspections or tests of motor vehicles or trailers of a particular class or classes.

“(2) A person is eligible to be appointed as an authorised examiner in relation to a class or classes of motor vehicles or trailers if the person—

- (a) holds a qualification relating to the mechanics of motor vehicles that is a qualification declared by the Minister, by notice in the *Gazette*, to be an acceptable qualification in relation to that class or those classes of motor vehicles or trailers; and
- (b) has not, during the period of 5 years preceding the date of the application for appointment, been convicted of an offence that involves fraud or dishonesty, whether in the Territory or elsewhere.

“(3) A person is not eligible to be appointed as an authorised examiner if the person is a dealer within the meaning of the *Sale of Motor Vehicles Act 1977*.

“(4) An application for appointment as an authorised examiner shall—

- (a) be in writing signed by the applicant;
- (b) be lodged with the Registrar;
- (c) state the full name and residential address of the applicant;
- (d) contain such particulars as are necessary to show that the applicant holds a qualification of a kind referred to in paragraph (2) (a);
- (e) be accompanied by the determined fee; and
- (f) contain such other information as is prescribed.

“(5) The Registrar shall, on receipt of an application in accordance with this section, appoint a person to be an authorised examiner unless—

- (a) the applicant fails to establish that he or she is eligible for appointment; or
- (b) the application does not comply with subsection (4).

Certificates of appointment

“26AE. (1) Where the Registrar appoints a person to be an authorised examiner, the Registrar shall issue to the person a certificate of appointment in which shall be specified—

- (a) the name of the person; and
- (b) the class or classes of motor vehicles or trailers in relation to which the appointment is made.

“(2) Where, on receipt of an application under section 26AD, the Registrar is satisfied that—

- (a) the authorised examiner holds a qualification of a kind referred to in paragraph 26AD (2) (a); and
- (b) the class or classes of motor vehicles or trailers in relation to which the qualification is declared to be an acceptable qualification for the purposes of that paragraph is not, or are not, specified in the certificate of appointment issued to the authorised examiner under subsection (1);

the Registrar shall—

- (c) on production to the Registrar of the certificate of appointment, amend the class or classes of motor vehicles or trailers in relation to which the appointment of the person as an authorised examiner is expressed to be made by specifying the class or classes referred to in paragraph (b); and
- (d) as soon as practicable after completion of the amendment, return the certificate to the authorised examiner.

“(3) Subject to this Part, the certificate remains in force for a period of 12 months from the date of issue.

Revocation of appointment of authorised examiner

“26AF. (1) The Registrar may revoke the appointment of an authorised examiner if—

- (a) the appointment was made in error;
 - (b) the appointment was made in consequence of a false statement made, or misleading information furnished, by the person;
 - (c) the authorised examiner has failed to pay the determined fee for the renewal of his or her appointment pursuant to section 26AW;
- or

- (d) the person contravenes or fails to comply with the requirements of section 26AN, 26AP or 26AZA.

“(2) The Registrar shall, before revoking the appointment of a person as an authorised examiner pursuant to paragraph (1) (a), (b) or (d), give to the person a notice, in writing, requiring the person to show cause why his or her appointment should not be revoked.

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

- (a) particulars of the facts and circumstances relied on by the Registrar to establish that a ground referred to in subsection (1) exists; and
- (b) a statement informing the person to whom it is directed that, if he or she wishes to show cause why his or her appointment should not be revoked, the person may, within such period as is specified in the notice, being a period of not less than 7 days after the date of service of the notice, give to the Registrar a notice in writing containing full particulars of the facts and circumstances relied on by the person to show that his or her appointment should not be revoked.

“(4) If a person to whom a notice has been given under subsection (2) does not—

- (a) within the time specified in that notice, give to the Registrar a notice in accordance with paragraph (3) (b); or
- (b) in a notice given to the Registrar in accordance with that paragraph, show cause, to the satisfaction of the Registrar, why his or her appointment as an authorised examiner should not be revoked;

the Registrar may revoke the appointment.

