

Road Transport (Safety and Traffic Management) Approval of Protective Helmets for Motorbike Riders Determination 2015 (No 1)

Disallowable Instrument DI2015–322

made under the

Road Transport (Safety and Traffic Management) Regulation 2000, Section 66 (1) (e) power to approve a protective helmet for motorbike riders as an approved motorbike helmet

EXPLANATORY STATEMENT

Section 66 (1) (e) of the *Road Transport (Safety and Traffic Management) Regulation 2000* provides for the Road Transport Authority to approve a protective helmet for motorbike riders as an approved motorbike helmet.

The Commonwealth, through *Consumer Protection Notice No 9 of 1990* (CPN 9), has been responsible for specifying protective helmets for motorcyclists that may be sold in Australia. CPN 9 required motorcycle helmets supplied in Australia to meet the requirements in *Australian Standard 1698-1988, "Protective Helmets for Vehicle Users"*, published by the Standards Association of Australia on 9 May 1988.

CPN 9 was revoked on 20 November 2015 and not replaced.

This instrument specifies those protective helmets that are considered acceptable by the Road Transport Authority as a suitable protective helmet for use by motorbike riders. These are helmets meeting current Australian/New Zealand and European helmet standards as well as helmets meeting earlier versions of these standards at the time the helmets were manufactured.

While there is now no national instrument specifying standards which a helmet offered for sale must meet, to the extent that this instrument specifies standards for use, it can be seen as also guiding retailers on standards for the sale of helmets. The explanatory statement for the revocation of CPN 9 noted that under Australian consumer law, goods sold must be fit for purpose and would, therefore, need to be able to be legally used for their intended purpose. For a motorcycle helmet this would include being worn while in use on a road or road related area.

As standards are regularly revised and amended, this instrument allows for the use of helmets meeting the latest version of the applicable standards, and also accommodates the use of helmets that were manufactured to earlier versions of the current standard. It also provides manufacturers and retailers time to dispose of stocks of helmets meeting earlier versions of the current Australian/New Zealand Standard.

While helmets certified to meet European Standards have not been permitted to be supplied in Australia, the instrument allows for the use of helmets complying with earlier versions of the European Standard as some riders may have imported helmets privately before the repeal of CPN 9, or may bring helmets complying with earlier European Standards with them as they travel as tourists or migrate.

Clause 1 is a formal provision that provides for the name of the instrument.

Clause 2 explains when the instrument commences. All provisions of the instrument commence on the day after notification.

Clause 3 explains that the previous instrument is revoked.

Clause 4 identifies those helmets that may be worn by motorcyclists in the ACT.

This clause allows for the use of helmets meeting the requirements of:

- Australian/New Zealand Standard AS/NZS 1698:2006, *Protective helmets for vehicle users (AS/NZS 1698)*;
- in the case of a helmet manufactured in Australia—the version of AS/NZS 1698 or Australian Standard AS 1698—1988, *Protective helmets for vehicle users (AS 1698—1988)* that was in force at the time the helmet was manufactured, or any later version of AS/NZS 1698 or AS 1698—1988;
- in the case of a helmet imported into Australia—the version of AS/NZS 1698 or AS 1698—1988 that was in force at the time the helmet was imported, or any later version of AS/NZS 1698 or AS 1698—1988; and
- United Nations Economic Commission for Europe Regulation No 22 *Uniform Provisions Concerning the Approval of Protective Helmets and their Visors for Drivers and Passengers of Motor Cycles and Mopeds* Revision 4 of 24 September 2002 (*UNECE22.05*) and any further amendments to UNECE22.05 approved and published by the United Nations Economic Commission for Europe, or any later version of UNECE22.05

This clause also explains that helmets must be marked in accordance with the relevant standard.

Clause 5 explains that a number of provisions of the applicable standards are not applicable when a helmet is being worn by a motorcyclist.

Many riders fit communication and/or video recording equipment to their helmet. This clause explains that the requirements in the standards about external projections are disapplied, but only to the extent to allow communication and recording equipment fitted using mountings that will easily separate from the helmet in the case of a collision or that device coming into contact with a solid object.

A number of motorcycle helmets are supplied with flip down internal visors that perform the function of a sunshade or sunglasses. A number of these visors, particularly those that may be fitted aftermarket, do not meet the requirements of the prescribed standards, particularly in relation to the darkness of the visor or the penetration protection that the visor provides. This clause explains that these requirements are not applicable to internal flip down visors being used in service, but only if there is an external visor complying with the required standards in place on the helmet.

Most motorcycle helmet standards require the manufacturer to supply to the purchaser a brochure and/or label detailing instructions on the use and care of the helmet. This clause explains that a motorcyclist does not have to carry the brochure or label with them while riding a motorcycle.

Clause 6 explains that the instrument remains in force until it is revoked.