

2002

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Minister for Urban Services)

Road Transport Legislation Amendment Bill 2002

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Road Transport Legislation Amendment Bill 2002

A Bill for

An Act to amend the *Road Transport (Driver Licensing) Act 1999* and the *Road Transport (General) Act 1999*, and for other purposes

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

1 **Part 1 Preliminary**

2 **1 Name of Act**

3 This Act is the *Road Transport Legislation Amendment Act 2002*.

4 **2 Commencement**

5 (1) Sections 3 to 7 and 10 to 12 commence on the day after this Act is
6 notified.

7 (2) Sections 8 and 9 commence on the commencement of the *Statute*
8 *Law Amendment Act 2002*, part 3.66 (Road Transport (Driver
9 Licensing) Act 1999).

10 (3) Sections 13 to 25 commence on a day fixed by the Minister by
11 written notice.

12 *Note 1* The naming and commencement provisions automatically commence on
13 the notification day (see *Legislation Act 2001*, s 75).

14 *Note 2* A single day or time may be fixed, or different days or times may be
15 fixed, for the commencement of different provisions (see *Legislation*
16 *Act 2001*, s 77 (1)).

17 *Note 3* If a provision has not commenced within 6 months beginning on the
18 notification day, it automatically commences on the first day after that
19 period (see *Legislation Act 2001*, s 79).

1 **Part 2** **Road Transport (Driver**
2 **Licensing) Act 1999**

3 **3 Act amended—pt 2**

4 This part amends the *Road Transport (Driver Licensing) Act 1999*.

5 **4 New part 3A**

6 *insert*

7 **Part 3A** **Protection of photographs and**
8 **signatures**

9 **33A Application of pt 3A**

10 This part applies to photographs and signatures taken by the road
11 transport authority, or given to the authority, in relation to
12 applications for the issue, replacement, renewal or variation by the
13 authority of a driver licence or proof of age card.

14 **33B Definitions for pt 3A**

15 In this part:

16 *photograph* means a photograph to which this part applies, and
17 includes a copy of a photograph.

18 *Note* *Photograph* includes a digitised, electronic or computer generated
19 image in a form approved by the road transport authority (see the dict).

20 *signature* means a signature to which this part applies, and includes
21 a copy of a signature.

22 **33C Use of photographs and signatures**

- 23 (1) The road transport authority may use a photograph or signature only
24 for 1 or more of the following purposes:

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- 1 (a) for a photograph—to reproduce the likeness of a person on a
2 driver licence or proof of age card issued to the person;
- 3 (b) for a signature—to reproduce a person’s signature on a driver
4 licence or proof of age card issued to the person;
- 5 (c) to assist in establishing the identity of a person to decide
6 whether to issue, replace, renew or vary a driver licence or
7 proof of age card;
- 8 (d) to assist in establishing the identity of a person to decide
9 whether to register, or renew, vary or transfer the registration
10 of, a vehicle under the *Road Transport (Vehicle Registration)*
11 *Act 1999* or to replace a certificate of registration under that
12 Act;
- 13 (e) in relation to the investigation of, or the conduct of criminal
14 proceeding for, an offence against the road transport
15 legislation;
- 16 (f) for a signature—any other purpose related to the administration
17 of the road transport legislation;
- 18 (g) a purpose prescribed under the regulations or allowed by
19 another law in force in the ACT.

20 *Note* The information Privacy Principles apply to the road transport authority.
21 Principle 10 states when personal information may be used by an
22 agency (see *Privacy Act 1988* (Cwlth), s 14).

- 23 (2) A photograph or signature may be used for a purpose mentioned in
24 this section at the time that the photograph or signature is taken by,
25 or given to, the road transport authority or at any later time.

26 **33D Disclosure of photographs and signatures by road**
27 **transport authority**

- 28 (1) The road transport authority must ensure that a photograph or
29 signature is not disclosed by the authority to someone else except—
30 (a) to a police officer; or

- 1 (b) to an entity of another jurisdiction that corresponds to the road
2 transport authority; or
- 3 (c) for a purpose in relation to the investigation of, or the conduct
4 of, a criminal proceeding for an offence against the road
5 transport legislation or in relation to a proof of age card; or
- 6 (d) to a court officer for the recovery of a fine (including
7 proceedings under the *Magistrates Court Act 1930*,
8 division 9.2 (Enforcement of fines)); or
- 9 (e) for a photograph—to the person shown in the photograph; or
- 10 (f) for a signature—to the person who made the signature; or
- 11 (g) to a person, or for a purpose, prescribed under the regulations
12 or in accordance with another law in force in the ACT.

