



ACT GOVERNMENT

AUSTRALIAN CAPITAL TERRITORY

MOTOR TRAFFIC ACT 1936

INSTRUMENT OF APPROVAL

Determination No. 194 of 1997

Pursuant to section 150M of the *Motor Traffic Act 1936*, I approve the attached Code of Practice for Parking Heavy Vehicles in Residential Areas as specified in the Schedule.

This instrument shall commence on the day specified by notice in the *Gazette*.

Dated this 27th day of August 1997



Trevor T Kathe MLA
Minister for Urban Services

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SCHEDULE

Australian Capital Territory

Motor Traffic Act 1936

Determination No. 194 of 1997

CODE OF PRACTICE

FOR PARKING HEAVY VEHICLES

IN RESIDENTIAL AREAS

DRAFT

as at 27/08/97



Minister's Initials

27 August 1997

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1. Scope

1.1 This Code of Practice is approved under section 150M of the Motor Traffic Act 1936 (the Act).

1.2 The following requirements only apply to a heavy vehicle parked on a residential lease after there have been 12 occasions where a heavy vehicle has parked on that residential lease in the relevant calendar year. The 12 occasions may be comprised of either:

- one particular heavy vehicle being parked 12 times on the lease; or
- a number of different heavy vehicles being parked a combined total of 12 times on the lease.

1.3 after it has been parked on residential land on more than twelve occasions in the relevant calendar year.

1.4 Contravention of this Code of Practice is a controlled activity for the purposes of Schedule 5 of the *Land (Planning and Environment) Act 1991* (section 150L of the Act).

1.5 A person can apply to the Minister for an order against:

- the lessee or occupier of a place where a controlled activity is being or is going to be conducted; or
- any person who was, is or is going to conduct a controlled activity or another person who was, is or is going to act on their behalf (subsection 256 (1) *Land (Planning and Environment) Act 1991*).

1.6 A person who, without reasonable excuse, contravenes an order is guilty of an offence. The penalty is a fine of up to 20 penalty units (currently one penalty unit = \$100) (subsections 255 (1) *Land (Planning and Environment) Act 1991* and 150L (2) of the Act).

2. Definitions

2.1 "Existing operator" is defined as in subsection 150F (1) of the Act as a person who is entitled to apply for an existing operator's certificate or a person who is the holder of an existing operator's certificate.

2.2 A person is entitled to apply for an existing operator's certificate under subsection 150Q (1) of the Act only during the first 12 months after the section commences. During that period, a person is only entitled to apply for an existing operator's certificate if they have parked a heavy vehicle on residential land on more than 24 occasions during the preceding 2 years.

DRAFT

as at 27/08/97


Minister's Initials

27 August 1997

DRAFT

2.3 "Heavy vehicle" is defined as in subsection 150F (1) of the Act as a vehicle or combination of vehicles that is used for commercial purposes and that is (whether loaded or unloaded) more than 7.5 metres in length and which has a GVM of more than 4.5 tonnes.

2.4 "Minimum setback" is defined as in Appendix VI of the Territory Plan as the minimum distance between a wall or window (including a balcony) and the relevant boundary. This means the minimum setback line for the front boundary is a line parallel with the boundary that touches the wall or window closest to the front boundary. In many instances this will be the front wall of the house.

3. How many vehicles can be parked on a residential lease?

3.1 There must be no more than one heavy vehicle parked on a residential lease at any time.

3.2 The only exception is where two heavy vehicles are parked on a residential lease and one heavy vehicle is a plant type vehicle on the back of the other heavy vehicle and the height of the two vehicles together does not exceed 3.6 metres.

4. Where can I park a heavy vehicle on a residential lease?

4.1 Heavy vehicles must park behind the minimum setback line of the front boundary and at least 1.5 metres from side and rear boundaries of the residential lease.

4.2 A heavy vehicle with a refrigeration unit must not be parked on a residential lease while the refrigeration unit is running.

5. When can I operate a heavy vehicle on a residential lease?

5.1 A person must not operate a heavy vehicle on a residential lease at any time between 10.00 pm and 6.00 am.

5.2 The only exception is for existing operators. An existing operator must not operate a heavy vehicle on a residential lease between midnight and 5.30 am.

