

**2002**

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

**ROAD TRANSPORT LEGISLATION AMENDMENT ACT 2002**

**EXPLANATORY STATEMENT**

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Minister for Urban Services

# AUSTRALIAN CAPITAL TERRITORY

## ROAD TRANSPORT LEGISLATION AMENDMENT ACT 2002

### EXPLANATORY STATEMENT

#### Overview

The *Road Transport Legislation Amendment Act 2002* amends the *Road Transport (Driver Licensing) Act 1999*, the *Road Transport (General) Act 1999*, the *Road Transport (Vehicle Registration) Regulations 2000*.

The amendments facilitate:

- the introduction of image retention for driver licenses and proof of age cards in order to help combat identity fraud;
- the introduction of a written-off vehicle register to help prevent the registration of stolen vehicles; and
- the streamlining of procedures for issuing an identity card to authorised persons for the purposes of the Road Transport Legislation.

#### Detail

##### *Part 1 – Preliminary*

##### **Clause 1 – Name of Act**

This clause names the amendment Act.

##### **Clause 2 – Commencement**

This clause provides for the commencement of the changes to the Road Transport legislation. The commencement will occur as follows:

- sections 3 to 7 (pertaining to image retention) and sections 10 to 12 (pertaining to identity cards) to commence on the day after the Act is notified;
- sections 8 and 9, which relate to renumbering of the *Road Transport (Driver Licensing) Act 1999* to cater for the new amendments, commence immediately after the commencement of the *Statute Law Amendment Act 2002*, part 3.66.
- sections 13 to 25 (written-off vehicle register) to commence on a day fixed by the Minister by written notice.

## **Part 2 – Road Transport (Driver Licensing) Act 1999**

### **Clause 3 – Act amended – pt 2**

Specifies that the *Road Transport (Driver Licensing) Act 1999* is the Act being amended.

### **Clause 4 – New Part 3A**

Inserts Part 3A, Protection of photographs and signatures.

Proposed new section 33A – Application of pt 3A – specifies that the photographs and signatures to which the part applies are those taken or given in transactions involving a driver licence or proof of age card.

Proposed new section 33B – Definitions for part 3A– extends the current definition of a photograph and inserts a new definition of signature to include a copy of a photograph and signature.

Proposed new section 33C – Use of photographs and signatures – prescribes the allowed uses of photographs and signatures by the road transport authority (the authority).

Proposed new section 33D – Disclosure of photographs and signatures by the authority – limits the persons to whom a signature or photograph may be disclosed to. This section also allows the regulations to prescribe the people to whom, the purposes for which, or the circumstances when, a photograph may be disclosed under paragraphs (a) to (d).

Proposed new section 33E – Security of photographs and signatures – this section places an obligation on the authority to ensure that photographs and signatures are disclosed only according to this Act or another law in force in the ACT, such as the *Privacy Act 1988*.

Proposed new section 33F – Unauthorised reproduction of photographs and signatures – this section makes it an offence for a record keeper (anyone involved in the administration or enforcement of the road transport legislation) to reproduce a photo or signature other than:

- for the administration or enforcement of the road transport legislation or the *Liquor Act 1975*, section 175, or
- in accordance with sections 33C and 33D.

### **Clause 5**

Proposed new section 34 – Additional matters about identity - specifies circumstances when the authority may refuse to issue, replace, renew or vary a driver licence or proof of age card, such as when an applicant has not had a photograph taken in a place designated by the authority by an authorised person. This section also allows the authority to refuse to issue, replace, renew or vary a driver licence or proof of age card if any supporting evidence of the applicant's identity or home address required by the authority is not provided. It is similar in terms to subsection (1).

The substitution of this section also removes the current prohibition in existing subsections (2) and (3) on the authority from retaining copies of photographs of persons to whom driver licences

have been issued. The offence provision in existing subsection (4) is incorporated into proposed new section 33F.

**Clause 6 – Dictionary, definition of photograph**

This substituted section aligns the definition of a photograph to section 33B, which defines photographs for the purposes of Part 3A.

**Clause 7 – Dictionary, new definitions**

This section inserts into the *Road Transport (Driver Licensing) Act 1999* dictionary definitions of proof of age card and signature.

**Clause 8 – Parts 3A, 4 and 5 - renumbering**

This is a consequential amendment.

**Clause 9 – Sections 33A to 42 - renumbering**

This is a consequential amendment.

***Part 3 - Amendments of Road Transport (General) Act 1999***

**Clause 10 – Act amended – pt 3**

Specifies that the *Road Transport (General) Act 1999* is the Act being amended.

**Clause 11 – Authorised persons, Section 19 (3) (b)**

Section 19 (3) (b) is amended to remove the requirement that the authority certify in writing that a person is suitable to be authorised, a provision that is redundant given that a person has to be appointed in writing under a separate provision. The requirement for the person to be suitable, with regard to criminal convictions and employment record, is retained.

**Clause 12 – Identity cards, Section 20 (1) (b)**

Section 20 (1) (b) is amended to allow the authority to include on an identity card the authorisation number issued by the authority as well as, or instead of, the name of the person. The change arises from the need to balance the occupational, health and safety issues associated with disclosing the authorised person's full name and the right of the member of the public to be able to identify the person who has exercised powers under the Road Transport legislation.