13 *Note* The information Privacy Principles apply to the road transport authority.
14 Principle 11 states when personal information may be disclosed by an
15 agency (see *Privacy Act 1988* (Cwlth), s 14).

16 (2) The regulations may limit the people to whom, the purposes for
17 which, or the circumstances when, a photograph or signature may be
18 disclosed under subsection (1) (a) to (d).

19 (3) In this section:

20 ***court officer*** means a person who is—

- 21 (a) the sheriff or a deputy sheriff under the *Supreme Court Act*
22 *1933*, another officer of the Supreme Court or a public servant
23 assisting the sheriff; or
- 24 (b) the registrar, a deputy registrar or a bailiff under the
25 *Magistrates Court Act 1930* or a member of the staff of the
26 Magistrates Court assisting the registrar.

27 ***fine***—see the *Magistrates Court Act 1930*, section 146.

1 **33E Security of photographs and signatures**

2 (1) The road transport authority must ensure that photographs and
3 signatures are disclosed by the authority to someone else only in
4 accordance with this Act or another law in force in the ACT.

5 (2) The regulations may prescribe how photographs and signatures are
6 to be kept.

7 **33F Unauthorised reproduction of photographs and**
8 **signatures**

9 (1) This section applies to a person (a *record keeper*) who is employed
10 or engaged in relation to any aspect of the production of driver
11 licences or proof of age cards or who is otherwise involved in the
12 administration or enforcement of the road transport legislation.

13 (2) A record keeper must not reproduce (by photographic or other
14 means) the likeness of the person who is shown (or is to be shown)
15 on a driver licence or proof of age card other than—

16 (a) for the administration or enforcement of the road transport
17 legislation or the *Liquor Act 1975*, section 175; or

18 (b) in accordance with, or for any other purpose mentioned in,
19 section 33C (Use of photographs and signatures) or
20 section 33D (Disclosure of photographs and signatures by road
21 transport authority).

22 Maximum penalty: 20 penalty units.

23 (3) A record keeper must not reproduce (by any means) the signature of
24 the person to whom a driver licence or proof of age card is issued
25 (or is to be issued) other than—

26 (a) for the administration or enforcement of the road transport
27 legislation or the *Liquor Act 1975*, section 175; or

28 (b) in accordance with, or for any other purpose mentioned in,
29 section 33C (Use of photographs and signatures) or

1 section 33D (Disclosure of photographs and signatures by road
2 transport authority).

3 Maximum penalty: 20 penalty units.

4 **5 Section 34**

5 *substitute*

6 **34 Additional matters about identity**

7 The road transport authority may refuse to issue, replace, renew or
8 vary a driver licence or proof of age card if—

- 9 (a) the applicant has not gone to a place designated by the road
10 transport authority and had a photograph taken, by a person
11 authorised by the authority to take photographs for this Act,
12 that is suitable for use on the driver licence or proof of age
13 card; or
- 14 (b) in the authority's opinion it is impracticable for the applicant to
15 go to a designated place and the applicant has not given the
16 authority a photograph of the applicant that the authority
17 considers is suitable for use on the driver licence or proof of
18 age card; or
- 19 (c) the applicant has not given, in support of the application,
20 evidence that is required under the regulations or by the
21 authority to establish the applicant's identity or home address.

22 **6 Dictionary, definition of *photograph***

23 *substitute*

24 ***photograph***—

- 25 (a) includes a digitised, electronic or computer generated image in
26 a form approved by the road transport authority; and
- 27 (b) for part 3A (Protection of photographs and signatures)—see
28 section 33B.

1 **7 Dictionary, new definitions**

2 *insert*

3 *proof of age card* means a card issued under the *Liquor Act 1975*,
4 section 175 (1).

5 *signature*, for part 3A (Protection of photographs and
6 signatures)—see section 33B.