“(5) Where the Registrar revokes the appointment of a person as an authorised examiner under this section the Registrar shall—

- (a) notify the person in writing of the revocation; and
- (b) if the person is not the proprietor of the authorised premises—give a copy of that notification to the proprietor of the authorised premises at which that person is employed as an authorised examiner.

“(6) Subject to subsection (7), the Registrar may, in revoking the appointment of a person as an authorised examiner on a ground referred to in paragraph (1) (b) or (d), specify a period that shall elapse before the person may again apply for appointment and, in that event, the person is not eligible to apply again for appointment until the expiration of that period.

“(7) For the purposes of subsection (6) the period is—

- (a) for the first revocation—6 months;
- (b) for a second revocation—12 months; or
- (c) for a third or subsequent revocation—2 years.

“(8) Where the appointment of a person as an authorised examiner is revoked, the appointment ceases to have effect from and including the day on which it is revoked and the person ceases to be an authorised examiner on and from that day.

“(9) Where the appointment of a person as an authorised examiner is revoked, the person shall not, without reasonable excuse, fail to return his or her certificate of appointment to the Registrar within 7 days after the date of revocation.

“Division 3—Approval of authorised premises

Approval of authorised premises

“26AG. (1) The proprietor of premises may apply to the Registrar for an approval under this section in respect of the premises.

“(2) An application under subsection (1) shall—

- (a) be in writing and signed by the applicant;
- (b) be lodged with the Registrar;
- (c) state the full name and address of the applicant;
- (d) specify the address of the premises in respect of which the application is made;
- (e) specify the class or classes of motor vehicles or trailers in respect of which approval is sought;
- (f) in the case of a body corporate—be accompanied by evidence of the due incorporation of the corporation;
- (g) be accompanied by the determined fee; and
- (h) contain such other information as is prescribed.

“(3) The Registrar shall approve premises to be authorised premises for the purposes of this Act unless—

- (a) the premises, or the equipment proposed to be used on the premises in or in connection with the inspection or testing of motor vehicles or trailers for the purposes of this Act, do or does not comply with the prescribed requirements for the class or classes of motor vehicles or trailers to which the application relates;
- (b) the applicant is a dealer within the meaning of the *Sale of Motor Vehicles Act 1977*;
- (c) the Registrar is satisfied that—
 - (i) in the case of an application by a natural person—the applicant; or
 - (ii) in the case of a body corporate—a director of the corporation;

has, during the period of 5 years preceding the date of the application, been convicted of an offence that involves fraud or dishonesty, whether in the Territory or elsewhere;

- (d) the application does not comply with the requirements of subsection (2); or
- (e) the applicant refuses or fails to comply with a requirement of the Registrar under subsection (4).

“(4) The Registrar may, by notice in writing, require a person by whom an application is made under this section to furnish to the Registrar, either orally or in writing, within such period as is specified in the notice, such further information relating to the premises in respect of which the application is made, or the equipment proposed to be used on the premises in connection with the inspection or testing of motor vehicles or trailers, as the Registrar requires to be furnished.

“(5) The Registrar, in approving premises to be authorised premises, shall specify the class or classes of motor vehicles or trailers that may, for the purposes of this Act, be inspected or tested on those premises.

Certificates of approval

“26AH. (1) Where the Registrar approves premises to be authorised premises, the Registrar shall issue to the proprietor of the premises a certificate of approval in which shall be specified—

- (a) the name of the proprietor;

- (b) the address of the premises; and
- (c) the class or classes of motor vehicles or trailers in relation to which approval is given.

“(2) Where, on receipt of an application made by a proprietor of authorised premises, the Registrar is satisfied that—

- (a) the premises; or
- (b) the equipment proposed to be used on the premises in or in connection with the inspection or testing of motor vehicles or trailers for the purposes of this Act;

comply with the prescribed requirements for a class of motor vehicles or trailers that is not specified in the certificate of approval issued under subsection (1) in respect of the premises, the Registrar shall—

- (c) on production to the Registrar of the certificate of approval, amend the class or classes of motor vehicles or trailers in relation to which the approval of the authorised premises is expressed to be given by specifying that class; and
- (d) as soon as practicable after completion of the amendment, return the certificate to the proprietor.

