

2005

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

ROAD TRANSPORT (GENERAL) ACT 1999

**ROAD TRANSPORT (GENERAL) (APPLICATION OF ROAD
TRANSPORT LEGISLATION) DECLARATION 2005 (No 5)**

DISALLOWABLE INSTRUMENT – DI2005-31

EXPLANATORY STATEMENT

Circulated by authority of

John Hargreaves MLA
Minister for Urban Services

AUSTRALIAN CAPITAL TERRITORY

ROAD TRANSPORT (GENERAL) (APPLICATION OF ROAD TRANSPORT LEGISLATION) DECLARATION 2005 (No 5)

DISALLOWABLE INSTRUMENT – DI2005-31

EXPLANATORY STATEMENT

Subsection 12(1) of the *Road Transport (General) Act 1999* (the Act) empowers the Minister to declare that the road transport legislation does not apply to a road or road related area. Subsection 12(3) of the Act makes such a declaration a disallowable instrument for the purposes of the *Legislation Act 2001*.

This instrument declares that the road transport legislation does not apply to the ACT roads and road related areas used for the special stage of the Subaru Rally of Canberra promotional activity to be held on 17 March 2005 in the Kowen Forest.

All participating vehicles are road registered and are compulsory third party (CTP) insured. The security arrangements are similar to those for a rally, including warning signs, the locking of access gates to the surrounding area of forest, and manned road closures while the activity is taking place.

The activity is held under the auspices of the Confederation of Australian Motor Sport (CAMS). The CAMS Motor Sport Policy provides up to \$100 million of general liability cover for any one occurrence, subject to the terms, conditions and limitations of the Policy. In particular, the CAMS Policy excludes participant to participant claims for drivers, entrants or crew. However, this Policy does not operate where CTP insurance is in force, except where specifically excluded by law.

The declaration removes the CTP provisions from applying during the launch and sponsors day. This enables the CAMS liability insurance to take over responsibility for motor accident injury claims arising from the activity.

The declaration does not affect the right of an injured person to claim against the CTP insurer of a vehicle causing injury or the Nominal Defendant because it does not override the contract between the insured (ie the owner/driver of the vehicle) and the ACT CTP insurer (ie Insurance Australia Limited, trading as NRMA Insurance). It does, however, remove an element of cross-subsidisation of motor sport participants by the general motoring community by shifting any injury claim costs from NRMA and Nominal Defendant (and ultimately ACT motorists) to the CAMS insurer.

The declaration also has the effect of suspending the road rules during the special stage of the Subaru Rally of Canberra promotional activity.

The declaration expires on 18 March 2005.