7 **8 Parts 3A, 4 and 5**

8 *renumber when Act next republished under Legislation Act 2001*

9 **9 Sections 33A to 42**

10 *renumber when Act next republished under Legislation Act 2001*

1 **Part 3** **Road Transport (General) Act**
2 **1999**

3 **10 Act amended—pt 3**

4 This part amends the *Road Transport (General) Act 1999*.

5 **11 Authorised persons**
6 **Section 19 (3) (b)**

7 *omit*

8 the road transport authority has certified in writing that, after
9 appropriate inquiry, the authority

10 *substitute*

11 the road transport authority

12 **12 Identity cards**
13 **Section 20 (1) (b)**

14 *substitute*

15 (b) the name of the person or the particulars that are, under the
16 regulations, identifying particulars for the person (or both); and

17 **13 New division 5.3**

18 *insert*

19 **Division 5.3** **Written-off vehicles register**

20 **83A Purposes of div 5.3**

21 The purposes of this division are—

22 (a) to curtail trade in stolen vehicles by preventing vehicle
23 information about written-off vehicles, particularly vehicle
24 identifiers, being used to register stolen vehicles; and

Section 13

- 1 (b) to facilitate inspection of written-off vehicles that have been
2 repaired; and
- 3 (c) to make information available to prospective purchasers about
4 whether a vehicle has previously been written-off.

83B Definitions for div 5.3

6 In this division:

7 *total loss*—see section 83C.

8 *vehicle identifier* means—

- 9 (a) for a vehicle manufactured before 1 January 1989—
- 10 (i) if the vehicle has a chassis or engine number—the
11 number; or
- 12 (ii) in any other case—any number permanently marked by
13 the vehicle’s manufacturer on the vehicle for its
14 identification; or
- 15 (b) for a vehicle manufactured after 31 December 1988—
- 16 (i) if the vehicle has a vehicle identification number
17 allocated in accordance with an Australian Design
18 Rule—the number; or
- 19 (ii) in any other case—any number permanently marked by
20 the vehicle’s manufacturer on the vehicle for its
21 identification; or
- 22 (c) if a number mentioned in paragraph (a) or (b) has been
23 replaced by the road transport authority or an entity of another
24 jurisdiction that corresponds to the authority—the replacement
25 number.

26 *written-off* vehicle means a vehicle that is assessed by a person
27 prescribed under the regulations to be a total loss.

28 *written-off vehicles register* means the written-off vehicles register
29 under section 83D.

1 **83C When a vehicle is a *total loss***

2 For this division, a vehicle is a *total loss* if the vehicle has been
3 damaged by any event to the extent that its fair salvage value plus
4 the cost of repairing the vehicle for use on a road or road related
5 area would be more than its fair market value immediately before
6 the event that caused the damage.

7 **Examples of events that may damage a vehicle**

8 Collision, fire, flood, accident, trespass, dismantling and demolition.

9 **83D Written-off vehicles register**

- 10 (1) The road transport authority must keep a written-off vehicles
11 register.
- 12 (2) The register may include information given to the road transport
13 authority under this Act and any other information the authority
14 considers appropriate.
- 15 (3) The register may be kept in the form of, or as part of, 1 or more
16 computer databases or in any other form the road transport authority
17 considers appropriate.
- 18 (4) The road transport authority may correct any mistake, error or
19 omission in the register subject to the requirements (if any) of the
20 regulations.
- 21 (5) The road transport authority may authorise a person to make entries
22 in the register.
- 23 (6) This section does not limit the functions of the road transport
24 authority in relation to the register.

25 **83E Security of information in register**

26 The road transport authority must ensure that information in the
27 written-off vehicles register that is of a personal nature or has
28 commercial sensitivity for the person about whom it is kept is
29 released only in accordance with this Act or another law in force in
30 the ACT.

1 **83F Regulations about written-off vehicles**

2 (1) The regulations may make provision in relation to written-off
3 vehicles and the written-off vehicles register, including—

4 (a) the vehicles to which this division applies; and

5 (b) when a prescribed person must give information to the road
6 transport authority about a written-off vehicle, the kind of
7 information that must be given, and how the information is to
8 be given; and

9 (c) the disclosure of information in the register.