“(3) Subject to this Part, the certificate remains in force for a period of 12 months from the date of issue.

Inspection of premises prior to approval

“26AJ. (1) An authorised inspector may, with the consent of the occupier, enter premises in respect of which an application has been made under section 26AG and inspect—

- (a) the premises; and
- (b) any equipment on the premises that is proposed to be used in or in connection with the inspection or testing of motor vehicles or trailers for the purposes of this Act;

for the purposes of determining whether the premises and equipment comply with the prescribed requirements for the class or classes of motor vehicles or trailers to which the application relates.

“(2) A person shall not, without reasonable excuse, obstruct or hinder an authorised inspector in the exercise of his or her powers under this section.

Penalty:

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

“(3) An authorised inspector who enters premises under this section is not authorised to remain on the premises if, on request by the proprietor or other person apparently in charge of the premises, the inspector does not produce the identity card issued to him or her under subsection 26AB (1).

Cancellation of approval of premises

“26AK. (1) The Registrar may cancel an approval given under section 26AG in respect of premises if—

- (a) the approval was given in error;
- (b) the approval was given in consequence of a false statement made, or misleading information furnished, by the person by whom the application for approval was made;
- (c) the premises cease to comply with the prescribed requirements for the class or classes of motor vehicles or trailers specified in the certificate of approval issued under section 26AH in respect of the premises;
- (d) the proprietor has failed to pay the determined fee for the renewal of the approval of the premises pursuant to section 26AW; or
- (e) the proprietor of the premises—
 - (i) is convicted of an offence against this Part; or
 - (ii) contravenes or fails to comply with the requirements of section 26AM, 26AP, 26AQ, 26AS, 26AU, 26AV, 26AX, 26AY or 26AZ.

“(2) The Registrar shall, before cancelling an approval under section 26AG in respect of premises, other than pursuant to paragraph (1) (d), give to the proprietor of the premises a notice in writing requiring the proprietor to show cause why the approval should not be cancelled.

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

- (a) particulars of the facts and circumstances relied on by the Registrar to establish that a ground referred to in subsection (1) exists; and
- (b) a statement informing the person to whom it is directed that, if he or she wishes to show cause why his or her approval should not be cancelled, the person may, within such period as is specified in the notice, being a period of not less than 7 days after the date of service of the notice, give to the Registrar a notice in writing containing full particulars of the facts and circumstances relied on by the person to show that the approval should not be cancelled.

“(4) If a person to whom a notice has been given under subsection (2) does not—

- (a) within the time specified in that notice, give to the Registrar a notice in accordance with paragraph (3) (b); or
- (b) in a notice given to the Registrar in accordance with that paragraph, show cause, to the satisfaction of the Registrar, why the approval to which the notice relates should not be cancelled;

the Registrar may cancel the approval.

“(5) Where the Registrar cancels an approval given under section 26AG, the Registrar shall, in writing, notify the person to whom the notice under subsection (2) was given of the cancellation.

“(6) Subject to subsection (7), the Registrar may, in cancelling an approval under section 26AG in respect of premises on a ground referred to in paragraph (1) (b), (c) or (e), specify a period that shall elapse before the person who was the proprietor of the premises at the time the approval was cancelled may again apply for approval under that section and, in that event, the person is not eligible to apply again for approval until the expiration of that period.

“(7) For the purposes of subsection (6) the period is—

- (a) for the first cancellation—6 months;
- (b) for a second cancellation—12 months; or
- (c) for a third or subsequent cancellation—2 years.

“(8) Where an approval given under section 26AG is cancelled, the approval of the premises ceases to have effect from and including the day on which it is cancelled and the premises cease to be authorised premises on and from that day.

“(9) Where an approval given under section 26AG is cancelled, the proprietor shall not, without reasonable excuse, fail to return the certificate of approval to the Registrar within 7 days after the date of cancellation.

Cessation of approval

“26AL. If a person who is the proprietor of authorised premises ceases to be the proprietor of the premises, those premises cease to be authorised premises for the purposes of this Act.

