

2013

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

ROAD TRANSPORT (GENERAL) AMENDMENT REGULATION 2013 (No 1)

SL2013-23

EXPLANATORY STATEMENT

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ROAD TRANSPORT (GENERAL) AMENDMENT REGULATION 2013 (No 1)

Outline

The regulation amends the *Road Transport (General) Regulation 2000* to implement new damage assessment criteria for the classification of statutory written-off motor vehicles.

Currently, a motor vehicle is a statutory write-off if it:

- (a) is a total loss (where the vehicle has been damaged to the extent that its fair salvage value plus the cost of repairs would be more than its fair market value immediately before the event that caused the damage – see section 83C of the *Road Transport (General) Act 1999*); and
- (b) meets criteria based on ‘volume or area-based’ damage.

These criteria have increasingly become too simplistic to use for modern vehicles, resulting in severely damaged vehicles being categorised as repairable write-offs, when in reality they may be suitable only for dismantling or scrap. Changes in vehicle construction and fabrication, especially in respect of the use of composite materials and advanced safety systems, mean that it is increasingly more complex to assure a complete and safe repair of a modern vehicle.

The National Motor Vehicle Theft Reduction Council, a joint government- insurance body formed to reduce motor vehicle theft rates, has developed new criteria to assess whether a motor vehicle is a statutory write-off. The revised criteria provide greater application of engineering principles to ensure that vehicles that should not be repaired on safety grounds are appropriately identified and classified as only suitable for parts or as scrap. The criteria will help prevent a vehicle from being repaired if it is unsafe to do so, and will assist to improve the safety of those vehicles that are repaired.

The new criteria provide for 11 categories of potential damage that each vehicle must be assessed against, comprising:

- a) three forms of specific ‘event’ related criteria (fire, water and vehicle stripping). If the vehicle meets any of these criteria, it must be classified as a statutory write-off; and
- b) eight separate areas of potential structural damage, with a vehicle deemed to be a statutory write-off if it is assessed to have sustained damage to any three of these areas.

These criteria have already been adopted by most other jurisdictions. The amendment will ensure that the assessment of written-off vehicles in the ACT is consistent with the approach taken elsewhere in Australia.

The new criteria will apply to passenger and light commercial vehicles only, with the current arrangements for motorcycles, trailers, heavy vehicles and caravans continuing to apply.

The amendments in the regulation do not engage any human rights.

Notes on clauses

Clause 1 Name of regulation

This is a formal provision that sets out the name of the regulation.

Clause 2 Commencement

This is a formal provision that provides for the commencement of the regulation. The regulation commences on 1 September 2013.

Clause 3 Legislation amended

This clause lists the legislation to be amended by the regulation. This regulation will amend the *Road Transport (General) Regulation 2000*.

Clause 4 Section 22

This substitutes section 22, which defines when a vehicle is a statutory write-off.

New section 22 (1) (a) provides that a motor vehicle (other than a motorbike) that is a total loss is a statutory write-off if it meets the assessment criteria as a statutory write-off set out in the *technical guide*. The *technical guide* is defined in new section 22 (2) as the *Damage Assessment Criteria for the Classification of Statutory Write-Offs* published by Austroads Ltd (ABN 16 245 787 323), as in force from time to time.

New section 22 (b) and (c) deal with when a motorbike or trailer is a statutory write-off. There has been no substantive change to the circumstances in which a motorbike or trailer is a statutory write-off, although the text has been reformatted as a consequence of the changes to the criteria for a motor vehicle set out in (1) (a).

New section 22 (3) provides that the *Legislation Act 2001*, section 47 (6), does not apply to the technical guide. Section 47 (6) requires the technical guide to be a notifiable instrument unless provision is made to displace the requirement. Section 22 (3) displaces this requirement so that the technical guide does not need to be placed on the ACT Legislation Register as a notifiable instrument. To assist readers to locate the technical guide, a website link to the Austroads site, from which the guide may be downloaded, is provided in a note to the new section. Printed copies are also available for inspection during ordinary business hours at the Office of Regulatory Services (Dickson Motor Vehicle Registry).