**Clause 13 – New Division 5.3**

Inserts new division, Division 5.3 – Written-off vehicles register (referred to as WOVR from this point on).

Proposed new section 83A Purposes of div.5.3 - describes the purposes of the division.

Proposed new section 83B Definitions for div 5.3 - defines terms used in the WOVR legislation.

Proposed new section 83C When a vehicle is a total loss. Describes the condition of a vehicle that makes it subject to the provisions of the WOVR legislation and regulations.

Proposed new section 83D Written-off vehicle register – requires the authority to maintain a WOVR and describes in general terms the sort of information that may be kept in it and the forms in which it may be kept. It also allows the authority to correct mistakes on the WOVR, and to authorise a person to make entries in the WOVR.

Proposed new section 83E Security of information in register - requires the authority to ensure that personal information on the WOVR is kept and released subject to *the Road Transport (General) Act 1999* or another law in force in the Territory. (*The Privacy Act 1988* (Commonwealth) applies to the ACT.)

Proposed new section 83F Regulations about written-off vehicles – provides a regulation making power describing the sorts of provisions that may be contained in the regulations.

#### **Clause 14 - Dictionary, new definitions**

This section inserts the new definitions found in Division 5.3 into the Dictionary.

### ***Part 4 – Amendments of Road Transport (Vehicle Registration) Regulations 2000***

#### **Clause 15 – Regulations amended by pt 4**

Specifies that *the Road Transport (Vehicle Registration) Regulations 2000* are the regulations being amended.

#### **Clause 16 – Deciding applications for registration – regulation 32 (2)**

This amendment requires the authority to refuse to register a vehicle that is recorded on an ACT or interstate WOVR as a ‘statutory write-off’. This is critical to the nationally agreed WOVR principles and ensures that statutory write-offs, which are vehicles that by national agreement are those most likely to have their identifiers used to rebirth a stolen vehicle in order to obtain registration, are not available to professional car thieves. ‘Statutory write-off’ is defined in detail in proposed new regulation 32B (see clause 17).

#### **Clause 17 – New regulations 32A and 32B**

Proposed new regulation 32A – Deciding applications for registration – written-off vehicles.

This regulation requires the authority:

- to refuse an application to register a vehicle assessed as a statutory write-off;
- to ensure that, before a repairable write-off can be registered, the authority must be satisfied that the vehicle is the original vehicle i.e. not a rebirthed vehicle and that it meets the other requirements of the road transport legislation such as the applicable vehicle standards.

Subregulation (4) exempts a repairable write-off from the requirements listed above, where the vehicle has been registered following assessment as a repairable write-off. This saves the registered operator of such a vehicle from having to re-present the vehicle for an identity check on every renewal of registration.

Proposed new regulation 32B – When a vehicle is a statutory write-off

This regulation defines, in detail, when a vehicle is a statutory write-off. This is the definition proposed by Austroads following consultation with the insurance industry and road transport authorities. Vehicles that fit the description of a statutory write-off are targeted by professional car thieves for vehicle identifiers because of their low cost. This definition, along with legislation precluding the authority from registering such vehicles, will immediately prevent about 20% of written-off vehicles ever being used for rebirthing.

**Clause 18 – Renewal of registration, regulation 68 (4), note**

Consequential amendment due to renumbering of provisions about seasonal registration.

**Clause 19 – Regulation 68 (9) to (12)**

This amendment expands the existing subregulation 68 (9) to include a reference to regulation 32A, which precludes the authority from renewing the registration of a vehicle that has been assessed as a statutory write-off. It also remakes regulations 68(10) to (12) as new regulation 68A.

**Clause 20 – Obligation to notify if vehicle destroyed or written-off, Regulation 70**

This section omits regulation 70, which requires a registered operator to notify the authority when a vehicle has been written-off. This obligation will be maintained (with some variations) under separate amendments of the *Road Transport (General) Regulation 2000* in relation to the WOV. R.

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

This is a consequential amendment.

**Clause 22 – New Regulation 78 (1) (d)**

This amendment allows the authority to refuse to transfer the registration of a vehicle that has been notified in a WOV. R. There may be some cases where the transfer should be allowed, even for a statutory write-off, such as when the registration needs to be transferred to a person in order for that person to obtain a refund of the registration fees.

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

This amendment substitutes a new paragraph (d) which, rather than referring in general terms to a ‘vehicle has been destroyed or damaged beyond repair’, refers to a vehicle that has been notified in the WOV. R, and provides for the authority to proceed to suspend or cancel the registration of a vehicle so notified.

**Clause 24 – Procedures for suspension and cancellation of registration – Regulations 85 (5) (b)**

This amendment allows, but does not require, the authority to cancel the registration of a vehicle notified in the WOVR as a written-off vehicle, prior to the 14-day period referred to in regulation 85 (4). This amendment is directed at vehicles assessed as statutory write-offs.

**Clause 25 – Dictionary, new definitions**

This amendment inserts the new definitions used in the WOVR provision into the dictionary.