“Division 4—Inspections and tests of motor vehicles and trailers

Motor vehicles and trailers to be inspected on request

“26AM. Where—

- (a) the proprietor of authorised premises is requested by the driver of a motor vehicle or trailer to carry out an inspection or test of the motor vehicle or trailer, for the purpose of determining whether the motor vehicle or trailer, as the case requires, and its parts and equipment, comply with such of the requirements of the Manual as are applicable to it and its parts and equipment;
- (b) if the request is made in respect of a motor vehicle or trailer—the motor vehicle or trailer is not of a kind referred to in paragraph 14 (3) (a) or (b) or (5) (a) or (b);
- (c) the motor vehicle or trailer, as the case may be, is included in a class of motor vehicles or trailers that is specified in the certificate of approval issued under section 26AH in respect of the premises; and
- (d) the proprietor of the premises is an authorised examiner, or there is employed at the premises an authorised examiner, in whose certificate of appointment issued under section 26AE there is specified the class of motor vehicles or trailers in which the motor vehicle or trailer in connection with which the request referred to in paragraph (a) was made is included;

the proprietor shall not, without reasonable excuse, refuse or fail to inspect or test the motor vehicle or trailer or refuse or fail to cause the motor vehicle or trailer to be inspected or tested.

Duties of authorised examiners when carrying out inspections

“26AN. An authorised examiner shall not—

- (a) inspect or test, for the purposes of this Act, a motor vehicle or trailer included in a class of motor vehicles or trailers that is not specified in the certificate of appointment issued to the person under section 26AE;
- (b) inspect or test, for the purposes of this Act, a motor vehicle or trailer other than at authorised premises;
- (c) without reasonable excuse, refuse or fail to inspect or test, for the purposes of this Act, a motor vehicle or trailer included in a class of motor vehicles or trailers that is specified in the certificate of appointment issued to the person under section 26AE; or
- (d) knowing that a motor vehicle or trailer inspected or tested by the person for the purposes of this Act, or a part of any equipment of the motor vehicle or trailer, does not comply with such of the requirements of the Manual as are applicable to it, certify in a certificate issued under section 26AP in respect of the motor vehicle or trailer that it does so comply.

Certificates of inspection

“26AP. (1) Where a motor vehicle or trailer is inspected or tested by an authorised examiner pursuant to section 26AM, the authorised examiner shall complete, in accordance with a form made available by the Registrar for the purpose, a certificate of inspection in respect of the motor vehicle or trailer—

- (a) certifying that the motor vehicle or trailer, as the case may be, and its parts and equipment, comply with such of the requirements of the Manual as are applicable to it and its parts and equipment; or
- (b) certifying that the motor vehicle or trailer, as the case may be, or a part or any equipment of the motor vehicle or trailer, does not so comply and, in that event, specifying the respects in which it does not so comply.

“(2) On completion of a certificate of inspection in accordance with subsection (1), the proprietor of the authorised premises at which the inspection or test of the motor vehicle or trailer to which the certificate relates was carried out shall—

- (a) on payment of the determined fee, issue the certificate, or cause the certificate to be issued, to the driver of the motor vehicle, or the driver of the motor vehicle to which the trailer is attached;
- (b) forward a copy of the certificate to the Registrar; and
- (c) retain a copy of the certificate at the premises.

“(3) A certificate of inspection remains in force for a period of 1 month commencing on the date on which it was issued.

Persons by whom inspections may be carried out

“26AQ. The proprietor of authorised premises shall not permit a person employed by the proprietor—

- (a) who is not an authorised examiner—to carry out an inspection or test of a motor vehicle or trailer for the purposes of this Act; or
- (b) who is an authorised examiner—to carry out, for the purposes of this Act, an inspection or test of—
 - (i) a motor vehicle or trailer of a class of motor vehicle or trailer that is not specified in the certificate of approval issued to the proprietor under section 26AH in respect of the premises; or
 - (ii) a motor vehicle or trailer included in a class of motor vehicles or trailers that is not specified in the certificate of appointment issued to the authorised examiner under section 26AE.