10 (2) In particular, the regulations may make provision in relation to—

11 (a) vehicles recorded as written-off vehicles under the law of
12 another jurisdiction; and

13 (b) matters relating to notices for, and the placement of notices on,
14 written-off vehicles; and

15 (c) matters relating to the removal, defacement or destruction of
16 vehicle identifiers on written-off vehicles; and

17 (d) the keeping of records by prescribed people or the doing of
18 anything else by prescribed people in relation to written-off
19 vehicles; and

20 (e) the entry of information into the written-off vehicles register
21 by a person or the doing of anything else in relation to the
22 register.

23 **14 Dictionary, new definitions**

24 *insert*

25 *Australian Design Rule*—see the *Road Transport (Vehicle*
26 *Registration) Regulations 2000*, schedule 1, clauses 11 and 13.

27 *total loss*, in relation to a vehicle for division 5.3 (Written-off
28 vehicles register)—see section 83C.

1 **vehicle identifier**, for division 5.3 (Written-off vehicles
2 register)—see section 83B.

3 **written-off** vehicle, for division 5.3 (Written-off vehicles
4 register)—see section 83B.

5 **written-off vehicles register**, for division 5.3 (Written-off vehicles
6 register)—see section 83B.

1 **Part 4** **Road Transport (Vehicle**
2 **Registration) Regulations 2000**

3 **15 Regulations amended—pt 4**

4 This part amends the *Road Transport (Vehicle Registration)*
5 *Regulations 2000*.

6 **16 Deciding applications for registration**
7 **Regulation 32 (2)**

8 *substitute*

9 (2) The road transport authority must refuse to approve an application
10 for the registration of a registrable vehicle if—

- 11 (a) the authority is required, under regulation 32A, to refuse to
12 approve the application for a vehicle's registration; or
13 (b) an order of a court in Australia prevents the vehicle's
14 registration, and the authority has been told about the order.

15 **17 New regulations 32A and 32B**

16 *insert*

17 **32A Deciding applications for registration—written-off**
18 **vehicles**

19 (1) This regulation applies in relation to an application for the
20 registration of a registrable vehicle if the vehicle identifier for the
21 vehicle is the same as the vehicle identifier for a vehicle that is
22 recorded as having been written-off (the *relevant record*) in—

- 23 (a) the written-off vehicles register; or
24 (b) a corresponding WOVV and the road transport authority has
25 notice of the relevant record in the corresponding register.

- 1 (2) If the relevant record indicates that the vehicle is a statutory
2 write-off, the road transport authority must refuse to approve the
3 application for the vehicle's registration.
- 4 (3) If the relevant record indicates that the vehicle is a repairable
5 write-off, the road transport authority must refuse to approve the
6 application for the vehicle's registration unless the authority is
7 satisfied that—
- 8 (a) the vehicle is the original vehicle to which the vehicle
9 identifier was assigned; and
- 10 (b) the vehicle satisfies the other requirements of these regulations
11 (including the vehicle standards) for registration of the vehicle.
- 12 (4) However, subregulation (3) does not apply if the vehicle has been
13 re-registered, or the vehicle's registration has been renewed, since
14 the relevant record was made.
- 15 (5) In this regulation:
- 16 *repairable write-off* means a vehicle that is assessed by a person
17 prescribed under the *Road Transport (General) Regulations 2000* as
18 a total loss and is not a statutory write-off.
- 19 *statutory write-off*—see regulation 32B.

20 **32B When a vehicle is a *statutory write-off***

21 A vehicle is a *statutory write-off* if the vehicle is a total loss and—

- 22 (a) for a motor vehicle (other than a motorbike)—at least 3 of the
23 following impact damage indicators apply to the vehicle:
- 24 (i) the vehicle has damage to an area of the roof of at least
25 300mm by 300mm;
- 26 (ii) the vehicle has damage to an area of the cabin floor pan
27 of at least 300mm by 300mm;
- 28 (iii) the vehicle has damage to an area of the firewall of at
29 least 300mm by 300mm;

