

Road Transport (Safety and Traffic Management) Protective Helmets for Motorbike Riders Approval 2016 (No 1)

Disallowable Instrument DI2016–22

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.

Section 34 of the *Road Transport (Safety and Traffic Management) Act 1999* provides for regulations made under the Act to apply an instrument as in force from time to time.

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.

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.

This instrument disapplies the provisions of section 47 of the *Legislation Act 2001* which would otherwise require notification of instruments applied by reference (in this case Australian/New Zealand and European helmet standards referred to in clause 4). The standards are technical in nature and describe performance standards with which a helmet must comply.

A person buying a helmet or a police officer or authorised person enforcing the requirements for which helmets may be sold or worn would typically simply check stickers or labels for information on the standard that the helmet is claimed to meet.

Any further, more detailed, checks on whether the helmet is suitable for use would usually require a helmet to be taken away and tested in a laboratory by qualified testing authorities.

Given this, it is not considered necessary to notify the standards referenced in the approved motorcycle helmet instrument. If a person is interested in the specific wording of a particular standard, the standards are generally available from the relevant standards organisation. In most cases they can be found and viewed free of charge using basic searches of the internet.

This instrument revokes and replaces the *Road Transport (Safety and Traffic Management) Approval of protective Helmets for Motorbike Riders Determination 2015 (No 1)* and by the operation of clause 6 sets aside the requirements to notify the standards referenced in the instrument.

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 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 sets aside subsections 47(5) and 47(6) of the *Legislation Act 2001*. This clause negates the need to notify the standards referred to in clause 4.

Clause 7 explains that the instrument remains in force until it is revoked.