Penalty:

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

Fees payable by proprietors

“26AR. The proprietor of authorised premises shall pay to the Territory the determined fee in respect of each motor vehicle or trailer inspected or tested at those premises.

Fees payable on inspection

“26AS. (1) The proprietor of authorised premises shall not charge a fee for the carrying out of an inspection or test of a motor vehicle or trailer for the purposes of this Act that is in excess of the appropriate fee ascertained in accordance with section 26AZE.

“(2) A person is not entitled to bring an action to recover any fee in connection with the carrying out of an inspection or test, for the purposes of this Act, of a motor vehicle or trailer unless—

- (a) the inspection or test was carried out by a person who was, at that time, an authorised examiner;
- (b) the inspection or test was carried out at premises that were, at that time, authorised premises; and
- (c) the motor vehicle or trailer was included in a class of motor vehicle or trailer that was, at that time, specified in—
 - (i) the certificate of appointment held by the person referred to in paragraph (a); and
 - (ii) the certificate of approval issued in respect of the premises referred to in paragraph (b).

Offences

“26AT. (1) A person who is not an authorised examiner shall not inspect or test a motor vehicle or trailer for the purposes of this Act.

Penalty: 50 penalty units.

“(2) A person who is not an authorised examiner shall not—

- (a) hold himself or herself out to be an authorised examiner; or
- (b) permit his or her name to be so used as to suggest that he or she is an authorised examiner.

Penalty: 30 penalty units.

“(3) A person who is the proprietor of premises that are not authorised premises shall not permit a motor vehicle or trailer to be inspected or tested for the purposes of this Act at the premises.

Penalty:

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

“(4) A person who is the proprietor of premises that are not authorised premises shall not—

- (a) hold the premises out to be authorised premises; or
- (b) permit the premises to be described in such a manner as to suggest that the premises are authorised premises.

Penalty:

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

“Division 5—General duties of authorised examiners and proprietors of authorised premises

Design rules to be kept at authorised premises

“26AU. (1) The proprietor of authorised premises shall keep at the premises an up-to-date copy of—

- (a) the Manual and each Australian Design Rule comprising a part of the Manual;
- (b) each instrument forwarded under section 6F; and
- (c) any document the provisions of which are applied, adopted or incorporated in the Manual or instrument.

“(2) The proprietor of authorised premises shall, at the request of a person, make copies of the documents referred to in paragraphs (1) (a), (b) and (c) available for inspection by the person at any reasonable time.

Penalty:

- (a) if the offender is a natural person—5 penalty units;
- (b) if the offender is a body corporate—25 penalty units.

Certificate of approval to be exhibited at authorised premises

“26AV. The proprietor of authorised premises shall, subject to subsection 26AH (2) and section 26AX, cause the certificate of approval issued to the proprietor under subsection 26AH (1) in respect of the premises at all times to be exhibited in a conspicuous position at the premises.

Penalty:

- (a) if the offender is a natural person—5 penalty units;
- (b) if the offender is a body corporate—25 penalty units.

Renewal of authorities

“26AW. (1) The—

- (a) proprietor of authorised premises; and
- (b) an authorised examiner;

may, at any time before the expiration of the period specified in the certificate of approval or certificate of appointment, as the case requires, or the last period of renewal of that certificate, as the case may be, apply to the Registrar for a renewal of the certificate.

“(2) An application shall—

- (a) be in writing; and
- (b) be lodged with the Registrar together with the determined fee.

“(3) If the Registrar is satisfied that a ground does not exist for the cancellation of the approval or revocation of appointment, the Registrar shall renew the approval or appointment for a further period of 12 months commencing on the expiration of the period referred to in subsection (1) or the last period of renewal, as the case requires.

Notice to be displayed at authorised premises

“26AX. The proprietor of authorised premises shall exhibit and keep exhibited at the premises so as to be easily visible to a person entering the premises, a notice consisting of letters not less than 5 centimetres in height bearing the words ‘APPROVED INSPECTION STATION’.