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- 1 (iv) the vehicle has damaged suspension;
- 2 (v) a major mechanical component of the vehicle (for
3 example, the engine block or transmission casings) is
4 cracked or broken; or
- 5 (b) for a motorbike or trailer—the vehicle has impact damage
6 (excluding scratching) to the suspension and at least 2 areas of
7 structural frame damage; or
- 8 (c) for a motor vehicle (other than a motorbike)—the vehicle has
9 been—
- 10 (i) immersed in salt water above the doorsill level for any
11 period; or
- 12 (ii) immersed in fresh water up to the dashboard or steering
13 wheel for more than 48 hours; or
- 14 (d) for a motorbike—the vehicle has been—
- 15 (i) fully immersed in salt water for any period; or
- 16 (ii) fully immersed in fresh water for more than 48 hours; or
- 17 (e) the vehicle has been burnt to such an extent that it is fit only
18 for wrecking or scrap; or
- 19 (f) the vehicle has been stripped of all, or a combination of most,
20 interior and exterior body parts, panels and components
21 (including, for example, for a motor vehicle, its engine, wheels,
22 bonnet, guards, doors or boot lid).

**18 Renewal of registration
Regulation 68 (4), note**

25 *substitute*

26 *Note* The renewal of registration of a seasonal vehicle may be restricted
27 under reg 68A (2).

19 Regulation 68 (9) to (12)

substitute

(9) However, the road transport authority—

(a) may refuse to renew the registration if the authority could have refused, under regulation 32 (1) (Deciding applications for registration), to approve an application by the registered operator for the registration of the vehicle; and

(b) must refuse to renew the registration if the authority is required to refuse, under regulation 32A (Deciding applications for registration—written-off vehicles), to approve an application by the registered operator for the registration of the vehicle.

68A Seasonal vehicles—maximum registration renewal period

(1) The road transport authority may, in writing, declare the maximum period for which a seasonal vehicle may be registered in any 12 month period.

(2) The registration of a seasonal vehicle must not be renewed for the period mentioned in regulation 68 (4) (b) or (c) if renewal for the period would mean the vehicle was registered for more than the maximum period.

(3) A declaration under subregulation (1) is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the *Legislation Act 2001*.

**20 Obligation to notify if vehicle destroyed or written off
Regulation 70**

omit

**21 When transfer of registration may or must be refused
Regulation 78 (1) (d) to (h)**

renumber as regulation 78 (1) (e) to (i)

22 New regulation 78 (1) (d)

2 *insert*

3 (d) the vehicle identifier for the vehicle is the same as the vehicle
4 identifier for a vehicle that is recorded as having been
5 written-off in—

6 (i) the written-off vehicles register; or

7 (ii) a corresponding WOVR and the road transport authority
8 has notice of the record in the corresponding register; or

**23 Suspension or cancellation of registration
Regulation 84 (1) (d)**

11 *substitute*

12 (d) the vehicle identifier for the vehicle is the same as the vehicle
13 identifier for a vehicle that is recorded as having been
14 written-off in—

15 (i) the written-off vehicles register; or

16 (ii) a corresponding WOVR and the road transport authority
17 has notice of the record in the corresponding register; or

**24 Procedures for suspension and cancellation of
registration
Regulation 85 (5) (b)**

21 *substitute*

22 (b) the vehicle does not comply with the applicable vehicle
23 standards; or

24 (c) the vehicle identifier for the vehicle is the same as the vehicle
25 identifier for a vehicle that is recorded as having been
26 written-off in—

27 (i) the written-off vehicles register; or

- 1 (ii) a corresponding WOVR and the road transport authority
2 has notice of the record in the corresponding register.

3 **25 Dictionary, new definitions**

4 *insert*

5 *corresponding WOVR* means a register kept under the law of
6 another jurisdiction that corresponds to the written-off vehicles
7 register kept under the *Road Transport (General) Act 1999*.

8 *total loss*, in relation to a vehicle—see the *Road Transport*
9 *(General) Act 1999*, section 83C.

10 *vehicle identifier*—see the *Road Transport (General) Act 1999*,
11 section 83B.

12 *written-off* vehicle—see the *Road Transport (General) Act 1999*,
13 section 83B.

14 *written-off vehicles register*—see the *Road Transport (General) Act*
15 *1999*, section 83B.

Endnotes

Republications of amended laws

- 1 For the latest republication of amended laws, see www.legislation.act.gov.au.

Penalty units

- 2 The *Legislation Act 2001*, s 133 deals with the meaning of offence penalties that are expressed in penalty units.