6. Related prohibitions in the *Motor Traffic Act 1936*

6.1 Contravention of any of the following three provisions of the Act is a parking infringement (subsection 149 (1)). The prescribed penalty for each provision is contained in the *Motor Traffic Regulations* pursuant to subsections 149 (1) and 218 (a) of the Act. No criminal proceedings can be instituted for contravention of these three provisions (section 163).

DRAFT

as at 27/08/97

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Minister's Initials

27 August 1997

DRAFT

6.2 If satisfied that any of these provisions is likely to cause excessive inconvenience to people, the Minister can suspend the operation of the provision in respect of specific places for up to 7 days (section 163N).

6.3 In certain circumstances, people will not be taken to contravene these provisions:

- if the person stops or parks a motor vehicle or trailer for no longer than is reasonable to avoid contravening the Act or the *Traffic Act 1937* or to carry out a manoeuvre required by or not prohibited by the Act or the *Traffic Act 1937* (subsection 164 (1)).
- if the person stops or parks a motor vehicle because of a breakdown or accident involving the motor vehicle or trailer or to avoid danger or collision with a person, vehicle or animal (subsection 164 (4)).
- if the person stops or parks a motor vehicle during a stoppage caused by the nature of the traffic (subsection 164 (5)).

Prohibited vehicles - section 150G

6.4 The following vehicles are prohibited from parking on residential leases:

- stock trucks;
- semi-trailers with the load space permanently enclosed by rigid construction or with sides enclosed by non-rigid material and a rigid roof; and
- vehicles used for commercial purposes (whether loaded or unloaded) which are more than 3.6 metres in height (subsection 150G (1)). The penalty is \$110.

6.5 There are exceptions where the vehicle was on the land for no longer than was reasonable and:

- it was reasonably necessary to park the vehicle on the land to avoid contravening the Act or another law of the ACT; or
- the vehicle was parked on the land to deliver or collect people or goods or to provide services (subsection 150G (2)).

Land adjoining residential land including public streets - section 150H

6.6 Heavy vehicles (including those which are not used for commercial purposes) are prohibited from parking for more than one hour on land that adjoins residential land (subsection 150H (1)). The penalty is \$61.

6.7 There are exceptions if:

- the vehicle was on the land for no longer than was reasonable and:
- it was reasonably necessary to park the vehicle on the land to avoid contravening the Act or another law of the ACT; or

DRAFT

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Minister's initials

27 August 1997

DRAFT

- the vehicle was parked on the land to deliver or collect people or goods or to provide services (subsection 150H (2)).
- the land where the heavy vehicle is parked is residential land or land leased for commercial purposes (subsection 150H (2)).

6.8 This means that heavy vehicles cannot be parked for more than one hour on most residential streets, footpaths, nature strips, driveways, laneways and unleased land in residential areas.

Residential land with multi-unit developments - section 150J

6.9 Vehicles used for commercial purposes (whether loaded or unloaded) which:

- a) are more than 6 metres in length;
- b) are more than 2.6 metres in height; and
- c) have a GVM of more than 3.75 tonnes,

are prohibited from parking on residential leases that contain a multi unit development (subsection 150J (1)). The penalty is \$110.

6.10 There are exceptions where the vehicle was on the land for no longer than was reasonable and:

- it was reasonably necessary to park the vehicle on the land to avoid contravening the Act or another law of the ACT; or
- the vehicle was parked on the land to deliver or collect people or goods or to provide services (subsection 150J (2)).

7. Related provisions in the *Roads and Public Places Act 1937*

7.1 It is an offence to wilfully or negligently damage or interfere with any public place, kerb, watertable, gutter, footpath, fence, post, lamp, lamp post, or other property of the Territory in any public place. The penalty is a fine of up to 50 penalty units (at present 1 penalty unit = \$100) or imprisonment for up to 6 months or both (section 7).

7.2 Any person who causes damage to a public place must pay the cost of repairs (section 14).

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27 August 1997