Penalty:

- (a) if the offender is a natural person—5 penalty units;
- (b) if the offender is a body corporate—25 penalty units.

Proprietor of authorised premises to give notice on ceasing to be proprietor

“26AY. Where the proprietor of authorised premises ceases to be the proprietor of the premises, he or she shall, within 7 days of ceasing to be the proprietor—

- (a) notify the Registrar in writing; and

- (b) forward to the Registrar the certificate of approval issued to the proprietor under section 26AH in respect of the premises.

Penalty:

- (a) if the offender is a natural person—5 penalty units;
- (b) if the offender is a body corporate—25 penalty units.

Change of name of proprietor of authorised premises to be notified

“26AZ. Where the name of the proprietor of authorised premises is changed, the proprietor shall, within 7 days of the change—

- (a) notify the Registrar in writing; and
- (b) forward to the Registrar the certificate of approval issued to the proprietor under section 26AH in respect of the premises.

Penalty: 5 penalty units.

Change of address of authorised examiner to be notified

“26AZA. Where a change occurs in an address entered in the Register in relation to an authorised examiner, the authorised examiner shall, within 14 days of the change, notify the Registrar in writing.

Penalty: 5 penalty units.

“Division 6—Review of decisions

Review of decisions of authorised examiner

“26AZB. (1) Application may be made to the Registrar for a review of a decision of an authorised examiner certifying that a motor vehicle or trailer, or a part or any equipment of a motor vehicle or trailer, does not comply with such of the requirements of the Manual as are applicable to it.

“(2) As soon as practicable after an application is made to the Registrar under subsection (1), the Registrar shall—

- (a) cause the motor vehicle or trailer to which the application relates to be inspected or tested by an inspector at the office of the Registrar;
- (b) satisfy himself or herself whether or not the motor vehicle or trailer, as the case may be, and its parts and equipment comply with such of the requirements of the Manual as are applicable to that motor vehicle or trailer and its parts and equipment; and
- (c) advise the applicant in writing of his or her decision.

“Division 7—Miscellaneous

Inspections

“26AZC. (1) An authorised inspector may, at any reasonable time, enter authorised premises and—

- (a) inspect the copies of inspections kept in pursuant to subsection 26AP (2) and all accounts, books, documents and other records relating to inspections and tests of motor vehicles or trailers carried out at the premises for the purposes of this Act; and
- (b) for the purposes of paragraph (a), require the proprietor of the premises, or any other person who has the custody or control of those copies, accounts, books, documents and other records, to produce them to the authorised examiner.

“(2) A person shall not, without reasonable excuse, refuse or fail to comply with a requirement made of him or her under subsection (1).

Penalty:

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

“(3) An authorised inspector may make copies of, or take extracts from, any copy of a certificate of inspection or account, book, document or other record produced under this section and, for that purpose, may retain the copy, account, book or other record for such period, not exceeding 7 days, as the authorised inspector thinks fit.

“(4) An authorised inspector who enters authorised premises under this section is not authorised to remain on the premises if, on request by the proprietor or other person in charge of the premises, the inspector does not produce the identity card issued to him or her under subsection 26AB (1).

Issue of copies of certificates

“26AZD. (1) Where—

- (a) the Registrar is satisfied that a certificate of appointment issued under section 26AE had been lost or destroyed; and
- (b) the person to whom the certificate was issued is a person whose appointment as an authorised examiner has not been revoked;

the Registrar may, on payment of the determined fee, issue to that person a copy of the certificate.

“(2) Where—

- (a) the Registrar is satisfied that a certificate of approval issued under section 26AH has been lost or destroyed; and
- (b) the approval of the premises in respect of which the certificate was issued has not been cancelled;

the Registrar may, on payment of the determined fee, issue to the proprietor of those premises, a copy of the certificate.

Fees for inspections

“26AZE. (1) The Minister may, by notice published in the *Gazette*, fix the maximum fees that are payable to a proprietor of authorised premises in relation to the carrying out of inspections or tests of motor vehicles or trailers for the purposes of this Act.

“(2) For the purposes of subsection (1), the Minister may fix different fees in relation to motor vehicles or trailers included in different classes of motor vehicles or trailers.

Manner of giving notices

“26AZF. A document that is required or permitted by this Part to be given or sent to a person may be so given or sent by sending it by post to the person at his or her last known place of residence.

Evidence

“26AZG. (1) In any proceedings before a court, a certificate signed by the Registrar stating that—

- (a) the person specified in the certificate was or was not an authorised examiner on a date or dates or during the period specified in the certificate; or
- (b) the premises specified in the certificate were or were not authorised premises on a date or dates or during the period specified in the certificate;

is evidence of the matters so stated.

“(2) For the purposes of subsection (1), a document that purports to have been signed by the Registrar shall be taken to have been so signed unless the contrary is proved.”.

Interpretation

11. Section 108A of the Principal Act is amended by inserting the following definition:

“ ‘authorised examiner’ has the same meaning as in Part IIAA;”.

Defect notices

12. Section 108B of the Principal Act is amended—

- (a) by inserting in paragraph (2) (c) “or an authorised examiner” after “Registrar”;
- (b) by omitting from paragraph (2) (d) “to the Registrar”; and
- (c) by inserting in subsection (3) “or an authorised examiner” after “inspector”.

Vehicles in dangerous condition

13. Section 108C of the Principal Act is amended—

- (a) by inserting in paragraph (2) (d) “or an authorised examiner” after “Registrar”;
- (b) by omitting from paragraph (2) (e) “to the Registrar”; and
- (c) by inserting in subsection (3) “or an authorised examiner” after “inspector”.

Powers of Registrar, inspectors and authorised examiners

14. Section 108E of the Principal Act is amended—

- (a) by omitting from subsection (1) all the words after “produced” and substituting “at the place specified in the notice, the vehicle shall be examined by an inspector or authorised examiner, as the case requires”;
- (b) by inserting in subsection (2) “or authorised examiner” after “inspector” (wherever occurring);
- (c) by inserting in subsection (4) “or authorised examiner” after “inspector” (first occurring);
- (d) by inserting in subsection (4) “or authorised examiner, as the case requires,” after “inspector” (last occurring); and
- (e) by omitting subsection (8) and substituting the following subsection:
 - “(8) Where—
 - (a) the Registrar is satisfied that; or

- (b) there is in force in respect of a vehicle a certificate of inspection under section 26AP certifying that;

in relation to a vehicle to which a notice under this section is in force, the vehicle and its parts and equipment comply with such of the requirements of this Act and the regulations as are applicable to it and its parts and equipment, the Registrar shall revoke the notice.”.

Offences

15. Section 108G of the Principal Act is amended—

- (a) by omitting from paragraph (1) (b) “ to the Registrar” and substituting “for examination”; and
- (b) by omitting from paragraph (3) (b) “ to the Registrar” and substituting “in accordance with the notice”.

General offences

16. Section 192 of the Principal Act is amended by inserting “26AM, 26AN,” after “13P,”.

Schedule 7

17. Schedule 7 to the Principal Act is amended—

- (a) by omitting from Part II items 9 and 10; and
- (b) by inserting after item 14 of Part II the following items:

14A	Subsection 26AD (1)	Refusing to appoint a person as an authorised examiner
14B	Section 26AE	Refusing to amend a class or classes of motor vehicles or trailers in respect of which an appointment under section 26AD is made
14C	Section 26AF	Revoking the appointment of a person as an authorised examiner
14D	Section 26AG	Refusing an application for approval in respect of premises
14E	Section 26AG	Cancelling an approval in respect of premises
14F	Subsection 26AG (5)	Refusing to specify a class or classes of motor vehicles or trailers
14G	Section 26AH	Refusing to amend a class or classes of motor vehicles or trailers in respect of which an approval under section 26AG is made

NOTES

Principal Act

1. Reprinted as at 28 February 1995. See also Acts Nos. 8, 17 and 46, 1995; Nos. 7, 26, 47, 76 and 83, 1996; Nos. 8 and 52, 1997.

Penalty units

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

[Presentation speech made in Assembly on 19 June 1997]

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